

## **Public Power Solutions Ltd Standard Terms and Conditions for the Purchase Goods and Services.**

### **1. GENERAL**

- 1.1 These terms and conditions apply to every purchase order placed by Public Power Solutions ('PPS') with any individual, firm or company ('the Supplier'). 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 PPS in writing. In the absence of such acceptance, the Supplier shall be deemed to have withdrawn or waived his/her terms or conditions and to contract solely on the basis of PPS's, and acceptance of any goods and / or services shall not constitute or be deemed to constitute acceptance by PPS of the Supplier's terms or conditions. The contract shall commence and the Supplier will be contractually bound upon the despatch of a purchase order by PPS.

### **2. PRICE**

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

### **3. CONFIRMITY TO PURCHASE ORDER**

- 3.1 The goods and/or services supplied or performed under the contract shall:
- 3.1.1 confirm as to the quantity, type, sort, quality and description;
  - 3.1.2 be fit for the purpose made known to the Supplier expressly or by implication and in this respect PPS shall rely on the Supplier's skill and judgement ;
  - 3.1.3 be new (unless otherwise specified in the purchase order) and of sound materials and skilled and careful workmanship; and
  - 3.1.4 comply with any current legislation and standards specified and where no standard is specified comply with the relevant European Standards or equivalent.
- 3.2 If the goods and / or services do not comply PPS is entitled at its option either to return the goods at the risk of the Supplier and reject the goods and / or service and require the Supplier to re-perform the service or accept the whole or part of the goods and / or services supplied by the Supplier but without prejudice to any rights of PPS to claim compensation or damages for loss or damage suffered as a result of such failure to comply.

### **4. DELIVERY OF GOODS AND / OR PERFORMANCE OF SERVICES**

- 4.1 All goods and /or services ordered by PPS 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 specified on the purchase order shall entitle PPS to cancel the contract without notice.
- 4.3 All goods and / or services shall be delivered to the address specified in the purchase order.
- 4.4 Before despatching the goods or commencing the provision of the services, the Supplier, shall upon request, allow PPS to inspect or test the goods and /or services for compliance with the specification / purchase order. If the goods / services do not comply with PPS's requirements, PPS shall notify the Supplier either of PPS's intention to reject the goods and / or services or, the remedial steps which must be taken by the Supplier. PPS may without prejudice seek the goods or service from an alternative supplier if at a higher cost shall be entitled to seek any additional costs from the delinquent supplier.
- 4.5 Risk and title in the goods and / or services shall only pass to PPS on acceptance of the goods and / or services when delivered to the address in the purchase order. PPS also reserves the right to take possession of all goods to which it has title.
- 4.6 Any goods lost or damaged in transit shall be restored or replaced by the Supplier at the Supplier's expense to PPS's satisfaction.
- 4.7 If, at any time within 3 months from the date of delivery, the goods and / or services fail to comply with the purchase order, PPS may reject the whole or any part of the goods and /or services. PPS may accept replacement goods / services from the Supplier at the Supplier's expense.
- 4.8 The Supplier agrees to provide a minimum 12 month warranty in respect of all goods supplied to PPS.

### **5. INTELLECTUAL PROPERTY**

- 5.1 PPS retains ownership of all intellectual property rights in all documents provided by PPS in connection with or arising out of the contract.
- 5.2 The Goods/Services shall not infringe the Intellectual Property Rights of any third party.
- 5.3 The Supplier shall indemnify PPS against any and all direct losses, claims, damages, costs, charges, proceedings, expenses and demands and actions arising from or incurred by reason of any infringement or alleged infringement of any Intellectual Property Right and/or royalty payment rights of any third party in respect of the Goods/Service.

- 5.4 Intellectual property rights and other rights in the goods and services shall vest in the party from whom the goods and services originate unless the goods and / or services are produced for PPS as bespoke. If the latter, the rights shall vest in PPS upon their creation.

- 5.5 In the event of any breach of any such intellectual property rights the Supplier shall indemnify PPS, unless PPS is responsible for the breach in question.

### **6. INVOICES, PAYMENT AND SET OFF**

- 6.1 Detailed priced invoices, which shall be valid VAT invoices, shall be sent by first class post or electronically to PPS at the address detailed in the purchase order. Invoices shall be sent immediately after delivery of goods is made or completion of the service and shall bear PPS's purchase order number.
- 6.2 Purchases orders submitted without PPS's official purchase order shall not be processed.
- 6.3 Payment for goods and / or services provided shall be made at the time agreed by the parties.
- 6.4 PPS shall make payment within 30 days of receipt of a valid invoice from the Supplier.
- 6.5 PPS may set off against any sums due to the Supplier whether under this contract or otherwise any lawful set off or counterclaim to which PPS may at any time be entitled.

### **7. INDEMNITY AND INSURANCE**

- 7.1 The Supplier agrees to indemnify and keep indemnified PPS from and against any loss, damage, damages, actions, claims, demands, proceedings, costs, charges, expenses or any other liability (whether criminal or civil) suffered or incurred by PPS resulting from its obligation under the contract.
- 7.2 The Supplier shall secure performance of the indemnities by entering policies of insurance in the sum of not less than £5,000,000 in respect of each claim without limit to the number of claims and shall make available copies of any insurance policies to PPS on request.

### **8. LIABILITIES**

- 8.1 Neither party shall exclude liability for death, personal injury or fraud.

### **9. FORCE MAJEURE**

- 9.1 Notwithstanding anything contained in these terms and conditions neither PPS nor the Supplier shall be liable for any loss damage or expense suffered or incurred by the other party if by reason of fire, accident, wars, strikes, lockouts or any restriction or prohibition imposed by the Government or any duly authorised authority which could not reasonably have been prevented or avoided by PPS or the Suppliers as the case may be, either;
- 9.1.1 PPS is prevented from or delayed in accepting delivery of any goods and / or services or any part of the goods or services or in paying for the same or;
  - 9.1.2 the Supplier is prevented from or delayed in the supply of any goods and / or service ordered by the PPS.

### **10. CONFIDENTIALITY**

- 10.1 The Supplier shall treat all confidential information belonging to PPS as confidential and safeguard it accordingly; and shall not disclose any confidential information without the prior written consent of PPS.

### **11. INFORMATION LAWS**

- 11.1 The Supplier acknowledges that PPS is subject to the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 ('the Information Laws') and where applicable, the Supplier shall provide all necessary assistance to enable PPS to comply with its obligations under the Information Laws.

### **12. PROTECTION AND SECURITY OF DATA**

- 12.1 The Supplier shall, and shall procure that its staff shall, comply with any notification requirements under the Data Protection Act 1998.
- 12.2 The Supplier shall ensure compliance with the seventh data protection principle regarding security of personal information.
- 12.3 When handling PPS's data, the Supplier shall ensure the security of the data is maintained in accordance with the security requirements of PPS as notified from time to time.

### **13. WAIVER**

- 13.1 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.

### **14. AMENDMENT**

- 14.1 This contract may not be varied except by an agreement in writing signed by the duly authorised representatives of the parties.

### **15. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

- 15.1 Unless the right of enforcement is expressly granted, it is not intended that a third party should have a right to enforce a provision of this contract pursuant to the Contracts (Rights of Third Parties) Act 1999. The parties may rescind or

vary this contract without the consent of a third party to whom an express right to enforce any of its terms has been provided.

**16. AGENCY**

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

**17. PUBLICITY & TRANSPARENCY**

- 17.1 The Supplier shall not, without the prior written permission of PPS, advertise or disclose to any third party that it is providing the goods and / or services to PPS.
- 17.2 The parties acknowledge that, except for any information which may be exempt from disclosure in accordance with the relevant law, PPS may publish this contract in its entirety to the general public.

**18. DISPUTE RESOLUTION**

- 18.1 In the event of a dispute between PPS and the Supplier arising in connection with the Contract the Council and the Supplier shall use all reasonable endeavours to resolve the matter on an amicable basis. In the event a settlement cannot be reached within a reasonable time or within one month of the dispute arising (whichever is the shorter period), the parties may exercise any remedy it has under applicable law.

**19. TERMINATION**

- 19.1 If at any time after the commencement of the contract the Supplier shall commit an act of bankruptcy or in the case of a limited company call a meeting of its creditors then PPS shall be entitled to treat the contract as repudiated and cancelled in respect of any goods and / or services not delivered in accordance with the terms of the contract. If the Supplier breaches any terms of this contract PPS may (if the breach is capable of remedy) give the Supplier notice of the breach and the Supplier shall remedy the breach within 7 days from receipt of notice of the breach. If the Supplier fails to remedy the breach or if the breach is not capable of remedy PPS may terminate the contract with immediate effect.

**20. SUB-CONTRACTING AND ASSIGNMENT**

- 20.1 The Supplier shall not sub-contract or assign or transfer this contract from PPS or the benefit of this contract to any third party except with the consent in writing of PPS.

**21. ENTIRE AGREEMENT**

- 21.1 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.

**22. OBSERVANCE OF STATUTORY REQUIREMENTS**

- 22.1 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 PPS against any losses, claims or liabilities, expenses, proceedings or otherwise as a result of the Supplier's non-compliance with the same.

**23. NOTICES**

- 23.1 Any notification by either party to the other under the contract shall be in writing, delivered by first class post, by fax or email to the other party at the address shown in the purchase order. All notices shall be deemed duly given on the day of posting or if sent by fax or e-mail immediately when the notice is transmitted.

**24. PROPER LAW**

- 24.1 This contract shall be subject to and construed in accordance with English Law and the parties submit to the jurisdiction of the English Courts.

**25. Prevention of Bribery**

- 25.1 The Supplier warrants and undertakes to PPS that:  
it will comply with applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010.

**26 Whistleblowing**

- 26.1 The Supplier shall have in place a process whereby its employees may report in confidence any alleged malpractice on the part of the Supplier and/or PPS as regards any part of the Contract and not take any action against any employee pursuant to its contractual rights in respect of that employee where the employee has in good faith reported alleged malpractice.

**27. TERMS AND CONDITIONS SPECIFIED**

- 27.1 These terms and conditions will apply unless PPS specifies different terms and conditions. If different terms and conditions are specified by PPS, those terms will override these purchase order terms and conditions and will apply instead of these.