

# OFFICIAL

## CC4 CONDITIONS OF CONTRACTS FOR GOODS AND SERVICES

### 1. Definitions

In these conditions;

- 1.1 'DSRL' means Dounreay Site Restoration Ltd, a company owned by Babcock International Group Plc.
- 1.2 'Contractor' means the person, firms or company to whom the Contract is issued.
- 1.3 'Contract' means the Contract between DSRL and the Contractor consisting of the Purchase Order, these Conditions, SC19, and any other documents (or parts thereof) which are relevant to this Contract.
- 1.4 "Work" means the goods and/or services to be provided as specified in the Contract,
- 1.5 "Premises" means the location where the Work is to be carried out, and
- 1.6 "PM" means the Project Manager named in the Contract.
- 1.7 "Contract Price" means the prices exclusive of Value Added Tax payable to the Contractor by DSRL under the Contract for the full and proper performance by the Contractor of his part of the Contract.
- 1.8 The Headings to the following Conditions do not affect the interpretation thereof.

### 2. Duty of Care and Performance

- 2.1 The Contractor exercises all reasonable skill, care and diligence for the safe discharge of all duties to be performed by him and all Work is completed to the satisfaction of the PM.
- 2.2 Correct and timely execution of the Work by the Contractor is of the essence of the Contract.

### 3. Inspection and Rejection

- 3.1 DSRL have the right at any time to make any inspections, tests or enquiries they may reasonably require of the Work. Any inspections, tests, approvals or acceptances given by or on behalf of DSRL do not relieve the Contractor or his sub-contractors of any obligations or liabilities set forth in the Contract.
- 3.2 DSRL may by written notice to the Contractor reject any of the Work which fails to meet the requirements of the Contract. Notice is given within a reasonable time after Work is completed but before payment. If DSRL reject any of the Work the Contractor is entitled (without prejudice to his other rights and remedies) either:
  - 3.2.1 to have the Work repaired, replaced or completed as quickly as possible (as DSRL elect) so as to comply in all respects with the Contract, or
  - 3.2.2 to terminate the Contract, in which event DSRL, if they so decide, may pay for any part of the Work which may have been acceptable to them.

### 4. Property, Risk and Acceptance

Property and risk in the Work, without prejudice to any of the rights or remedies of DSRL, passes to DSRL at the time payment is made for the Contract, after which DSRL is deemed to have accepted the Work.

### 5. Warranty

- 5.1 Without prejudice to any rights DSRL may have by statute, common law or otherwise, within 14 days of notification by DSRL the Contractor repairs or replaces any part of the Work which is or becomes ineffective during the period of 12 months from the date that the DSRL have paid for the Work if the defects occur under proper usage and are due to faulty design, the Contractor's erroneous instructions as to use or erroneous use of information or inadequate or faulty materials or workmanship, or any breach of the Contractor's warranties, expressed or implied. Repairs and replacements themselves are subject to the foregoing obligation for the period of 12 months from the date of DSRL's acceptance of the repair or replacement.
- 5.2 If the Contractor cannot respond within the specified time to rectify a defect as defined above DSRL may carry out repair or replacement and are entitled to recover all associated costs and expenses from the Contractor. This does not relieve the Contractor of his continuing obligations under the Contract.
- 5.3 Any Work rejected or returned by DSRL as described above is carried out or returned to the Contractor at the Contractor's risk and expense.

### 6. Termination on Contractor's Insolvency

Without prejudice to any other rights or remedies of DSRL, if the Contractor becomes insolvent or bankrupt or (being a company) makes an arrangement with his creditors or has an administrative receiver or administrator appointed or commences to be wound up (other than for the purposes of amalgamation or reconstruction) DSRL may terminate this Contract forthwith.

### 7. Delivery, Labelling and Packaging

- 7.1 Work to be delivered is packed and marked in a proper manner and in accordance with the DSRL's instructions, any statutory requirements, and any requirements of the Contractor's carrier and sent, carriage paid, to the address specified for delivery.
- 7.2 The Contractor ensures his delivery staff, including delivery subcontractors, are trained and equipped to deliver and unload the consignment ordered safely and effectively. Where necessary, the contractor requests in advance of delivery the provision of suitable unloading facilities.
- 7.3 The Contractor ensure that vehicles used to deliver goods to site using an on-board crane or lifting device,

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(eg HIAB), carry the most recent statutory examination reports of the on-board crane and attached lifting equipment. The operator is trained in the use of the on-board crane and carries his certificate of competence with him. These documents may be inspected by DSRL prior to any unloading or use of the on-board crane.

### **8. Transfer and sub-letting**

8.1 The Contractor does not give, bargain, sell, assign, sub-let or otherwise dispose of the Contract or any part thereof without the previous consent in writing of DSRL.

8.2 No sub-contracting by the Contractor in any way relieves the Contractor of any of his responsibilities under the Contract.

### **9. Payment**

9.1 Value Added Tax is shown on invoices as a separate item.

9.2 DSRL make payment 30 days from receipt of a correctly rendered invoice.

### **10. Free Issue Materials**

Where DSRL issue materials to the Contractor free of charge, such materials are and shall remain the property of DSRL. The Contractor maintains all such materials in good order and condition and uses them solely in connection with the Contract. At the completion of the Contract the Contractor either returns the materials to DSRL or returns any surplus materials remaining to DSRL.

### **11. Confidentiality**

The Contractor does not disclose information obtained in connection with the Work except when necessary to carry out his duties under the Contract. The Contractor may publicise any matter about the Work or arising out of the Contract only with DSRL's written agreement.

### **12. Using DSRL's Information, Materials and Designs**

The Contractor has the right to use the information and any other material and designs provided by DSRL only to carry out the Work. The Contractor may make this right available to a subcontractor. As soon as possible after completion of the whole of the Work the Contractor returns any information and other material provided by DSRL to the PM.

### **13. Patent, Copyright and Indemnity**

The Contractor indemnifies DSRL against claims, compensation and costs due to the Contractor infringing a patent, copyright or any other intellectual property right.

### **14. Indemnity and insurance**

14.1 Without prejudice to any rights or remedies of DSRL the Contractor indemnifies DSRL against all actions, suits, claims, demands, losses, charges, costs and expenses which DSRL may suffer or incur as a result of or in connection with damage to property or in respect of any injury (whether fatal or otherwise) to any person which may result directly or indirectly from any defect in the Work or the negligent or wilful act or omission of the Contractor.

14.2 The Contractor effects and maintains with a reputable insurance company a policy or policies of insurance covering all the matters which are the subject of indemnity under these conditions and at the request of DSRL provides evidence of the policy or policies.

### **15 The Bribery Act**

15.1 The Bribery Act 2010 defines a bribe as a financial advantage or other reward that is offered to, promised to, or received by an individual or company to induce or influence that individual or company to perform its public or corporate functions or duties in an improper manner.

15.2 The Contractor shall ensure that persons associated with it or other persons who are performing services or providing goods in connection with this agreement shall:

- (a) comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption ("Relevant Requirements"), including but not limited to the Bribery Act 2010;
- (b) not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2, or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
- (c) Not do, or omit to do, any act that will cause or lead the Employer or the NDA to be in breach of any Relevant Requirements;
- (d) Have and shall maintain in place throughout the term of this agreement its own policies, procedures or processes, including but not limited to adequate procedures under the Bribery Act 2010, to ensure

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compliance with the Relevant Requirements, the relevant policies and clause, and will enforce them where appropriate.

15.3 The Contractor warrants and represents that neither the Contractor nor any of its officers, employees or other persons associated with it:

- (a) has been convicted of any offence involving bribery or corruption, fraud or dishonesty;
- (b) having made reasonable enquiries, so far as it is aware, has been or is the subject of any investigation inquiry or enforcement proceedings by any governmental, administration or regulatory body regarding any offence or alleged offence under the Relevant Requirements; or
- (c) has been or is listed by any government agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or other government contracts.

15.4 The Contractor shall immediately notify the Employer if, at any time during the term of this agreement, its circumstances, knowledge or awareness changes such that it would not be able to repeat the warranties set out in Clause 15 at the relevant time.

### **16. Compliance with Health, Safety and Environmental Legislation**

DSRL may terminate the Contract if the Contractor fails to comply with Health, Safety and Environmental Legislation and/or the General Requirements insofar as they relate to health, safety and the environment.

### **17. Health, Safety & Environmental Defects**

17.1 Without prejudice to any other rights or remedies available to DSRL under the contract, DSRL may undertake corrective work without prior written notice of a Defect being issued to the Contractor for a Defect resulting from the non-performance of health, safety and environmental requirements as stated in the contract where the Defect requires immediate corrective action to be undertaken.

17.2 DSRL notifies the Contractor of such Defects as soon as reasonably practicable.

17.3 The Contractor pays DSRL all reasonable costs incurred by DSRL for the correction of such Defects and/or DSRL shall be entitled to set off or deduct all such sums against any sums due to the Contractor under the contract.

### **18. Official Secrets Acts**

The Contractor's attention is drawn to the provisions of the Official Secrets Acts 1911 to 1989 and to the provisions of Section 11 of the Atomic Energy Act 1946. The Contractor takes all reasonable steps by display of notices or by other appropriate means to ensure that all persons employed on any work in connection with this contract have notice that these statutory provisions apply to them and continue so to apply after the completion or earlier termination of this contract.

### **19. Law**

The Contract is considered as a Contract made in England and subject to the laws of England and to the jurisdiction of the English courts, except that Scottish Law and the jurisdiction of the Scottish courts may apply if specified in the Contract.

CC4 (June 2014)

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