



WEST OXFORDSHIRE
DISTRICT COUNCIL

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Terms and Conditions of an Agreement for the Supply of Goods and/or Services



TERMS AND CONDITIONS OF AN AGREEMENT FOR THE SUPPLY OF GOODS AND/OR SERVICES

The Seller, an experienced, professional provider of the Goods and/or Services (as defined) has agreed to provide the Goods and/or Services to the Council, and the Council has agreed to purchase the Goods and/or Services, in accordance with the following terms and conditions:

1 Definitions

In these conditions, unless the context requires otherwise:

- 1.1 "This Agreement" means the agreement between the Seller and the Council in regard to the sale and purchase of the Goods and/or Services. This Agreement comprises these Terms and Conditions, the Purchase Order, the Specification and any other documentation either supplied by the Council at the Request for Quotation stage or agreed between the parties.
- 1.2 'Council' means West Oxfordshire District Council of Woodgreen, Witney, Oxfordshire, OX28 1NB.
- 1.3 'Conditions' means the terms and conditions of purchase set out in this document, including the Specification and any additional terms and conditions agreed in writing by the Council and the Seller.
- 1.4 'Delivery Date' means the date specified by the Council on which the Goods are to be delivered or the provision of the Services commenced;
- 1.5 'Goods' means the articles (if any) which the Council agrees to buy from the Seller as set out in the Purchase Order and the Specification;
- 1.6 'Price' means the price payable for the Goods and/or Services excluding any applicable VAT as specified in the Purchase Order.
- 1.7 'Purchase Order' means the Council order document identifying the Goods or Services to be supplied under this Agreement, as provided to the Seller following the Council's selection of the Seller;
- 1.8 'Seller' means the company / organisation / individual whose name and address appears in the Purchase Order as the selected supplier of the Goods and/or Services to be supplied under this Agreement; and
- 1.9 'Services' means the services (if any) set out in the Purchase Order and the Specification.
- 1.10 'Specification' means the description and any other relevant information relating to the Goods and/or Services to be supplied under this Agreement, including any plans, drawings, or data, as set out in the Statement of Requirements (which forms part of the Purchase Order).

2 Conditions Applicable

- 2.1 This Agreement applies to the supply of the Goods and/or Services to the Council by the Seller. This Agreement is the sole and entire agreement between the parties relating to such supply (and supersedes any prior agreement, whether written or oral) and this Agreement excludes any alternative or additional terms and conditions, including any terms or conditions proposed by the Seller, irrespective of the date any such alternative or additional terms and conditions may be proposed.
- 2.2 Dispatch or delivery of the Goods to the Council or the commencement of the provision of the Services by the Seller shall be deemed conclusive evidence of the Seller's acceptance of this Agreement and these Conditions.
- 2.4 Any variation of these Conditions (including any special terms and conditions agreed between the parties) shall be inapplicable unless agreed in writing.

3 Price and Payment

- 3.1 The Price shall be the Price set out in the Purchase Order. The Price shall be deemed to be inclusive of delivery charges, packaging, installation, insurance, travel, accommodation, subsistence and any other costs or disbursements unless the contrary is clearly specified in the Purchase Order. The Price is exclusive of any VAT which shall if payable be due at the rate ruling on the date of the Seller's invoice, which shall be addressed to the Council.
- 3.2 Payment of the Price and VAT shall be due within 30 days of the date of the Seller's invoice. No invoice shall be submitted by the Seller to the Council prior to delivery of all of the Goods in conformity with the Purchase Order and the Specification, or full and proper completion of the Services and no payment shall be payable until delivery of all of the Goods

or the full and proper completion of all of the Services specified in the Purchase Order and Specification.

- 3.3 Interest on unpaid, overdue invoices shall accrue from the date 28 days after the Council has received a written request for payment following the due date for payment and will continue until the date of payment. Such interest will be calculated on an annual basis at the Natwest Bank base rate. Interest will not accrue on any invoices which are the subject of any reasonable dispute.
- 3.4 The Council may set off against the Price (including any applicable VAT payable) all costs charges and expenses due from the Seller to the Council whether under the Purchase Order to which this Agreement relates or otherwise.
- 3.5 Any variation in price, quality, quantity or the nature of Goods and/or Services to that stated in the Purchase Order or Specification must be advised by the Seller and agreed with the Council before the Goods are despatched or Services performed. No addition to the Price may be made without the Councils prior written consent.

4 Quality and Description of Goods and Services

- 4.1 The quantity quality and description of the Goods shall be as set out in the Purchase Order and the Specification and the Goods shall be of merchantable quality, and fit for their natural purpose as well as any particular purpose communicated by the Council to the Seller.
- 4.2 The Goods shall conform to all British, European or International specifications which are relevant to the Goods.
- 4.3 The Seller shall ensure that the Services are provided to the highest professional standards and fully meet the requirements set out in the Purchase Order and the Specification.
- 4.4 Without prejudice to clause 4.3 the Seller undertakes that the Services shall be provided with all reasonable skill and care and fully in accordance with the timetable specified by the Council.
- 4.5 The Seller shall provide at its own cost all labour materials tools and equipment necessary to perform the Services.
- 4.6 The Seller shall provide the Services during normal daytime working hours unless otherwise directed by the Council.
- 4.7 Whilst on Council premises the Seller shall keep the workplace tidy and will remove surplus materials or waste at regular intervals.
- 4.8 The Seller shall maintain adequate records of the Goods supplied or the Services performed. Such records shall be submitted to the Council at such intervals as the Council may specify.
- 4.9 Any defect in the Services which appear within 12 months from the date of completion of the Services shall be made good by the Seller at the Seller's expense.
- 4.10 The Seller shall notify the Council of the terms of the warranty provided with the Goods supplied and the Seller shall comply in full with the terms of such warranty.

5 Delivery of the Goods and Provision of the Services

- 5.1 The Goods shall be delivered and/or the delivery of the Services shall commence on the Delivery Date at the Council's address or such other address as the Council may specify in the Purchase Order.
- 5.2 Time is of the essence in regard to the Delivery Date specified.
- 5.3 Where this Agreement is made in regard to a supply of Goods, in the event that the Seller fails to deliver the Goods (in whole or in part) on the Delivery Date or if the Goods fail to meet the required specification or quality, then without prejudice to any other rights or remedies it may then hold, the Council may either (i) terminate this Agreement forthwith by serving written notice of termination on the Seller (in which event the Council shall be under no obligation whatsoever to make any payment to the Seller under this Agreement, and may recover any payment already made) and the Seller shall within 48 hours of receipt of such notice collect at its own cost any Goods which have already been delivered to the Council; or (ii) confirm its acceptance of some or all of the Goods delivered, in which event the Council shall be liable to pay only for the Goods so accepted. In either event, the Council may thereafter recover from the Seller any additional costs it reasonably incurs through purchasing the remaining Goods from an alternative supplier, or the Council may require the Seller to deliver the Goods (fully meeting all specified requirements) on a revised Delivery Date specified by the Council.
- 5.4 Where this agreement is made in regard to a supply of Services, in the event that the Seller fails to supply the Services within the timeframe or to the standard or quality required, then without prejudice to any other rights and remedies it may then hold, the Council may

terminate this Agreement forthwith by serving written notice on the Seller, in which event the Council shall be liable to pay only for any Services properly delivered up to the date of the notice of termination. Thereafter, the Council may either recover from the Seller any additional costs it reasonably incurs through purchasing the remaining Services from an alternative supplier, or require the Seller to provide the Services, to the standard required, in accordance with a revised timetable specified by the Council.

6 Acceptance of the Goods

- 6.1 The Council shall not be deemed to have accepted any part of the Goods until after the Council has actually inspected the Goods and checked that they have been delivered in accordance with the Purchase Order and the Specification. The Council may reject any Goods that on delivery are not in accordance with the Purchase Order and/or do not comply with the Specification.
- 6.2 An acceptance of any Goods which conform to the Purchase Order shall not deprive the Council of the right to reject any other part of the Goods which are delivered not in conformity with the Purchase Order and/or the Specification.
- 6.3 Unless within 48 hours of notice of rejection the Seller collects any rejected Goods, the Council may dispose of them as the Council shall think fit (provided that if the Council sells such Goods the Council shall account to the Seller for the net proceeds of such sale).

7 Property, Title and Risk in the Goods

- 7.1 Title in the Goods shall pass to the Council immediately the Seller has obtained the Goods and has identified them as the Goods to be delivered to the Council. Once title has passed to the Council the Seller will hold no lien over the Goods.
- 7.2 Risk in the Goods shall not pass to the Council until a delivery note relating to the Goods has been duly signed on behalf of the Council. If at any time after such delivery note has been signed, the Goods are rejected by the Council, risk in the Goods shall revert to the Seller immediately upon the Council notifying the Seller of such rejection. Title to any rejected Goods will revert to the Seller on collection.

8 Public Authority Provisions

- 8.1 The Council shall be entitled to terminate this Agreement and the Purchase Order with immediate effect by service of written notice upon the Seller if the Seller commits an offence under the Bribery Act 2010 or the Local Government Act 1972.
- 8.2 The Seller shall at its own expense maintain with reputable insurers adequate insurance policies to cover such liabilities as may arise pursuant to this Agreement. As a minimum, the Seller will hold the following cover: employer's liability insurance of £5 million and public liability insurance of £5 million.
- 8.3 The Seller shall comply with its obligations under the Data Protection Act 1998 ("the 1998 Act") and the Computer Misuse Act 1988 insofar as these Conditions give rise to obligations under those Acts, and shall ensure that it does nothing knowingly or negligently which places the Council in breach of its obligations under the 1998 Act.
- 8.4 The Seller shall treat as confidential all information relating to this Agreement. The Seller acknowledges and shall cooperate in full with the Council's obligations under access to information legislation, including the Freedom of Information Act 2000 ("the Act"), the Environmental Information Regulations 2004 ("the Regulations") and any legislation or guidance issued under or in relation to the Act or the Regulations.

9 General

- 9.1 The Seller shall not assign, sub-contract or otherwise dispose of the whole or any part of its rights and obligations under this Agreement to any person without the prior written permission of the Council. The Council may assign, transfer or otherwise deal with all or any of its rights and obligations pursuant to this Agreement.
- 9.2 The Seller shall indemnify and shall keep indemnified the Council from and against all loss, damage, actions, claims, demands and expense suffered and any legal fees and costs incurred by the Council resulting from any breach of this Agreement by the Seller.
- 9.3 No waiver by the Council in enforcing any of its rights under these Conditions shall prejudice its right to do so in the future.
- 9.4 The invalidity, illegality or unenforceability of any term or condition shall not affect the validity, legality or enforceability of any other term or condition of these Conditions.
- 9.5 This Agreement shall be subject to English law.