

1 The Order is issued subject to these Conditions, which govern both the Order and all business dealings between Cefas and the Supplier relating to the Order. The Order Number issued by Cefas must be quoted on all communications in connection with the Order. Failure to do so may result in delayed processing, acceptance and payment.

2 All correspondence relating to the Order except invoices covered by 3 below must be addressed to Cefas at the address set out in the Order.

3 All invoices must:

- 3.1 bear the Order number plus any additional number allocated;
- 3.2 quote your VAT registration number; and
- 3.3 be sent to Finance Team, Cefas, Pakefield Road, Lowestoft, Suffolk, NR33 0HT or sent electronically to Finance@cefas.co.uk

GENERAL CONDITIONS OF PURCHASE

4 DEFINITIONS

In this Contract:

4.1 **'Cefas'** shall mean The Secretary of State for Environment, Food and Rural Affairs acting through the Centre for Environment, Fisheries and Aquaculture Science of Pakefield Road, Lowestoft, Suffolk NR33 0HT;

4.2 **'Conditions'** means these terms and conditions for the purchase of the Deliverables;

4.3 **'Confidential Information'** means any information which has been designated as confidential by you or Cefas in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including the Management Information, information which relates to the business, affairs, properties, assets, trading practices, Services, developments, trade secrets, Intellectual Property Rights, know-how, personnel, customers and suppliers of you or Cefas and all personal data and sensitive personal data within the meaning of the Data Protection Act 1998;

4.4 **'Contract'** shall mean the contract concluded by commencement of work under the Order or, if earlier, any acceptance of the Order communicated by you to Cefas (whether in writing, orally or otherwise), whose terms shall comprise these Conditions and the RFQ document as attached at Annex 1;

4.5 **'Deliverables'** shall mean any services or goods or materials provided pursuant to the Order;

4.6 **'Force Majeure'** shall mean any event or occurrence which is outside the reasonable control of either party including (but not limited to) governmental regulations, fire, flood or any disaster;

4.7 **'Order'** shall mean the purchase order;

4.8 **'IPR'** means all present and future patents, inventions, trademarks, service marks, logos, design rights (whether registrable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, trade or business names, moral rights and other similar rights or obligations whether registrable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off;

4.9 **'you'** or **'your'** shall mean the person or body appearing against the word **'Supplier'** on the front of the Order.

The headings used in these Conditions are for convenience and reference only and shall not affect their interpretation.

5 DELIVERY TITLE AND RISK

5.1 You must deliver the Deliverables, together, in the case of goods or materials, with a detailed delivery note quoting an Order number, by the date specified in the Order or, if none, by any reasonable time specified by Cefas. Time shall be of the essence with regard to dates specified by Cefas for the supply of Deliverables.

5.2 Title in the Deliverables shall vest in Cefas upon delivery.

5.3 Risk in Deliverables shall remain with you until the Deliverables are delivered to Cefas and signed for as accepted by an authorised signatory of Cefas provided that if the Deliverables are subsequently rejected by Cefas for any reason whatsoever (whether or not Cefas is entitled to do so in accordance with these Conditions) and Cefas gives you notice of such rejection, then risk in the Deliverables shall pass back to you forthwith.

5.4 If at any time deliveries under this Contract are suspended due to the happening of a Force Majeure event, then, without prejudice to its rights of termination or cancellation under clauses 17 and 18, Cefas may at its discretion postpone delivery of the Deliverables for the period of suspension or such longer period as Cefas may require, in which event Cefas's payment obligations shall be postponed for the equivalent length of time.

6 SPECIFICATION

6.1 Cefas is relying on your skill and judgment to, as appropriate depending on the nature of the Deliverables, select and/or provide it with suitable

materials or perform services satisfactorily and in either event in accordance with the Order.

6.2 You shall comply with all applicable regulations or legal requirements (as appropriate depending on the nature of the Deliverables) concerning the production, packaging and delivery of any goods or materials and/or the performance of any services.

6.3 You shall at all times comply with all reasonable instructions and directions of Cefas given in connection with the Order.

6.4 You warrant that the Deliverables will be produced or provided by appropriately qualified and trained personnel, who shall act with due competence, care and diligence and that any services that are part of the Deliverables will be provided to such high standard of quality as it is reasonable of Cefas to expect in the circumstances.

6.5 You warrant that the Deliverables will be of satisfactory quality and fit for the purposes for which they are required by Cefas and all Deliverables will comply in every respect with all specifications, designs or requirements provided or notified by Cefas to you.

6.6 You shall comply with the Joint Code of Practice for Research (available on www.gov.uk/government/organisations/natural-england) if the Deliverables are research.

7 RIGHTS

7.1 You warrant that the Deliverables will be original and will not infringe any third party's IPR or be in any other way contrary to law or any relevant regulatory code. In the case of pre-existing works bought in by you and supplied as part of the Deliverables you will procure at your expense that Cefas is granted a worldwide licence to use such works for all purposes for the full terms of the relevant IPR.

8 OWNERSHIP OF IPR IN DELIVERABLES

~~8.1 Except in the case of pre-existing IPR which may be supplied as part of the Deliverables and where consent to include such IPR has been obtained from Cefas, Cefas shall be the owner of any and all IPR in the Deliverables and you hereby assign, by way of future assignment, such IPR upon delivery or payment of the price of the Deliverables, whichever first occurs, and, unless otherwise specified overleaf, you agree to deliver the same to Cefas and do all such things required by Cefas to effect the assignment when so requested at no further charge.~~

9 PACKAGING

9.1 All Deliverables must be packed securely so as to be delivered to Cefas in perfect condition and in the event that the Deliverables are not delivered in good condition it shall be deemed that they were not packed in accordance with this provision.

9.2 Packaging material shall be supplied free of charge and shall not be returnable unless Cefas has so agreed in writing prior to the time of delivery provided this does not conflict with any of Cefas's duties under applicable UK waste regulations.

9.3 Packaging shall be in accordance with any requirements specified from time to time by Cefas and all Deliverables supplied shall carry such information as is specified by Cefas. Packages containing deliverables supplied against drawings, part numbers or catalogues must be marked with the appropriate reference.

10 SAFE CUSTODY

10.1 You shall take good care of all Deliverables and any items entrusted to you by Cefas, identify all such items as Cefas's and return them to Cefas on demand.

11 PRICES AND PAYMENT

11.1 All prices specified in the Order by Cefas are and shall remain fixed and, unless provision for variation of prices is expressly stated on the front sheet of the Order form, no variation is permitted. Unless agreed otherwise and stated on the front of the Order all expenses and disbursements are included within the price stated.

11.2 The benefit of all commissions, discounts, volume and other rebates must be passed on to Cefas.

11.3 Unless otherwise stated on the front of the Order, you may not issue any invoice under the Contract until all Deliverables have been delivered to Cefas under this Contract.

11.4 Undisputed invoices will normally be paid 30 days following the last day of the month of the invoice unless otherwise agreed in writing.

12 INDEMNITY

12.1 You undertake to indemnify and hold harmless Cefas, its clients and their respective assigns and licensees, from and against all and any costs (including without limitation legal costs), claims, expenses, actions, proceedings or

damages incurred or suffered by them or any of their employees, agents or contractors as a result of any breach or alleged breach of your obligations, warranties, agreements and undertakings in this Contract.

12.2 Each Party's total aggregate liability under or in connection with the Contract (whether in tort, contract or otherwise) is no more than five (5) times the value of the Charges unless specified in the Order form.

12.2.1 No Party is liable to the other for:

(a) any indirect losses;
(b) loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect).

12.3 In spite of clause 12.2, neither Party limits or excludes any of the following:

(a) its liability for death or personal injury caused by its negligence, or that of its employees, agents or subcontractors;
(b) its liability for bribery or fraud or fraudulent misrepresentation by it or its employees;
(c) any liability that cannot be excluded or limited by law.

12.4 In spite of clause 12.2, the Supplier does not limit or exclude its liability in relation to:

12.4.1 Clauses 5.3 and 7;

12.4.2 wilful misconduct of the Supplier, any of its subcontractor and/or Supplier Staff that impacts the Contract;

12.4.3 non-payment by the Supplier of any tax or National Insurance;

12.4.4 losses, damages, costs or expenses (including professional fees and fines) resulting from any default by the Supplier relating to any applicable Law to do with the Contract;

12.4.5 all losses, damages, costs or expenses (including professional fees and fines) incurred if the Supplier breaches any Data Protection Legislation;

12.4.6 any Income Tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made during or after the term of the Contract in connection with the provision of the Deliverables by the Supplier.

12.5 Each Party must use all reasonable endeavours to mitigate any loss or damage which it suffers under or in connection with the Contract, including where the loss or damage is covered by any indemnity.

13 CONFIDENTIALITY

13.1 You acknowledge that the Order and its subject matter are confidential to Cefas and shall not be disclosed or publicised to any third party by you for any reason without Cefas's express prior written consent.

13.2 You undertake not to use the name, logo, trademarks or other identity of Cefas (or any client of Cefas for whom the Deliverables are to be supplied) for any advertising or publicity purposes or otherwise without Cefas's express prior written consent.

13.3 You shall not without Cefas's express prior written consent copy, publicise or make available to any third party any information supplied by Cefas for the purposes of the Order.

14 RIGHT TO PUBLISH

14.1 You acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Contract is not Confidential Information. Cefas shall be responsible for determining in its absolute discretion whether any of the content of the Contract is exempt from disclosure in accordance with the provisions of the FOIA. Notwithstanding any other term of this Contract, you hereby gives your consent for Cefas to publish the Contract in its entirety (but with any information which is exempt from disclosure in accordance with the provisions of the FOIA redacted), including from time to time agreed changes to the Contract, to the general public.

14.2 Cefas may consult with you to inform its decision regarding any exemptions but Cefas shall have the final decision in its absolute discretion.

14.3 You shall assist and cooperate with Cefas to enable Cefas to publish this Agreement.

15 FREEDOM OF INFORMATION AND ENVIRONMENTAL REGULATIONS

15.1 You acknowledge that Cefas is subject to the requirements of the Code of Practice on Government Information, Freedom of Information Act 2000 ("FOIA") and the Environmental Information Regulations 2004 ("EIR") and shall assist and co-operate with Cefas (at your expense) to enable Cefas to comply with these requirements.

16 REJECTION OF DELIVERABLES

16.1 Notwithstanding any deemed acceptance of Deliverables and without prejudice to its statutory or common law rights, Cefas shall be entitled to reject any Deliverables before or after delivery if the same do not conform to sample or are defective in workmanship or otherwise not satisfactory, not fit for the

purpose or not in accordance with the Order or any drawings or specifications supplied by Cefas

16.2 Where so rejected:

16.2.1 such Deliverables shall after notice thereof to you be held by Cefas at your sole risk and expense until you shall collect the same;

16.2.2 terminate the Contract forthwith; and

16.2.3 you will repay in full to Cefas whatever has already been paid to you in that regard unless Cefas agrees in writing to allow you to arrange prompt correction, completion or replacement of any Deliverables to Cefas's satisfaction at your own expense (including transportation charges).

17 INSURANCE

17.1 The risk of damage or injury to property or to third parties in the course of performance of the Contract in any part of the world (including the risk of loss or damage in transit to any of the Deliverables in your possession or control, third party risks and employer's liability insurance (or similar) in respect of all employees, agents, representatives and sub-contractors of yours who shall at your request or directions be on Cefas's premises or elsewhere at any time for or in connection with the provision of the Deliverables) shall be yours and you shall take out full indemnity insurance to cover such risks.

18 ASSIGNMENT AND SUB-CONTRACTING

18.1 You may not assign or sub-contract any of your rights or obligations under the Contract without the prior written consent of Cefas.

19 TERMINATION

19.1 Without prejudice to its other rights Cefas shall have the right to cancel the Order and to terminate the Contract if:

19.1.1 you commit a breach of this Contract and fail to remedy the breach within 7 days of written notice to do so; or

19.1.2 you become insolvent, bankrupt, enter into liquidation, enter into a voluntary arrangement, appoint a receiver or such similar event save for the purposes of a solvent reconstruction or amalgamation.

20 CANCELLATION OR INTERRUPTION

20.1 The Order may be cancelled by Cefas at any time prior to Cefas's acceptance of all the Deliverables, upon written notice to you. In such event, Cefas will pay you, in lieu of the price specified on the front of the Order, the direct non-cancellable costs incurred up to that point by you and any direct non-cancellable costs committed to the performance of your obligations hereunder prior to such cancellation provided, however, that the total amount of such costs shall not exceed the price specified on the Order. Cefas will not be responsible to you for any cancellation fees or penalties unless provided for on the Order or in a separate written agreement in respect of the Order signed by Cefas and you.

20.2 Should Cefas or its clients be effected by a Force Majeure event, Cefas may, without incurring any additional liability to you, serve notice on you identifying the relevant event and anticipated delay and altering the date or dates for delivery of the Deliverables until the event or circumstances causing the stoppage, interruption or restriction have ceased. If delivery or performance has been suspended for any such reason Cefas shall not be liable to make any payment to you until the Deliverables are supplied. If such Force Majeure event continues for a period in excess of 6 months, either party may terminate the Agreement by notice in writing with immediate effect.

21 GOVERNING TERMS, LAW AND JURISDICTION

21.1 The terms included in the Order and these Conditions, and no other terms, shall govern the Contract and shall prevail over any other terms or conditions referred to orally or in correspondence between Cefas and you unless Cefas and you have negotiated other contract terms under the contract reference number printed on the Order in which case these shall prevail.

21.2 The terms of this Contract shall be interpreted in all respects in accordance with English law and the parties submit to the non-exclusive jurisdiction of the English courts in all matters pertaining thereto.

21.3 Upon termination of this contract for whatsoever reason clauses 1, 4, 5, 7, 8, 12, 13, 14, 15, 16, 17 and 21 shall continue to apply between the parties for a period of 6 years from the date of such termination.

22. NOTICES

22.1 All notices, orders and instructions provided to you under the Order shall be regarded as properly served if sent by hand, post, fax or email to you at your address on the front of the Order.