

## STANDARD TERMS FOR THE SUPPLY OF GOODS, SERVICES AND WORKS

This Contract shall be constituted by and comprise only these terms and conditions, any specification from the Council and any proposals from the Supplier, ("Contract Documents"); no terms or conditions put forward by the Supplier (including terms relating to hire, lease or loan) shall form part of the Contract Documents unless signed by both parties. In the event of conflict within the Contract Documents, the Council's Specification prevails. Any supply made in response to an order shall be taken as conclusive acceptance of this term and any inconsistent or additional terms accompanying the supply shall be deleted and ignored.

### 1. DEFINITIONS AND INTERPRETATION

- 1.1 The words in parenthesis and/or quotation marks on the front of this Quote or on an order describe or identify as appropriate the following or preceding words or matters and have the same meaning throughout these Terms.
- 1.2 The headings to the Terms shall not affect their interpretation. The singular includes the plural; one gender includes all others.

### 2. THE SUPPLY OF GOODS, SERVICES OR WORKS - QUALITY STANDARDS

- 2.1 The Supply shall be to the reasonable satisfaction of the Authorised Officer and shall without limitation conform with and fulfil in all respects:-
- the Contract Documents
  - any variation of the Contract agreed in writing by the parties
  - the requirements of any relevant UK or EC statute, order, regulation, directives, standard, code of practice or bye-law from time to time in force which is relevant to the Supply
  - any recommendation or representation made by the Supplier
  - professional standards which might reasonably be expected of the Supplier
- 2.2 Unless otherwise agreed in writing, neither performance nor functionality of any part of the Supply will be impeded by entry into the European monetary union.
- 2.3 The Goods, Services or Works should be fit for purpose and of merchantable quality. They should match the specification given by the Supplier and any request made by the Council to which the Supplier has agreed.
- 2.4 In the supply of ICT hardware, software or other goods of a similar nature that require testing and approval after commissioning no payment will be made until approval sign-off has been given by the Council's appropriate authorised commissioning officer.
- 2.5 Warrantee - Unless amended by the specification. Works, Goods and Services are to be guaranteed for 1 year minimum to perform satisfactorily according to the specification.

### 3. THE CONTRACT PRICE AND INVOICING

- 3.1 The Payment Date defines how the Contract Price is payable. The Council shall make payment, provided the Supply complies with the Contract, within 30 days after receipt of an invoice submitted on or after a Payment Date.

### 4. DELIVERY AND TIME FOR PERFORMANCE

- 4.1 Time shall be of the essence. The Authorised Officer must be notified and his consent obtained to any extension of time.
- 4.2 Access to Council premises, facilities or storage by the Supplier shall comply with the reasonable requirements of the Council and shall be at the Supplier's risk. 4.3 If either party is unable to make or accept the Supply, through
- strike, lockout by employees, war or civil commotion
  - cessation or serious interruption of land, sea or air communications or power supplies
  - exceptionally adverse weather, fire or other unavoidable cause it shall immediately notify the other party and then, the disabled party may decline to make or accept the Supply. The Council shall notify the Supplier within 30 days of the end of that period whether it requires the Supply to be recommenced, varied or cancelled (without further liability to either party). Where the Supply is recommenced the Contract shall be varied to extend the time for completion or delivery of the Supply by the period of disability.
- 4.4 At the completion of the Supply the Supplier shall remove all materials from the Site (unless otherwise instructed) and permanently reinstate any damaged areas or surfaces and leave the Site in a clean condition ready for occupation.

### 5. PROPERTY RISK AND ACCEPTANCE

5.1 Without prejudice to any of the rights or remedies of the Council (including those under Clause 7), property and risk in any Goods shall pass to the Council on delivery or when the Authorised Officer notifies acceptance in writing where the Goods are to be subject to testing, whichever shall be the later.

## **6. DESPATCH OF GOODS AND DAMAGE IN TRANSIT**

6.1 The Supplier shall free of charge and as quickly as possible either repair or replace (as the Council shall elect) Goods which fail to arrive or arrive damaged.

## **7. INSPECTION AND REJECTION**

7.1 The Supplier shall assist the Council or his authorised representatives (free of charge) to make any inspections or tests the Council may reasonably require of the Supply at any time prior to acceptance.

7.2 The Council may suspend the Supply in whole or in part without paying compensation if the Authorised Officer is reasonably of the opinion that the Supplier is in breach of Clause 10.

7.3 The Council may reject the Supply in whole or in part before acceptance if it is not completely in accordance with the Contract or becomes so during any Guarantee Period (including without limitation any slight or minor variation) and in such circumstances may, without prejudice to other rights or remedies:-

- have the Supply repaired, re-done or replaced by the Supplier with a supply which complies in all respects with the requirements of the Contract
- require a refund from the Supplier
- make a reasonable deduction from the Contract Price determined by the Authorised Officer.

## **8. LABELLING AND PACKAGING**

8.1 The contents shall be clearly marked. All containers of hazardous goods (and all relevant documents) shall bear prominent and adequate warnings. Product Data Sheets required by the Control of Substances Hazardous to Health Regulations 2002 and the Chemicals (Hazard Information and Packaging for Supply) Regulations 2009 must be provided (in a form suitable for photocopying).

8.2 All packaging materials will be considered non-returnable.

## **9. INTELLECTUAL PROPERTY RIGHTS AND CONFIDENTIALITY**

9.1 The Supply shall not infringe the intellectual property rights of any third party.

9.2 All rights (including without limitation ownership and copyright) in any specifications, information, instructions, plans, drawings, patterns, models, designs or other material furnished to or made available to the Supplier by the Council or obtained by the Supplier in connection with the Contract shall remain vested solely in the Council and shall be kept confidential.

9.3 Where the Supplier has access to information about people, it shall ensure that in making the Supply, the provisions of the Data Protection Act 1998 are observed (and also Councils' data protection requirements notified to the Supplier).

9.4 This clause shall apply both during the Contract and after its termination.

9.5 The intellectual property rights (including without limitation copyright) in any thing arising out of the Supply shall vest in the Council.

## **10. HEALTH AND SAFETY**

10.1 Without prejudice to the generality of Clause 2.1 the Supplier in making the Supply shall have full regard to safety of persons who may be affected in any way and shall comply with the requirements of the Health and Safety at Work Act 1974 and its subordinate regulatory framework, and of any other Acts pertaining to the health and safety of persons.

10.2 The Supplier shall conduct all necessary tests and examinations prior to delivery of the Supply to ensure that the Supply is designed, constructed and delivered so as to be safe and without risk to the health or safety of persons using them. The Supplier shall give the Council adequate information about the use for which the Supply has been designed and has been tested and about any conditions necessary to ensure that when put to use the Supply will be safe and without risk to health.

10.3 Throughout the progress of any Works, the Supplier shall keep the Site in an orderly state and shall provide and maintain at its own cost all lights, guards, fencing and warning signs for the protection of the Works and the safety and convenience of the public and others.

## **11. INDEMNITY AND INSURANCE**

11.1 Without prejudice to any rights or remedies of the Council (including those under Clause 7) the Supplier shall indemnify the Council against all matters of any kind arising in contract, tort, statute or otherwise directly or

indirectly out of the wrongful act, default, breach of contract or negligence of the Supplier, its sub-Suppliers, employees or agents in the course of or in connection with the Contract. Without prejudice to the generality of the foregoing this indemnity shall extend to (and not be limited) in respect of death or injury to persons, damage to property, prevention of corruption, the infringement of intellectual property rights, health and safety, race relations, data protection and Ombudsman investigations.

- 11.2 The Supplier shall effect, with a reputable company, public and employer's liability and other insurances necessary to cover the risks contemplated by the Contract and shall at the request of the Council produce the relevant policy or policies together with receipts or other evidence of payment of the latest premium due thereunder. Public liability cover of at least £10 million per incident shall be obtained, unless agreed otherwise with the Authorised Officer. Where the Supply is a supply of consultancy services the Supplier shall maintain professional indemnity insurance during the Contract period and for 6 years afterwards to cover its liability to the Council under the Contract. Other insurances shall include product liability insurance and professional indemnity insurance for goods or professionals services respectively supplied under this Contract. The level of insurances shall be three times the value of the contract or at a level requested by the Council.]

## 12. RACIAL DISCRIMINATION, OMBUDSMAN INVESTIGATIONS AND HUMAN RIGHTS

- 12.1 The Supplier shall not unlawfully discriminate within the meaning and scope of Equality Act 2010 or any statutory modification or re-enactment thereof relating to discrimination in the provision of services to the public or in employment or contravene the Human Rights Act 1998. The Supplier shall to the extent relevant to the delivery of the Supply comply with the Council's equal opportunities policies, which may be consulted. The Supplier shall take all reasonable steps to secure the observance of these provisions by all servants, employees or agents of the Supplier and all sub-Suppliers employed in the execution of the Contract. The Supplier shall give due consideration and take into account any guidance from the Equality and Human Rights Commission.
- 12.2 If either the Council's internal or external auditors or if the Commissioner for Local Administration (the Ombudsman) shall wish to investigate the Contract, then the Supplier shall provide such information, access and co-operation as those persons may reasonably require.

## 13. PREVENTION OF CORRUPTION

- 13.1 The Council may terminate the Contract and recover all its loss if the Supplier, its employees or anyone acting on the Supplier's behalf do any of the following things:
- offer, give or agree to give to anyone any inducement or reward in respect of this or any other Council contract (even if the Supplier does not know what has been done); or
  - commit an offence under the Bribery Act 2010 or under Section 117(2) of the Local Government Act 1972; or
  - commit any fraud in connection with this or any other Council contract whether alone or in conjunction with Council members or employees.

## 14. TERMINATION

- 14.1 The Council may also by notice in writing terminate the Contract in whole or in part (and enter upon and expel the Supplier from any premises or site to which he has been given access) if any of the events specified in Clause 14.2 occur. No period of notice shall be required but the notice shall state the date on which it is to take effect.
- 14.2 The events referred to in Clause 14.1 are:-
- 14.2.1 the Supplier has failed to make the Supply within the time specified in the Contract
- 14.2.2 the Supplier has breached the Contract in a way which the Council reasonably regards as irremediable, which may include, without limitation, repeated and/or persistent remediable breaches of the Contract
- 14.2.3 the Council has given the Supplier at least one month's notice to remedy a breach of contract which can be remedied and the Supplier has failed to do so
- 14.2.4 the Supplier has without reasonable cause failed to proceed diligently with or wholly suspends performance of any Services or Works
- 14.2.5 the Supplier shall have a receiver appointed over all or substantial part of his or its assets or (if an individual) be declared bankrupt or (if a company) shall go into liquidation or have an administrator appointed to manage its affairs.
- 14.3 In the event of termination of the Contract or rejection under Clause 7, the Council may engage another Supplier to make the Supply and the Supplier shall be liable to pay the Council as a debt any extra cost that the Council incurs in so doing in excess of the Contract Price.

## 15 ASSIGNMENT AND SUB-CONTRACTING

- 15.1 The Supplier shall not without the written consent of the Authorised Officer assign or sub-contract the benefit or burden of the whole or any part of the Contract. No sub-contracting by the Supplier shall in any way relieve the Supplier of any of its responsibilities under the Contract.

## **16 PURCHASE OUTSIDE THE CONTRACT AND THIRD PARTIES**

16.1 The Council shall have the right to employ a person other than the Supplier to make supplies of the same type as is contemplated by the Contract if it shall in its absolute discretion think fit to do so.

16.2 The Contract shall not confer any benefit on any third party.

## **17 NOTICES**

17.1 Any notice about the Contract may be sent by hand or by ordinary, registered or recorded delivery post or transmitted by facsimile transmission or other means of telecommunications resulting in the receipt of written communication in permanent form and if so sent or transmitted to the address of the party shown on the Contract, or to such other address as the party has notified to the other, shall be deemed effectively given on the day when in the ordinary course of the means of transmission it would be first be received by the addressee in normal business hours.

## **18 GOVERNING LAW**

18.1 These Conditions shall be governed by and construed in accordance with English law and the Supplier hereby irrevocably submits to the exclusive jurisdiction of the English courts.

## **19 CONTRACT REVIEW**

19.1 This contract is subject to continual review and as part of the process the Council will review the works, goods or services required under the Contract. If the Council reasonably considers that the works, goods or services could be provided in a more efficient or cost effective way, the Council shall submit proposals to the Supplier to vary the Contract Documents to accommodate changes to give effect to a more efficient or cost effective delivery of Goods or Services. In this regard the parties shall cooperate with each other and act in good faith to agree and implement such proposals.