
Ofwat standard terms and conditions for goods and services

1. Application of these terms and conditions

- 1.1 These terms and conditions apply to every purchase order placed by Ofwat with any individual, firm or company ('the Supplier'), unless explicitly stated otherwise in the purchase order. The purchase order, as accepted by the Supplier in writing, together with these terms and conditions forms the contract between Ofwat and the Supplier ("the Contract").
- 1.2 No terms or conditions in or attached to any catalogue, invoice or other sales literature or document or tender or dispatch/delivery advice note of the Supplier which are inconsistent with these terms and conditions or which purport to add to or vary them in any way shall have any effect unless expressly accepted by Ofwat in writing.

2. Price

- 2.1 The price to be paid for the goods and/or services as set out in the purchase order is a fixed priced unless specifically indicated otherwise within the purchase order, and is exclusive of VAT. No variation of such price shall be effective unless agreed in writing between the Supplier and Ofwat.

3. Invoices, payment and set off

- 3.1 Payment for goods and/or services provided shall be made at the time(s) stated in the purchase order.
- 3.2 Ofwat shall make payment within 30 days of receipt of a valid and undisputed invoice from the Supplier, which (if the Supplier determines that VAT is payable) must comply with the requirements of H.M. Revenue and Customs for VAT purposes.
- 3.3 All i nvoices shall bear Ofwat's purchase order number.

- 3.4 Ofwat may set off against any sums due to the Supplier, whether under this purchase order or otherwise, any lawful set off or counterclaim to which Ofwat may at any time be entitled.

4. Delivery of goods and/or provision of services

- 4.1 All goods and/or services ordered by Ofwat shall be delivered or performed at the cost of the Supplier.
- 4.2 Failure to deliver the goods or perform the services on the date(s) specified in the purchase order shall entitle Ofwat to cancel the Contract without notice.
- 4.3 All goods and/or services shall be delivered to the place and address specified in the purchase order.
- 4.4 Risk and title in the goods and/or services shall only pass to Ofwat on acceptance of the goods and/or services when delivered to the place and address in the purchase order, unless agreed otherwise by the parties. Ofwat reserves the right to take immediate possession of all goods to which it has title.
- 4.5 Any goods lost or damaged in transit shall be restored or replaced by the Supplier at the Supplier's expense and to Ofwat's satisfaction.
- 4.6 If, at any time within 3 months from the date of delivery, the goods and/or services fail to comply with the Contract, Ofwat may reject the whole or any part of the goods and/or services.

5. Quality and performance

- 5.1 The goods and/or services supplied or performed under the Contract shall:
- (a) conform to the quantity, type, sort, quality and description set out in the Contract; and
 - (b) be fit for the purpose made known to the Supplier expressly or by implication; and
 - (c) comply with any current legislation and appropriate prevailing standards.
- 5.2 The Supplier shall perform the services with all reasonable care, skill and diligence in accordance with good industry practice in the Supplier's industry, profession or trade, and use staff who are suitably skilled and experienced to

perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Contract.

- 5.3 If the goods and/or services do not so comply, Ofwat is entitled at its option either to return the goods at the risk of the Supplier and reject the goods and/or services, and require the Supplier to re-perform the services or accept the whole or part of the goods and/or services supplied by the Supplier but without prejudice to any rights of Ofwat to claim compensation or damages for loss or damage suffered as a result of such failure to comply.

6. Term and termination

- 6.1 The Contract shall take effect on the date specified in the purchase order and shall expire on the expiry date specified in the purchase order, unless otherwise extended or terminated in accordance with the terms and conditions of the Contract.
- 6.2 Ofwat may terminate the Contract at any time by notice in writing to the Supplier to take effect on any date falling at least 28 working days (or, if the Contract is less than 3 months in duration, at least 14 working days) later than the date of service of the relevant notice.
- 6.3 Without prejudice to any other right or remedy it might have, Ofwat may terminate the Contract by written notice to the Supplier with immediate effect if the Supplier:
- (a) is in breach of any obligation under the Contract which is not capable of remedy, or repeatedly breaches any of the terms and conditions of the Contract; or
 - (b) is in breach of any obligation which is capable of remedy, and that breach is not remedied within 14 working days of the Supplier receiving notice specifying the breach and requiring it to be remedied; or
 - (c) becomes insolvent, or if an order is made or a resolution is passed for the winding up of the Supplier, or if an administrator or administrative receiver is appointed in respect of the whole or any part of the Supplier's assets or business, or if the Supplier makes any composition with its creditors or takes or suffers any similar or analogous in consequence of debt in any jurisdiction.

7. Intellectual property

- 7.1 The Supplier grants Ofwat a perpetual, royalty-free, irrevocable non-exclusive licence (with right to sub-licence) to use all intellectual property rights in the goods and/or services supplied, to the extent that it is necessary to fulfil its obligations under the Contract.
- 7.2 All intellectual property rights in any materials created or developed by the Supplier pursuant to the Contract or arising as a result of the provision of the goods and/or services shall vest in Ofwat, unless agreed otherwise in the purchase order.
- 7.3 The Supplier shall indemnify and keep indemnified Ofwat in full against all costs, expenses, damages and losses (whether direct or indirect), including any interest, penalties, and reasonable legal and other professional fees awarded against or incurred or paid by Ofwat as a result of or in connection with any claim made against Ofwat for actual or alleged infringement of a third party's intellectual property arising out of, or in connection with, the supply or use of the goods and/or services.

8. Confidentiality

- 8.1 The Supplier shall treat all information disclosed to it by Ofwat and all information created as a result of the Contract as confidential, and safeguard it accordingly, and shall not disclose any such information without the prior written consent of Ofwat.

9. Liability

- 9.1 Neither party shall exclude liability for death, personal injury or fraud.
- 9.2 The aggregate liability of the Supplier in respect of all defaults, claims, losses or damages howsoever caused, whether arising from breach of the Contract, the supply or failure to supply the goods and/or services, misrepresentation, tort (including negligence), breach of statutory duty or otherwise shall in no event exceed a sum equal to 150% of the price paid or payable to the Supplier.
- 9.3 Except in the case of claims arising under clauses 7.3 (indemnity) and 20.1 (indemnity), in no event shall the Supplier be liable to Ofwat for any loss of

profits, loss of business; loss of revenue, loss of or damage to goodwill, loss of savings and/or any indirect, special or consequential loss or damages.

10. Protection and security of data

10.1 The Supplier shall, and shall procure that its staff and subcontractors shall comply with any requirements under the Data Protection Act.

10.2 When handling Ofwat data, the Supplier shall ensure the security of the data is maintained in accordance with the security requirements of Ofwat as specified in the purchase order.

11. Freedom of Information

11.1 The Supplier acknowledges that Ofwat is subject to the Freedom of Information Act and the Environmental Information Regulations 2004 ('the Information Laws') and where applicable, the Supplier shall provide all necessary assistance to enable Ofwat to comply with its obligations under the Information Laws.

11.2 The Supplier acknowledges that Ofwat may be required under the Information Laws to disclose Information concerning the Supplier or the Contract (including commercially sensitive information) without consulting or obtaining consent from the Supplier

12. Publicity

12.1 The Supplier shall not, without the prior written permission of Ofwat, advertise or disclose to any third party that it is providing the goods and/or services to Ofwat.

13. Dispute resolution

13.1 The parties shall attempt in good faith to negotiate a settlement to any dispute arising out of or in connection with the Contract. In the event a settlement cannot be reached within 28 working days of the dispute arising the parties may exercise any remedy they have under applicable law.

14. Force majeure

14.1 Neither party shall have any liability under or be deemed to be in breach of the Contract for any delays or failures in performance under the Contract which result from circumstances beyond the reasonable control of the party affected. Each party shall promptly notify the other party in writing when such circumstances cause a delay or failure in performance and when they cease to do so. If such circumstances continue for a continuous period of more than 28 working days, either party may terminate the Contract by written notice to the other party.

15. Subcontracting and assignment

15.1 The Supplier shall not without the prior written consent of Ofwat assign, transfer subcontract or novate in whole or in part the benefit or the burden of the Contract or any part of the Contract.

16. Relationship between the parties

16.1 This Contract does not create a partnership between Ofwat and the Supplier or make one of the parties the agent of the other for any purpose.

17. Waiver

17.1 No delay, neglect or forbearance on the part of either party in enforcing against the other party any term or condition of the Contract shall either be or be deemed to be a waiver or in any way prejudice any right or that party under this Contract.

18. Entire agreement

18.1 These terms and conditions and the purchase order shall comprise the entire terms and conditions of the Contract in relation to the subject of the purchase order, and the Supplier's terms and conditions shall be expressly excluded.

19. Amendment

19.1 This Contract may not be varied except by an agreement in writing signed by the duly authorised representatives of the parties.

20. Observance of statutory requirements

20.1 The Supplier shall comply with the all statutes, orders, regulations or bye laws applicable to the performance of this Contract, including health and safety, and shall indemnify Ofwat against any losses, claims or liabilities, expenses, proceedings or otherwise as a result of the Supplier's non-compliance with the same.

21. Notices

21.1 Any notice by either party to the other under the Contract shall be in writing, and may be served by personal delivery or first class recorded post at the address shown in the purchase order. All notices shall be deemed duly given on the day of delivery.

22. Law and jurisdiction

22.1 This Contract shall be subject to and construed in accordance with English Law and the parties submit to the exclusive jurisdiction of the English Courts to which they submit