



PROCUREMENT

STANDARD TERMS AND CONDITIONS

CONTENTS

1	INTERPRETATION	2
2	BASIS OF THE CONTRACT	4
3	DELIVERY/COMPLETION	6
4	LATE OR INCORRECT DELIVERY	7
5	QUALITY	9
6	PRICE, INVOICES AND PAYMENT	9
7	OWNERSHIP AND RISK	10
8	INTELLECTUAL PROPERTY RIGHTS	10
9	USE OF INFORMATION	11
10	DATA PROTECTION	12
11	INDEMNITY AND INSURANCE	14
12	ASSIGNMENT OR SUB-CONTRACTING	14
13	IMPROPER INDUCEMENT OR REWARD	15
14	TERMINATION OF THE CONTRACT	15
15	CONSEQUENCES OF TERMINATION	16
16	WAIVER	17
17	EXCLUSION OF THIRD PARTY RIGHTS	17
18	CONTRACT MANAGEMENT	17
19	VARIATIONS	18
20	AGENCY	18
21	SUSTAINABILITY	18
22	BUSINESS CONTINUITY	19
23	FORCE MAJEURE	19
24	SERVICE OF NOTICES	19
26	DISPUTE RESOLUTION	20
27	SEVERANCE	20
28	HEALTH AND SAFETY	20
29	GOVERNING LAW	21

PURCHASE ORDER CONDITIONS

1 INTERPRETATION

1.1 In this Contract unless the context otherwise requires:

'Authorised Officer' means an officer of the Council authorised (generally or specifically) to commit the Council;

'Business Day' means a day, other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

'Business Hours' means the period from 9.00 am to 5.00 pm on any Business Day.

'Commencement Date' means the date agreed by the Council as set out in the Contract, or if no date has been specified, the date of the Purchase Order.

'Conditions' means the terms and conditions of purchase set out in this document;

'Contract' means the Purchase Order, any tender documentation, the Supplier's tender response, these Conditions, the Specification and any Special Conditions of Contract attached to or mentioned in the Purchase Order;

Controller, Processor, Data Subject, Personal Data, Personal Data Breach, processing and appropriate technical and organisational measures: as defined in the Data Protection Legislation.

'Council' means The City Council of Norwich of City Hall, St Peter's Street, Norwich, NR2 1NH;

'Council's Material' means all materials, equipment and tools, drawings, specifications and data supplied by the Council to the Supplier;

'Data Protection Legislation' means (i) all applicable UK law relating to the processing of personal data and privacy, including but not limited to the UK GDPR, and the Data Protection Act 2018 to the extent that it relates to processing of personal data and privacy; and (ii) (to the extent that it may be applicable) the EU GDPR. The UK GDPR and EU GDPR are defined in section 3 of the Data Protection Act 2018.

'Delivery Date' means the date specified in the Contract.

'Delivery Location' means the location specified in the Contract.

'Goods/Services' means the Goods and or Services which are the subject of the Contract, as the context requires;

'Intellectual Property Rights' means patents, rights, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered;

'Parties' means the Council and the Supplier;

'Price' has the meaning given at Clause 6;

'Purchase Order' means the Council's order form issued to the Supplier requesting the supply of Goods/Services;

'Purchase Order Number' means the number specified in the Purchase Order.

'Specification' any specification for the Goods/Services, including any related plans and drawings, that is agreed in writing by the Parties.

'Special Conditions' means any special terms and conditions of purchase attached to or mentioned in the Purchase Order;

'Supplier' means the person(s), organisation or company to whom the Purchase Order is addressed.

- 1.2 The headings in this Contract are included for convenience only and shall not affect the construction or interpretation of this Contract.
- 1.3 Where Special Conditions apply and are inconsistent with these Conditions the Special Conditions will have precedence.
- 1.4 A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.
- 1.5 Any phrase introduced by the terms including, include, in particular or any similar expression shall mean including without limitation and be construed as illustrative and shall not limit the sense of the words preceding those terms.

- 1.6 A reference to writing or written includes fax and email.
- 1.7 Words in the singular include the plural and vice versa.
- 1.8 Words importing the masculine include the feminine and the neuter.
- 1.9 References to any person shall include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assignees or transferees.

2 BASIS OF THE CONTRACT

- 2.1 The Purchase Order constitutes an offer by the Council to purchase the Goods and or Services subject to and in accordance with the terms and conditions of the Contract.
- 2.2 The Council's offer comprised in the Purchase Order shall be deemed to be accepted by the Supplier unless rejected by the Supplier in writing within 7 days of the date of the Purchase Order.
- 2.3 The Supplier agrees to supply the Goods/Services specified in the Contract from the Commencement Date and at the time or times and in the quantities and manner specified in the Contract to the satisfaction of the Council.
- 2.4 In consideration of the supply of the Goods/Services by the Supplier, the Council agrees to pay the Price for the Goods/Services in the manner and time set out in the Contract.
- 2.5 These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.6 If any provision of the Contract is held invalid, illegal or unenforceable for any reason, such provision will be severed and the remaining provisions will continue in full force and effect. In the event of a holding of invalidity so fundamental as to prevent the accomplishment of the purpose of the Contract, the Parties shall immediately commence negotiations in good faith to remedy the invalidity.
- 2.7 The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract.

Supply of Services

2.8 In providing any Services, the Supplier shall:

- (a) co-operate with the Council in all matters relating to the Services, and comply with all instructions of the Council;
- (b) perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
- (c) use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Contract;
- (d) ensure that the Services and deliverables will conform with all descriptions and specifications set out in the Contract, and that the Services shall be fit for any purpose expressly or impliedly made known to the Supplier by the Council;
- (e) provide all equipment, tools and vehicles and such other items as are required to provide the Services;
- (f) use the best quality Goods, materials, standards and techniques, and ensure that the deliverables, and all Goods and materials supplied and used in the Services or transferred to the Council, will be free from defects in workmanship, installation and design;
- (g) comply with all applicable laws, statutes, regulations and codes from time to time in force;
- (h) observe all health and safety rules and regulations and any other security requirements that apply at any of the Council's premises;
- (i) not do or omit to do anything which may cause the Council to lose any licence, authority, consent or permission on which it relies for the purposes of conducting its business, and the Supplier acknowledges that the Council may rely or act on the Services;
- (j) The Supplier shall meet any performance dates for the Services specified in the Purchase Order or that the Council notifies to the Supplier and time is of the essence in relation to any of those performance dates.

- (k) hold all materials, equipment and tools, drawings, specifications and data supplied by the Council to the Supplier in safe custody at its own risk, maintain the Council's Materials in good condition until returned to the Council, and not dispose of or use the Council's Materials other than in accordance with the Council's written instructions or authorisation.

Supply of Goods

- 2.9 The Supplier shall ensure that any Goods purchased shall:
- (a) correspond with their description and any applicable specification;
 - (b) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for any purpose held out by the Supplier or made known to the Supplier by the Council expressly or by implication, and in this respect the Council relies on the Supplier's skill and judgement;
 - (c) where they are manufactured products, be free from defects in design, material and workmanship and remain so for 12 months after delivery; and
 - (d) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods.

3 DELIVERY/COMPLETION

- 3.1 The Goods will be properly packed, secured and sent at the Supplier's expense and will be delivered in good condition on the date or dates and at the time or times and the place or places set out in the Contract.
- 3.2 The Supplier shall ensure that each delivery of the Goods is accompanied by a delivery note which shows the date of the Purchase Order, the Purchase Order Number, the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered.
- 3.3 The Supplier shall ensure that if the Supplier requires the Council to return any packaging material to the Supplier, that fact is clearly stated on the delivery note. Any such packaging material shall be returned to the Supplier at the cost of the Supplier. The Supplier shall deliver the Goods:

- (a) on the Delivery Date;
 - (b) at the Delivery Location; and
 - (c) during Business Hours or as instructed by the Council.
- 3.4 Delivery of the Goods shall be completed on the completion of unloading the Goods at the specified location.
- 3.5 The Council may inspect and test the Goods at any time before delivery. The Supplier shall remain fully responsible for the Goods despite any such inspection or testing and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract.
- 3.6 If following such inspection or testing the Council considers that the Goods do not conform or are unlikely to comply with the Supplier's undertakings at Clause 2, the Council shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance.
- 3.7 The Council may conduct further inspections and tests after the Supplier has carried out its remedial actions.
- 3.8 The Services will be supplied and completed in accordance with the requirements and time-scales set out in the Contract.
- 3.9 The Supplier shall not deliver the Goods in instalments without the Council's prior written consent. Where it is agreed that the Goods are to be delivered by instalments, they may be invoiced and paid for separately. However, failure by the Supplier to deliver any one instalment on time or at all or any defect in an instalment shall entitle the Council to the remedies set out in Clause 4.

4 LATE OR INCORRECT DELIVERY

- 4.1 If the Supplier is unable to deliver the Goods or supply the Services (or any part of them) when required by the Contract (or where no time is specified, within a reasonable time), the Supplier will immediately inform the Council;
- 4.2 If the Goods are not delivered or the Services are not supplied (or any part of them) by the time or times set out in the Contract (or where no such time is specified, within a reasonable time), or are not delivered in accordance with the Contract then, without limiting any of its other rights or remedies, and whether or not it has accepted the Goods, the Council may exercise any one or more of the following remedies:

- (a) to terminate the Contract with immediate effect by giving written notice to the Supplier;
- (b) to reject them (in whole or in part) and where they are Goods, return them to the Supplier at the Supplier's own risk and expense. For the avoidance of doubt, any Goods which are rejected may be removed by the Supplier immediately after receipt of notice of such rejection where they elect to do so and if they are not removed within ten working days after dispatch of such notice the Council may cause the Goods to be removed, sold, or otherwise disposed of and charge the Supplier with all expenses incurred in such removal, sale or disposal and the Council shall not be liable for any damage or loss thereby sustained by the Supplier and such expenses shall be recoverable by the Council from the Supplier;
- (c) to require the Supplier to repair or replace the rejected Goods/Services, or to provide a full refund of the Price of the rejected Goods/Services (if paid);
- (d) to refuse to accept any subsequent delivery of the Goods or performance of the Services which the Supplier attempts to make;
- (e) have the rejected Goods/Services supplied by a reasonable alternative Supplier. The Supplier will be liable for any loss, damage or expense incurred by the Council (whether direct or indirect) as a result of any failure to deliver or supply in accordance with the Contract;
- (f) to recover from the Supplier any costs incurred by the Council in obtaining substitute Goods or Services from a third party;
- (g) where the Council has paid in advance for Goods/Services that have not been provided by the Supplier, to have such sums refunded by the Supplier and
- (h) to claim damages for any other or additional costs, loss or expenses incurred by the Council which are in any way attributable to the Supplier's failure to carry out its obligations under the Contract.

- 4.3 Should any faults develop within a period of 12 months from the date of delivery of Goods or completion of supply of Services which are in the opinion of the Council directly attributable to inferior workmanship or faulty materials the Supplier shall at his/her own expense be required to make good or replace immediately the defective parts or work to the satisfaction of the Council.

- 4.4 This Clause 4 will not affect any other rights that the Council may have under this Contract or otherwise and these Conditions shall extend to any substituted or remedial Services provided by the Supplier.

5 QUALITY

- 5.1 The Goods/Services will comply with the terms of the Contract.
- 5.2 The Goods/Services will comply with good industry practices.
- 5.3 The Goods/Services will comply with any current legislation and any standard required by applicable European and British Standards specification or code of practice current during the term of the Contract.

6 PRICE, INVOICES AND PAYMENT

Price

- 6.1 The Price of the Goods:
- (a) is the price set out in the Purchase Order; and
 - (b) includes the costs of packaging, insurance and carriage of the Goods. No extra charges shall be effective unless agreed in writing and signed by the Council.
- 6.2 The charges for the Services shall be set out in the Purchase Order and shall be the full and exclusive remuneration of the Supplier in respect of the performance of the Services. Unless otherwise agreed in writing by the Council, the charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.
- 6.3 The Council will not be liable to pay for Goods/Services unless requisitioned by a Purchase Order that complies with this Clause 6.

Invoices

- 6.4 In respect of Goods, the Supplier shall invoice the Council on or at any time after completion of delivery with the relevant Purchase Order Number and setting out particulars of the Goods delivered. The Council will not accept Goods unless they are accompanied by such a prominently displayed invoice or delivery note.

- 6.5 In respect of Services, the Supplier shall invoice the Council once on completion of the Services. The invoice will quote the Purchase Order Number and set out details of the Services supplied.
- 6.6 Unless otherwise agreed, the Supplier will submit invoices to the Payment Team at City Hall, St Peter's Street, Norwich NR2 1NH or as otherwise stated on the Official Order or emailed to accountspayable@norwich.gov.uk

Payment

- 6.7 The Council will pay any invoice issued within 30 days of receipt of the invoice once the Council has determined that the invoice is valid and undisputed.
- 6.8 Where the Council fails to comply with Clause 6.7 and there is an undue delay in considering and verifying the invoice, the invoice shall be regarded as valid and undisputed for the purposes of Clause 6.7 after a reasonable time has passed.
- 6.9 Where the Supplier enters into a sub-contract, the Supplier shall include in that sub-contract:
- (a) That any payment due from the Supplier to the Sub-contractor under the Contract is to be made no later than the end of the period of 30 days of the date from which the invoice is regarded as valid and undisputed.
 - (b) a provision requiring the counterparty to that sub-contract to include in any sub-contract which it awards provisions having the same effect as Clause 6 of this Contract.
- 6.10 The Council shall be entitled to set off against the Price (including any applicable Value Added Tax payable) amounts due the Supplier, under this or any other Contract.
- 6.11 The Price is inclusive of all the Supplier's obligations under this Contract.

7 OWNERSHIP AND RISK

- 7.1 Ownership of Goods will pass to the Council when they have been delivered or supplied in accordance with the Contract and the Supplier will bear all the risks of loss or damage to the Goods until they have been delivered and will insure accordingly.

8 INTELLECTUAL PROPERTY RIGHTS

- 8.1 All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any Council's Materials) shall be owned by the Supplier.
- 8.2 The Supplier grants to the Council, or shall procure the direct grant to the Council of, a fully paid-up, worldwide, non-exclusive, royalty-free licence during the term of the Contract to copy the Deliverables (excluding Council's Materials) for the purpose of receiving and using the Services and the Deliverables.
- 8.3 The Council grants the Supplier a fully paid-up, non-exclusive, royalty-free non-transferable licence to copy any Council Materials for the term of the Contract for the purpose of providing the Services to the Council.
- 8.4 The Supplier acknowledges that all rights in the Council's Materials are and shall remain the exclusive property of the Council.

9 USE OF INFORMATION

- 9.1 Subject to Clause 9.2 and with the exception of information in all cases lawfully;
- already in the public domain,
 - already in the other party's possession,
 - received from a third party,
 - independently developed or
 - disclosable under a statutory or legal requirement

All matters concerning the Contract will be confidential. Any drawings, specifications, diagrams, computer programmes, tools, materials or any other equipment or information acquired from the Council will only be used for the purpose for which they are supplied and will not be divulged, copied or transmitted to third Parties without the prior written consent of the Authorised Officer. Such items remain the property of the Council and will be returned in good condition (fair wear and tear excepted) on completion of the Contract.

- 9.2 The Supplier acknowledges that the Council is subject to the requirements under the Freedom of Information Act 2000 ('the FOIA') and the Environmental Information Regulations 2004 ("EIR") and shall assist and cooperate with the Council free of charge to enable the Council to comply with these information disclosure requirements.

- 9.3 The Supplier acknowledges that the Council may, acting in accordance with the Secretary of State for Constitutional Affairs' Code of Practice on the discharge of public authorities' functions under Part 1 of the FOIA, be obliged to disclose information:
- (a) without consulting with the Supplier, or
 - (b) following consultation with the Supplier and having taken its views into account.
- 9.4 The Supplier acknowledges that the council is subject to the requirements under the Local Government Transparency Code 2015 regarding disclosure of information relating to contracts.

10 DATA PROTECTION

- 10.1 The Supplier shall comply with all the requirements under the UK Data Protection Legislation and both Parties will duly observe all their obligations under the Data Protection Legislation which arise in connection with the Contract. This clause is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.
- 10.2 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Council is the Controller and the Supplier is the Processor.
- 10.3 The Council will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Supplier for the duration and purposes of the Contract.
- 10.4 The Supplier shall, in relation to any Personal Data processed in connection with the performance by the Supplier of its obligations under the Contract:
- a) process that Personal Data only on the documented written instructions of the Council unless the Supplier is required by Data Protection Legislation to otherwise process that Personal Data;

- b) ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Council, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
- c) ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
- d) not transfer any Personal Data outside of the UK unless the prior written consent of the Council has been obtained
- e) assist the Council in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- f) notify the Council without undue delay on becoming aware of a Personal Data Breach;
- g) at the written direction of the Council, delete or return Personal Data and copies thereof to the Council on termination of the Contract unless required by Data Protection Legislation to store the Personal Data; and
- h) maintain complete and accurate records and information to demonstrate its compliance with this Clause 10 and immediately inform the Council if, in the opinion of the Supplier, an instruction infringes the Data Protection Legislation.

10.5 The Council does not consent to the Supplier appointing any third party processor of Personal Data under the Contract.

11 INDEMNITY AND INSURANCE

11.1 The Supplier shall indemnify and keep the Council indemnified from and against any and all actions, costs (including professional costs), claims, demands, liabilities, losses and expenses (whether direct or indirect, present or future, actual or contingent) incurred by or arising against the Council in connection with any of the following:

- any failure of the Goods/Services to comply with the Contract;
- any actual or alleged non-compliance of the Goods/Services with any law, regulation, code of practice or regulatory requirement (whether of the United Kingdom or elsewhere) which is applicable to the Goods/Services;
- any personal injury to or death of any person or any damage to any property (other than as a result of any default or neglect of the Council or of any person for whom it is responsible) which arises out of the negligent or imperfect or improper performance of the Contract by the Supplier or his/her workmen, servants or agents, or any actual or alleged defect in the Goods/Services supplied;
- any claim against the Council by any third party as a result of any breach by the Supplier of the Contract or any obligations implied on the Supplier's part by the Sales of Goods Act 1979, the Supply of Goods and Services Act 1982 or any other statute or statutory provision relevant to the Contract or the Goods/Services supplied under it; and
- any claim brought against the Council for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the receipt, use or supply of the Services, to the extent that the claim is attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors.

11.2 During the term of the Contract and for 12 months thereafter the Supplier shall maintain such insurance against all the liabilities, payments, proceedings, costs, charges, damages, expenses, claims, and demands referred to in the Contract or this Clause and will when required produce to the Council the policy, or policies of such insurance together with the receipt for the payment of the last premium in respect thereof.

12 ASSIGNMENT OR SUB-CONTRACTING

- 12.1 The Supplier will not transfer or assign directly or indirectly to any person or persons whatever, the whole or any portion of the Contract without the written permission of the Council. The Supplier will be responsible for the observance of all the provisions of the Contract by all sub-contractors and by manufacturers and Suppliers of Goods used in the execution of the Contract.

13 IMPROPER INDUCEMENT OR REWARD

- 13.1 The Supplier or any person employed by the Supplier or acting on the Supplier's behalf whether or not with the Supplier's knowledge, shall not, in connection with this Contract, give, provide or offer to the Council's staff or agents or any other person any loan, fee, reward, gift or any emolument or advantage whatsoever as an inducement or reward for taking or not taking any action in relation to the Contract or any other contract with the Council.

14 TERMINATION OF THE CONTRACT

- 14.1 The Council may (without prejudice to any other rights or remedies under the Contract including other rights to terminate the Contract) terminate the Contract immediately (by giving written notice) if the Supplier:
- a) Materially breaches any term of the Contract which is irremediable, or (if such breach is remediable) fails to remedy that breach where breaches or fails to observe any provision of this Contract, where the Council has given written notice of the breach or non-observance to the Supplier allowing 14 days from receipt of the notice to rectify the breach or non-observance and the breach or non-observance is not rectified (either fully or at all) in that time.
 - b) becomes insolvent or bankrupt or if an order is made or a resolution is passed for its winding up or if an administrator, administrative receiver or receiver is appointed in respect of the whole or any part of the Supplier's assets or business or if the Supplier makes any composition with its creditors or takes or suffers any similar or analogous action in consequence of debt.
 - c) suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business.

- d) causes or commits a breach of the Conditions or commits an offence under the Bribery Act 2010 or Section 117(2) of the Local Government Act 1972 in relation to any contract with the Council.
 - e) the Supplier has committed a fundamental breach of the Contract which in the Council's reasonable opinion justifies immediate termination of the Contract.
- 14.2 Any termination under Clause 14.1 or any other Clause of the Contract will be without prejudice to the rights of the Council in respect of any prior breach by the Supplier of the Contract.
- 14.3 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.

15 CONSEQUENCES OF TERMINATION

- 15.1 Where breach leads to early termination or suspension of the Contract the Council will be entitled to employ and pay other persons to provide and complete the provisions of the Contract and to recover any monies paid in doing so from the Supplier.
- 15.2 Where following expiry or earlier determination of the Contract, provision of the supply of Goods/Services is to transfer to another Supplier, the Supplier will assist the Council in all respects with such transfer including, but not limited to, providing the Council with any information required to enable the Council to comply with its obligations under the Transfer of Undertakings (Protection of Employment) Regulations 2006 on request.
- 15.3 Within 6 weeks of the expiry or earlier determination of the Contract the Supplier will repay to the Council any amount paid that has not been spent as at the date of expiry or termination of the Contract in supplying the Goods/Services.
- 15.4 On termination of the Contract for any reason, the Supplier shall immediately deliver to the Council all deliverables whether or not then complete, and return all Council's Materials. If the Supplier fails to do so, then the Council may enter the Supplier's premises and take possession of them. Until they have been returned or delivered, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.

- 15.5 Termination or expiry of the Contract shall not affect the Parties' rights and remedies that have accrued as at termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.
- 15.6 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.

16 WAIVER

- 16.1 A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.
- 16.2 A Failure or delay by either Party to exercise any right or remedy provided under this Contract or by law shall enforce at any time or for any period any one or more of the provisions of this Contract will not constitute or be construed as a waiver of the provision or of the right or remedy at any time subsequently to enforce all terms and conditions of this Contract nor affect the validity of the Contract or any part of it or the right of the Parties to enforce any provision in accordance with its terms.

17 EXCLUSION OF THIRD PARTY RIGHTS

- 17.1 No third parties will acquire any rights under this Contract and the provisions of the Contracts (Rights of Third Parties) Act 1999 are expressly excluded.

18 CONTRACT MANAGEMENT

- 18.1 The Council will appoint an Authorised Officer.
- 18.2 The Authorised Officer will have power to issue instructions to the Supplier on any matter relating to the Contract and the Supplier will comply therewith.
- 18.3 From time to time the Authorised Officer may appoint one or more representatives to act for the Authorised Officer generally or for specified purposes or periods. Should any such appointment be made, the Authorised Officer will give the Supplier written notice.

- 18.4 The Supplier will allow the Council's Chief Finance Officer and their auditor, or their nominated representative, access to such of their records as they may reasonably require for audit purposes.

19 VARIATIONS

- 19.1 The Council may, at any time, by written notice, request the Supplier to make any reasonable alteration to the Contract or any Purchase Order pursuant thereto (a 'Variation'). In the event of a Variation being required, the Council will instruct the Supplier to state in writing their ability to meet the requirements of the Variation and the effect the Variation will have on the cost of the Contract. The Supplier will respond within fourteen (14) days from receipt of the relevant Council's Authorised Officer's instructions or such other period as may be agreed.
- 19.2 The Contract may be amended by agreement between the Parties but no amendment to the Contract will be binding unless it is recorded in writing and signed by a duly authorised representative of each Party.

20 AGENCY

- 20.1 The Supplier must not in any circumstance hold themselves out as being the partner, servant, employee or agent of the Council otherwise than in circumstances permitted by the Contract.
- 20.2 The Supplier must not in any circumstances hold themselves out as being authorised to enter into any contract on behalf of the Council or in any other way to bind the Council to the performance, variation, release or discharge of any obligation otherwise than in circumstances permitted by the Contract.
- 20.3 The Supplier will not in any circumstances hold themselves out as having the power to make, vary, discharge or waive any Bylaw or Regulation of any kind.

21 SUSTAINABILITY

- 21.1 In the performance of the Contract the Supplier will take into account the Council's responsibilities to minimise any adverse environmental impact generated by its direct or indirect activity, including sustainability, equality, diversity and other social implications.

22 BUSINESS CONTINUITY

- 22.1 The Supplier will maintain in place throughout the Contract business continuity arrangements and will review those arrangements at appropriate intervals and if necessary update them, so as to ensure as far as reasonably practical that in the event of unexpected circumstances, either within or external to the Supplier's organisation, delivery of the Goods/Services to the Council is subject to a minimum of disruption.

23 FORCE MAJEURE

- 23.1 If either Party is prevented from fulfilling its obligations under the Contract by reason of any supervening event beyond its control including (but not limited to) war, national emergency, flood, earthquake, strike or lockout (other than a strike or lockout induced by the Party so affected) the Party unable to fulfil its obligations shall immediately give notice of this to the Other Party and shall do everything in its power to resume performance.
- 23.2 Neither Party shall be deemed to be in breach of its obligations under the Contract in the circumstances set out in Clause 23.1 subject to the terms set out in that Clause.
- 23.3 If and when the period of such incapacity exceeds two weeks, then the Contract shall automatically terminate unless the Parties first agree otherwise in writing.

24 SERVICE OF NOTICES

- 24.1 Any notice or other communication given to a Party under or in connection with the Contract shall be in writing, addressed to that Party at its registered office or such other address as that Party may have specified to the other Party in writing in accordance with this Clause, and shall be delivered personally, or sent by pre-paid first class post or other next working day delivery service, commercial courier, fax or email.
- 24.2 Any notice served shall be deemed to be sufficiently served if given or left in writing at the relevant Parties' usual or last place of abode or business if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second business day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or email, one Business Day after transmission.

25 ENTIRE AGREEMENT

25.1 The Contract constitutes the whole agreement between the Parties and supersedes and replaces any prior written or oral agreements, representations or understandings between them. The Parties confirm that they have not entered into the Agreement on the basis of any representation that is not expressly incorporated into the Agreement. Nothing in this clause shall exclude liability for fraud or fraudulent misrepresentation. .

26 DISPUTE RESOLUTION

26.1 If any dispute or difference whatsoever shall arise between the Parties in connection with or arising out of the Contract either party may give the other 7 days' notice to resolve the dispute or difference through Alternative Dispute Resolution (ADR) in accordance with the mediation procedure of the Centre for Dispute Resolution. If the Parties fail to agree terms of settlement of their dispute or difference within 56 days of the receipt of such notice or the party to whom the notice is given refuses to participate in the ADR procedure, then the matter may be referred to the Courts of England.

27 SEVERANCE

27.1 If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision of the Contract is deemed deleted under this clause the Parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

28 HEALTH AND SAFETY

28.1 The Supplier shall comply with all requirements of the Health and Safety at Work Act 1974 and any regulation or order made under it and any statutory amendment to it and any legal requirements of the European Union and international agreements applicable to the Goods and/or Services.

29 GOVERNING LAW

- 29.1 This Contract shall be governed by the Law of England and subject to the exclusive jurisdiction of the English Courts.