

EirGrid plc
CONDITIONS OF CONTRACT
FOR PURCHASE OF MATERIALS AND/OR SERVICES



1 DEFINITIONS

1.1 In these conditions:
"Conditions" means the standard terms and conditions of purchase set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Purchaser and the Supplier.
"Contract" means the contract for sale and purchase of Materials and/or Services (or if no contract is in existence means the order together with these conditions).
"Delivery Address" means the address stated as such on the order.
"Delivery Date" means the date or dates stated on the order as the date or dates upon which Materials are to be delivered and/or by which Services are to be performed.
"Incoterms" means the international rules for the interpretation of trade terms of the International Chamber of Commerce as in force at the date when the Contract is made. Unless the context otherwise requires, any term or expression which is defined in or given a particular meaning by the provision of Incoterms shall have the same meaning in this Agreement.
"Materials" means the Materials (including any instalment of the Materials or part of it) described on the Order.
"Services" means the Services (including any part performance of the service) as described on the Order.
"Order" means the Purchaser's purchase order to which these Conditions are annexed.
"Price" means the price of Materials and/or the charge for the provision of Services.
"Purchaser" means EirGrid plc a limited liability company having its registered address at The Oval, 160 Shelbourne Road, Ballsbridge, Dublin 4, Ireland (which expression shall include any assignee).
"Specifications" means the specifications, data or other information relating to the Materials and/or Services contained in Schedule (4) attached, or as agreed by the parties in writing, or if not so specified or agreed, shall be as specified by the Supplier as standard for the Materials and Services.
"Supplier" means the person, firm, or company to whom the Order is addressed.
"Subsidiary Company" has the same meaning as is attributed to such expression by Section 155 of the Companies Act 1963.

1.2 Any reference in these Conditions to a statute or a provision of a statute shall be construed as a reference to that statute or provision as amended, re-enacted or extended and the related provisions thereof.
1.3 The headings in these Conditions are for convenience only and shall not affect their interpretation.

2 BASIS OF PURCHASE

2.1 The Order constitutes an offer by the Purchaser to purchase the Materials and/or acquire the Services subject to these Conditions.
2.2 Subject to the terms of any supply Agreement between the Supplier and the Purchaser in force at the date hereof (which terms shall prevail over these conditions) these conditions shall apply to the Contract to the exclusion of any other terms and conditions, expressed or implied, in writing or otherwise, relating to the purchase.
2.3 Acceptance by the Supplier of an Order shall result in a contract for the sale of the Materials and/or Services which are the subject of such Order.
2.4 Subject to variation or cancellation permitted by Conditions 6.6 and 6.7, no variation to the Contract shall be binding unless agreed in writing between the authorised representatives of both parties.

3 SPECIFICATIONS

3.1 The quantity, quality and description of the Materials and/or Services shall, subject as provided in these Conditions, be as specified in the order and/or in any applicable Specifications supplied by the Purchaser and Supplier or agreed in writing by the Purchaser.
3.2 Any Specifications supplied by the Purchaser to the Supplier, or specifically produced by the Supplier for the Purchaser, in connection with the Contract, together with the copyright, design rights or any other intellectual property rights in the Specifications, shall as between the Supplier and the Purchaser be the exclusive property of the Purchaser. The Supplier shall not disclose to any third party or use any such Specifications except to the extent that it is or becomes public knowledge through no fault of the Supplier, or as required for the purpose of the Contract.
3.3 The Supplier shall comply with all applicable regulations or other legal requirements concerning the manufacture, packaging, packing and delivery of Materials and the performance of Services.
4 PRICE
4.1 Unless otherwise clearly agreed in writing by both parties the Price to be charged against this Order must be in accordance with Incoterms.
4.2 The price of Materials and/or Services shall be as stated on the Order and subject to no variation except with the prior written consent of the Purchaser.
4.3 Unless otherwise stated the Price shall be:-
4.3.1 exclusive of any applicable value added tax (which shall be payable by the Purchaser subject to receipt of a VAT invoice);
4.3.2 inclusive of all charges for packaging, packing, shipping, cartage, insurance and delivery of Equipment to the Delivery Address and any duties or levies other than value added tax; and
4.3.3 payable in the currency stated on the Order.

5 TERMS OF PAYMENT

5.1 Subject as hereinafter provided, the Supplier shall be entitled to invoice the Purchaser on or at any time after delivery of the Materials and/or performance of the Services. All invoices must be sent to the address specified on the Order.
5.2 A separate invoice must be rendered for each individual delivery of Materials and/or performance of Services.
5.3 Each invoice shall quote the Suppliers unique invoice number, invoice date, Purchase Order number, quantity, description, the Delivery Date and the Delivery Address. Value Added Tax and the cost of shipping (where not included in the Price) shall be itemised separately on each invoice. Where appropriate invoices must show both the Supplier's VAT registration number and the Purchaser's VAT registration number IE 6358522H.
5.4 Unless otherwise stated in the Order, the Purchaser shall pay the Price thirty (30) days after the date upon which the invoice is received provided all monies specified on the Supplier's invoice are properly supported and properly due in accordance with the Contract and the invoices are correctly addressed to Accounts Payable and quote the relevant Order Number.
5.5 The Purchaser shall be entitled to set off against the Price any sums owed to the Purchaser by the Supplier.
5.6 Where no price is stated on the Order, the Order must not be filled at higher prices than those last charged or quoted by the Supplier to the Purchaser without the prior consent of the Purchaser in writing.
5.7 The Supplier shall produce a valid Tax Clearance Certificate (TCC), issued by the Irish Revenue Commissioners, where Materials and/or Services of a cumulative value of €10,000 or more (inclusive of VAT) are supplied within any 12 months period. Payments shall not be issued unless a valid TCC has been produced; this is to comply with procedures laid down by the Irish Minister for Finance.
5.8 The Purchaser is obliged to deduct Professional Services Withholding Tax (PSWT) at the standard rate of tax from all payments due for applicable professional services, irrespective of where the Services are performed. Further details are available on www.revenue.ie

5.9 Where Relevant Contract Tax (RCT) applies, under revenue guidelines the appropriate documentation will need to be filed with the Irish Revenue Commissioner before payment can be made.
5.10 Interest shall be payable for late payment of undisputed, overdue payments and for late payment of undisputed amounts due on the Prompt Payment of Accounts Act, 1997 and the European Communities (Late Payment in Commercial Transactions) Regulation, 2002. Interest at an annual rate of 5 percentage points shall run from the date on which the sum in question becomes due for payment in accordance with the provisions of Clause 5.4 until the date on which actual payment is made. Any such interest to be paid to the Supplier shall be included with the payment of the invoice to which the interest relates. Payment shall be in accordance with the provisions of Clause 5.4 hereof.

6 DELIVERY AND ACCEPTANCE

6.1 The date of delivery and/or performance of the Services, stated on the Order is binding upon the Supplier, unless otherwise agreed to in writing by the Purchaser.
6.2 The Materials shall be delivered to and/or the Services performed at the Delivery Address or at the relevant Delivery Date stated on the order during the Purchaser's usual business hours unless otherwise agreed to in writing by the Purchaser.
6.3 No consignment of Materials and/or Services shall be deemed to have been delivered and/or performed unless a delivery note or invoice, properly prepared and supported by a copy signed by a duly authorised representative of the Purchaser.
6.4 Time of delivery of Materials and/or Services is of the essence of the Contract.
6.5 The Supplier shall supply the Purchaser in good time with any instructions or other information required enabling the Purchaser to accept delivery of the Materials and performance of the Services.
6.6 If a Delivery Date cannot be met by the Supplier, the Supplier shall promptly notify the Purchaser of the earliest possible date for delivery. Notwithstanding such notice, and unless a substitute delivery date for the Materials or for providing the Services has been expressly agreed by the Purchaser in writing, the Supplier's failure to effect delivery of the Materials on the Delivery Date or provide Services on the Delivery Date shall entitle the Purchaser, without prejudice to any other remedy it may have, to:
6.6.1 deduct from the Price or (if the Purchaser has paid the Price) from the Supplier's liability to the Supplier by way of liquidated damages 10 per cent of the price for every week's or part week's delay, up to a maximum of 15 per cent of the Price; and/or
6.6.2 cancel the Contract, whereupon the Supplier shall refund any part of the Price which has been paid in respect of such Supplies and the Purchaser shall, at the Purchaser's risk and expense, return any Materials already supplied under the Contract; and/or
6.6.3 (where delivery is by instalments) cancel that instalment and (at the Purchaser's option) purchase substitute Materials and/or Services elsewhere; and in each case in paragraphs 6.6.1 and 6.6.3 inclusive recover from the Supplier any direct losses, costs and expenses (including those incurred by the Purchaser (including, in the case of conditions 6.6.2 and 6.6.3, without limitation, the costs of any replacement Materials and/or Services)).
6.7 Partial delivery or performance of an Order shall not be made without the prior written consent of the Purchaser. In case of partial delivery, the Supplier by way of invoice, Packing Notes and Invoices must be clearly marked "Partial Delivery".
6.8 The Purchaser accepts no liability in regard to the satisfactory return to the Supplier of any consignment or part of a consignment delivered in error under any Order.

6.9 Notwithstanding delivery and/or performance, the Purchaser shall not be deemed to have accepted any Materials and/or Services until they have been:-
6.9.1 inspected and checked against the relevant packing note (where Services are provided verification of completion by a duly authorised representative of the Purchaser is required); and
6.9.2 has been accepted by the Purchaser in writing. The Purchaser deems necessary, such tests to be carried out by the Purchaser, to the greatest extent possible, within thirty days from the date of delivery.
6.10 Without prejudice to any other remedy that the Purchaser may have, if any Materials and/or Services are not supplied in accordance with the Contract, then the Purchaser shall be entitled on giving notice to the Supplier within thirty days from the date of delivery and/or performance of the relevant Materials and/or Services and without liability to the Supplier to:-
6.10.1 require the Supplier, at the Supplier's expense, to comply with the Order in all respects within fourteen days or such other period as is specified by the Purchaser; and/or
6.10.2 vary the Contract, in which case the Supplier shall comply with the Order as so varied; or
6.10.3 treat the Contract as discharged (in full or in part) by the Supplier's breach and require payment of that part of the Price which has been paid in respect of the Materials and/or Services and the Purchaser shall, at the Supplier's risk and expense, return any Materials already supplied under the Contract; and in each case in paragraphs 6.10.1 and 6.10.3 inclusive recover from the Supplier any direct losses, costs and liabilities whatsoever incurred by the Materials and/or Services (including, without limitation, the costs of any replacement Materials and/or Services).
7 PACKING, MARKING AND DOCUMENTATION
7.1 The Materials shall be marked in accordance with the Purchaser's instructions (if any) and any applicable regulations or requirements of the carrier and/or legal authority, and properly packed and secured so as to reach the Delivery address in an undamaged condition in the ordinary course.
7.2 A packing note must accompany each delivery or consignment of the Materials and must be displayed prominently.
7.3 The Supplier shall be responsible for obtaining any import licences, permits or other consents necessary for the importation and delivery and/or performance of the Materials and/or Services.
7.4 The Supplier shall supply without charge such reasonable quantity of operation and maintenance manuals in English relating to the Materials and/or Services which the Purchaser may require and/or which are necessary for the proper installation, operation and maintenance of the Materials and/or Services (where applicable).
7.5 The Supplier agrees on request to supply the Purchaser with any necessary declarations, certificates and other documents stating the origin of the Materials and whether, and if so how, they qualify for EU or EFTA preferences.
7.6 The Regulations of the Department of Agriculture Fisheries and Food, Ireland, governing the control of Foot and Mouth disease prohibit the use of hay, straw or peat moss litter as packing for animal products, including but not limited to, feathers, alfalfa meal, etc. Where prohibited packing is used the Materials must be returned to sender for repacking, all costs for the account of Supplier.
7.7 The Supplier shall use packing of sufficient strength, etc., to protect the Materials against all transport risks.
7.8 Use of Shipping containers: Materials must be packed so that the origin of the Materials and no payment will be made by the Purchaser in respect thereof. Exceptions to this clause must be clearly stated in writing and agreed to in writing by the Purchaser.
7.9 All packages, cases, pallets and other containers must be clearly and individually marked with the Purchaser's Contact name, Order Number and Product Code. Packing notes must always be

included in each box, case, etc., stating the Order Number, quantities and description of items contained in each box, the Purchaser's Product Codes (where stated on the Order), the Delivery Date and the Delivery Address.
7.9 The Supplier shall comply with all applicable regulations or other legal requirements concerning the manufacture, packaging, packing and delivery of the Materials and the performance of the Services. The Supplier shall ensure that packaging is designed and produced in such a fashion so as to, minimise the volume and weight of the material used in the environment when managed as waste, prevent its reuse or recovery and in so far as possible limit the presence of noxious and hazardous constituents. For the avoidance of doubt, the Supplier shall be responsible for the disposal of all packaging connected with the Materials and shall ensure that such packaging is disposed of in accordance with all applicable laws, including in particular environmental and waste management legislation.

8 SHIPPING DOCUMENTS

8.1 Copies of the commercial invoice and packing lists must, where applicable, always accompany the Materials for shipment.
8.2 Copies of the commercial invoice and packing lists must also, where applicable, be forwarded to the Purchasing Manager before or at the time of shipment.
8.3 Where applicable, Bill of Lading must be forwarded directly to the Purchasing Manager and one must be forwarded by ship's bag. Bills of Lading must never be sent through a bank.
8.4 Where applicable, the correct customs documentation must be provided by the Supplier e.g., T-documents, AAD's, EUR forms, Certificates of Origins, etc.

9 RISK AND TITLE

9.1 Risk of damage to or loss of the Materials and title in the Materials shall pass to the Purchaser upon delivery to the Purchaser in accordance with the Contract, unless payment is made prior to delivery, in which event, title shall pass to the Purchaser once payment of its rights or obligations under the Contract.
9.2 Where title in the Materials has passed to the Purchaser prior to delivery pursuant to Condition 9.1, the Supplier shall keep such Materials as the property of the Purchaser.

10 WARRANTIES

10.1 The Supplier warrants to the Purchaser and it is a condition of the Contract that the Materials and/or Services:-
10.1.1 will be of merchantable quality and fit for any purpose held out by the Supplier or made known to the Supplier in writing at the time the order is placed and for use by the Purchaser in the ordinary course of its business;
10.1.2 will be free from defects;
10.1.3 will be provided and/or performed in accordance with the Contract and will correspond in all respects with the Specifications and/or any sample; and
10.1.4 will comply with all statutory requirements and regulations relating to the manufacture, packaging, packing, distribution, sale and purchase of the Materials.
10.2 The Supplier warrants to the Purchaser, that the Services will be performed by appropriately qualified and trained personnel with all the care and diligence, with the skill to be expected of a reputable contractor and to such a high standard of quality as it is reasonable for the Purchaser to expect in all the circumstances.
10.3 In the event that any Materials and/or Services do not comply with any of the warranties in Condition 10, and without prejudice to any other remedy that the Purchaser may have, the Purchaser shall be entitled at any time during the period of two years following the date of delivery/performance and at its sole discretion to require the Supplier, at the Supplier's expense, to repair, replace or re-perform within fourteen days or such other period as is specified by the Purchaser any such Materials and/or Services and to reimburse the Purchaser with all costs incurred in recovering, returning and re-performing any such Materials and/or Services.
10.4 If the Supplier fails to repair or replace any Materials and/or Services within fourteen days (or such other period as is specified by the Purchaser) in accordance with Condition 10.2 the Purchaser shall have the right to purchase replacement Materials and/or Services from another source and any money paid by the Purchaser to the Supplier in respect of the Materials and/or Services together with any additional expenditure over and above the Price reasonably incurred by the Purchaser in obtaining replacement Materials and/or Services shall be paid by the Supplier to the Purchaser.
10.5 The warranties and remedies provided for in this condition 10 and conditions 6.6, 6.10 and 11 shall be in addition to those implied by or available at law or in equity and shall continue in force notwithstanding acceptance by the Purchaser of all or part of the Materials and/or Services in respect of which such warranties and remedies are available.

11 INDEMNITIES

11.1 The Supplier shall indemnify and keep indemnified the Purchaser, its agents, employees, officers, subsidiaries, associated companies and contractors, in full against any liability whatsoever, including, without limitation, losses, damages, costs and expenses (including legal fees and expenses) awarded against or incurred or paid by the Purchaser (whether to its own customers or otherwise) indirectly or directly arising from or consequential upon or in connection with:-
11.1.1 breach of any warranty given by the Supplier in relation to the Materials and/or Service;
11.1.2 any claim that the Materials and/or Services infringes, or its importation, use or resale, infringes, the patent, copyright, design right, trade mark or other intellectual property rights of any other person, except to the extent that the claim arises from compliance with any Specifications supplied by the Purchaser;
11.1.3 any act or omission of the Supplier or its employees, agents or sub-contractors in performing its obligations under the Contract;
11.1.4 any liability under the Liability for Defective Products Act, 1991 in respect of the Material and/or Services;
11.1.5 any liability/penalty imposed under Safety, Health and Welfare at Work Act, 2005 or any other applicable statutes and statutory instruments.
11.2 The Supplier shall, at the request of the Purchaser, assign the benefit of the warranties, indemnities and other covenants received by the Supplier from any third party in connection with the Materials and/or Services.

12 INSURANCE

12.1 The Supplier shall at all times insure and keep itself insured with a reputable insurance company against all insurable liability under the Contract in respect of the Materials and/or Services, and without prejudice to the generality of the foregoing, against all the Supplier's liabilities under Condition 11. The Supplier shall provide all facilities, assistance and advice required by the Purchaser or the Purchaser's agents in connection with the purchase of any insurance policy, claim or matter arising out of the Supplier's performance of the Contract.

13 TERMINATION

13.1 The Supplier shall be liable to any other rights or remedies to which it may be entitled, the Purchaser shall be entitled to terminate the Contract forthwith without liability to the Supplier by giving notice to the Supplier at any time if:-
13.1.1 the Supplier commits a material breach of any of the terms or conditions of the Contract and, if such breach is capable of being

remedied, fails to remedy the breach within thirty days of notice given by the Purchaser requiring the Supplier to do so; or
13.1.2 there is a change in control or ownership of the Supplier without the written consent of the Purchaser; or
13.1.3 the Supplier convenes a meeting for the purpose of or proposes to enter into any arrangement or composition for the benefit of its creditors; or
13.1.4 an emburcance takes possession, or a receiver is appointed, of any of the property assets of the Supplier; or
13.1.5 the Supplier ceases or threatens to cease, to carry on business, or takes or suffers any analogous action under any applicable law; or
13.1.6 the Supplier is unable to pay its debts within the meaning of Section 570 of the Companies Act, 2014 (as may be amended from time to time) or any analogous provision of law; or
13.1.7 an order is made or an effective resolution is passed for the winding up of the Supplier's Company other than for the purpose of an amalgamation or reconstruction the terms of which have been agreed in writing by the Purchaser; or
13.1.8 a petition is presented or an order is made or a resolution passed or any analogous proceedings or action is taken for the appointment of an examiner, receiver, administrator, administrative receiver, trustee or any similar officer over the Company; or
13.1.9 any representation by the Supplier shall in the opinion of the Purchaser prove to be untrue or incorrect in any respect as of the date of its receipt or obligations under the Contract.
13.1.10 the purchaser reasonably believes that any of the events mentioned above is about to occur in relation to the Supplier and notifies the Supplier accordingly.
13.2 Termination of the Contract for whatever reason shall not release either party from any obligations which may have accrued prior to such termination.

14 ASSIGNMENT

14.1 The Contract is personal to the Supplier and the Supplier shall not assign or transfer or purport to assign or transfer to any other person any of its rights or obligations under the Contract.
14.2 The Purchaser is entitled to assign and transfer all or part of its rights and obligations under the Contract.

15 NOTICES

15.1 Any notice or other communication whether required or permitted to be given by one party hereto to the other shall be in writing and shall be deemed to have been duly given if signed by or on behalf of a duly authorised officer of the party giving the notice and:-
15.1.1 if delivered, at the time of delivery to the addressee or its duly authorised agent;
15.1.2 if sent by pre-paid post, four days after posting if addressed to the party to whom such notice is to be given at the address set forth for such party in the Contract (or such other address as is from time to time notified to the other party hereto);
15.1.3 if transmitted by facsimile, on a receipt of an error free transmission report to such facsimile number or numbers from time to time notified to the other party.
15.2 All notices to the Purchaser under the Contract shall be in writing and sent to:-
Purchasing Manager, EirGrid plc, The Oval, 160 Shelbourne Road, Ballsbridge, Dublin 4. Attn: [the Buyer named in Acknowledgements/Queries overleaf]
All notices to the Supplier under the Contract shall be in writing and sent to the address specified overleaf.

16 WAIVER

No waiver by the Purchaser of any breach of the Contract by the Supplier shall be considered a waiver of any subsequent breach of the same or any other provision.

17 VALIDITY

If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or part the validity of the other provisions of these conditions and the remainder of the provision in question shall not be affected thereby.

18 RELATIONSHIP

Nothing in the Contract shall constitute or shall be deemed to constitute a partnership between the parties hereto or constitute or be deemed to constitute the Supplier as agent of the Purchaser for any purpose whatsoever and the Supplier shall have no authority or power to bind the Purchaser or to contract in the name of or create a liability against the Purchaser in any way or for any purpose.

19 FORCE MAJEURE

19.1 Neither the Purchaser nor the Supplier shall be liable to the other or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of its obligations under the Contract if the delay or failure was beyond that party's reasonable control including in such cases but not by way of limitation any law, order, regulation, directive or request of any Government or Legal authority, war or threat of war, insurance, national emergency, riots, fire, floods, or other catastrophe, strikes, lock-outs or any industrial disputes of the Purchaser or any similar cause beyond the control of the party.
19.2 On the occurrence of "Force Majeure" (as specified in Condition 19.1 above), both parties shall allow a fair and reasonable extension of the time for completion of the Contract. Upon the happenings of any such event causing delay, the party who is in breach as a result of the Force Majeure event shall immediately give notice thereof in writing to the other and shall nevertheless use constantly its best endeavours to prevent delay.
19.3 If the provision of the Material and/or the performance of the Services is prevented for a period of 120 days or more by reason of Force Majeure then either Party may give to the other Party notice of termination of the Contract, such termination shall take effect 7 days after the notice is given.

20 COMPLIANCE

The Supplier shall comply with all requirements and/or obligations of any statute, statutory instrument, rule, order, regulation, directive and/or bylaws laid down by legislation, Government Departments (including the Revenue Commissioners) and relating to the manufacture, packaging, packing, distribution, importation, pricing or sales of the Materials and/or Services or any other provision of the Contract.

21 GOVERNING LAW

The conditions shall be governed by and shall be read and construed in all respects in accordance with Irish law and each of the parties hereto submits to the non-exclusive jurisdiction of the Republic of Ireland Courts.

22 BRIBERY

The Supplier shall, and shall procure that persons associated with the Supplier shall comply with all applicable laws, statutes, regulations and sanctions relating to anti-bribery and anti-corruption, including but not limited to the Bribery Act 2010 and any guidance provided from time to time, and the Supplier shall indemnify the Purchaser against all loss, damages, costs, claims and proceedings arising from any breach by the Supplier of this Clause 22.