

DHSC Terms and Conditions for the Supply of Goods

The Authority	Department of Health and Social Care
The Supplier	Unispace Global Ltd Devon House St Katherine's Way London E1W 1JP Company Registration No: 07719633
Date	29/4/2020
Type of Goods	Type IIR Masks

This Contract is made on the date set out above subject to the terms set out in the Order Form and schedules ("**Schedules**") contained in the document (*DHSC Contract for Goods - Terms and Conditions April 2020.pdf*) The Authority and the Supplier undertake to comply with the provisions of the Order Form and the Schedules in the performance of this Contract.

The Supplier shall supply to the Authority, and the Authority shall receive and pay for, the Goods on the terms of this Contract. For the avoidance of doubt, the Contract consists of the terms set out in the Order Form and the Schedules, together with the annexes as stated.

The Definitions in Schedule 3 apply to the use of all capitalised terms in this Contract.

Schedules

Schedule 1	Key Provisions
Schedule 2	General Terms and Conditions
Schedule 3	Definitions and Interpretations
Schedule 4	Additional Special Conditions

Schedules 2, 3 and 4 are contained in the document DHSC Contract for Goods - Terms and Conditions April 2020.pdf

Order Form

1. Contract Reference	US29042020Masks
2. Date	29/4/2020
3. Buyer	DHSC, 39 Victoria Street, London
4. Supplier	<p>Unispace Global Ltd Devon House St Katherine's Way London E1W 1JP</p> <p>Company Registration No: 07719633</p>
5. The Contract	<p>The Supplier shall supply the Goods described below on the terms set out in this Order Form and the Schedules and any Annexes:</p> <p>Annex 1 – CE Certificates & Test Reports Annex 2 – Unispace Final Quotation Annex 3 – Payment Schedule</p> <p>Unless the Contract otherwise requires, capitalised expressed used in this Order Form have the same meanings as in Schedule 3.</p> <p>In the event of any conflict between this Order Form and the Schedules, this Order Form shall prevail.</p> <p>Please do not attach any supplier terms and conditions to this Order Form as they will not be accepted by the Buyer and may delay conclusion of the Contract.</p> <p>If either (i) the Contract is not entered into by 23:59BST 27/4/2020 or (ii) the deposit referred to the Order is not received by the Supplier in cleared funds by [17:00 BST 28/4/2020] the Supplier shall notify the Buyer of any changes to the Charges and any changes to delivery quantities or timescale caused by such delay. The Buyer shall within 1 day of such notification confirm whether it accepts such changes and in the absence of such acceptance this Contract shall terminate.</p>
6. Deliverables	<p>(Goods)</p> <p>Type IIR Masks: Delivered in accordance with the following instructions:</p> <p>Delivery Address:</p> <p>Uniserve Group C/O Shanghai Airport – exact location to be determined but will be landside before any customs or security Upon receipt of Goods at Shanghai Airport, the Goods are deemed to have been delivered and for the avoidance of doubt, the Supplier is not required</p>

to obtain any export or import licences relating to their onward transport after delivery to the location specified above.

Date(s) of Delivery: see delivery schedule below:

Delivery Date to Shanghai Location (subject to final location)	Quantity
22-May	
29-May	
05-Jun	
12-Jun	
19-Jun	
26-Jun	
03-Jul	
10-Jul	
17-Jul	
24-Jul	
31-Jul	
07-Aug	

Dates set out above are references to dates at the delivery location.

Where the Supplier is unable to deliver the Goods in accordance with the above table for a reason beyond its reasonable control, including but not limited to a Force Majeure Event, foreign government action or supplier failure, the Supplier will promptly notify the Buyer.

Failure of the Supplier to deliver the Goods at all or to the schedule above shall not put the Supplier in breach of the Contract save that failure to do so will give either party the right to terminate this Contract in respect of the Goods which are unable to be delivered by giving 48 hours written notice to the other (unless the Supplier confirms in such 48 hour period that it can supply all or some of the Goods within a reasonable time, including where such Goods have already left the factory, in which case this Contract shall only terminate in respect of those Goods which are unable to be supplied within such reasonable time). Upon such termination any invoices for Goods not delivered (including taking into account any sums pre-paid by the Buyer (including but not limited to the deposit referred to in section 9)) shall be adjusted to take in account the quantity of Goods actually delivered.

The Supplier confirms that the Buyer will only be liable to pay for the Goods which are delivered. The Supplier shall re-pay to the Buyer within 7 days any sums which the Buyer has paid in advance for any Goods (including but not limited to the deposit referred to below in section 9) which the Supplier does not deliver.

	<p>For the avoidance of doubt, the definition of Force Majeure Event in Schedule 3 is amended to include any viral outbreaks and any related circumstances.</p> <p>Within 1 day of delivery the Buyer will inspect the Goods and notify the Supplier of any Defective Goods, packaging issues or discrepancies in the quantities as set out above. In the absence of such notification the Supplier will be deemed to have supplied the quantities required and the Goods (including their packaging) will be deemed to comply with the requirements of this Contract. The Supplier shall have no liability should any Defective Goods be identified at a later date, save in relation to manufacturing defects.</p> <p>Packaging Instructions: There will be no specific packaging – it will be coming direct from the factory and therefore packaging will be as provided by said factory.</p>																													
<p>7. Specification</p>	<p>The specification of the Deliverables (Goods) is as set out in the test reports and CE certificates included in Annex 1 dated 27th April 2020.</p> <p>Surgical Face Mask Type IIR which is tested to meet the performance requirements of EN 14683:2019</p>																													
<p>8. Term</p>	<p>The Term shall commence on 27th April 2020</p> <p>And the Expiry Date shall be 7th August 2020 unless it is otherwise extended or terminated in accordance with the terms and conditions of the contract.</p> <p>The Buyer may extend the Contract for a period of up to 3 months by giving not less than 5 Business days notice in writing to the supplier prior to the Expiry Date. The terms and conditions of the Contract shall apply throughout any such extended period.</p>																													
<p>9. Charges</p>	<p>The Charges for the Deliverables shall be set out below and in Annex 2 and 3 dated 27th April 2020 (and are subject to the provisions of those Annexes)</p> <table border="1" data-bbox="609 1473 1519 1809"> <thead> <tr> <th colspan="2">Item</th> <th colspan="6">Type IIR Masks</th> </tr> <tr> <th>Delivery Date to Shanghai Location (subject to final location)</th> <th>Quantity</th> <th>Value</th> <th>Total</th> <th>Payment</th> <th>Value</th> <th>Due for Payment</th> </tr> </thead> <tbody> <tr> <td colspan="7" style="background-color: black; height: 100px;"></td> </tr> <tr> <td colspan="3"></td> <td style="text-align: right;">£ 113,950,000.00</td> <td colspan="2"></td> <td style="text-align: right;">£113,950,000.00</td> </tr> </tbody> </table>	Item		Type IIR Masks						Delivery Date to Shanghai Location (subject to final location)	Quantity	Value	Total	Payment	Value	Due for Payment											£ 113,950,000.00			£113,950,000.00
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<p>10. Payment</p>	<p>All invoices must be send quoting a valid purchase order number.</p> <p>Address: DHSC is [REDACTED]</p>																													




	<p>The Purchase Order and Purchase Order number (the “PO Number”) will be provided to the Supplier contemporaneously with this Order Form . The Supplier must in be in receipt of a valid PO Number before submitting an invoice.</p> <p>To avoid delay in payment it is important that the invoice is compliant and that it includes a valid PO Number, PO item number (if applicable) and the details (name and telephone number) of your Buyer contact (i.e. Contract Manager). Non- compliant invoices will be sent back to you, which may lead to a delay in payment.</p> <p>If you have a query regarding an outstanding payment please contact our Accounts Payable section by email to</p> <p>DHSC is [REDACTED] Immediately on receipt of the Purchase Order and PO Number, the Supplier will provide an invoice to the Buyer.</p> <p>All invoices and payment will be in UK Pounds Sterling. Unless otherwise specified all dates and times in this Contract are references to British Summer Time (BST) and to UK dates.</p> <p>On receipt of a valid invoice the Buyer will immediately pay 50% of the Charges to the Supplier as a deposit prior to delivery of the Goods (which deposit is returnable to the Buyer less Charges for any Goods delivered in the event that the Contract is terminated). The Supplier shall not be required to commence shipment of the Goods from their current location until this deposit payment has been received by the Supplier. Provided that the invoice is received prior to [15:00BST] the Supplier will pay the Deposit by 23:59BST the same day otherwise the Deposit shall be paid the following day.</p> <p>The Buyer shall thereafter pay immediately upon each delivery of the Goods the balance of the Charges for the Goods delivered.</p> <p>Notwithstanding any other provision of this Contract, the Supplier shall not, unless required by Law or where the Buyer has reason to believe, acting reasonably, any fraud or Prohibited Act has occurred, be required to disclose or provide access to its accounts or any other financial information nor any confidential information.</p>
<p>11. Buyer Authorised Representative(s)</p>	<p>For general liaison your contact will continue to be</p> <p><i>Procurement.operations@dhsc.gov.uk</i></p> <p>or, in their absence,</p> <p>[REDACTED]</p>
<p>12. Seller’s Authorised Representative(s)</p>	<p>For general liaison your contact will continue to be</p> <p>[REDACTED]</p>

	or, in their absence, [REDACTED]	
13. Address for notices	Buyer: DHSC, 39 Victoria Street, London Attention: [REDACTED] Email: [REDACTED]	Supplier: Unispace Global Ltd Devon House St Katherine's Way London E1W 1JP Attention: [REDACTED] Email: [REDACTED]
14. Key personnel	Buyer: DHSC, 39 Victoria Street, London Attention: [REDACTED] Email: [REDACTED]	Supplier: Unispace Global Ltd Devon House St Katherine's Way London E1W 1JP Attention: [REDACTED] Email: [REDACTED]
15. Procedures and Policies	<p>The Buyer may require the Supplier to ensure that any person employed in the delivery of the Deliverables (Goods) has undertaken a Disclose and Barring Service check.</p> <p>The supplier shall ensure that no person who discloses that he/she has a conviction that is relevant to the nature of the Contract, relevant to the work of the Buyer, or is of a type otherwise advised by the Buyer (each such conviction a "Relevant conviction"), or is found by the Supplier to have a Relevant Conviction (whether as a result of a police check, a Disclosure and Barring Service check or otherwise) is employed or engaged in the provision of any part of the Deliverables (Goods).</p>	

Signed by the authorised representative of THE AUTHORITY

Name:	[REDACTED]	Signature:	[REDACTED]
Position:	[REDACTED]	Date	29 th April 2020

Signed by the authorised representative of THE SUPPLIER

Name:		Signature	
Position:		Date	27/04/2020

Schedule 1

Key Provisions

Standard Key Provisions

1 Application of the Key Provisions

- 1.1 The standard Key Provisions at Clauses 1 to 2 of this Schedule 1 shall apply to this Contract.
- 1.2 The optional Key Provisions at Clauses 3 to 12 of this Schedule 1 shall only apply to this Contract where they have been checked and information completed as applicable.
- 1.3 Extra Key Provisions shall only apply to this Contract where such provisions are set out at the end of this Schedule 1.

2 Order of precedence

- 2.1 Subject always to Clause 1.10 of Schedule 3 should there be a conflict between any other parts of this Contract the order of priority for construction purposes shall be:
 - 2.1.1 Order Form
 - 2.1.2 Schedule 1: Key Provisions;
 - 2.1.3 Schedule 2: General Terms and Conditions;
 - 2.1.4 Schedule 3: Definitions and Interpretations;
 - 2.1.5 any other documentation forming part of the Contract (other than the Purchase Order) in the date order in which such documentation was created with the more recent documentation taking precedence over older documentation to the extent only of any conflict;
 - 2.1.6 any Purchase Order.
- 2.2 For the avoidance of doubt, the Order Form shall include, without limitation, the Authority's requirements in the form of its specification and other statements and requirements, the Supplier's responses, proposals and/or method statements to meet those requirements, and any clarifications to the Supplier's responses, proposals and/or method statements as included In these Terms and Conditions. Should there be a conflict between these parts of the Order Form, the order of priority for construction purposes shall be (1) the Authority's requirements; (2) any clarification to the Supplier's responses, proposals and/or method statements, and (3) the Supplier's responses, proposals and/or method statements.

3 Quality assurance standards (only applicable to the Contract if this box is checked and the standards are listed)

- 3.1 The following quality assurance standards shall apply, as appropriate, to the manufacture, supply, and/or installation of the Goods:

All quality assurance standards as set out within the CE certification and test certificates included in Annex 1 dated 27th April 2020

4 Purchase Orders (only applicable to the Contract if this box is checked)

- 4.1 The Authority shall issue a Purchase Order to the Supplier in respect of any Goods to be supplied to the Authority under this Contract. The Supplier shall comply with the terms of such Purchase Order as a term of this Contract. For the avoidance of doubt, any actions or work undertaken by the Supplier under this Contract prior to the receipt of a Purchase Order covering the relevant Goods shall be undertaken at the Supplier's risk and expense and the Supplier shall only be entitled to invoice for Goods covered by a valid Purchase Order.

5 Time of the essence (only applicable to the Contract if this box is checked)

- 5.1 Subject always to the provisions of the Contract, time is of the essence as to any delivery dates under this Contract and if the Supplier fails to meet any delivery date this shall be deemed to be a breach incapable of remedy for the purposes of Clause 12.4 (i) of Schedule 2.

6 Specific time periods for inspection (only applicable to the Contract if this box is checked and Clause 6.1 of this Schedule 1 is completed)

- 6.1 The Authority shall visually inspect the Goods within *1 day* of the date of delivery of the relevant Goods.

7 Specific time periods for rights and remedies under Clause 4.6 of Schedule 2 (only applicable to the Contract if this box is checked and Clause 7.1 of this Schedule 1 is completed)

- 7.1 The Authority's rights and remedies under Clause 4.6 of Schedule 2 shall cease [**12 months**] from the date of delivery of the relevant Goods.

8 Termination for convenience (only applicable to the Contract if this box is checked and Clause 8.1 of this Schedule 1 is completed)

- 8.1 The Authority may terminate this Contract by issuing a Termination Notice to the Supplier at any time on [**one (1)/three (3)/six (6) months**] written notice. [Such notice shall not be served within [one (1)] year of the Commencement Date].

- 8.2 Should the Authority terminate this Contract in accordance with Clause 8.1 of this Schedule 1, then the Authority shall pay to the Supplier the termination sum calculated in accordance with Schedule [**insert schedule number.**]

9 Right to terminate (only applicable to the Contract if this box is checked)

- 9.1 Either Party may terminate this Contract by issuing a Termination Notice to the other Party if such other Party commits a material breach of this Contract in

circumstances where it is served with a valid Breach Notice having already been served with at least [two (2)] previous valid Breach Notices within the last twelve (12) calendar month rolling period as a result of any previous material breaches of this Contract which are capable of remedy (whether or not the Party in breach has remedied the breach in accordance with a Remedial Proposal). The twelve (12) month rolling period is the twelve (12) months immediately preceding the date of the [third] Breach Notice.

10 Consigned Goods (only applicable to the Contract if this box is checked)

- 10.1 Provided that such Consignment Request is consistent with the forecast requirement for the Goods (as set out in the Order Form and/or as calculated in accordance with any relevant processes set out in this document and/or as otherwise agreed by the Parties in writing), the Supplier shall deliver the Consigned Goods in accordance with Clause 2 of Schedule 2 in response to a Consignment Request for their eventual purchase and use by the Authority in accordance with the terms set out in this Contract.
- 10.2 For the avoidance of doubt, Clause 4 of Schedule 2 shall apply to the inspection, rejection, return and recall of the Consigned Goods.
- 10.3 The Authority shall, or shall procure that its third party provider shall, maintain any storage facilities throughout the term of this Contract where the Consigned Goods are to be stored in such manner that such storage facilities remain suitable to store the Consigned Goods.
- 10.4 Prior to the Consigned Goods being taken into use by the Authority, the Authority shall ensure that:
- 10.4.1 the Consigned Goods are stored at the storage facilities in such a manner as to protect them from damage or deterioration;
 - 10.4.2 the Consigned Goods in its possession remain readily identifiable as the Supplier's property;
 - 10.4.3 any identifying marks or packaging on or relating to the Consigned Goods are not removed, defaced or obscured; and
 - 10.4.4 the Consigned Goods are kept in satisfactory condition in accordance with any reasonable and necessary instructions from the Supplier from time to time.
- 10.5 The Authority shall keep accurate stock records in relation to any Consigned Goods and shall provide the Supplier with a sales report ("**Sales Report**") each [**week/month/quarter/other agreed period**] detailing current stock levels and the Consigned Goods taken into use by the Authority. For the avoidance of doubt, a sale will take place at the point any Consigned Goods are taken into use by the Authority.
- 10.6 On receipt of the Sales Report, the Supplier may invoice the Authority the Contract Price for all of the Consigned Goods taken into use by the Authority (as set out in that Sales Report).
- 10.7 Each [**week/month/quarter/other agreed period**] the Authority shall take into use and purchase at the Contract Price at least the minimum quantity of Consigned

Goods specified in the Order Form for such period (if any) (“**Minimum Quantity**”). If the Supplier fails to supply the Authority with any Consigned Goods required by the Authority (including, without limitation, where the Authority obtains substitute goods from a third party as a result), the Minimum Quantity for the period in question shall be reduced by the quantity of the Consigned Goods that the Supplier fails to supply. Except to the extent that the Authority's failure to purchase the Minimum Quantity during any given period is caused by the Supplier's default or a Force Majeure Event, if the Authority purchases less than the Minimum Quantity for a given period, the Supplier may charge the Authority for any shortfall between:

10.7.1 the Contract Price of the Minimum Quantity in the relevant period; and

10.7.2 the Contract Price for Consigned Goods purchased by the Authority in that period.

10.8 The Authority (on a first in first out basis) may return to the Supplier any Consigned Goods that it is unable to use (“**Returned Goods**”) by giving written notice to that effect (“**Returns Notice**”). Upon receipt of a Returns Notice, the Supplier shall collect the Returned Goods at the Supplier's risk and expense within ten (10) Business Days of the date of the Returns Notice. If the Supplier requests and the Authority accepts that the Returned Goods should be disposed of by the Authority rather than returned to the Supplier, the Authority may invoice the Supplier for the costs associated with the disposal of the Returned Goods and the Supplier shall pay any such costs.

10.9 Risk in respect of any Returned Goods shall pass to the Supplier on the earlier of: (a) collection by the Supplier; or (b) immediately following the expiry of ten (10) Business Days from the date of the Returns Notice related to such Returned Goods. If Returned Goods are not collected within ten (10) Business Days of the date of the relevant Returns Notice, the Authority may return the Returned Goods to the Supplier at the Supplier's risk and expense and/or charge the Supplier for the cost of storage from the expiry of ten (10) Business Days from the date of the relevant Returns Notice. The Authority may invoice the Supplier for such return expenses and/or storage costs and the Supplier shall pay any such expenses or costs.

10.10 The Consigned Goods shall at all times be subject to the direction and control of the Supplier, and the Supplier may (at the Supplier's risk and expense), upon (10) Business Days written notice to the Authority, collect (on a first in first out basis) any Consigned Goods that have not been taken into use by the Authority within [**period**] of their delivery to the Authority and/or which have a remaining shelf life of less than [**period**].

10.11 The Authority acknowledges that it holds Consigned Goods in its possession as bailee for the Consignor until such time as ownership passes in accordance with Clause 3.2 of Schedule 2.

10.12 On the termination or expiry of this Contract for whatever reason, all Consigned Goods not taken into use by Authority as at the point of such termination or expiry shall be deemed Returned Goods. Such Returned Goods shall be deemed the subject of a Returns Notice that shall be deemed to have been received by the Supplier with a notice date the same as the date of the expiry or earlier termination of this Contract. Clauses 12.8 and 12.9 of this Schedule 1 shall then apply accordingly and this Clause, together with Clauses 12.8 and 12.9 23.9 of this Schedule 1, shall survive the expiry or earlier termination of this Contract for these purposes.

11 Electronic product information (only applicable to the Contract if this box is checked)

- 11.1 Where requested by the Authority, the Supplier shall provide the Authority the Product Information in such manner and upon such media as agreed between the Supplier and the Authority from time to time for the sole use by the Authority.
- 11.2 The Supplier warrants that the Product Information is complete and accurate as at the date upon which it is delivered to the Authority and that the Product Information shall not contain any data or statement which gives rise to any liability on the part of the Authority following publication of the same.
- 11.3 If the Product Information ceases to be complete and accurate, the Supplier shall promptly notify the Authority in writing of any modification or addition to or any inaccuracy or omission in the Product Information.
- 11.4 The Supplier grants the Authority a perpetual, non-exclusive, royalty free licence to use and exploit the Product Information and any Intellectual Property Rights in the Product Information for the purpose of illustrating the range of goods and services (including, without limitation, the Goods) available pursuant to the Authority's contracts from time to time.
- 11.5 Before any publication of the Product Information (electronic or otherwise) is made by the Authority, the Authority will submit a copy of the relevant sections of the Authority's product catalogue to the Supplier for approval, such approval not to be unreasonably withheld or delayed. For the avoidance of doubt the Supplier shall have no right to compel the Authority to exhibit the Product Information in any product catalogue as a result of the approval.
- 11.6 If requested in writing by the Authority, and to the extent not already agreed as part of writing, the Supplier and the Authority shall discuss and seek to agree in good faith arrangements to use any Electronic Trading System

12 Supply of PPE Goods (only applicable to the Contract if this box is checked)

12 *Regulatory Requirements*

- 12.1 The Supplier acknowledges and understands that when procuring PPE the Authority is required to ensure the PPE Goods are compliant with and meet applicable legal and regulatory requirements.
- 12.2 The Supplier shall supply the PPE Goods to Authority in accordance with the terms of this Contract and in accordance with the relevant requirements of applicable laws and regulations applicable to the supply of PPE, including, as applicable, the EU PPE Regulation 2016/425, the Personal Protective Equipment (Enforcement) Regulations 2018 and the Medical Device Regulations 2002 (together the "**PPE Laws**").
- 12.3 Without prejudice to the generality of clause 12.2 the Supplier shall ensure for PEE Goods supplied:
 - 12.3.1 the appropriate conformity assessment procedure(s) applicable to the PPE Goods have been followed;

12.3.2 all declarations of conformity and approvals required by PPE Laws are in place prior to the delivery of any PPE Goods to the Authority;

12.3.3 where required by PPE Laws, there is a CE mark affixed to the PPE Goods in accordance with the PPE Laws; and

12.3.4 where, necessary current EC-type examinations certificates are in place for the PPE Goods.

12.4 If there are any PPE Goods supplied to the Authority hereunder that require a CE mark under more than one set of regulations, due to the nature of those PPE Goods, including and not limited to:

- PPE Laws;
- Control of Lead at Work Regulations 2002;
- Ionising Radiations Regulations 2017;
- Control of Asbestos Regulations 2012;
- Control of Substances Hazardous to Health Regulations 2002; and
- any other relevant regulations,

the Supplier shall ensure that the CE marking for any such PPE Goods is affixed in accordance with the relevant requirements and shall indicate that the PPE Goods also fulfils the provisions of that other regulation or regulations.

Goods bought to the market before 21 April 2019

12.5 The Supplier shall provide details, including any EC-type examination certificates and approval decisions issued under Directive 89/686/EEC and Directive 93/42/EEC (if applicable), and corresponding national implementing legislation, of any PPE Goods supplied under this Contract that have been placed on the market before 21 April 2019 and products already in the distribution chain by that date confirming that these can continue to be supplied as PPE to the Authority until 21 April 2023, unless their certificate or approval will expire before that date.

Annex 1



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Annex 2



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Department of Health

Annex 3

