

DWP General Terms and Conditions for the Supply of Services (including Hire, Rental, Lease and Facilities Management)

1. Interpretation

In these Conditions:

- a) "DWP" means the Department For Work and Pensions;
- b) "the Contractor" means the person who undertakes to render the services specified on the order;
- c) "the Contract" means the agreement concluded between the DWP and the Contractor, for the supply of the services and related goods (if any);
- d) "the Work" includes all work to be performed by services to be rendered by and other obligations to be fulfilled by the Contractor;
- e) "the Contract Price" means the price exclusive of Value Added Tax, payable to the Contractor by the DWP under the Contract for the full and proper performance by the Contractor of his part of the Contract;
- f) "Government Property" means anything issued or otherwise furnished in connection with the Contract by or on behalf of the DWP or its authorised representative;
- g) "month" means calendar month;
- h) "charging rates" shall be construed as those excluding Value Added Tax;
- i) "person" includes a corporation;
- j) "representative of the DWP" in any provision of the Contract means the person duly authorised by the DWP to act for the purposes of the provision.

2. Acts by DWP

Any decision, act or thing which the DWP is required or authorised to take or do under the Contract may be taken or done by any person authorised, either generally or specifically, by the DWP to take or do that decision, act or thing.

3. Service of Notice

Any notice or other communication, which the DWP is required to give under the Contract will be sufficiently given if sent by recorded delivery or registered post to the last known address of the Contractor.

4. Amendments and Variations

No amendment or variation in the terms and conditions of the Contract will be valid unless previously agreed in writing between the DWP and the Contractor and no payment will be made for unauthorised work.

5. Transfer and Sub-letting

1) The Contractor shall not give, bargain, sell, assign, sub-let or otherwise dispose of the Contract or any part thereof without the previous consent in writing of the DWP.

2) The Contractor will not use the services of self-employed individuals without the previous agreement in writing of the DWP.

6. Payment

1) On presentation of a correct invoice quoting the DWP contract and/or purchase number and confirming that the Work has been performed, the DWP shall pay the Contract Price to the Contractor. Payment will be made within 30 working days of receipt of the invoice by the DWP.

2) Invoices will show the period and the amount of the Work for which the payment is claimed together with the agreed Charging Rates.

3) Invoices for the Work performed shall be rendered at the time and in the manner specified by the DWP.

4) If, for the purpose of performing the Contract, the Contractor enters into a contract for the supply of goods or services to the Contractor by a third party, the Contractor shall include in that contract a provision which requires the Contractor to pay for those goods or services within 30 working days of the Contractor receiving a correct invoice from that third party.

7. Recovery of Sums Due

1) Whenever under the Contract any sum of money shall be recoverable from or payable by the Contractor, the same may be deducted from any sum then due, or which at any time thereafter may become due to the Contractor under any contract with the DWP or with any other department or office of Her Majesty's Government.

2) Any over-payment by the DWP to the Contractor whether of charges or of Value Added Tax shall be a sum of money recoverable from the Contractor.

8. Value Added Tax

1) The DWP shall pay to the Contractor, in addition to the Contract Price, a sum equal to the Value Added Tax chargeable on the value of the Work performed in accordance with the Contract.

2) Any invoice or other request for payment of monies due to the Contractor under the Contract shall, if he is a taxable person be in the same form and contain the same information as if the same were a tax invoice for the purposes of Regulations made under the Finance Act 1972.

3) The Contractor shall, if so requested by the DWP, furnish such information as may reasonably be required by the DWP as to the amount of Value Added Tax chargeable on the Work in accordance with the Contract and payable by the DWP to the Contractor in addition to the Contract price. Any overpayments by the DWP to the Contractor shall be a sum of money recoverable from the Contractor for the purposes of Condition 7.

9. Bankruptcy

1) The DWP may at any time by notice in writing summarily determine the Contract without compensation to the Contractor if:

a) the Contractor, being an individual or where the Contractor is a firm, any partner in that firm at any time becomes bankrupt or has a receiving order or administration order made against him or makes any composition or agreement with or for the benefit of his creditors, or makes any conveyance or assignment for the benefit of his creditors, or purports to do so or if in Scotland he becomes insolvent or notour bankrupt, or any application is made under any bankruptcy act for the time being in force for sequestration of his estate, or a trust deed is granted by him for behoof of his creditors; or

b) the Contractor, being a company, is the subject of a proposal for a voluntary arrangement; or has a petition for an administration order or a petition for a winding-up order brought against it; or passes a resolution for a winding-up order; or makes any composition, arrangement, conveyance or assignment for the benefit of its creditors; or purports to do so; or a receiver or any other person is appointed in respect of its undertaking or of all or any of its property.

Provided always that such determination shall not prejudice or affect any right of action or remedy which shall have accrued or shall accrue thereafter to the DWP.

10. Termination

Either party shall have the right to terminate the Contract if the other party is in breach of any of the conditions of the Contract and such breach shall not have been remedied to the satisfaction of the injured

party within a period of thirty days of written notification of such breach to the other party. Notice of termination shall be given to the offending party in writing with immediate effect and such termination shall be without prejudice to the rights of the parties accrued to the date of determination.

11. Arbitration

1) All disputes, differences or questions between the parties to the Contract with respect to any matter arising out of or relating to the Contract, except where the decision of the DWP or of any other person is by the Contract expressed to be final and conclusive, shall after 14 days written notice by either party to the Contract to the other be referred in writing to a single arbitrator agreed for the purpose, or in default of such agreement to be appointed at the request of either party by the President of the London Chamber of Commerce.

2) Such reference shall be deemed to be a submission to arbitration under the Arbitration Act 1950 as amended or any statutory modification or re-enactment thereof.

12. Break

1) The DWP shall, in addition to its power under any other provision of the Contract, have power to determine the Contract at any time by giving the Contractor written notice to expire at the end of the period of notice specified for the purpose of this Condition in the Contract or if no such period is specified at the end of one month and upon expiration of the notice the Contract shall be determined without prejudice to rights of the parties accrued to the date of determination but subject to the operation of the following provisions:

a) if such notice is given the DWP shall indemnify the Contractor against commitments, liabilities or expenditure which would otherwise represent an unavoidable loss by the Contractor by reason of the determination of the Contract and shall further negotiate a payment representing reasonable loss of profit, if any, to the Contractor;

b) the DWP shall not be liable to pay under the provisions of clause 1) and 1)a) of this Condition any sum which, when taken together with any sums paid or due or becoming due to the Contractor under the Contract, shall exceed such total sum as would have been payable under the Contract if the work had been completed in accordance with the requirements of the Contract;

2) If hardship to the Contractor should arise from the operation of clause 1)b) of this Condition it shall be open to the Contractor to refer the circumstances to the DWP who, on being satisfied that such hardship exists, shall make such allowance, if any, as in its opinion is reasonable, and the decision of the DWP on any matter or thing

arising out of this Condition shall be final and conclusive.

13. Official Secrets

The Contractor's attention is drawn to the provisions of the Official Secrets Acts 1911 to 1989 and to any statutory amendment or re-enactment thereof. The Contractor shall take all reasonable steps by display of notices or by other appropriate means to ensure that all persons employed on the Work in connection with the Contract have notice that these statutory provisions apply to them and will continue so to apply after the completion or early determination of the Contract.

14. Confidentiality

1) The Contractor undertakes:

a) to treat as confidential all information which may be derived from or obtained in the course of the Contract; and

b) to take all necessary precautions to ensure that all such information is treated as confidential by the Contractor, his staff, agents and sub-contractors.

2) The DWP undertakes to treat as confidential all unpublished information supplied by the Contractor under the Contract.

15. Corrupt Gifts and Payments of Commission

1) The Contractor shall not:

a) offer or give, or agree to give, to any person employed by or on behalf of the DWP any gift or consideration of any kind as an inducement or reward for doing or having done or not doing any act in relation to the obtaining or execution of any contract with the DWP or for showing or for not showing favour or disfavour to any person in relation to any contract with the DWP;

b) enter into any contract with the DWP or any other department or office of Her Majesty's Government in connection with which commission has been paid or agreed to be paid by him or on his behalf, or to his knowledge, unless before the Contract is made particulars of any such commission and of the terms and conditions of any agreement for the payment thereof have been disclosed in writing to any person duly authorised by the DWP to act as its representative for the purpose of this clause.

Note: nothing contained in this clause prevents the Contractor paying such commission or bonuses to his own staff as are within their agreed contract of employment.

2) Any breach of this Condition by the Contractor or by anyone employed by him or acting on his behalf (whether with or without his knowledge) or the commission of any offence by the Contractor or by

anyone employed by him or acting on his behalf under the Prevention of Corruption Acts 1889 to 1916, in relation to any contract with the DWP shall entitle the DWP to determine the Contract and recover from the Contractor the amount of any loss resulting from such determination and/or recover from the Contractor the amount of the value of any such gift, consideration or commission, as the DWP shall think fit.

3) In any dispute, difference or question arising in respect of:

a) the interpretation of this Condition (except so far as the same may relate to the amount recoverable from the Contractor under clause 2) of this Condition in respect of any loss resulting from such determination of the Contract; or

b) the right of the DWP to determine the Contract; or

c) the amount or value of any gift, consideration or commission; the decision of the DWP shall be final and conclusive.

16. Issued Government Property

1) All Government property issued in connection with the Contract shall remain the property of the DWP and shall be used in the execution of the Contract and for no other purpose whatsoever save with the prior approval in writing of the DWP.

2) All such property shall be deemed to be in good condition when received by or on behalf of the Contractor unless he notifies the DWP to the contrary within 14 days or such other time as is specified in the Contract.

3) The Contractor shall undertake to return all such property so issued and will be responsible for all loss thereof or damage thereto from whatever cause to the full amount of such loss or damage.

17. Liability

1) The Contractor shall not be liable for any loss, damage, or delay suffered by the DWP to the extent that such loss, damage or delay is attributable to instructions given by or on behalf of the DWP.

2) Nothing in these Conditions nor in any part of the Contract shall impose any liability on any member of the staff of the DWP or its representatives in their personal capacity.

3) Subject to clause 1) of this Condition, the Contractor shall indemnify the DWP and any member of its staff or agent against:

a) any loss or damage caused either to any physical property of the DWP or of its staff or agents or by any physical injury (including physical

injury resulting in death) sustained by the staff or agents of the DWP by reason of any negligent act or omission of the Contractor's personnel;

b) any claim, demand, or liability made against or incurred by the DWP or any agent of the DWP in respect of any loss of, or damage to, any property of the Contractor's personnel or injury (including injury resulting in death) sustained by the Contractor's personnel unless such loss, damage, or injury is caused by the negligent act or omission of the DWP or any of its staff or agents;

c) any claim, demand or liability made against or incurred by the DWP or any agent of the DWP in respect of any loss, damage or injury (including injury resulting in death) sustained by any third party during the currency of the Contract in consequence of any negligent act or omission of the Contractor's personnel.

4) The Contractor shall effect with a reputable insurance company a policy or policies of insurance covering all the matters which are the subject of indemnities under these Conditions in the sum of £500,000 at least or such larger sum as may be specified in the Contract in respect of any one incident and unlimited in total and shall at the request of the DWP produce the relevant policy or policies together with receipts or other evidence of payment of the latest premium due thereunder.

5) Without prejudice to the provisions of Condition 7 the Contractor shall reimburse the DWP for all reasonable payments or additional payments by the DWP to third parties which have become necessary as a direct consequence of delay in the Work which the Contractor had failed to remedy after being given reasonable notice thereof by the DWP provided always that the DWP shall take all reasonable steps to minimise the need to make such payments and shall not claim for any payments arising as a result of the DWP's neglect to take such reasonable steps.

6) Without prejudice to the foregoing clauses and to Condition 20 the Contractor shall only be liable to the DWP or to any third party for any loss, damage, injury or expense (whether direct or consequential) arising out of or in connection with the Work including the operation of computer software contained in or contributing to the Work where such loss, damage, injury or expense arises out of the professional negligence of the Contractor, his staff or his agents.

7) The Contractor shall make available to the DWP a copy of his Public Liability Insurance Policy.

18. Indemnities

1) The Contractor shall indemnify the DWP against all actions, claims, demands, costs, charges and expenses arising from or incurred by reason of any infringement or alleged infringement of copyright, patent, registered design or other property right used by or on behalf of the Contractor for the purpose of the

Contract, providing that any such infringement is not knowingly caused by, or contributed to, by any act of the DWP.

2) The DWP shall indemnify the Contractor against all actions, claims, demands, costs, charges and expenses arising from or incurred by reason of any infringement or alleged infringement of copyright, patent, registered design or other property right used at the request of the DWP by the Contractor in the course of performing the Contract.

19. Law

The Contract shall be considered as a contract made in England and shall be governed by, and construed in accordance with the provisions of English Law.

20. Waiver

The failure of either party at any time to enforce any provision of the Contract shall in no way affect its rights thereafter to require complete performance by the other party, nor shall the waiver of any breach of any provision be taken or held to be a waiver of any subsequent breach of any such provision or be a waiver of the provision itself.

21. Severability

If any condition, clause or provision of the Contract not being of a fundamental nature be held to be illegal or unenforceable, the validity or enforceability of the remainder of the Contract shall not be affected thereby.

22. Discrimination

1) The Contractor shall not unlawfully discriminate within the meaning and scope of any law, enactment, order or regulation relating to discrimination (whether in race, gender, religion, disability, sexual orientation or otherwise) in employment.

2) The Contractor shall take all reasonable steps to secure the observance of the provisions of clause 1) of this Condition by all staff or agents of the Contractor and all sub-contractors employed in the execution of the Contract.

23. Special Provisions

In the event of any conflict or inconsistency between these general Conditions and any special conditions contained within the Contract, such special conditions shall prevail.

24. Performance

1) The Work shall be carried out in accordance with the Contract to the satisfaction of the DWP or its authorized representatives. During the course of

the Contract the DWP or its authorised representative shall have the power to inspect and examine the Work being performed on DWP premises at any reasonable time or where any part of the Work is being performed on premises other than DWP premises reasonable notice shall be given to the Contractor of its intention to do so. The Contractor shall give and procure all such facilities as the DWP or its authorised representatives may reasonably require for such inspection and examination.

2) If any part of the Work is found to be unsatisfactory or not in accordance with the Contract, other than as a result or negligence on the part of the DWP or its authorized representative, the Contractor shall at his own expense re-schedule and perform the Work correctly within such reasonable time as may be specified.

3) If the Work or any part thereof is suspended by the DWP or its authorised representative (otherwise than in consequence of default or negligence on the part of the Contractor) or if the Contractor is delayed in proceeding with the Work by the DWP or its authorised representative, the DWP shall be responsible for any loss incurred by the Contractor as a result of such suspension or delay.

4) If the performance of the Contract by the Contractor is delayed by causes mentioned in clause 3) of this Condition or by reason of any act on the part of the DWP, or by industrial dispute or any other cause which the Contractor could not have prevented and for which he was not responsible then the Contractor shall be allowed a reasonable extension of time for completion.

5) The time of commencement shall be of the essence and failure to commence the Work within the time promised or specified shall enable the DWP (at its option) to be released from any obligation to accept and pay for the Work and/or cancel any, all or part of the Work, in either case without prejudice to the other rights and remedies of the DWP.

25. Progress reports

1) Where formal progress reports are specified in the Contract, the Contractor shall render such reports at such time and in such form as may be specified or as otherwise agreed between the Contractor and the DWP or its authorised representative.

2) The submission and the acceptance of progress reports shall not prejudice the rights of the DWP under any other condition of the Contract.

26. Rights to the Results of Work

1) Copyright, and rights in the nature of copyrights, in the material produced in the performance, and during the currency of the Contract, and in all reports submitted under the terms of the Contract, and in all reports submitted under the terms of the Contract, are hereby assigned by the Contractor to the Crown. Such

material or report shall not be reproduced, or disseminated for any other purpose, without the prior written permission of the Controller of Her Majesty's Stationery Office. All applications for such permission shall be submitted in the first instance to the DWP.

2) The Contractor shall not use any data, reports, drawings, specifications, designs, inventions, plans, programmes or other material produced in the course or the purpose of the Work without first obtaining written permission from the DWP.

3) All moral rights relating to the Work shall be waived by the Contractor. Subject to Condition 5, the Contractor shall undertake to obtain a waiver of such rights from any sub-contractor engaged by him for the purposes of the Work.

27. Publicity concerning the Work

1) The DWP undertakes not to arrange press releases or other forms of publicity about the Work without prior consultation with the Contractor if the Contractor is mentioned in them by name.

2) The DWP reserves the right to publish the results of the Work with appropriate acknowledgement to the Contractor.

3) The Contractor, his personnel or sub-contractor shall not publish or reproduce or arrange press releases about the Contract or the Work without the prior consent in writing of the DWP upon such terms as may be agreed.

28. Contractor's Personnel

1) The DWP reserves the right to refuse to admit to premises occupied by or on behalf of the DWP any person employed by the Contractor, or by a sub-contractor, whose admission would be, in the opinion of the DWP, undesirable.

2) If and when directed by the DWP, the Contractor shall provide a list of names and addresses of all persons who may at any time require admission in connection with the performance of the Contract, to any premises occupied by or on behalf of the DWP, specifying the capacities in which they are concerned with the Contractor and giving such other particulars as the DWP may require.

3) If and when directed by the DWP, the Contractor shall secure that any person employed by him, or by a sub-contractor, who is specified in the direction, or is one of a class of persons who may be so specified, shall sign a statement that he understands that the Official Secrets Acts 1911 to 1989 apply to the person signing the statement both during the carrying out and after completion or determination of the Contract.

4) If the Contractor shall fail to comply with clause 2) of this Condition and if the DWP (whose decision shall be final and conclusive) decides that such failure is prejudicial to its interests, then the DWP may summarily determine the contract by notice in writing to the Contractor always providing that such determination shall not prejudice or affect any right of action or remedy which shall have accrued, or shall accrue thereafter, to the DWP.

5) The decision of the DWP as to whether any person is to be refused admission to official premises and as to whether the Contractor has failed to comply with clauses 2) or 3) of this Condition shall be final and conclusive.

29. Data Protection

1) The Contractor shall not disclose or allow access to any personal data provided by the DWP or acquired by the Contractor during the course of tendering for or executing the Contract, other than to a person employed or engaged by the Contractor or any sub-contractor, agent or other person concerned with the same.

2) Any disclosure of or access to personal data allowed under clause 1) shall be made in confidence and shall extend only so far as that which is specifically necessary for the purpose of the Contract.

3) The Contractor shall store or process such personal data only at sites specifically agreed in writing, in advance, with the DWP.

4) The Contractor shall implement appropriate technical and organisational measures to protect the personal data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure. These measures shall be appropriate to the harm which might result from any unauthorised or unlawful processing, accidental loss, destruction or damage to the personal data and having regard to the nature of the personal data which is to be protected.