



Nuffield Health Conditions of Contract

1. Definitions
Buyer means the Nuffield Health, Epsom Gateway, Ashley Avenue, Epsom, Surrey KT18 5AL (Registered No. 57697/0)
Contract means the contract between Buyer and Seller consisting of any Framework Document, the PO, any Specifications and these conditions. Should there be any inconsistency between these documents they shall have precedence in the order herein listed;
Failure means in relation to the Seller (or any director, officer, employee, partner, agent, sub-contractor of the Seller) any breach of its obligations under the Contract including but not limited to any delay in the delivery of Goods or completion of Services, or any defect in the workmanship, materials or design of any Goods or their packaging, any act, omission, negligence or willful default or any breach of statutory duty;
Goods means the goods (if any), or instalment or part of them, as specified in the PO to be supplied by Seller pursuant to the Contract and shall include any goods or materials provided as part of any Services;
Intellectual Property Rights means copyright, design rights (whether registered or unregistered), patents, patent applications, utility models and any rights to inventions, trade secrets, trademarks, trade names, databases rights, patent rights, logos and service marks (whether registered or unregistered), or any other rights in intellectual property, or any other rights in the Contract, all Intellectual Property Rights therein or relating thereto shall belong to Buyer or a third party nominated by Seller absolutely. Seller hereby assigns the Intellectual Property Rights in the same to Buyer or Buyer's third party nominee as requested by Buyer with the intent that upon the making or creation thereof the Intellectual Property Rights shall automatically vest in Buyer or Buyer's third party nominee.
PO means the order placed by Buyer which may be for the supply of Goods and/or the infringement of any Intellectual Property Rights for or relating to the Goods or Services; liabilities, penalties, fines, judgments, demands, fees, costs, charges, losses (including loss of revenue and loss of profit) and expenses (including legal expenses) whatsoever ("Losses") whether or not such Losses or the consequences of any Failure were foreseeable or not, or in the contemplation of the parties or not and no such Losses shall be classed as too remote;
Seller means the person, firm or company to whom the PO is addressed;
Services means the services (if any) described in the PO to be undertaken by the Seller pursuant to the Contract;
Specifications means the technical or other requirements (if any) for the Goods and/or the Services as appropriate which may be contained or referred to in the PO.
2. Existence of the Contract
2.1 These conditions shall be incorporated in the Contract to the exclusion of any terms or conditions stipulated or referred to by Seller.
2.2 No variations or amendments to this Contract shall be binding on Buyer unless expressly agreed in writing by Buyer.
2.3 The Contract contains the entire understanding between Buyer and Seller and supersedes all previous agreements in respect of the subject matter of the PO.
2.4 If in any particular case any of these conditions shall be held to be invalid or shall not apply to the Contract the other conditions shall continue in full force and effect.
3. Quality
3.1 Without prejudice to any other rights Buyer may have Seller warrants to Buyer that the Goods and/or Services as appropriate will:
3.1.1 conform as to quantity, quality and description with the particulars stated in the Contract;
3.1.2 (without prejudice to clause 3.1.1) be of satisfactory quality and fit for the purpose held out by Seller or made known to it either expressly or by implication by Buyer;
3.1.3 be equal in all respects to any samples provided by either party and accepted by the other;
3.1.4 be capable of any standard of performance specified in the Contract;
3.1.5 comply with all statutory requirements and regulations relating to the manufacture and sale of the Goods at the time when the same are supplied or relating to the provision of the Services at the time they are performed;
3.1.6 be performed by appropriately qualified and trained personnel with all due care and diligence and to the highest standard of quality prevailing in the industry at the time of performance.
3.2 Both parties shall comply with all applicable laws, regulations, codes, and sanctions relating to modern slavery, anti-bribery, and anti-corruption, including (but not limited to) the Modern Slavery Act 2015 and the Bribery Act 2010 (UK).
4. Inspection Testing and Samples
4.1 If so required by Buyer, Seller shall submit samples of the Goods for Buyer's approval before the Goods are delivered or before any Services requiring the use of Goods are performed (as the case may be). Such samples of Goods should be marked by Seller clearly and appropriately for identification.
4.2 Buyer shall be entitled to inspect and test the Goods during manufacture, processing and storage or inspect the provision of the Services and Seller shall at its own cost provide or shall procure the provision of all such facilities as may reasonably be required by Buyer therefor.
4.3 If as a result of any inspection or test under clause 4.2 above Buyer is of the reasonable opinion that the Goods or the Services do not comply with any aspect of the Contract or are unlikely on completion so to comply it may inform Seller accordingly and Seller shall promptly take all reasonable steps as may be necessary to ensure such compliance.
5. Performance Delivery
5.1 Where Seller is to perform the Services or part thereof at Buyer's premises or such other premises as are detailed in the PO, Seller undertakes to ensure that its employees, officers, agents and sub-contractors shall comply with all health and safety, security, environmental and any other standards or requirements detailed in any statutory or other type of regulation or code of practice or as required by the owner or occupant of the premises.
5.2 The Goods shall be properly packed and secured in such a manner as to reach their destination in good condition having regard to the nature of the Goods and any other relevant circumstances. Where applicable, the Goods shall be packaged, labelled and transported in accordance with any standards and recommendations issued by any appropriate regulatory authority from time to time. Packaging should be clearly marked showing a full description, quantity, expiration date and any special storage or other relevant instructions/information as applicable.
5.3 The Goods shall be delivered and the Services performed by Seller at the time or within the period specified in the Contract and delivered to and performed for Buyer at the address set out in the PO or to or at such other address as may be specified in the Contract. Delivery of the Goods shall take place during Buyer's normal business hours. Seller shall supply Buyer in good time with any instructions or other information required to enable Buyer to accept delivery of the Goods or performance of the Services.
5.4 The time of delivery of the Goods and time of performance of the Services shall be of the essence of the Contract.
5.5 If the Goods are to be delivered or the Services are to be performed by instalments the Contract shall be treated as a single Contract and not severable.
5.6 If Goods are incorrectly delivered, Seller will be held responsible for any additional expense incurred in delivering them correctly.
5.7 Seller shall make good free of charge to Buyer any loss or damage to or defect in the Goods on delivery where notice is given by Buyer in compliance with this condition.
5.8 If for any reason Buyer is unable to accept delivery of the Goods at the time when the Goods are due and ready for delivery Seller shall store the Goods, safeguard them and take all reasonable steps to prevent their deterioration until their actual delivery.
6. Rejection
6.1 Without prejudice to any other of its rights Buyer may by notice in writing to Seller reject any or all of the Goods or notify Seller that the Services provided do not comply with the required standards if Seller fails to comply with any of its obligations under the Contract.
6.2 Buyer shall not be deemed to have accepted any Goods or accepted the performance of any Services until Buyer has had a reasonable time to inspect the Goods following delivery or review the Services following completion provided that where there may be a latent defect, Buyer shall have a reasonable time to inspect the Goods or review the Services after such defect becomes apparent.
6.3 Buyer shall when giving notice of rejection or non-compliance specify the reason therefor and Seller shall, at Buyer's request, remove such rejected Goods or re-perform such non-compliant Services at Seller's risk and expense; failure to do so within the specified time entitles Buyer to dispose of said Goods or return them at Seller's risk and expense. In such case, without prejudice to any of Buyer's other rights or remedies, Seller shall at Buyer's option (a) replace such rejected Goods with Goods which are in all respects in accordance with the Contract, or (b) re-perform such Services in accordance with the Contract, or (c) credit Buyer with the invoice price thereof.
7. Passing of Property and Risk to Buyer
7.1 The risk in the Goods shall remain with the Seller until they are delivered at the point specified in the PO and Buyer accepts that the Goods are in accordance with the Contract. Buyer accepts no responsibility for the risk of damage, loss or delay in transit.
7.2 The property in the Goods shall pass to Buyer at the latest on the date of notification by Seller that the Goods are due and ready for delivery but without prejudice to: (a) the passing of property at an earlier time under any statute or rule of law; (b) any right of retention which may accrue to Buyer whether under these conditions or otherwise.

7.3 The property in any goods in relation to which Seller is providing Services shall remain with Buyer at all times however risk in any such goods shall pass to Seller for such time as it is in possession or has control over such goods.

8. Buyer's Property and Information

8.1 Seller shall not, without Buyer's prior written consent, (a) disclose or publish any details or information in relation to the Contract (including the Contract itself) or (b) use Buyer's name or any trademark or logo of Buyer.
8.2 All drawings, specifications (including the Specifications) and information supplied or communicated by Buyer to Seller or created by Seller in connection with the Contract are confidential and to be used solely for the purpose of performing the Contract and the Seller (and its respective officials, employees, partners, agents and sub-contractors) shall not at any time disclose or misuse any such material without Buyer's prior written consent and Seller shall promptly return all such materials to Buyer upon the completion of the Contract.
8.3 Where the Contract drawings, specifications (including the Specifications) and information are designed, created or otherwise developed by Seller for Buyer pursuant to or as a result of the Contract, all Intellectual Property Rights therein or relating thereto shall belong to Buyer or a third party nominated by Buyer absolutely. Seller hereby assigns the Intellectual Property Rights in the same to Buyer or Buyer's third party nominee as requested by Buyer with the intent that upon the making or creation thereof the Intellectual Property Rights shall automatically vest in Buyer or Buyer's third party nominee.

9. Price and Payment Terms

9.1 An invoice shall be rendered on Seller's own invoice form to Buyer and clearly marked with any PO number, the period and the amount of the goods services for which payment is claimed together with the agreed charging rates and any other details Buyer may determine as necessary from time to time.
9.2 Buyer shall pay Seller the contract price in accordance with the payment details specified on the PO and, unless stated otherwise in the Contract, within sixty (60) days from receipt of a correctly prepared and undisputed invoice. If any amount required to be paid under the Contract is not paid and is not the subject of a dispute when it is due such amount shall bear interest at the rate of 2% per annum above the base lending rate of the Bank of England from time to time calculated on a daily basis for the period from the due date to the date of actual payment.
9.3 Unless otherwise stated, the price specified in the Contract is inclusive of all taxes, fees, duties (including, without limitation, import duties), delivery charges and other charges which shall be shown separately on all invoices. VAT shall be payable at the applicable VAT rate subject to the receipt of a valid VAT invoice.
9.4 Where Goods are to be imported into the UK, the Seller will act as importer of record into the UK and be responsible for clearing the Goods through customs formalities and settling any import VAT and related customs duties (i.e. delivery terms are delivered duty paid (DDP) into the UK).

10. Termination

10.1 Buyer may terminate the Contract by notice in writing to Seller if Seller commits a breach of any of its obligations hereunder and where such breach is remediable does not remedy such breach within 5 working days of the date of written notice from Buyer of the breach requiring remedy.
10.2 Buyer may terminate the whole or part of the Contract in the event of a failure by Seller to ensure delivery of the Services or performance of the Services within the period of time agreed in the Contract.
10.3 Buyer may terminate the whole or part of the Contract on giving Seller not less than 5 working days' notice in writing and shall, subject to the receipt of a valid and undisputed invoice, pay the Seller for all Goods delivered or Services performed in accordance with the Contract up to the date of termination, but shall not be liable to pay any other costs which may have been incurred or which may arise due to the Contract cessation.
10.4 If Seller, being an individual (or when Seller is a firm, any partner in that firm), shall at any time become apparently insolvent, or shall have a receiving order or administration order made against him or shall make any composition or arrangement with or for the benefit of his creditors or if Seller, being a company, shall pass a resolution of the court shall make an order that the company shall be wound up (not being a member's winding up for the purpose of reconstruction or amalgamation) or if a receiver, administrative receiver or administrator shall be appointed over the whole or any part of its assets then Buyer shall be at liberty to cancel the Contract immediately by notice in writing to Seller.
10.5 Termination by Buyer shall be without prejudice to its other rights or remedies hereunder.

11. Warranty

11.1 Without prejudice to any other remedies of Buyer, Seller shall forthwith upon a request by Buyer so to do:
11.1.1 replace or (at Buyer's option) repair all Goods which are or become defective during the period of 18 months from the date of delivery or 12 months from the date of putting into service, whichever is the shorter where such defect occurs under proper usage and is due to faulty design, or inadequate or faulty materials or workmanship, Seller's erroneous instructions as to use, erroneous data or any breach by Seller of any provision of the Contract. Repairs and replacements shall themselves be subject to the foregoing obligations for a period of 12 months from the date of delivery, reinstallation or passing of tests (if any) whichever is appropriate after repair or replacement; or
11.1.2 re-perform any Services found to have been performed defectively within 12 months of the date of their performance.

12. Indemnity and Liability

12.1 Seller shall defend indemnify and hold harmless Buyer (and its respective directors, officers, employees, agents and sub-contractors) in full and on demand against all Relevant Losses caused by a Failure.
12.2 The indemnity in clause 12.1 above will not extend to Relevant Losses to the extent such Relevant Losses are caused by any breach of the Contract by Buyer or by any negligence, fraud or willful misconduct of Buyer.
12.3 Buyer shall not have any liability whether arising from breach of contract, negligence, breach of statutory duty or otherwise under or in relation to the Contract for any indirect, special or consequential losses whatsoever and howsoever caused provided that this clause 12.3 shall not act to limit Buyer's primary obligation to make payments pursuant to clause 9.
12.4 Nothing in this Agreement shall exclude or limit the liability of either party for death or personal injury to the extent caused by its negligence, or for fraudulent misrepresentation or to the extent not permitted by statute or common law.

13. Insurance

Seller shall at all times take out and maintain with a reputable insurer such policy or policies of insurance as may be necessary to cover Seller's obligations and liability under the Contract or otherwise. Seller shall, on Buyer's request, provide Buyer with copies of certificates evidencing such coverage.

14. Notices

Any notice to be served by either party hereunder shall be sent by pre-recorded delivery or registered post, or by facsimile transmission to the other at the address stated in the Contract, and shall be deemed to have been received by the other, if sent by pre-paid recorded delivery or registered post, one week after posting, or if sent by facsimile transmission, on the date stated provided that a printed report confirming transmission is received and a confirmatory copy of the notice is sent by pre-paid recorded delivery or registered post on the date of transmission.

15. Assignment and Sub-Contracting

Seller shall not assign or transfer the Contract or any of its rights without Buyer's written consent. Seller shall be responsible for all work done and Goods supplied by all sub-contractors.

16. Third Party Rights

A person who is not a party to the Contract has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any part of the Contract but this does not affect any right or remedy of the third party which exists or is available apart from that Act.

17. Law of the Contract

The Contract and any dispute or claim arising out of or in connection with it or its subject matter shall be governed by and construed in accordance with English Law and each of the parties submit to the exclusive jurisdiction of the English Courts.

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