

**HSC BUSINESS SERVICES ORGANISATION  
PROCUREMENT AND LOGISTICS SERVICE**

**STANDARD CONDITIONS OF CONTRACT  
FOR THE  
PURCHASE OF GOODS**

## **STANDARD CONDITIONS OF CONTRACT FOR THE PURCHASE OF GOODS INTERPRETATION**

1) In these Conditions of Contract the following definitions shall apply:

- (a) The “Authority” means the health Authority placing the Contract. Health Authority means a Health and Social Services Board, Organisation and Health and Social Services Trust, as the case may be.
- (b) The “Organisation” means The Northern Ireland HSC Business Services Organisation– “HSC Business Services Organisation”.
- (c) The “Contract” means the agreement concluded between the Authority and the Contractor, including all specifications, patterns, Contractor’s samples, plans, drawings and other documents incorporated or referred to therein.
- (d) The “Contractor” means the person who by the Contract undertakes to supply the Goods to the Authority as provided for in the Contract. Where the Contractor is an individual or partnership the expression shall include the personal representatives of that individual or of the partners.<sup>1</sup>
- (e) The “Contract Price” means the price exclusive of value added tax that is payable to the Contractor by the Authority under the Contract for the full and proper performance by the Contractor of its part of the Contract.<sup>2</sup>
- (f) The “Goods” means all Goods, materials or articles that the Contractor is required to supply under the Contract.

2) Unless the context otherwise requires it, reference to any statute, order, regulation or other similar instrument shall be construed as a reference to the statute, order, regulation or instrument as amended or re-enacted by any subsequent statute, order, regulation or instrument.<sup>3</sup>

3) The headings to these Conditions shall not affect their interpretation.

4) Any decision, act or thing that the Authority is required or authorised to take or do under the Contract may be taken or done by any person authorised, either generally or specifically, by the Authority to take or do that decision, act or thing, provided that upon receipt of a written request the Authority shall inform the Contractor of the name of any person so authorised.<sup>4</sup>

### **Reassignment of Contracts – Review of Public Administration**

5) This Contract will be awarded to the successful tenderer(s) on the understanding that at a time within the duration of the Contract, there may be a need for reassignment from the Contracting authority to an alternatively named body within the Northern Ireland Health and Personal Social Services. The name of the alternative body will be that as defined under the current Review of Public Administration and any subsequent enabling legislation. It is understood that without prejudice the successful tenderer(s) will accept any reassignment of this Contract. The Contracting authority will not be liable to pay any compensation whatsoever in connection therewith.

### **VARIATION OF CONDITIONS**

6) The Goods shall be supplied solely in accordance with these Conditions. All other Contractual terms which in any way add to, vary or contradict these Conditions upon which the Contractor may seek to rely or otherwise impose on the Authority shall be excluded and not form part of the Contract (whether or not such other Contractual terms post-date these Conditions) unless the Authority has specifically agreed in writing to be bound by any of such other Contractual terms.<sup>5</sup>

7) No later variation shall be binding unless it has been agreed in writing and signed by an authorised representative of the Authority.<sup>6</sup>

## ORGANISATION

8) Subject to condition 7 where the Organisation has negotiated the Contract with the Contractor such negotiation has been undertaken by the Organisation in its capacity as agent for the Authority, so that it incurs no personal liability on the Contract or on any other Contract resulting from such negotiation.<sup>7</sup>

9) Where exceptionally the Organisation makes it clear in its official order that it is placing the order on its own account as principal, Condition 8 shall not apply and the Organisation shall be the Authority with all the rights and liabilities of the Authority under the Contract.

## SPECIFICATION

10) Unless otherwise specified the Goods shall be new, of the qualities and kinds described and equal in all respects to the descriptions, specifications, patterns and Contractor's samples that form part of the Contract or are otherwise relevant for the purpose of the Contract. Except insofar as may otherwise be indicated by such descriptions, specification, patterns or Contractor's samples the Goods shall be strictly in compliance with the latest relevant British Standards or equivalent European Union Standards where such exist.

## IDENTIFICATION OF GOODS

11) All Goods that customarily bear any mark, tab, brand, label or other device indicating place of origin, inspection by any government or other body or standard of quality must be delivered with all the said marks, tabs, brands, labels, serial numbers or other devices intact.

## PACKAGING

12) The Goods shall be securely packed in trade packages of a type normally used by the Contractor for commercial deliveries of the same or similar Goods either in retail or in bulk quantities within the United Kingdom.

13) The following details shall be shown on the outside of every package (where applicable) unless otherwise specified in the Contract:

13.1 a description of the Goods; 13.2 the quantity in the package; 13.3 any special directions for storage; 13.4 the expiry date of the contents; 13.5 the batch number; 13.6 the name of the manufacturer.

## CONTAINERS AND PALLETS

14) The Contractor shall collect without charge any returnable containers (including pallets) within 21 days of the date of the relevant delivery note unless otherwise instructed by the Authority named in the Contract. Empty containers not so removed may be returned by the Authority at the Contractor's expense or otherwise disposed of at the Authority's discretion. The Contractor upon collection or return shall credit charged containers in full.

15) For deliveries to Procurement and Logistics Service Supplies Distribution Centre locations at the addresses below: -

- 77 BOUCHER CRESCENT, BELFAST BT12 6HU
- UNIT 9D CAMPSIE INDUSTRIAL ESTATE, MCLEAN ROAD, EGLINTON BT47 3XX
- UNIT 4 LISSUE INDUSTRIAL ESTATE WEST, MOIRA ROAD, LISBURN BT28 2RS

The pallet specification and delivery conditions are required as: -

- Pallets should be 1200mm x 1000mm x 161mm, 4 Way entry to BS2629 (CHEP).
- Pallet weight should not exceed 1300kg per pallet, or pack pallet with overhang exceeding 25mm.
- Pallets should not exceed 1200mm in height (including pallet).
- In exceptional circumstances only, mixed goods may be supplied on one pallet, which must be clearly marked by clear layer separation and identification.

- Outer cases must be clearly labelled on a minimum of two sides with description, quantity and handling instructions.
- Goods must be packed in such a manner to prevent damage in storage, transit or handling.
- Deliveries to either Warehouse must be booked 3 days in advance by telephone: -

Boucher Crescent: 028 90553415

Campsie: 028 71811428

Lissie: 028 92620355 or 92620356

- Failure to do so will result in waiting time or the refusal of deliveries. Deliveries will be accepted A.M. only.
- Goods delivered without delivery/advice notes will not be accepted.
- Damaged goods will not be accepted.
- Substitute goods will not be accepted, unless specifically authorised by the relevant Contracts Officer.

## FORMS

16) (a) A delivery note shall accompany each delivery of the Goods. An invoice shall be rendered on the Contractor's own invoice form to the Authority. All delivery notes and invoices shall be clearly marked with the Authority's order number, the consignee and the description and quantity of the Goods concerned, and shall show separately any additional charge for containers and/or any other item not included in the Contract price or, where no charge is made, whether the containers are required to be returned, and shall be compatible in all respects with these Conditions.

(b) With the prior written agreement of all parties, the arrangements set out in Condition 16 (a) may be suspended in favour of alternative arrangements (including electronic trading and new logistics process) provided that such alternative arrangements improve service levels and/or reduce costs for the benefit of the Authority.

## DELIVERY

17) In the absence of written agreement between the Authority and the Contractor to the contrary, the Goods shall be delivered by the Contractor carriage paid and in such quantities, in such manner, at such times and to such places as the Authority or any health authority named in the Contract may order in writing from time to time, (being times and places within the period and localities specified in the Contract). Any arrangement to deliver Goods where carriage is to be charged separately or any arrangement by which Goods are collected by the Authority in return for a discount on the carriage paid price shall be recorded in writing and signed by a duly authorised signatory on behalf of the Authority. Where due to an emergency such arrangements cannot be committed to writing and signed off as aforesaid the parties shall confirm such arrangements in writing as soon as possible thereafter.

18) The time of delivery shall be agreed on the face of the purchase order (or otherwise agreed in writing by the parties) and if no time for delivery is expressly agreed then delivery shall be made within 14 days of receipt of order.

19) Where the time of delivery has been agreed by the parties on the face of the purchase order or otherwise agreed in writing (and for the avoidance of doubt not where delivery is to be made within 14 days of receipt of order because no time for delivery has expressly been agreed) then time for delivery shall be of the essence and without prejudice to any right or remedy of the Authority.

20) Failure by the Contractor to deliver the Goods or any part of them within the time agreed shall entitle the Authority to terminate the Contract and purchase other Goods of the same or similar description to make good such default and recover from the Contractor the amount by which the cost of purchasing other Goods exceeds the amount that would have been payable to the Contractor in respect of the Goods replaced by such purchase provided that the Authority uses all reasonable endeavours to mitigate its losses in this respect.

## **PROPERTY AND RISK**

21) Risk in the Goods shall pass to the Authority when the Goods have been delivered to the Authority and unloaded and the property in the Goods shall pass upon the earlier of delivery or the time of any payment being made thereof.

## **REJECTION OF GOODS**

22) Without prejudice to the operation of Condition 25 the Goods shall be inspected on behalf of the Authority within a reasonable time after delivery and may be rejected if found to be defective or inferior in quality to or differing in form or material from the requirements of the Contract, or if they do not comply with any term, whether expressed or implied, of the Contract.

23) Without prejudice to the operation of Condition 25 the Authority shall notify the Contractor of:

23.1 the discovery of any defect within a reasonable time of its discovery and shall give the Contractor all reasonable opportunities to investigate such defect.

23.2 any shortage or damage caused in transit and found on delivery within 14 days of delivery.

24) The whole of any consignment may be rejected if a reasonable sample of the Goods taken indiscriminately from that consignment is found not to conform in every material respect to the requirements of the Contract.

25) The Authority's right of rejection shall continue irrespective of whether the Authority has in law accepted the Goods. In particular, taking delivery, inspection, use or payment by the Authority of the Goods or part of them shall not constitute acceptance, waiver or approval and shall be without prejudice to any right or remedy that the Authority may have against the Contractor, provided that the right of rejection shall cease within a reasonable time from the date on which the Authority discovers or might reasonably be expected to discover the latent defect or other relevant breach of Contract.

26) Goods so rejected after delivery shall be removed by the Contractor at its own expense within fourteen days from the date of notification of rejection. If the Contractor fails to remove them within such period the Authority may return the rejected Goods at the Contractor's risk and expense and charge the Contractor for the cost of storage from the date of rejection.

## **FORCE MAJEURE**

27) Neither party shall be liable to the other for any failure to perform its obligations under the Contract where such performance is rendered impossible by circumstances beyond its control, but nothing in this Condition shall limit the obligations of the Contractor to use its best endeavours to fulfil its obligations under the Contract.

## **PRICE AND PAYMENT**

28) The Contract price shall be net, i.e. after the deduction of all agreed discounts. It shall include the cost of packaging, packing materials, addressing, labelling, loading and delivery to the addresses named in the Contract or order. The amount of any duty additional to the Contract price and any early settlement discounts shall be shown separately in the Contract.

29) Payment shall be made by the Authority in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 (as amended by the 2013 Regulations) no later than 30 days after the Authority completes its procedure for verification and acceptance of the goods provided that a valid Contractor's invoice is received by the Authority on or before the completion of its verification or acceptance procedure. The said procedure for verification or acceptance of the goods shall (unless otherwise expressly agreed in writing between the parties) be completed within 30 days from the date of delivery of the goods.

Invoices should be quoted in Sterling (GBP) and forwarded to the address as indicated on the purchase order or as advised by the Authority and/or Organisation.

An invoice shall be rendered on the Contractor's own invoice form to the Authority, clearly marked with the Authority's order number and quoting the Contract Reference. Where the invoice submitted by the Contractor contains an error such that the invoice cannot be processed by the Authority for payment, the Authority will reject the invoice and return it to the Contractor for correction. In such a case, time for payment of the rejected invoice will not start to run until a fully corrected valid invoice is received by the Authority.

The Authority should pay the Contract price to the Contractor, by BACS (Bank Account Clearing System) if the Authority so chooses.

30) Whenever under the Contract any sum of money shall be recoverable from or payable by the Contractor the same may be deducted from any sum then due or which at any time thereafter may become due to the Contractor under the Contract or under any other Contract with the Authority.

## **INDEMNITY**

31) Without prejudice to its liability for breach of any of its obligations under the Contract the Contractor shall be liable for and shall indemnify the Authority, any Health Authority, Department of Health, Social Services and Public Safety and the Minister for Health against any liability, loss, costs, expenses, claims or proceedings whatsoever arising under any statute or at common law in respect of:

31.1 any loss of or damage to property (whether real or personal)

31.2 any injury to any person, including injury resulting in death

In consequence of or in any way arising out of any defect in the Goods or the delivery or unloading of the Goods by the Contractor, its employees or agents except insofar as such loss, damage or injury shall have been caused by negligence on the part of the Authority, its employees or agents.

## **INSURANCE**

32) The Contractor shall insure against its liability under Condition 31 with a minimum limit of indemnity of £5 million in any insurance year or such other sum as may be agreed between the Contractor and the Authority.

## **TRANSFER AND SUB-CONTRACTING**

33.1 Neither party shall assign the whole or any part of the contract without the previous consent in writing of the authority, such consent not to be unreasonably withheld. The Contractor(s) shall not sub-contract the supply of any goods without the previous consent in writing of the authority, such consent not to be unreasonably withheld.

33.2 Further to 33.1 (and subsequent to the date of implementation of the contract) should the Contractor(s) transfer ownership, either partly or whole to another company, as a going concern or otherwise, such Contractor(s) shall provide the Organisation with a minimum of 4 weeks advance notice in writing.

As a minimum precondition, and without prejudice, the Transferee shall comply with the short-listing requirements as met by the Transferor such as financial standing, technical ability, quality standards, service support etc.

The decision as to whether this contract may transfer, with or as part of any transfer of ownership of the Contractor(s), shall remain that of the Organisation and the contracting authorities and shall be notified, in writing, to a minimum of two weeks prior to the transfer. The Organisation in conjunction with the contracting authorities exclusively reserve the right to accept that termination of the whole or part of the contract has taken place by reason of transfer of ownership of the company, and if so the Organisation and/or the contracting authorities shall not be liable for any compensation arising there from.

## **OTHER PARTICIPANTS**

34) The Authority reserves the right to include within the Contract the requirements of any other Public Bodies outside the boundaries of the National Health Service and the Contractor shall be required to supply the Goods on the same terms as quoted in the Contract it being the intention of the parties that Goods supplied hereunder are for consumption and not for resale only by such other healthcare establishments as are referred to in the relevant purchase order. The Contractor will only be required to

make a delivery to any such other healthcare establishment outside of the UK by separate agreement with the Authority.

#### **PATENTS ETC**

35) The Contract price shall include all royalties, licence fees or similar expenses in respect of the making, use or exercise by the Contractor of any invention or design for the purpose of performing the Contract.

36) The Contractor shall indemnify the Authority against any costs, claims, proceedings, expenses and demands arising from the use, manufacture, supply, delivery or initially expected use of any process, article, matter or thing supplied under the Contract that would constitute any infringement of any right, patent, design, trademark or copyright or any other intellectual property.

#### **CONFIDENTIALITY**

37) Subject to Condition 38, the Contractor, the Authority, their employees and agents at all times shall keep confidential and secret and shall not disclose to any person (other than a person authorised by the other party) all information and other matters acquired by them in connection with the Contract (save to the extent that such information is required to be disclosed by law or is already in the public domain other than by reason of breach of this Condition either by the Contractor or the Authority).

38) The Authority is authorised by the Contractor to disclose confidential and secret information to person(s) as may be notified to the Contractor from time to time to the extent only as is necessary for the purposes of auditing and collating information so as to ascertain the market price for the Goods supplied hereunder, such exercise being commonly referred to as "benchmarking". The Authority shall use all reasonable endeavours to ensure that such person(s) keeps the information confidential and does not make use of the information except for the purpose for which the disclosure is made.

#### **COMMITMENT TO OPENNESS AND ACCESS TO INFORMATION**

39) The Tenderer/Contractor shall acknowledge the HSC Business Services Organisation, Procurement and Logistics Service's commitment to openness and public access to information. The Freedom of Information Act 2000 applies to all NHS bodies with effect from 1 January 2005. All NHS bodies will have a policy on managing requests for information in accordance with their legal obligations.

Tenderers should be aware that whilst submitted information is treated as "Commercial & In Confidence" the Organisation may be obliged to release any such information at a future date if requested.

The HSC Business Services Organisation, Procurement and Logistics Service requires the tenderer, in submitting information in support of any quote or formal tender, to specifically identify any information which it is reasonably considered is commercially sensitive and which should be held in confidence during the course of the tendering process. The tenderer should indicate why the information is considered to be confidential and for what period it should be regarded as being held by HSC Business Services Organisation, Procurement and Logistics Service in confidence. The tenderer is advised that the use of blanket protective markings such as "commercial in confidence" will no longer be regarded as appropriate or as binding on HSC Business Services Organisation, Procurement and Logistics Service.

#### **INDUCEMENTS TO PURCHASE**

40) The Contractor shall not offer to any Authority or its representatives as a variation of the Conditions of the Contract, or as an agreement collateral to it, any advantage other than a cash discount against the Contract price.

41) The Authority shall be entitled to terminate the Contract and to recover from the Contractor the amount of any loss resulting from such termination in the following circumstances:

41.1 if the Contractor 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 forbearing to do, or for having done or forborne to do, any action in relation to the obtaining or execution of the Contract or any other Contract with the Authority or any Health Authority, or for showing or forbearing to show favour or disfavour to any person in relation to the Contract or any other Contract with the Authority or any Health Authority.

41.2 if the like acts shall have been done by any person employed by it or acting on its behalf (whether with or without the knowledge of the Contractor)

41.3 if in relation to the Contract or any other Contract with the Authority or any Health Authority the Contractor or any person employed by it or acting on its 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 officer of the

Authority which shall have been exacted or accepted by such officer under colour of his office or employment and is otherwise than such officer's proper remuneration.

## **TERMINATION**

42) The Authority may at any time by notice in writing summarily terminate the Contract without compensation to the Contractor in any of the following events:

42.1 if the Contractor being an individual (or where the Contractor is a firm, any partner in that firm) shall at any time become bankrupt or shall have a receiving order, administration order or interim order made against him, or shall make any composition or scheme of arrangement with or for the benefit of his creditors, or shall make any conveyance or assignment for the benefit of his creditors, or shall purport to do so, or if in Scotland he shall become insolvent or notour bankrupt, or any application shall be made for sequestration of his estate, or a trust deed shall be granted by him for the benefit of his creditors.

42.2 if the Contractor being a company shall pass a resolution, or the courts shall make an order, that the company shall be wound up (except for the purposes of amalgamation or reconstruction), or if an administrative receiver on behalf of a creditor shall be appointed, or if the courts shall make an administration order, or if circumstances shall arise that entitle the courts or a creditor to appoint an administrative receiver, or which entitle the courts to make a winding-up order or administration order provided always that such termination shall not prejudice or affect any right of action or remedy that shall have accrued or shall accrue thereafter to the Authority.

42.3 The Authority may terminate this Contract forthwith by notice in writing to the Contractor if the Contractor is in breach of this Contract and shall have failed to remedy the breach within (30) days of receipt of a request in writing from the Authority to remedy the breach such request indicating that failure to remedy the breach may result in termination of this Contract.

43) The Contractor may terminate this Contract forthwith by notice in writing to the Authority if the act or omission of any health care establishment referred to in Condition 34 would amount to a breach of this Contract by the Authority if it had been committed or omitted by the Authority and that health care establishment shall have failed to remedy such act or omission within 30 days of receipt of a request in writing from the Contractor to remedy the same such a request indicating that failure to remedy the same may result in termination of this Contract. The Contractor undertakes to provide a copy of such request to the Authority at the same time it is received by the other health care establishment in question.

44) The termination of the Contract (in whole or in part) under Condition 42/43 shall be without prejudice to:

44.1 (where the Contract is terminated in part only) the continuance and validity of the part or parts of the Contract not terminated by the notice under Condition 42/43;

44.2 the rights or obligations of either party which have accrued prior to the date of termination.

## **SAFETY, QUALITY AND EFFICACY OF MEDICINAL PRODUCTS**

45) The sale, supply, importation, manufacture or assembly of such of the Goods as are medicinal products within the meaning of the Medicines Act 1968 shall comply with the provisions of the Medicines Acts 1968 and 1971 and the regulations made thereunder.

46) In the event that the Contractor is in breach of Condition 45, then without prejudice to any other right or remedy of the Authority, the Authority shall be entitled to reject the Goods and the Contractor shall indemnify the Authority against all costs, claims, liabilities, expenses made against or incurred by the Authority as a result of such breach, including (without limitation) the cost of purchasing alternative Goods and all administrative costs incurred by the Authority in inviting and awarding tenders for the supply of such alternative Goods.



**PUBLICITY**

47) The Contractor shall not advertise or publicly announce that it is supplying Goods or undertaking work for the Authority without the prior written consent of the Authority, such consent not to be unreasonably withheld or delayed.

**NOTICES**

48) Any notice required or permitted to be given by either party to the other under these Conditions of Contract for the purchase of Goods shall be in writing and sent by first class prepaid mail, either recorded delivery or registered post, addressed to that other party at its registered office or principal place of business, or such other address which may have been notified to the party giving the notice. A notice shall be deemed to have been served forty-eight hours after posting.

**LAW**

49) The Contract shall be deemed to have been concluded in Northern Ireland and shall at all times be construed in accordance with the Law in force in Northern Ireland.

**COMMUNICATIONS**

50) All written and oral communications, all documents and the labelling and marking of all packages shall be in English.

**IMPORTATION PROCEDURES**

51) The Contractor shall be responsible for all procedures and bear all costs involved in the importation of the Goods.

**HSC BUSINESS SERVICES ORGANISATION, PROCUREMENT AND LOGISTICS SERVICE CATALOGUE – ELECTRONIC TRADING**

52) The main function of the HSC Business Services Organisation, Procurement and Logistics Service catalogue is to illustrate the comprehensive range of Goods available on HSC Business Services Organisation, Procurement and Logistics Service Contracts in a user-friendly fashion. Contractors shall supply product details of the Goods supplied under the Contract in a form and upon media specified by the Organisation. It shall be the responsibility of the Contractor to ensure that all such details are correct as at the date upon which they are delivered to the Organisation and that such details do not contain any data or statement which gives rise to any liability on the part of the Organisation following publication of the same in accordance with this Condition. The Contractor warrants that such details are complete and accurate as at the date they are delivered to the Organisation and that in the event such details cease to be complete and accurate then the Contractor shall promptly notify the Organisation in writing of any modification or addition to or any inaccuracy or omission in such product details.

The Organisation shall reproduce the product details provided by the Contractor in the HSC Business Services Organisation, Procurement and Logistics Service catalogue, which shall be made available upon the HSC Business Services Organisation internal communications network in electronic format.

Subject to Condition 37, the Contractor grants to the Organisation a licence to use and exploit the product details provided as aforesaid for the purpose of illustrating the range of Goods available under HSC Business Services Organisation, Procurement and Logistic service Contracts for an indefinite period subject to the Contractor notifying the Organisation in writing that it no longer wishes such product details to be included in the HSC Business Services Organisation, Procurement and Logistics Service catalogue. If requested in writing by the Organisation, the Contractor and the Organisation, shall forthwith negotiate in good faith an agreement to use such electronic trading system as the Organisation may specify in its request. For the purposes of this Condition, "electronic trading system" shall include, without limitation, Electronic Data Interchange with such message standards and protocols as the Organisation may specify and the world wide web.

The Contractor shall indemnify the HSC Business Services Organisation, Procurement and Logistics Service from and against all liability of the Contractor arising out of or in connection with any statement relating to the Goods or information or material on or description of the Goods provided by or on behalf of the Contractor which is included in the HSC Business Services Organisation, Procurement and Logistics Service catalogue or associated material.

### **SALES STATEMENT**

53) The Contractor shall provide the HSC Business Services Organisation, Procurement and Logistics Service within 30 days of each half year of the date of this Contract and within 30 days of termination of this Contract with a statement giving accurate and complete details of the amount and value of the Goods sold by the Contractor pursuant to this agreement during the year ending on the date of such anniversary or, in the event of termination of this Contract, during the period from the date of this Contract or the date of the last such statement submitted by the Contractor to the Organisation (as appropriate) to the date of termination of the Contract. The statement shall include accurate details of the identity of the authorities to which such Goods were sold pursuant to this agreement.

54) The Contractor shall keep at its normal place of business detailed, accurate and up to date records of the amount and value of the Goods sold by it to any Authority on or after the date of this Contract and pursuant to this Contract together with accurate details of the identity of the Authority to which such Goods were sold. HSC Business Services Organisation, Procurement and Logistics Service shall be entitled on reasonable notice to enter the Contractor's premises during normal office hours and to inspect such records in order to verify whether any statement supplied by the Contractor to HSC Business Services Organisation Service pursuant to Condition (53) above is accurate and complete.

### **DATA PROTECTION**

55) The Contractor must protect personal data in accordance with the provisions and principles of the Data Protection Act 1998 and in particular the Contractor must ensure compliance with the Authority's security arrangements and ensure the reliability of its staff who have access to any personal data held by the Authority. In addition, if the Contractor is required to access or process personal data held by the Authority, the Contractor shall keep all such personal data secure at all times and shall only process such data in accordance with instructions received from the Authority.

56) The Contractor shall indemnify the Authority, Department of Health, Social Services and Public Safety and the Minister for Health against all claims and proceedings and all liability, loss, costs and expenses incurred in connection therewith made or brought by any person in respect of any loss, damage or distress caused to that person as a result of the Contractor's unauthorised and/or unlawful processing or the Contractor's destruction and/or damage to any personal data held by the Contractor, its employees or agents.

### **ARBITRATION**

57) Any dispute, difference or question between the parties to the Contract with respect of any matter arising out or relating to this Contract which can not be resolved by negotiation and except in so far as may be otherwise provided in this Contract shall be referred to Arbitration under the provision of the Arbitration Act (NI) 1937 or any statutory modification or re-enactment thereof by a single Arbitrator to be appointed by agreement between the parties or in default of agreement by the President for the time being of the Chartered Institute of Arbitrators.

Alternatively consideration will be given to the use of Alternative Dispute Resolution by way of mediation.

### **THIRD PARTY RIGHTS**

58) Except as otherwise provided in this Contract, including without limitation Condition 31, this Contract is intended and agreed to be solely for the benefit of the Contractor and the Authority and no third party shall acquire any benefit, claim or rights of any kind whatsoever pursuant to, under, by or through this Contract.

### **COMPROLLER AND AUDITOR GENERAL AUDIT RIGHTS**

59) The Contractor shall keep secure and maintain until two years after the final payment of all sums due under the Contract, or such longer period as may be agreed between the parties, full and accurate records of the Services, all expenditure reimbursed by the Authority and all payments made by the Authority.

The Contractor shall grant to the Authority or its authorised agents, such access to those records as they may reasonably require in compliance with the Contract.

#### **ACCEPTANCE**

60) Tenderers are invited and received only on the clear understanding that the HSC Business Services Organisation (herein referred to as the "Organisation") may in its sole discretion draw the full range of goods and services required either (a) entirely from one successful Tenderer (b) partly from each of several Tenderers to the extent to which specified parts of the respective Tenders have been accepted for that purpose by the Organisation.

#### **EXPENSES**

61) The Organisation shall not be responsible for any payment in connection with any expenses which may be incurred by the Tenderer in the preparation and submission of this Tender.

#### **ADMINISTRATION CHARGE**

62) Without prejudice and in addition to the terms of Condition 20 the Organisation shall be at liberty to charge an administration fee, not in excess of 10% of the gross cost of any other goods purchased, as a result of a breach of Condition 20. Such administration fees shall be in addition to any charge levied under Condition 20.

#### **MANDATORY EXCLUSION OF ECONOMIC OPERATORS**

63) The Public Contracts Regulations and the Utilities Contracts Regulations 2006 require Contracting Authorities to exclude economic operators (suppliers, Contractors and service providers) from public Contracts where they have actual knowledge that the economic operator has been convicted of offences as listed in Regulation 23(1) (subject to paragraph 2). Your attention is drawn to the Pre-qualification questionnaire or the Additional Information Schedule III, which must be completed declaring any such offence.

**ACCEPTANCE TO THE ABOVE IS TO BE CONFIRMED ONLINE WHEN YOU RESPOND TO THE QUALIFICATION ENVELOPE ON ESOURCING NI.**