

# NATIONAL TRUST

## GENERAL TERMS AND CONDITIONS OF PURCHASE

### 1 INTERPRETATION

- "Contract" means each contract for the sale and purchase of Goods and/or the supply of Services on the Contract Terms;
- "Contract Terms" means these general terms and conditions of purchase and any special conditions agreed in writing between NT and the Supplier;
- "Goods" means the goods (including any instalment, component, part of or raw materials used in such goods) described in an Order;
- "NT" means the company or body within the NT Group which is named on the Order;
- "NT Group" means the National Trust and any company or legal entity controlling, controlled by or under common control with the National Trust. In this definition "control" means the ownership directly or indirectly of 50% or more of the voting shares or a 50% or greater interest in the income of such company or legal entity or the ability otherwise of the National Trust to secure that the affairs of such company or legal entity are managed in accordance with its wishes;
- "Order" means NT's purchase order for Goods and/or Services; "Services" means the services (if any) described in the Order;
- "Supplier" means the person, firm or company so described in the Order; "the National Trust" means the National Trust for Places of Historic Interest or Natural Beauty, registered charity number 205846.

### 2 BASIS OF PURCHASE

- 2.1 NT's Order constitutes an offer by NT to purchase the Goods and/or acquire the Services subject to the Contract Terms. Any of the following are deemed to constitute the Supplier's agreement to comply with the Contract Terms:
- 2.1.1 any acceptance of an Order by the Supplier (notwithstanding any conditions attached to such acceptance or any purported incorporation of terms other than the Contract Terms by the Supplier);
- 2.1.2 the commencement of any work by the Supplier; or
- 2.1.3 the delivery of any Goods or the performance of any Services by or on behalf of the Supplier.
- 2.2 The Contract Terms shall apply to each Contract to the exclusion of any other terms and conditions on which any quotation has been given to NT or subject to which an Order is accepted or purported to be accepted by the Supplier.
- 2.3 No variation to an Order or to the Contract Terms shall be binding unless agreed in writing by NT's authorised representative.
- 2.4 To the extent that any special conditions agreed in writing between NT and the Supplier are inconsistent with these general terms and conditions of purchase, the provisions of the special conditions shall prevail.

### 3 SPECIFICATIONS AND EQUIPMENT

- 3.1 The quantity, quality and description of the Goods and the Services shall be as specified in the Order and/or in any specification supplied or agreed in writing by NT.
- 3.2 The Supplier must promptly notify NT in writing if there is any discrepancy or conflict within the specification.
- 3.3 Any specification produced or supplied by NT, or specifically produced for NT by the Supplier in connection with the Contract, together with the copyright, design rights and any intellectual property rights in such specification shall be NT's exclusive property.
- 3.4 Goods made or Services performed to NT's specification shall not be manufactured for or supplied to any other party.
- 3.5 NT shall be entitled to inspect and test the Goods during manufacture, processing or storage prior to despatch and to test the Services during performance, without relieving the Supplier of the Supplier's obligations.
- 3.6 The Goods shall be marked in accordance with NT's instructions and any applicable regulations or requirements of the carrier and properly packed and secured so as to reach their destination undamaged.

### 4 INFORMATION

- 4.1 The Supplier shall provide to NT on request such information about the Goods and any components, parts or raw materials used in manufacturing the Goods as NT requires including (but not limited to) information relating to possible risks to health and safety and environment.
- 4.2 The Supplier must quote the Order number on all documentation relating to the Contract.

### 5 PRICE

- 5.1 The price of the Goods and the Services shall be as stated in the Order and, unless otherwise so stated, shall be exclusive of any applicable VAT and inclusive of all charges for packaging, packing, shipping, carriage, insurance and delivery. Any additional charges agreed with NT before delivery, such as overnight or small order charges, must be shown separately on the Supplier's invoice.
- 5.2 No increase in the price may be made for any reason without NT's prior written consent.

### 6 PAYMENT

- 6.1 Unless otherwise stated by NT, NT shall pay the price of the Goods and the Services by the end of the month following that in which a correct invoice is received by NT at its Transaction Processing Unit or, if later, by the end of the month following that in which the Goods or Services are accepted.
- 6.2 Time of payment shall not be of the essence.
- 6.3 NT may set off against the price any sums owed to NT by the Supplier.

### 7 DELIVERY

- 7.1 Delivery shall be deemed to be made on receipt of the Goods and/or Services by NT at the place of delivery specified in the Order during NT's normal business hours in accordance with the terms of the Contract.
- 7.2 Time of delivery of the Goods and of performance of the Services is of the essence.
- 7.3 A delivery note quoting the Order number must accompany each delivery.
- 7.4 NT does not accept delivery or performance by instalments unless previously agreed in writing. If Goods are to be delivered or Services are to be performed by instalments, the Contract will be treated as a single contract and not severable.

### 8 ACCEPTANCE

- NT shall be entitled to reject any Goods delivered which are not in accordance with the Contract, and shall not be deemed to have accepted them until NT has had a reasonable time to inspect them following delivery or, if later, within a reasonable time after any latent defect has become apparent.

### 9 RISK AND TITLE

- 9.1 Risk of damage to or loss of the Goods shall pass to NT on delivery in accordance with the Contract.
- 9.2 Ownership of the Goods shall pass to NT on delivery or, if earlier, when payment for the Goods is made.
- 9.3 If NT properly rejects any Goods the risk in and title to those Goods shall revert to the Supplier.

### 10 COMPLIANCE

- The Supplier shall comply with all applicable regulations and other legal requirements concerning the manufacture, packaging, labelling, packing and delivery of the Goods and performance of the Services and concerning hazardous substances.

### 11 WARRANTIES

- 11.1 The Supplier warrants to NT that the Supplier is fully qualified, financed and organised to perform the Contract and that the Goods:
- 11.1.1 will be of satisfactory quality and fit for all purposes for which the Goods are commonly supplied or which NT has made known to the Supplier;
- 11.1.2 will be free from defects in design, material and workmanship;
- 11.1.3 will correspond with any relevant specification or sample; and
- 11.1.4 will comply with all statutory requirements, regulations and EU regulations relating to the manufacture and sale of the Goods, product safety, packaging, labelling and hazardous substances (including the appropriate British Standard or equivalent specification unless otherwise agreed).
- 11.2 The Supplier warrants to NT that the Services:
- 11.2.1 Will be performed by appropriately trained and qualified personnel, with due care and diligence; and
- 11.2.2 will comply with all statutory requirements, regulations and EU regulations relating to the performance of the Services.

### 12 RIGHTS AND REMEDIES ON DEFAULT

- 12.1 Each of NT's rights or remedies is without prejudice to any other right or remedy, and this condition does not restrict the rights or remedies which would otherwise be available to NT.
- 12.2 If Goods are not delivered or Services are not performed on the due date then NT may cancel the Order (or any part) without liability and purchase substitute items or services elsewhere and recover from the Supplier any loss or additional costs incurred.
- 12.3 If any Goods or Services are not supplied or performed in accordance with the Contract, then NT may:
- 12.3.1 require the Supplier to repair the Goods or to supply replacement Goods or Services in accordance with the Contract within seven days; or
- 12.3.2 treat the Contract as discharged by the Supplier's breach and require the repayment of any part of the price already paid whether or not on previous occasions of the Supplier's breach NT has required or given the opportunity to the Supplier to repair the Goods or to supply replacement Goods or Services.
- 13 **INDEMNITY**
- The Supplier shall indemnify NT in full against all liabilities, losses (whether direct or indirect and including loss of profits and expenses (including legal expenses)) awarded against or incurred by NT as a result of or in connection with:
- 13.1 breach of any warranty relating to the Goods or the Services;
- 13.2 any claim that the Goods infringe the intellectual property rights of any person, except to the extent that the claim arises from compliance with NT's specification;
- 13.3 any claim made against NT in respect of any breach or alleged breach by NT of any statutory provision, regulation or other rule of law arising from the Supplier's acts or omissions or those of the Supplier's employees, agents or subcontractors;
- 13.4 any liability under legislation relating to consumer protection, health and safety at work, or environmental protection in respect of the Goods and/or the Services; and
- 13.5 any act or omission of the Supplier or the Supplier's employees, agents or subcontractors in supplying, delivering or installing the Goods or in performing the Services, including any injury, loss or damage to persons caused or contributed to by the negligence of the Supplier, the Supplier's employees, agents or subcontractors or by faulty design, workmanship or materials.
- 14 **FORCE MAJEURE**
- Neither the Supplier nor NT shall be liable to the other or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of their respective obligations if the delay or failure was beyond their reasonable control. Illness or shortage of the Supplier's staff or sub contractors or the failure or delay by any of the Supplier's sub-suppliers to supply goods, components, services or materials shall not be regarded as causes beyond the Supplier's reasonable control.
- 15 **SPARE PARTS**
- The Supplier shall ensure that all spare and/or replacement parts, components and materials for the Goods shall be available from the Supplier for 5 years from date of delivery of the Goods in question.
- 16 **INSTALLATION AND OPERATIONS ON SITE**
- 16.1 The Supplier shall at all times whilst on NT's premises or on site comply with and procure that its employees, agents and subcontractors comply with all relevant statutory and other legal requirements relating to the installation of the Goods and/or provision of the Services, all health and safety legislation and all security and safety regulations and rules from time to time in force on those premises or site. The Supplier will be deemed to have full knowledge of such regulations and rules, copies of which shall be supplied on request.
- 16.2 Where the Supplier is responsible for installation of the Goods and/or providing other Services, such Services shall be carried out to NT's satisfaction. On receipt of a commissioning certificate from NT's authorised representative, which shall not constitute acceptance of the Goods and Services, the Supplier shall clear away and remove from NT's premises or site all installation plant, service material, rubbish and temporary works and leave the premises or site and the Goods in clean and workmanlike condition. The Supplier may by prior arrangement with NT leave such equipment and spare parts on such premises or site as may be necessary to carry out its duties under the Order but does so at its own risk.
- 17 **BUILDING WORKS**
- 17.1 The Supplier undertakes to comply with the National Trust 'General Requirements for Building Works'.
- 17.2 Where a JCT contract is entered into, the conditions contained in that apply in addition to these general terms and conditions of purchase. If there is any conflict between the two the terms of the JCT contract take precedence over these general terms and conditions.
- 17.3 JCT Minor Works Conditions of Contract for Insurance Purposes, clauses 6.1, 6.2, 6.3A, or 6.3B and 6.4, as appropriate, will apply to all building and associated work. Where 6.3A is used, the relevant percentage is 10%.
- 17.4 NT operates the Construction Industry Scheme on behalf of the Inland Revenue. In order to receive payment, the Supplier or any subcontractor must submit the appropriate Registration Card or Sub Contractor Tax Certificate.
- 18 **TERMINATION**
- 18.1 Any Order may be cancelled at any time by NT giving the Supplier notice in writing. A fair and reasonable price will be paid for all work in progress at the time of the cancellation, if all such work is delivered to NT. NT's liability is strictly limited to work in progress, and no further loss or liability will accrue.
- 18.2 NT shall be entitled to terminate the Contract without liability to the Supplier, and reserving all rights, by giving notice to the Supplier at any time if:
- 18.2.1 the Supplier is in material breach of any of the Supplier's obligations and that breach cannot be remedied;
- 18.2.2 the Supplier is in material breach of any of the Supplier's obligations and that breach can be remedied but the Supplier fails to do so within 30 days starting on the day after receipt of notice from NT;
- 18.2.3 the Supplier commits more than one breach of any of the Supplier's obligations and the cumulative effect of such breaches is that NT reasonably believes that the Supplier will continue to deliver a substandard performance over the one month period immediately after the service of notice specified in condition 18.2.2;
- 18.2.4 the Supplier makes any voluntary arrangement with the Supplier's creditors or becomes subject to an administration order or goes into liquidation or bankruptcy or an encumbrancer takes possession or a receiver is appointed of any of the Supplier's property or assets; or
- 18.2.5 NT reasonably believes that any of the events mentioned above is about to occur and notifies the Supplier accordingly.
- 18.3 If delivery is incomplete then NT may accept or reject the Goods or Services delivered or performed and cancel or vary the balance of the Order.
- 19 **CONFIDENTIALITY**
- All information supplied to the Supplier at any time is and remains NT's property and must be returned on request and shall be regarded as confidential.
- 20 **GENERAL**
- 20.1 Orders are personal to the Supplier and the Supplier shall not transfer, assign, charge, dispose of or deal in any manner, or purport to do so, with any of its rights or beneficial interests under the Contract.
- 20.2 The Supplier shall not without NT's written consent subcontract any of the Supplier's obligations under the Contract.
- 20.3 Any waiver by NT of any breach is not a waiver of any subsequent breach.
- 20.4 Failure or delay by NT in enforcing or partially enforcing any provision of the Contract is not a waiver of any of NT's rights.
- 20.5 If any provision of the Contract Terms is held by any competent authority to be invalid or unenforceable in whole or in part that shall not affect the validity of the remainder.
- 20.6 The Supplier shall at all times maintain insurance cover with a reputable insurer against its liabilities under the Contract for a minimum of five million pounds sterling (£5,000,000) per event and shall produce the insurance policy and latest premium receipt to NT on demand. Any limitation, monetary or otherwise, in such policy shall not be construed as a limitation on the Supplier's liability and the Supplier shall notwithstanding such limitation remain liable to NT without offset or counterclaim.
- 20.7 The Contract shall be subject to the law of England and Wales and to the exclusive jurisdiction of the courts in England and Wales.
- 20.8 The Contract does not create or confer, or purport to create or confer, any benefit or right enforceable by any person not a party to it.