

SOUTH YORKSHIRE FIRE AND RESCUE GENERAL CONDITIONS OF CONTRACT

1 INTERPRETATION

- (a) In these conditions, unless the context otherwise requires -
- "The Authority" means the South Yorkshire Fire and Civil Defence Authority.
- "The Contractor" means the individual firm or company whose tender or part of whose tender is accepted and shall include the personal representatives of that individual and the permitted assigns of that individual firm or company.
- "The Goods" means the goods, articles or things which are the subject of the contract.
- "The Services" means the services to be performed under the contract and includes any materials, articles or things to be provided by the Contractor as part of or in connection with the performance of the services.
- "The Materials" means any materials, articles or things which are to be provided by the Contractor as part of, or in connection with the performance of the services.
- "The Works" means the works to be performed under the contract and includes any materials, articles or things which are to be provided by the Contractor as part of, or in connection with the performance of the works.
- "The Chief Fire Officer" means the Chief Fire Officer for the time being of South Yorkshire Fire & Rescue Service or his authorised representative.
- "Specification" means the description (if any) of the goods, materials works or services to be supplied or performed.
- "Order" means an order in writing made by the Chief Fire Officer or his Officers for the supply of goods or materials or the performance of work or services.
- (b) In these conditions unless the context otherwise requires any reference to the tender shall mean the tender or such part thereof which has been accepted by the Authority together with any schedule or other document incorporated therewith.
- (c) Where its value does not exceed £50,000 the contract shall be made by the acceptance by the Authority in writing of the whole of or part of the tender and the contract shall include the tender, the acceptance in writing of the tender, any correspondence between the Authority and the contractor intended to form part of the contract, any specification or drawings, all orders, the special conditions of contract (if any) and (insofar as they are not inconsistent with the special conditions of contract or are not otherwise varied by agreement in writing between the Authority and the contractor) these general conditions of contract all of which documents shall be construed together as one instrument and the expression "contract" shall be construed accordingly.
- (d) Where its value exceeds £50,000 the acceptance of the whole or part of the tender by the Authority shall be subject to the completion by the Authority and the contractor of a written agreement for the supply of goods or materials or the performance of works or services the agreement being either under seal or signed on behalf of the Authority by the Clerk and Treasurer or an Officer nominated by him to sign on his behalf by the contractor or on behalf of the contractor by an agent duly authorised but until the completion thereof the documents referred to in sub-clause (c) of this clause shall constitute the contract between the Authority and contractor.
- (e) In the contract, unless the context otherwise requires or admits the masculine gender includes the feminine, the singular includes the plural and vice versa.
- (f) The construction validity and performance of the contract shall be governed by the law of England.

2 CONTRACTOR TO SUPPLY GOODS, MATERIALS, WORKS OR PERFORM SERVICES

- (a) In consideration of the price to be paid in manner hereinafter provided the contractor shall supply to the Authority or to whom the Authority may direct or perform for the Authority or for whom the Authority may direct all or any of the goods, materials, works or services described in the tender subject to and in accordance with the contract.
- (b) All goods, materials, works or services supplied or performed under the contract shall be of the type, sort, descriptions, quantity and quality and at the rates or prices provided in the tender.
- (c) The goods supplied or materials used shall be in every respect equal to the specification and the samples (if any) submitted by the contractor or to the Authority's standard specifications and samples (where applicable) but otherwise shall be in accordance with any appropriate specification of the British Standards Institution current at the date of the tender.
- (d) The goods or materials shall be of sound workmanship and be capable of any standard performance which has been specified and if the purpose for which they are required has been indicated expressly or by implication be fit for that purpose and the works or services shall be provided in good and workmanlike manner.

3 DELIVERY OF GOODS OR MATERIALS, PERFORMANCE OF WORKS OR SERVICES

- (a) The contract shall be completed by the contractor by the date specified in the tender.
- (b) The goods or materials shall be delivered or the works or services performed at the place specified by the contract or where appropriate as directed by the Chief Fire Officer or as otherwise agreed between the Authority and the contractor and in such quantity, amounts or numbers at such times and in such manner as may be specified by an order.
- (c) Goods or materials shall be delivered at reasonable hours and delivery thereof shall be free of all charges to the Authority for freight, carriage, packing materials and cases, delivery or otherwise (unless otherwise provided in the contract) and at the contractor's risk. Delivery to a carrier shall not be deemed to be delivery of goods or materials to the Authority.
- (d) The contractor shall send with or prior to every delivery of goods or materials, a delivery or advice note giving particulars of the goods delivered or to be delivered and quoting the relevant order number.
- (e) The contractor shall be responsible for providing any labour necessary for the unloading of goods or materials or delivery at the contractor's own expense.

4 PAYMENT

Payment shall be made by the Authority after submission of proper invoices for amounts due under the Contract after delivery of goods or materials or completion of works or services and following acceptance by the Authority or as per the contract, quoting the relevant order number. Any properly chargeable value added tax shall be included as a separate item.

5 HEALTH AND SAFETY

The contractor shall at all times comply with the requirements of the Health and Safety at Work etc. Act 1974 and of any other Acts, Regulations, Orders or rules of law pertaining to health & safety.

6 PROPERTY AND RISK

The property and the risk in goods shall pass to the Authority on delivery and in materials on the completion of the work or service in connection with which they are supplied but in either case without prejudice to any right of rejection which may accrue to the Authority under the contract.

7 REJECTION OF GOODS AND SERVICES

- (a) If the goods or materials to be supplied or the works or services shall not be duly carried out when or as stipulated by or under the contract, or if the goods or materials or the execution of work or services shall not be in every respect in the opinion of the Authority or the Chief Fire Officer of the type, sort, description, quantity or quality contracted for or if any goods or materials shall be deficient in the quantity, amount or number charged for or stated in the delivery or advice notice accompanying or preceding the delivery of the goods or materials, the Authority or the Chief Fire Officer may by notice in writing reject the same and the Authority shall thereafter be discharged from all liability under the contract in respect thereof.
- (b) The contractor shall at the contractor's own expense, remove any rejected goods, materials, works or services and make good any loss or damage caused by or attributable to the rejected goods, materials works or services or their removal and if the contractor fails to do so to the satisfaction of the Authority within 7 days (or in the case of perishable goods or materials 24 hours) of giving of the notice of rejection (or such longer period as the Authority may permit in writing) the Authority may remove the same or cause the same to be removed or the loss or damage to be made good and any expenses incurred by the Authority in so doing may be deducted by the Authority from any sum due to the contractor or may be recovered by the Authority from the contractor. A certificate signed by the Chief Fire Officer shall be conclusive as to the amount of any such expenses.
- (c) Any goods, materials, works or services so rejected shall be at the sole risk of the contractor from the time of the giving of the notice of rejection.
- (d) Without prejudice to any other remedy available to it the Authority may in any case when goods, materials works or services are rejected, purchase or obtain at such prices and on such terms as it sees fit alternative goods, materials, works or services or employ any other person to supply the goods or materials or perform the works or services during the remainder of the term of the contract or any part of that term in place of the contractor and in such case the contractor shall pay to the Authority or the Authority may deduct from the sum due to the contractor from the Authority all costs, charges and expenses incurred by the Authority in consequence of the purchase or obtaining of alternative goods, materials, works or services or the employment of any other person or otherwise arising from the failure by the contractor to perform the contract which are over and above the price or rate at which such goods or materials works or services are to be supplied or provided under the contract.

8 PRICE VARIATION

- (a) The price or rate specified in the tender shall be fixed unless otherwise provided in the tender or the special conditions or otherwise agreed in writing between the Authority and the contractor and this clause shall only apply where provision is made therein for variation in the price or rate.
- (b) Where this clause applies the tender shall be deemed to be based upon the rates of wages and the costs of fuel, goods or materials (including all taxes, levies or contributions) current at the date of the tender and by law payable by the contractor and any variation in such rates of wages and such costs, particulars of which had been made known publicly on or before the date of the tender.
- (c) Unless otherwise provided as aforesaid where this clause applies the amount payable to the contractor shall be increased or reduced as follows:
- by an amount equivalent to the sum whereby the wages payable by the contractor to persons employed by the contractor in the execution of the contract shall be increased or reduced by reason of an award by the recognised wage fixing body for the trade or trades concerned or otherwise to the extent that such increase or reduction shall have increased or reduced the cost to the contractor of supplying goods or performing services under the contract;
 - by an amount equivalent to any increase or reduction in the cost to the contractor of obtaining any goods or materials required by the contract as compared with such cost at the date of tender;
 - by an amount equivalent to any variation in any tax levy or contribution applicable to the particular goods or materials required by the contract.
- (d) The contractor shall within a reasonable time give notice in writing to the Authority of any proposed variation in the rates of wages or costs and shall furnish to the Authority and its officers where required access to cost and other records in connection with the variation.
- (e) The decision of the Authority as to the amount of any variation in the price or rate shall be final and conclusive.

9 INTERRUPTION OF THE CONTRACT

- (a) If due to any industrial dispute or any cause beyond the control of the parties either the contractor or the Authority are unable to supply the goods or materials or perform the works or service or any part thereof to take delivery or to receive the same then such party shall not during the continuance of the interruption be under any obligation to deliver or perform or to take delivery of or receive the goods or materials or perform the works or services as the case may be.
- (b) After the termination of the disability the Authority shall determine whether the Authority requires the same quantity, amounts or numbers not delivered or performed due to the interruption to be delivered or performed and the Authority shall be at liberty to determine the contract or any part thereof remaining unperformed or to require the delivery or performance of the goods, materials, works or services remaining to be delivered or performed in which case the Authority shall allow a reasonable extension of the time for the completion of the contract.

10 INDEMNITY

The contractor shall keep the Authority indemnified from and against all actions, costs, claims, proceedings, demands and liabilities whatsoever whether at common law by statute or otherwise in respect of personal injury to or death of any person or any loss of or damage to any property real or personal arising out of, resulting from or occurring in the course of the contract unless the same is due to any neglect or default on the part of the Authority or its officers, servants, agents or workmen.

11 TESTS AND WEIGHING

The Authority may cause any delivery of goods or materials to be tested or weighed for the purpose of ensuring that the same comply with the contract and if any deficiency be found in consequence thereof the costs of the test or weighing (including the cost of transport) shall be paid by the contractor to the Authority and may be deducted from any sum due from the Authority to the contractor.

12 INSPECTION OF PREMISES

The Chief Fire Officer and any other officer authorised by the Authority shall be entitled to inspect the contractor's premises by prior appointment.

13 BRIBERY AND CORRUPTION

If the contractor shall have offered or given or agreed to give 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 forbore to do any action in relation to obtaining or the execution of the contract or any other contract with the Authority or if the like acts shall have been done by any person employed by him or acting on behalf of the contractor whether with or without the knowledge of the contractor, or if in relation to the contract or any other contract with the Authority the contractor or any person employed by him or acting on his behalf shall have committed an offence under the Prevention of Corruption Acts 1889 to 1916 or any amendment of them or shall have given any fee or reward the receipt of which is an offence under sub-section 2 of section 117 of the Local Government Act 1972 the Authority shall be entitled to cancel the contract forthwith.

14 ASSIGNMENT OR SUB-LETTING

- (a) The contractor shall be prohibited from the transferring or assigning directly or indirectly to any person or persons whatever the whole or any part of his contract without the written permission of the Authority.
- (b) Sub-letting of any part(s) of the works shall be prohibited except to the extent permitted in writing by the officer concerned in accordance with the provisions of the contract
- (c) In the event of any breach of the provisions of this condition the Authority shall be entitled to cancel the contract forthwith.

15 PATENTS ETC

The contractor shall not in connection with the contract use, manufacture, supply or deliver any process, article, matter or thing, the use, manufacture, supply or delivery of which would be an infringement of any patent or patent rights or of any copyright of any similar right and the contractor shall indemnify the Authority from all proceedings, damages, costs, charges, expenses, loss, liability which then Authority may sustain, incur or be put to by reason or in consequence directly or indirectly of any breach of this provision (whether wilful or inadvertent) and against the payment of any royalties or other monies which the Authority may have to make to any person or body entitled to such rights as aforesaid in respect of any process, article, matter or thing used, manufactured, supplied or delivered by the contractor in connection with the contract.

16 BREACH OF CONTRACT AND INSOLVENCY

If the contractor shall be in breach of any of the provisions of the contract or if the contractor (being an individual) shall commit an act of bankruptcy or if any bankruptcy petition shall be presented or any Receiving Order is made against the contractor or if the contractor is adjudicated bankrupt or if the contractor (being a company) passes any resolution for a voluntary winding up or if any petition is presented for the winding up of the contractor or if any receiver or manager of the contractor is appointed or if the contractor suffers any execution or distress to be levied against the contractor's assets or if the contractor shall make any composition or arrangement with the contractor's creditors the authority shall be entitled to cancel the contract forthwith.

17 CANCELLATION OF THE CONTRACT

Where the Authority is entitled to cancel the contract, notice of cancellation shall be given to the contractor in writing and in the event of such cancellation the Authority shall be entitled to recover from the contractor any loss resulting from the cancellation and the amount thereof may be deducted from any sum due from the Authority to the contractor.

18 NOTICES

- (a) Any notice order demand or request to be given or made to the contractor under the contract shall be in writing and shall be deemed to be duly given or made if left at or sent by post to the contractors registered office (if any) or the contractors usual or last known place of business which until a notice of change thereof shall have been given shall be deemed to be the address appearing in the tender and any notice sent by post shall be deemed to have been received in the ordinary course of post unless returned through the Post Office undelivered.
- (b) Any notice demand or request to be given to the Authority shall be in writing and shall be deemed to be duly given or made, if left at or sent by post to the Authority at PO Box 37, Regent Street, Barnsley.

19 DISPUTES

If any dispute or difference shall arise between the parties in connection with the contract or touching or concerning the same such dispute or difference shall be referred for determination to a single arbitrator agreed upon by the parties or in default of agreement appointed by the President for the time being of The Law Society in England and such arbitration shall be conducted in accordance with the Arbitration Act 1950 (as amended) or any statutory modification or enactment for the time being in force.