

CONDITIONS OF CONTRACT FOR THE SUPPLY OF GOODS AND / OR SERVICES

1. **DEFINITIONS**
 "English Heritage" means the Historic Buildings and Monuments Commission for England and includes its successors and assignees.
 "EH Equipment" means all plant, tools, equipment or other items belonging to English Heritage.
 "Contract" means the Purchase Order together with these conditions and any documents attached or referred to therein.
 "Data" means all designs, models, drawings, prints, samples, data, documents of all kinds, materials, photographs, negatives, diskettes, films, digital media, software or any other similar items
 "Goods" means the items specified in the Purchase Order (or amendment thereof) to be supplied by the Supplier in accordance with the Contract.
 "Purchase Order" means English Heritage's official numbered Order.
 "Services" means the Services specified in the Purchase Order including the giving of advice (or amendment thereof) to be carried out by the Supplier in accordance with the Contract.
 "Supplier" means the person, firm, company or corporation with whom English Heritage places a Purchase Order.
2. **ASSIGNMENT AND SUBCONTRACTING**
 2.1 The Supplier shall not assign or subcontract the whole or part of the benefits or burdens under the Contract without the previous written consent of English Heritage.
 2.2 English Heritage may assign all or any of its rights and obligations under this Contract to any company which would (if English Heritage were a company) be a subsidiary of English Heritage.
3. **PERFORMANCE**
 3.1 The Goods supplied under the Contract shall:
 a) be of good and sound design, materials and workmanship;
 b) be of merchantable quality and fit for the purpose(s) for which they are supplied under the Contract;
 c) conform as to description, specification and quantity with the particulars stated in the Contract;
 d) comply with all statutory requirements and regulations applicable to the Goods;
 e) be free from any defect in title;
 f) be returnable to the Supplier within 21 days in the event that the Goods are or have suffered damage during manufacture or transit which could not be reasonably discerned from the inspection on delivery, unsuitable for the purpose intended for their use, or not in accordance with the Contract,
 in which case the Contract shall be deemed to be terminated in accordance with clause 12.1.
 3.2 The Services executed under the Contract shall:
 a) be carried out with reasonable care and skill;
 b) be carried out with due expedition and within the time (if any) specified in the Contract;
 c) comply with all statutory/local authority/site and other regulations applicable to the Services.
4. **DELIVERY OF THE GOODS/COMPLETION OF THE SERVICES**
 4.1 Delivery shall be deemed to be made upon receipt of the Goods by English Heritage in accordance with the Contract.
 4.2 The Services shall be considered complete when English Heritage is satisfied that the Services have been completed in accordance with the Contract.
 4.3 The time of delivery of the Goods and of performance of the Services shall be of the essence of the Contract.
5. **MAINTENANCE**
 The Supplier shall for 12 months following delivery of the Goods/completion of the Services promptly remedy any defects arising from faulty design materials or workmanship at the Supplier's expense.
6. **RISK AND PROPERTY IN THE GOODS**
 Without prejudice to the rights and obligations of the parties under the Contract, the property in the Goods or any part thereof shall pass to English Heritage on delivery or on payment by English Heritage (whichever is earlier) but the risk shall not pass to English Heritage until the Goods have been delivered in accordance with the Contract.
7. **REPAIRS TO EH EQUIPMENT**
 7.1 Where any EH Equipment is to be modified, reconditioned or repaired by the Supplier the property therein shall remain with English Heritage at all times. The risk shall remain with the Supplier whilst EH Equipment is under the Supplier's care and control.
 7.2 The Supplier shall clearly identify and mark EH Equipment as "the property of English Heritage" or in such manner as English Heritage may require and shall separately store, safeguard and maintain it in good order and condition and keep appropriate records thereof.
 7.3 Damage to or loss of EH Equipment arising from bad workmanship or from the Supplier's failure to comply with the provision of sub-clause 7.2 shall be made good at the Supplier's expense either by the Supplier or as English Heritage otherwise instructs or by replacement equipment of at least the equivalent quality.
 7.4 EH Equipment shall not be disposed of by the Supplier to any third party nor used except for the purpose of carrying out the Contract.
8. **PAYMENT**
 8.1 The price(s) detailed in the Contract shall remain firm and fixed for the duration of the Contract.
 8.2 The Supplier shall send to English Heritage a detailed itemised invoice(s) as instructed on the Purchase Order, clearly stating the Purchase Order Number, and all information required to be stated on a tax invoice for VAT purposes.
 8.3 The Supplier will be paid within 30 days of receipt of a properly payable invoice or delivery of the Goods and/or Services unless otherwise specified in writing.
 8.4 Where the Supplier enters into a sub-contract with a supplier or contractor for the purpose of performing its obligations under the Contract, it shall ensure that a provision is included in such a sub-contract which requires payment to be made of all sums due by the Contractor to the sub-contractor within a specified period not exceeding 30 (thirty) days from receipt of a valid invoice.
 8.5 Payment shall not operate as a waiver of any rights of English Heritage under the Contract or at law.
 8.6 In order to facilitate payment by bank transfer the Supplier shall provide bank account details.
9. **INDEMNITIES**
 The Supplier shall be liable for, indemnify, defend and hold English Heritage harmless from and against all losses, costs, damages and expenses of every kind and nature, including legal expenses, in respect of:
 a) injury, sickness, disease or death of any person, including English Heritage's employees, or
 b) loss of or damage to any property, including English Heritage's property arising out of or in connection with the Contract, save insofar as the same is caused by the negligence of English Heritage.
10. **INTELLECTUAL PROPERTY**
 10.1 All intellectual property rights (including, without limitation, patents, copyrights, design rights, registered designs, trade marks and service marks) ("IP Rights") in all Data prepared or supplied by English Heritage to the Supplier shall remain the property of English Heritage.
 10.2 All "IP Rights" in all Data or any other materials prepared or developed by the Supplier under or in connection with the Contract are hereby assigned to and shall vest in English Heritage free from any encumbrance and with full title guarantee. The Supplier shall sign such further documents or do such acts as English Heritage may require to ensure that the rights vest in English Heritage.
11. **INSURANCE**
 The Supplier shall effect and maintain general third party and where applicable, product liability insurance with a combined bodily injury and property damage limit of not less than five million pounds (£5,000,000) per occurrence or series of occurrences arising from the one event and unlimited in any period of insurance (aggregate for product liability). Such insurance shall contain an indemnity to principals clause. The Supplier shall at English Heritage's request furnish English Heritage with a current certificate of insurance as prescribed by English Heritage.
12. **TERMINATION**
 12.1 Without prejudice to either party's other rights and remedies under this Contract or at law, either party may terminate the Contract forthwith on notice to the other if the other:
 a) commits a breach of this Contract and fails to remedy such breach (where it is capable of remedy) within 30 days of receipt of a notice in writing requiring it to do so; or
 b) ceases to trade, or is unable to pay its debts as they fall due or has a petition presented or a meeting convened for the purpose of winding-up the defaulting party or enters into liquidation whether compulsorily or voluntarily or compounds with its creditors generally or an administration order is made in relation to it or it has a receiver or administrative receiver appointed over all or a substantial part of its assets or any similar or analogous order is made or proceeding commenced or officer appointed or action taken in consequence of debt.
 12.2 In the event of termination by English Heritage under sub-clause 12.1 a) English Heritage may retain out of any amount due to the Supplier under the Contract an amount equal to any bona fide claim English Heritage may have against the Supplier arising out of such breach.
 12.3 In addition, English Heritage may at its convenience terminate the Contract or any part thereof at any time by giving notice to the Supplier. In this event, English Heritage shall, subject to any other provisions of the Contract, pay the Supplier for all Goods and/or Services supplied in accordance with the Contract up to the time of termination.
- 12.4 Upon termination of the Contract the Supplier shall immediately return to English Heritage all English Heritage Equipment and Data which the Supplier may have in its possession.
13. **CONFIDENTIALITY**
 13.1 The Supplier shall keep confidential all information connected with the business of English Heritage or which comes to the Supplier's knowledge under or as a result of the Contract and shall not disclose it to any third party or use it other than for performance of the Contract except:
 a) with the prior written agreement of English Heritage; or
 b) by requirement of law.
 13.2 The provisions of Clause 13.1 shall not apply to such information if it is:
 a) in the public domain otherwise than by failure of the Supplier to comply with Clause 13.1, or
 b) in the possession of the Supplier before these confidentiality obligations came into effect, or
 c) obtained from a third party who is free to disclose the same.
 13.3 If the Supplier enters or has entered into a separate confidentiality agreement with English Heritage, the terms of such confidentiality agreement shall take precedence over this Clause 13.
 13.4 The Supplier shall not announce or publicise this or any other Contract with English Heritage without the written consent of English Heritage.
14. **CORRUPT GIFTS AND CONSIDERATION**
 If the Supplier shall have offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing or having done or forborne to do any action in relation to the obtaining or execution of the Contract or any other contract with English Heritage or for showing or forbearing to show favour or disfavour to any person in relation to the Contract or any other contract with English Heritage or if the like acts shall have been done by any person employed by him or acting on his behalf (whether with or without knowledge of the Supplier) or if in relation to the Contract or any other contract with English Heritage, the Supplier or any person employed by him or acting on his behalf shall have committed any offence under the Prevention of Corruption Acts 1889 to 1916 or shall have given any fee or reward to any employee of English Heritage which shall have been exacted or accepted by such employee under the cover or his office or employment and is otherwise than such employee's proper remuneration, English Heritage shall be entitled to cancel the Contract and to recover from the Supplier the amount of any loss resulting from such cancellation.
15. **APPLICABLE LAW**
 The construction and performance of the Contract shall be governed by the laws of England and the parties hereby submit to the exclusive jurisdiction of the Courts of England.
16. **REJECTION**
 16.1 Without prejudice to any of its other rights hereunder, English Heritage may by notice to the Supplier reject all or any of the Goods and/or Services if the Supplier fails to comply with any of its obligations under the Contract. English Heritage shall not be deemed to have accepted the Goods and/or Services until English Heritage has a reasonable time after delivery to inspect the Goods and/or Services.
 16.2 The Supplier shall, at English Heritage's option, replace Goods or rectify the Services rejected by English Heritage with Goods and/or Services which in all respects conform with the Contract or credit English Heritage with the invoice price thereof.
17. **FORCE MAJEURE**
 If one of the parties cannot perform its obligations due to an act of force majeure which shall include war, hostilities, civil war, rebellion, revolution, insurrection or other disturbance, but not industrial action by its own employees, that party may, without prejudice to any other claims or remedies it might have, suspend performance of the Contract by written notice to the other party. The party suffering the event of force majeure shall use all reasonable efforts to bring the event to an end.
 If the force majeure event persists for a period of 3 months or longer the party not suffering force majeure may terminate this Contract immediately upon written notice.
18. **ENTIRETY**
 18.1 The Contract comprises the entire agreement between the parties and no other terms and conditions unless agreed in writing between the parties shall apply.
 18.2 If any provision of the Contract is ruled to be invalid for any reason that invalidity will not affect the rest of this Contract which will remain valid and enforceable in all respects.
19. **RIGHTS OF THIRD PARTIES**
 19.1 A person who is not party to this agreement shall not have any rights under or in connection with it by virtue of the contracts (Rights of Third Parties) Act 1999 except where such rights are expressly granted by this Clause 19 but this does not affect any right or remedy of third party which exists, or is available, apart from the Act.
 19.2 The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under this agreement is not subject to the consent of any person that is not party to this agreement.
 19.3 The Supplier agrees that the Secretary of State for Culture, Media and Sport shall be entitled to the benefit of the contractual obligations of the Supplier as set out in clauses 2, 3, 5, 7, 9, 11 and 13 (and any variation to those clauses be agreed from time to time) as if references therein to English Heritage were references also to the Secretary of State for Culture, Media and Sport in addition to and separate to the obligations owed by the Supplier to English Heritage under those clauses.
20. **FREEDOM OF INFORMATION ACT 2000**
 Please note that English Heritage is a public authority and as such is subject to the terms of the Freedom of Information Act 2000.

CHARITY ADVERTISING DECLARATION

English Heritage has the tax status of a charity. If the supplies ordered overleaf are of advertising and qualify for zero rating under the zero rating group 15 as amended with effect from 1 April 2000, then these supplies can be zero rated when supplied to English Heritage.

ENGLISH HERITAGE : PAYMENT POLICY

English Heritage is committed to paying its suppliers in accordance with the Confederation of British Industry Better Payment Practice code. As such, we promise to :

- agree payment terms at the outset of a deal and stick to them, these will normally be 30 days from receipt of the supplier's invoice or delivery of supplies, whichever is later
- explain our payment procedures to suppliers
- pay bills in accordance with any contract agreed with the supplier or as required by law, providing supplies have been satisfactorily received and correctly invoiced in accordance with the terms and conditions printed above
- tell suppliers without delay when an invoice is contested and settle disputes quickly.

Our payment method is credit transfer. Payment advances should be received by suppliers on or before the day the payment is credited to their bank account. We will use this crediting date as the payment date in monitoring our compliance with the payment terms.

If suppliers have a problem over late payment which they are unable to resolve with their contacts in our ordering teams, they should contact the Payment Manager on 020 7973 3356.

If the matter is still not resolved to the supplier's satisfaction our Customer Services Department should be contacted on 01793 414910, or at PO Box 569, Swindon SN2 2YP, who will deal with the matter in accordance with our corporate complaints procedures.

We will publish our payment performance in our annual report and accounts.

If you would like this document in a different format, please contact
our Customer Services department:
Telephone: 0870 333 1181
Fax: 01793 414926
Textphone: 01793 414878
E-mail: customers@english-heritage.org.uk