



Standard Conditions of Contract of East Staffordshire Borough Council

Unless as otherwise directed by East Staffordshire Borough Council of The Maltsters Wetmore Road Burton upon Trent Staffordshire DE14 1LS ('the Council') these Standard Terms and Conditions of Contract ('the Contract') shall apply to all contracts entered into by the Council or the supply of any Goods or Services or for Works to be undertaken and shall supersede any contrary or supplementary terms and conditions of contract proposed by the Supplier. Any alteration(s) to the Council's Standard Conditions of Contract shall first be accepted in writing by a duly authorised officer to the Council. In the absence of any written agreement accepting any proposed contrary or supplementary provision(s) the proposed alternative provisions shall not take effect.

Definitions and Interpretations

- 1.1** Words denoting the masculine gender include the feminine, words in the singular shall include the plural and vice versa and words denoting individuals shall be treated as including a body of persons corporate or unincorporated.
- 1.2** References to the 'Council', the 'Supplier' and any other body or authority shall include their respective successors in title.
- 1.3** Words in italics and headings are for explanatory purposes only.
- 1.4** References to clauses sections are reference to the clauses, sections of this Contract (subject to any contrary indication).
- 1.5** Any obligation in this Contract by either of the Parties, not to do something, shall be construed as including an obligation not to permit it to be done.
- 1.6** References to any enactment in this Contract also include any re-enactment and amendment of the same and also to any regulation or guidance made or issued by the relevant Secretary of State.
- 1.7** Confidential information shall include all information designated in writing as such by either party together with all other information which relates to the

business, products, developments, trade secrets, know-how, personnel, customers of either party or information which may reasonably be regarded as the confidential information of the disclosing party.

1.8 Reference to Suppliers shall include sole traders, partnerships, limited liability partnerships, incorporated bodies and public bodies.

2. Council Obligations

2.1 Without prejudice to the provisions of clause 3 below subject to the Supplier providing the Goods, Services or Works in accordance with the reasonable requirements of the Council the Council agrees to pay the Supplier sum sums as may be due and properly payable and on the basis of terms agreed.

3. Supplier Obligations

3.1 Unless otherwise instructed in writing to proceed no Goods or Services shall be supplied nor any work undertaken by the Supplier without the Supplier first receiving a written order. In the absence of a written order will the Council will not acknowledge nor pay any account for goods or Services so supplied nor Work done.

3.2 The Supplier shall:

3.2.1 supply the Goods, Services or Works in accordance with the Councils reasonable requirements;

3.2.2 ensure that the Services or Goods supplied or works undertaken are of a standard acceptable to the Council or the Council's duly authorised officer;

3.2.3 ensure that the delivery of any Goods or Services or performance of the Works is made at times agreed with the Councils duly authorised Officer;

3.2.4 ensure that any driver entering premises associated with or in connection with performing or delivering the Goods, Services or Works adheres to all health & safety requirements in addition to any other reasonable requirements requested by the Council or its duly authorised officer.

3.3 The Supplier shall ensure that all invoices, correspondence and delivery notes submitted contain the relevant order number. Failure to do so may delay payment. As applicable each item on the order must be separately priced on the invoice all invoices must be addressed to the Councils nominated officer.

3.4 The Supplier shall provide such proof of Public Liability Insurance, Employers Liability and/or Professional Indemnity Insurance and for such value of cover as the Council may reasonably require from time to time. Failure to do so may lead to cancellation of the Contract.

4. Rejection

4.1 If the Council (acting reasonably) considers that the Goods, Services or Works do not meet the Council's reasonable requirements and/or are in breach of prevailing legislation the Council shall be entitled to reject the Goods, Services or Works in whole or in part and such rejection shall be at the risk and expense of the Supplier.

4.2 If the Suppliers fails to deliver the Goods or Services or complete the Works in whole or in part or where so specified by the agreed the Council shall be entitled but not is obliged to revoke the Contract or any executed parts of it and if necessary to reorder the Goods, Services or Works in the open market use an alternative supplier to deliver the Goods, Services or undertake the Works and set off or demand any additional expense incurred in appointing and engaging an alternative supplier from the Supplier.

5. Termination

5.1 Either Party shall have the right to terminate this Contract with immediate effect if:

5.1.1 the Supplier (or someone acting on its behalf) has offered, or given, or agreed to give to any person any gift, or consideration of any kind as an inducement or reward for doing, forbearing to do, or having done or forborne to do any action in relation to the obtaining of this Contract (or any other Contract with the Council) or for showing or forbearing to show favour, or disfavour, to any person in relation to this Contract (or any other Contract with the Council)

5.1.2 (in the opinion of the Council, acting reasonably) it is impracticable or impossible for the Supplier to continue performing the Contract due to Force Majeure or due to any infringement of third party intellectual property rights.

Consequences of Termination

5.2 If this Contract is terminated as a consequence of any breach of Contract by the Supplier, the Council shall not be required to pay any further sums to the Supplier.

5.3 If this Contract is terminated as a consequence of any breach by the Council the Supplier shall be entitled to reimbursement without delay of the Goods, Services or Works delivered to the Council.

6. Intellectual Property Rights

6.1 The Supplier warrants that the use and possession of any Goods, Services or Works supplied does not infringe any Intellectual Property Rights ('IPR') of any third party.

6.2 The Supplier shall promptly notify the Council in writing if any claim or demand is made or action brought against the Supplier for infringement or alleged infringement of any Intellectual Property Right relating to the Goods, Services or Works.

6.3 The IPR in any Goods, Services or Works supplied to the Council shall vest in the Council absolutely.

7. Indemnity

7.1 The Supplier shall indemnify the Council from all actions, losses, claims, costs, damages, demands, proceedings and any other legal liability (criminal or civil) including by reason of any infringement or alleged infringement (including but not limited to the defence of such alleged infringement) of any Intellectual Property Right which may be brought or made against the Council either at common law or otherwise by reason of any accident or injury to any person (including any fatal injury) or damage to or loss of property or otherwise arising out of the Supplier's performance or non-performance of its obligations under this Contract.

7.2 The indemnity in clause 7.1 shall not apply to any costs, actions, losses, claims, demands, proceedings or other liabilities to the extent that the same are a reasonably foreseeable consequence of any negligent act or omission by the Council (or by its servants and agents acting within the scope of their authority from the Council).

8. Liability

8.1 The Council shall not be liable to the Supplier in respect of any direct or consequential costs, losses, actions, loss of profits or similar which may arise due to termination of this Contract which arises due to the Suppliers failure to fulfil all or any of its obligations..

9. Waiver

9.1 The failure by either Party to enforce at any time one or more of the terms or conditions of this Contract shall not be a waiver of them or of the right subsequently to enforce all terms and conditions.

10. Severance

10.1 If any provision of this Contract is declared by any judicial or other competent authority to be void, voidable, illegal or otherwise unenforceable, or indications to that effect are received by either of the Parties from any competent authority, the Parties shall amend that provision in such a reasonable manner as achieves the intention of the Parties without illegality.

11. Contracts (Rights of Third Parties) Act 1999

11.1 Third party rights pursuant to the Contracts (Rights of Third Parties) Act 1999 are expressly excluded from this Contract.

12. Confidentiality

12.1 Neither Party shall release Confidential Information to any person other than a party to this Contract unless required to do so in accordance with relevant access to information legislation.

12.2 The Supplier acknowledges the duties and obligations placed upon the Council by access to information legislation.

13. Notices

13.1 All notices served by either of the Parties under this Contract shall be in writing and either served by first class post, recorded delivery post or delivered by hand and any notice shall be sent to the Chief Executive of the Council at the Council's address above and to the Supplier to the Supplier at the Supplier's address below mentioned.

13.2 If a notice is served by first class post or recorded delivery post, it shall be deemed served on the second working day after posting. If served by hand it shall be deemed served on the working day it is delivered.

14. Dispute Resolution Procedure

14.1 If any dispute arises between the Parties in relation to this Contract, then either party may request the other to participate in a meeting of their respective senior managers, in order to discuss the dispute and to agree a strategy to resolve it.

15. Late Payment of Commercial Debts (Interest) Act 1998.

15.1 The Parties agree that any payment due from one party to the other party under this Agreement shall be late for the purposes of the Late Payment of Commercial Debts (Interest) Act 1998, if the Party required to make the payment should fail to pay the Party requesting, within thirty (30) days of the latest date of the same becoming properly payable.

15.2 The Party claiming payment in respect of any undisputed Fee may charge interest in accordance with clause 15.1 until payment is received, at a rate of two percent (2%) per annum over the base lending rate of the Bank of England which may apply from time to time.

16. Disclosure and Barring

16.1 Where reasonably requested by the Council the Supplier shall comply with the Council's Disclosure and Barring requirements.

17. Access to Information

17.1 As the Council is subject to the requirements of the Code of Practice on Access to Government Information (2nd edition) (and any re-enactments of the same) and the Freedom of Information Act 2000 (and any subordinate legislation, codes of practice and guidance notes issued in respect of the Freedom of Information Act 2000) (**'FOIA'**) and the Environmental Information Regulations 2004 ('EIR') the Supplier shall respond in a timely manner to any reasonable request made by the Council to facilitate the Council complying with its obligations.

18. English Law

18.1 This Contract shall be governed by and interpreted in accordance with English Law.

19. Entire Contract

19.1 This Contract represents the whole agreement between the Parties.