

Arqiva Ltd Terms & Conditions of Purchase

1 **Definitions**

In these conditions the "Purchaser" shall mean Arqiva Limited who is issuing the purchase order (the "Order") and the "Supplier" shall mean the company or person(s) to whom the Order is issued. These terms and conditions shall govern the sale or supply of goods and/or services by the Supplier and shall be deemed incorporated in any contract between the Purchaser and the Supplier for the sale or supply to the Purchaser of goods and/or services unless expressly stated otherwise on the Order where the parties have entered in a separate binding written contract in which case the terms and conditions of such contract shall apply to such Order. Any terms and conditions on any acknowledgement, delivery note, invoice or other document shall not apply.

2 **Acceptance of Order**

The Order constitutes an offer by the Purchaser to purchase the goods and/or services specified in the Order from the Supplier on these terms and conditions. The Purchaser shall have the right to terminate the Order without liability unless accepted by the Supplier within 14 days from the date of the Order. Acceptance of the Order constitutes a contract which incorporates these terms and conditions ("Contract"). Failure to accept the Order in writing or otherwise will not prevent the Supplier's implied acceptance of these terms and conditions by conduct. No variation, amendment of or addition to the Order by the Supplier shall form part of any Contract unless specifically accepted by the Purchaser in writing.

3 **Delivery**

- 3.1 The date of delivery of goods and the provision of any services shall be as specified on the Order unless otherwise agreed between the Purchaser and the Supplier. The Supplier shall immediately give notice to the Purchaser of any likely delay in delivery of which it becomes aware.
- 3.2 The goods, properly packed and secured in such manner as to reach their destination in good condition under normal conditions of transport, shall be delivered or despatched for delivery by the Supplier at its cost and risk to the address of the Purchaser as specified on the Order or as the Purchaser shall specify. Delivery shall be made between the hours of 8.30am and 5.00pm Monday to Friday (inclusive) bank and public holidays excepted unless agreed otherwise.
- 3.3 If the Supplier is late with any delivery of goods or provision of any services the Purchaser shall have the right to cancel the Order at any time before delivery of the goods or provision of the services (as applicable) is effected and, where specified in the Order, the Purchaser shall be entitled to liquidated damages up to the maximum specified in the Order.
- 3.4 The Order number must be quoted by the Supplier on all delivery notes, invoices, advice notes, correspondence, packing lists and containers.
- 3.5 Following delivery of the goods and unpacking by the Purchaser the Supplier shall, if so requested by the Purchaser, collect and remove the discarded packaging.
- 3.6 The Supplier shall, upon receiving notice to that effect from the Purchaser, repair or replace free of charge goods damaged or lost in transit and due delivery shall not be deemed to have taken place until replacement or repaired goods have been delivered by the Supplier to the Purchaser. The Purchaser reserves the right to hold such damaged goods at the Supplier's risk or to return them at the risk and expense of the Supplier.
- 3.6 If the Purchaser specifies in the Order (or otherwise) that delivery shall be made to the Purchaser's address at Crawley Court, Winchester, Hampshire, the Supplier shall ensure that all deliveries use a route which avoids passing through or entering Crawley Village (adjacent to Crawley Court).

4 **Inspection and Acceptance of Goods**

The Supplier shall afford the Purchaser and its employees or agents every facility for inspection of the goods and of any raw or finished materials or work before, during and after manufacture. The Purchaser shall be entitled to reject any goods, materials or work which do not comply with the standard required or the terms expressed or implied in this Order as to quality, condition or description. Notwithstanding any inspection or any failure to inspect the Purchaser shall remain entitled to reject any such goods, materials or work upon delivery or within a reasonable time thereafter, and goods or materials so rejected will be collected by the Supplier at the Supplier's expense and risk. The Purchaser shall not be deemed to have accepted the goods until it has had a reasonable opportunity to inspect the goods following delivery or, if later, within a reasonable time after any latent defect in the goods has become apparent. If the Supplier does not collect the rejected goods or materials within a reasonable time of receipt of the Purchaser's notice of rejection, the Purchaser may dispose of them as the Purchaser shall think fit provided that if the Purchaser sells the goods or materials the Purchaser shall account to the Supplier for the net proceeds of such sale.

5 **Title**

Property in the goods shall pass to the Purchaser on delivery or, if earlier, payment of the purchase price without prejudice to any right of rejection which may accrue to the Purchaser under the Contract.

6 **Price and Payment**

- 6.1 The price of the goods and the services shall be as stated in the Order and, unless otherwise so stated, shall be:
 - 6.1.1 exclusive of any applicable UK value added tax; and
 - 6.1.2 inclusive of all costs and expenses incurred by the Supplier in the provision of the goods and/or services including, without limitation, all charges for packaging, packing, shipping, carriage, insurance and delivery and any duties, imposts or levies other than UK value added tax.
- 6.2 No increase in the price may be made (whether on account of increased material, labour or transport costs, fluctuation in rate of exchange or otherwise) without the prior consent of the Purchaser in writing.
- 6.3 Payment of the price shall be made within 60 days of the later of (i) consignment of goods or the provision of services being made and (ii) the date of receipt by the Purchaser of the Supplier's invoice.
- 6.4 Unless otherwise agreed, a separate invoice must be rendered for each individual consignment of goods or performance of services and all invoices must quote the Order number.
- 6.5 The Purchaser shall be entitled to set off against the price any sums owed to the Purchaser by the Supplier.
- 6.6 In the event that any payment due under a Contract is not made on the due date the defaulting party shall pay to the other (if demanded) interest on the amount outstanding at the rate of 2% per annum above the base rate of National Westminster plc for the period from the due date until the date of actual payment. This rate of interest shall apply notwithstanding any higher rate of interest specified in The Late Payment of Commercial Debts (Interest) Act 1998 or any other statute, and the parties acknowledge and agree that this rate of interest represents a substantive remedy for the late payment of debts.

- 6.7 The Supplier acknowledges that in order to ensure effective management of the Purchaser's internal budgets and cashflow, it is reasonable for the Purchaser to request that the Supplier submits an invoice to the Purchaser no later than twelve (12) months following the date on which the Supplier was entitled to raise an invoice. Accordingly, the Supplier agrees that if it fails to issue an invoice to the Purchaser within twelve (12) months of the date on which the Supplier was entitled to raise an invoice, the Purchaser shall not be liable to pay the amounts that would have been due under such invoice and the Supplier shall not be entitled to recover such amounts from the Purchaser.

7 Warranty and Indemnity

- 7.1 The Supplier warrants to the Purchaser that:
- 7.1.1 the Supplier has the right to and shall supply all goods free from any charges, liens or other encumbrances;
 - 7.1.2 all goods shall correspond strictly with the description and any other specification supplied or made known to the Supplier and with any sample, shall be in every respect fit for the purpose for which the Purchaser has expressly or by implication made known that it requires the same and shall be of satisfactory quality which is also of a standard not less than that of previous supplies (if any) approved by the Purchaser;
 - 7.1.3 the goods will be free from defects in design, material and workmanship;
 - 7.1.4 all goods and the performance of any services shall comply with all current and applicable UK and EC legislation, regulations or other legal requirements;
 - 7.1.5 all services will be performed by appropriately qualified and trained personnel, with due care and diligence and to such high standard of quality as it is reasonable for the Purchaser to expect in all the circumstances; and
 - 7.1.6 the Supplier will at all times maintain insurance with a reputable insurance company against all liability under each Contract.
- 7.2 Without prejudice to any other remedy, if any goods or services are not supplied or performed in accordance with the Contract, then the Purchaser shall be entitled:
- 7.2.1 to require the Supplier to repair the goods or to supply replacement goods or services in accordance with the Contract within 7 days or to have them so repaired by a third party in which case the Supplier shall reimburse the Purchaser for all costs and expenses thereby incurred; or
 - 7.2.2 at the Purchaser's sole option, and whether or not the Purchaser has previously required the Supplier to repair the goods or to supply any replacement goods or services to treat the Contract as discharged by the Supplier's breach and require the repayment of any monies which have been paid.
- 7.3 The Supplier shall indemnify the Purchaser in full against all liability, loss, damages, costs and expenses (including legal expenses and consequential or economic loss) awarded against or incurred or paid by the Purchaser as a result of or in connection with:
- 7.3.1 breach of any warranty given by the Supplier in relation to the goods or the services;
 - 7.3.2 any liability under the Consumer Protection Act 1987 or similar, equivalent or replacement legislation in respect of the goods; and
 - 7.3.3 any act or omission of the Supplier or its employees, agents or subcontractors in supplying or delivering the goods.
- 7.4 The Supplier undertakes to indemnify the Purchaser in full against all damages, costs and expenses and all judgements, decrees or orders arising out of any claim that the goods or services infringe, or their importation, use or resale, infringes the patent, copyright, design right, trade mark or other intellectual property right of any other person, including all costs and expenses of an incidental nature to the defence of legal proceedings in connection therewith, except to the extent that the claim arises only because of strict compliance by the Supplier with any specification supplied by the Purchaser.
- 7.5 If the Purchaser rejects or refuses to accept any goods having the right so to do it shall notify the Supplier and if the goods are not collected by the Supplier within seven days of such notification, the Purchaser may, but shall not be bound to return such goods to the Supplier and in the event that it decides to return them, the goods shall be returned at the risk and expense of the Supplier.

8 Confidentiality

No tools, patterns, raw materials, plates, designs, drawings, schedules, instructions, specifications or other confidential information supplied by the Purchaser to the Supplier to enable it to execute this Order shall be used or disclosed by the Supplier for any purpose without the agreement in writing of the Purchaser. The same and all rights therein and in respect thereof shall remain the property of the Purchaser, shall be kept in good condition and shall be returned to the Purchaser at the Supplier's risk on demand. Any information concerning the business secrets or other information relating to the business activities of the Purchaser that is not already in the public domain shall be treated as confidential and accordingly shall not be disclosed to any third party. During the term of this agreement the Supplier shall not undertake work for any third party, the performance of which would be likely to put the Supplier in a conflict of interest in relation to the confidential information referred to above.

9 Data Protection

- 9.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation. "Data Protection Legislation" shall mean (i) unless and until the General Data Protection Regulation ((EU) 2016/679) ("GDPR") is no longer directly applicable in the UK, the GDPR and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and/or (ii) any successor legislation to the GDPR or the Data Protection Act 1998 as applicable in the UK from time to time.
- 9.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Purchaser is the data controller and the Supplier is the data processor (where Data Controller and Data Processor have the meanings as defined in the Data Protection Legislation).
- 9.3 Without prejudice to the generality of clause 9.1, the Purchaser will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Supplier for the duration and purposes of this Order.
- 9.4 Without prejudice to the generality of clause 9.1, the Supplier shall, in relation to any Personal Data processed in connection with the performance by the Supplier of its obligations under this Order:
- 9.4.1 process that Personal Data only on the written instructions of the Purchaser unless the Supplier is required by the laws of any member of the European Union or by the laws of the European Union applicable to the Supplier to process Personal Data (Applicable Laws). Where the Supplier is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, the Supplier shall promptly notify the Purchaser of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Supplier from so notifying the Purchaser;
 - 9.4.2 ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Purchaser, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
 - 9.4.3 ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and

- 9.4.4 not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the Purchaser has been obtained and the following conditions are fulfilled:
 - 9.4.4.1 the Purchaser or the Supplier has provided appropriate safeguards in relation to the transfer;
 - 9.4.4.2 the data subject has enforceable rights and effective legal remedies;
 - 9.4.4.3 the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - 9.4.4.4 the Supplier complies with reasonable instructions notified to it in advance by the Purchaser with respect to the processing of the Personal Data;
 - 9.4.5 assist the Purchaser, at the Purchaser's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - 9.4.6 notify the Purchaser without undue delay on becoming aware of a Personal Data breach;
 - 9.4.7 at the written direction of the Purchaser, delete or return Personal Data and copies thereof to the Purchaser on termination of the Order unless required by Applicable Law to store the Personal Data; and
 - 9.4.8 maintain complete and accurate records and information to demonstrate its compliance with this clause and allow for audits by the Purchaser or the Purchaser's designated auditor.
- 9.5 The Purchaser does not consent to the Supplier appointing any third-party processor of Personal Data under this Order.

10 Insolvency

- 10.1 If the Supplier being an individual shall at any time become bankrupt or shall have a receiving order made against him/her or shall make any composition or arrangement with or for the benefit of his/her creditors, or if the Supplier being a company shall go into liquidation (not being a members winding up for the purpose of reconstruction or amalgamation) or if an administrator or a receiver shall be appointed or an encumbrancer takes possession of any of its assets, or the Purchaser reasonably apprehends any of the foregoing and notifies the Supplier accordingly, the Purchaser shall be at liberty:
 - 10.1.1 to cancel the Contract summarily by notice in writing without compensation to the Supplier; or
 - 10.1.2 to give any such administrator, receiver or liquidator or any other person the option of carrying out the Contract; or
 - 10.1.3 to set off any payments due hereunder against sums due from the Supplier to the Purchaser.
- 10.2 The exercise of any of the rights granted to the Purchaser under this clause shall not prejudice or affect any right of action or remedy which shall accrue thereafter to the Purchaser.
- 10.3 The Purchaser shall be entitled to rescind any Contract for goods which have not then been delivered in whole or in part or require the Supplier to suspend delivery for any period if the activities of the Purchaser for which goods were ordered are stopped or seriously interfered with by any cause of any kind whatsoever beyond the Purchaser's control.

11 Cancellation and Force Majeure

- 11.1 The Purchaser shall be entitled to cancel a Contract in whole or in part:
 - 11.1.1 if the Supplier shall fail to deliver or supply the goods or services hereby ordered or any of them within the time herein stipulated, or if any of the goods be lawfully rejected by the Purchaser, or if there be any failure by the Supplier to comply with these conditions; or
 - 11.1.2 if acceptance or payment for the goods or services or their use by the Purchaser in the course of its business be prevented or hindered by any Act of Parliament, Government regulation, strike, lock out, fire or other contingency beyond the control of the Purchaser.
- 11.2 If this Order is for delivery or supply by instalments and any of the events stated at clause 11.1.1 or 11.1.2 above shall occur in relation to one or more instalments, the Purchaser's right to cancel shall extend to the whole balance of the Order not already delivered or supplied and accepted, or any part thereof.

12 Intellectual Property

- 12.1 The Supplier warrants that the sale of or licence and warranty of goods or materials supplied pursuant to this Order will not infringe any United Kingdom or foreign patent, registered designs, trade marks, copyright, design right or other rights generally.
- 12.2 Unless otherwise agreed in writing, all copyright and other intellectual property rights in the goods or works arising from the services supplied (including all future rights arising out of such goods or services and any preparatory material) (the "Works") and physical possession of any media upon which such Works are contained pursuant to or resulting from this Order shall be the property of and are hereby assigned to the Purchaser on delivery. Acceptance of the terms hereof will be deemed an absolute assignment of all such rights in the Works by the Supplier to the Purchaser with full title guarantee and free from all charges, liens and other encumbrances. The Supplier hereby agrees at the Purchaser's cost to execute or complete any formal consents or agreements reasonably required by the Purchaser to formalise or enforce the rights granted herein.
- 12.3 Unless otherwise agreed in writing, the Supplier hereby grants to the Purchaser and its associated companies an irrevocable royalty-free licence to use, copy or modify the Works (the intellectual property rights in which have not, for whatever reason, been assigned to the Purchaser) with a right to sublicense those Works to third parties for the purposes intended by the Purchaser and notified to the Supplier from time to time.
- 12.4 Where applicable, the Supplier hereby waives all moral rights (as defined in the Copyright Designs and Patents Act 1988 (as amended) or equivalent legislation in other jurisdictions) in the Works supplied hereunder in so far as they relate to the Purchaser, and agrees that it has obtained all waivers of moral rights and consents from any employee, agent, subcontractor or other third party necessary to comply with its obligations hereunder.

13 Hazardous Goods

- 13.1 The Supplier shall not deliver any hazardous goods or toxic substance to the Purchaser's premises without the Purchaser's prior written approval. The Supplier shall observe all international agreements relating to the pricing, labelling or carriage of hazardous goods and such goods must be marked by the Supplier with the appropriate international danger symbol(s) and a description of the material displayed in English. Transport and other documents must include a declaration of the hazard and a description of the material in English. Goods must be accompanied by appropriate emergency information in English in the form of written instruction, labels or markings.
- 13.2 The Supplier shall promptly notify the Purchaser of any information or instructions it holds, or are reasonably available to the Supplier regarding any potential hazards known or believed to exist in the transport, handling, storage or use of the goods.

14 Business Ethics

- 14.1 **Corrupt Gifts and Payments:** Neither party shall offer or give or agree to give any person employed by or associated with the other party or shall accept from the other party any gift or undue financial or other advantage of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any act whether in relation to these terms and conditions and/or any Contract or otherwise, or for showing or forbearing to show favour or disfavour to any person whether in relation to these terms and conditions and/or

any Contract or otherwise. Without prejudice to the generality of the foregoing, each party shall comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including by not limited to the Bribery Act 2010. Breach of this clause shall be deemed to be a material breach of these terms and conditions and each Contract.

14.2 Compliance with Anti-Slavery and Human Trafficking Laws and Policies: In performing its obligations under each Contract, the Supplier shall:

- 14.2.1 comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including but not limited to the Modern Slavery Act 2015; and
- 14.2.2 have and maintain throughout the term of this agreement its own policies and procedures to ensure its compliance; and
- 14.2.3 not engage in any activity, practice or conduct that would constitute an offence under sections 1, 2 or 4, of the Modern Slavery Act 2015 if such activity, practice or conduct were carried out in the UK; and
- 14.2.4 include in its contracts with its subcontractors and suppliers anti-slavery and human trafficking provisions that are at least as onerous as those set out in this clause 14.2.

15 Work on Purchaser's Premises

Where any Order involves work being carried out on the Purchaser's premises the Supplier and its employees, agents and contractors shall observe all statutory rules and regulations and all of the Purchaser's rules and regulations. All personnel working on the Purchaser's premises shall report to the Purchaser's site manager before commencing work.

16 Policies

Supplier Code of conduct

The Supplier shall comply with Arqiva's Supplier Code of Conduct as published on Arqiva's website (www.arqiva.com)

17 Miscellaneous

- 17.1 The Supplier will not without the prior written consent of the Purchaser in any way whatsoever advertise or publish the fact that the Supplier has contracted to supply to the Purchaser the goods or services herein mentioned.
- 17.2 The Contract is personal to the Supplier and the Supplier shall not assign or transfer or purport to assign or transfer to any other person any of its rights or sub-contract any of its obligations under any Contract without the prior written consent of the Purchaser.
- 17.3 Any notice required or permitted to be given by either party to the other under the Contract shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.
- 17.4 No waiver by the Purchaser of any breach of any Contract by the Supplier shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 17.5 If any provision of these terms and conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these terms and conditions and the remainder of the provision in question shall not be affected thereby.
- 17.6 The construction validity and performance of these terms and conditions and any Contract shall be governed by the Laws of England and any claim or dispute arising therefrom shall be subject to the jurisdiction of and be determined by the English Courts.