

**GLOUCESTERSHIRE COUNTY COUNCIL**  
**TERMS AND CONDITIONS FOR THE PURCHASE OF GOODS AND/OR SERVICES**  
**(February 2022)**

**1. GENERAL**

- 1.1 These terms and conditions and the Purchase Order apply to the contract between the Council and the Supplier for the supply of Goods and/or Services (as defined below) 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.
- 1.2 All of these terms and conditions shall apply to the supply of both Goods and Services except where the application to one or the other is specified.

**2. INTERPRETATION**

- 2.1 **Definitions.** In these Conditions, the following definitions apply:
- "Business Day"**: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.
- "Commencement Date"**: has the meaning set out in Condition 3.2.
- "Conditions"**: these terms and conditions as amended from time to time in accordance with Condition 22.
- "Contract"**: the contract between the Council and the Supplier for the supply of Goods and/or Services in accordance with the Purchase Order and these Conditions.
- "Controller", "Processor", "Data Subject", "Personal Data", "Personal Data Breach", "processing" and "appropriate technical and organisational measures"**: as defined in the Data Protection Legislation.
- "Council"**: Gloucestershire County Council of Shire Hall, Westgate Street, Gloucester GL1 2TG.
- "Council Materials"**: has the meaning set out in Condition 4.3(m).
- "Data Protection Legislation"**:
- (a) To the extent the UK GDPR applies, all applicable data protection and privacy legislation in force from time to time in the UK including the retained EU law version of the General Data Protection Regulation ((EU) 2016/679) (UK GDPR); the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended and the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority and applicable to a party; and
- (b) To the extent the EU GDPR applies, the law of the European Union or any member state of the European Union to which the Council or Supplier is subject, which relates to the protection of personal data.
- "Deliverables"**: all documents, products and materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form or media, including without limitation drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).
- "Domestic Law"**: the law of the United Kingdom or a part of the United Kingdom
- "EEA"**: the European Economic Area.
- "EU GDPR"**: the General Data Protection Regulation ((EU) 2017/679).
- "Goods"**: the goods (or any part of them) set out in the Purchase Order.
- "Goods Specification"**: the specification for the Goods, including any related plans and drawings set out in the Purchase Order.
- "Intellectual Property Rights"**: patents, rights to inventions, 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 and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or

equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**"Purchase Order"**: the Council's order for the supply of Goods and/or Services, as set out in the Council's purchase order form.

**"Services"**: the services, including without limitation any Deliverables, to be provided by the Supplier under the Contract as set out in the Service Specification.

**"Service Specification"**: the description or specification for Services as set out in the Purchase Order.

**"Supplier"**: the person or firm from whom the Council purchases the Goods and/or Services.

**"Termination Date"**: has the meaning set out in Condition 4.1.

**"UK GDPR"**: has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.

- 2.2 **Construction.** In these Conditions, the following rules apply:

- (a) a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- (b) a references to a party includes its personal representatives, successors or permitted assigns;
- (c) a reference to a statute or statutory provision is a reference to such statute or statutory provision 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;
- (d) any phrase introduced by the terms **including**, **include**, **in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
- (e) a reference to **writing** or **written** includes e-mails.

**3. THE PURCHASE ORDER**

- 3.1 The Purchase Order constitutes an offer by the Council to purchase Goods and/or Services from the Supplier in accordance with these Conditions.
- 3.2 The Purchase Order shall be deemed to be accepted on the earlier of:
- (a) the Supplier issuing written acceptance of the Purchase Order; or
- (b) any act by the Supplier consistent with fulfilling the Purchase Order;
- at which point and on which date the Contract shall come into existence (the **"Commencement Date"**).
- 3.3 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 law, trade custom, practice or course of dealing.

**4. SUPPLY OF SERVICES**

- 4.1 The Supplier shall from the start date set out in the Purchase Order until the termination date set out in the Purchase Order (the **"Termination Date"**) provide the Services to the Council in accordance with the terms of the Contract. The Contract in respect of the Services shall terminate automatically on the Termination Date unless terminated earlier in accordance with these Conditions.
- 4.2 The Supplier shall meet any performance dates for the Services specified in the Purchase Order or notified to the Supplier by the Council.
- 4.3 In providing the 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 this Contract;

- (d) ensure that the Services and Deliverables will conform with all descriptions and specifications set out in the Service Specification, and that the Deliverables 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) obtain and at all times maintain all necessary licences and consents, and comply with all applicable laws and regulations;
- (h) undertake or refrain from undertaking such acts as the Council requests so as to enable the Council to comply with its obligations under the Human Rights Act 1998;
- (i) not unlawfully discriminate within the meaning and scope of any law, enactment, order or regulation relating to discrimination in employment;
- (j) observe and comply with the requirements of the Health and Safety at Work etc. Act 1974 and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to staff and other persons engaged in the performance of the Contract;
- (k) observe and comply with all health and safety rules and regulations and any other security requirements that apply at any of the Council's premises;
- (l) observe and comply with the Council's information management and security policies if and to the extent it is necessary for the Supplier to access the Council's computing environment (consisting of hardware, software and/or telecommunications networks or equipment) for the purpose performing its obligations under the Contract;
- (m) hold all materials, equipment and tools, drawings, specifications and data supplied by the Council to the Supplier ("**Council Materials**") in safe custody at its own risk, maintain the Council Materials in good condition until returned to the Council, and not dispose or use the Council Materials other than in accordance with the Council's written instructions or authorisation; and
- (n) not do or omit to do anything which may cause significant harm to the reputation of the Council.

## 5. SUPPLY OF GOODS

- 5.1 The Supplier shall ensure that the Goods shall:
  - (a) correspond with their description and any applicable Goods Specification;
  - (b) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) 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 judgment;
  - (c) where applicable, be free from defects in design, materials 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.
- 5.2 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 in respect of the Goods.
- 5.3 The Council shall have the right to inspect and test the Goods at any time before delivery.
- 5.4 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 set out in Condition 5.1, the Council shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance.
- 5.5 Notwithstanding any such inspection or testing, the Supplier shall remain fully responsible for the Goods and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract, and the Council shall have the right to conduct further inspections and tests after the Supplier

has carried out its remedial actions.

## 6. DELIVERY OF GOODS

- 6.1 The Supplier shall ensure that:
  - (a) the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition;
  - (b) each delivery of the Goods is accompanied by a delivery note which shows the date of the Purchase Order, the Purchase Order number (if any), 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; and
  - (c) if the Supplier requires the Council to return any packaging material for the Goods to the Supplier, that fact is clearly stated on the delivery note. Any such packaging material shall only be returned to the Supplier at the cost of the Supplier.
- 6.2 The Supplier shall deliver the Goods:
  - (a) on the date specified in the Purchase Order or, if no such date is specified, then within 14 days of the date of the Purchase Order;
  - (b) to the Council's premises at Gloucestershire County Council, Shire Hall, Westgate Street, Gloucester GL1 2TG or such other location as is set out in the Purchase Order ("**Delivery Location**");
  - (c) during the Council's normal hours of business on a Business Day, or as instructed by the Council.
- 6.3 Delivery of the Goods shall be completed on the completion of unloading of the Goods at the Delivery Location.
- 6.4 If the Supplier:
  - (a) delivers less than 95 per cent of the quantity of Goods ordered, the Council may reject the Goods; or
  - (b) delivers more than 105 per cent of the quantity of Goods ordered, the Council may at its sole discretion reject the Goods or the excess Goods,
 and any rejected Goods shall be returnable at the Supplier's risk and expense. If the Supplier delivers more or less than the quantity of Goods ordered, and the Council accepts the delivery, a pro rata adjustment shall be made to the invoice for the Goods.
- 6.5 The Supplier shall not deliver the Goods in instalments without the Council's prior written consent. Where it is agreed that the Goods are 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 Condition 10.1.
- 6.6 Title and risk in the Goods shall pass to the Council on completion of delivery and the Council's written acceptance thereof.
- 7. **CHARGES AND PAYMENT**
- 7.1 The price for the Goods:
  - (a) shall be the price set out in the Purchase Order; and
  - (b) shall be inclusive of the costs of packaging, insurance and carriage of the Goods, unless otherwise agreed in writing by the Council. No extra charges shall be effective unless agreed in writing and signed by the Council.
- 7.2 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. The charges for the Services shall remain fixed throughout the duration of the Contract.
- 7.3 In respect of Goods, the Supplier shall invoice the Council on or at any time after completion of delivery. In respect of Services, the Supplier shall invoice the Council on completion of the Services. Each invoice shall include such supporting information required by the Council to verify the accuracy of the invoice, including but not limited to the relevant Purchase Order number.
- 7.4 In consideration of the supply of Goods and/or Services by the Supplier, the Council shall pay the invoiced amounts within 30 days of the date of a correctly rendered invoice to a bank account nominated in writing by the Supplier.

7.5 All amounts payable by the Council under the Contract are exclusive of amounts in respect of valued added tax chargeable from time to time ("VAT"). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Council, the Council shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods and/or Services at the same time as payment is due for the supply of the Goods and/or Services.

7.6 In the event of late payment of any undisputed charges properly invoiced under the Contract, the party to whom payment is due may charge interest on the unpaid amount from the due date until payment is received at a rate of 4% (four percent) per annum above the base rate of HSBC Bank from time to time (but at 4% a year for any period when that base rate is below 0%) such interest to be calculated daily and payable on demand. This Condition shall not apply to payments that the defaulting party disputes in good faith.

7.7 The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Services, and the Supplier shall allow the Council to inspect such records at all reasonable times on request.

7.8 The Council may at any time, without limiting any of its other rights or remedies, set off any liability of the Supplier to the Council against any liability of the Council to the Supplier, whether either liability is present or future and whether or not either liability arises under the Contract.

## **8. COUNCIL'S OBLIGATIONS**

8.1 The Council shall:

- (a) provide the Supplier with reasonable access at reasonable times to the Council's premises for the purpose of providing the Services; and
- (b) provide such information as the Supplier may reasonably request for the provision of the Services and the Council considers reasonably necessary for the purpose of providing the Services.

## **9. INTELLECTUAL PROPERTY RIGHTS**

9.1 In respect of the Goods and any goods that are transferred to the Council as part of the Services under this Contract, including without limitation the Deliverables or any part of them, the Supplier warrants that it has full clear and unencumbered title to all such items, and that at the date of delivery of such items to the Council, it will have full and unrestricted rights to sell and transfer all such items to the Council.

9.2 The Supplier assigns to the Council, with full title guarantee and free from all third party rights, all Intellectual Property Rights in the products of the Services, including for the avoidance of doubt the Deliverables.

9.3 The Supplier shall obtain waivers of all moral rights in the products, including for the avoidance of doubt the Deliverables, of the Services to which any individual is now or may be at any future time entitled under Chapter IV of Part I of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction.

9.4 The Supplier shall, promptly at the Council's request, do (or procure to be done) all such further acts and things and the execution of all such other documents as the Council may from time to time require for the purpose of securing for the Council the full benefit of the Contract, including all right, title and interest in and to the Intellectual Property Rights assigned to the Council in accordance with Condition 9.2.

9.5 All Council Materials are the exclusive property of the Council.

## **10. COUNCIL'S REMEDIES**

10.1 If the Supplier fails to deliver the Goods and/or perform the Services by the applicable date, the Council shall, without limiting its other rights or remedies, have one or more of the following rights:

- (a) to terminate the Contract with immediate effect by giving written notice to the Supplier;
- (b) to refuse to accept any subsequent performance of the Services and/or delivery of the Goods which the Supplier attempts to make;
- (c) to recover from the Supplier any costs incurred by the Council in obtaining substitute goods and/or services from a third party and recover from the Supplier the amount by

which the cost of obtaining such substitute goods and/or services exceeds the price which would have been payable to the Supplier in respect thereof;

(d) where the Council has paid in advance for Services that have not been provided by the Supplier and/or Goods which have not been delivered by the Supplier, to have such sums refunded by the Supplier; and

(e) to claim damages for any additional costs, loss or expenses incurred by the Council which are in any way attributable to the Supplier's failure to meet such dates.

10.2 If the Supplier has delivered Goods that do not comply with the undertakings set out in Condition 5.1, then, without limiting its other rights or remedies, the Council shall have one or more of the following rights, whether or not it has accepted the Goods:

(a) to reject the Goods (in whole or in part) whether or not title has passed and to return them to the Supplier at the Supplier's own risk and expense;

(b) to terminate the Contract with immediate effect by giving written notice to the Supplier;

(c) to require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods;

(d) to refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;

(e) to recover from the Supplier any expenditure incurred by the Council in obtaining substitute goods from a third party and recover from the Supplier the amount by which the cost of obtaining such substitute goods exceeds the price which would have been payable to the Supplier in respect thereof; and

(f) to claim damages for any additional costs, loss or expenses incurred by the Council arising from the Supplier's failure to supply Goods in accordance with Condition 5.1.

10.3 These Conditions shall extend to any substituted or remedial services and/or repaired or replacement goods supplied by the Supplier.

10.4 The Council's rights under this Contract are in addition to its rights and remedies implied by statute and common law.

## **11. INDEMNITY**

11.1 The Supplier shall keep the Council indemnified against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered incurred by the Council as a result of or in connection with:

(a) any claim made against the Council for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with, the manufacture, supply or use of the Goods, or 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;

(b) any claim made against the Council by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in Goods, to the extent that the defects in the Goods are attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors;

(c) any claim made against the Council by a third party arising out of or in connection with the supply of the Goods or the Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Supplier, its employees, agents or subcontractors; and

(d) any claim made against the Council by a third party arising out of or in connection with any failure by the Supplier or its employees, subcontractors or agents to comply with any of its obligations under Condition 14.

11.2 This Condition 11 shall survive termination of the Contract.

## **12. INSURANCE**

12.1 During the term of the Contract and for a period of 6 years thereafter, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance, product

liability insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract, and shall, on the Council's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

### **13. CONFIDENTIALITY AND FREEDOM OF INFORMATION**

13.1 A party ("Receiving Party") shall maintain in strictest confidence throughout the continuance of the Contract and at all times thereafter all confidential information (which for this purpose shall mean any information which the Receiving Party ought reasonably to regard as being confidential whether or not such information is expressly stated to be confidential or marked as such) disclosed to it by the other party ("Disclosing Party") for the purposes of the Contract, Provided that such obligation of confidentiality shall cease to apply in relation to any such information which:

- (a) is or becomes publicly available through no fault of the party receiving it;
- (b) is lawfully obtained from any third party other than under an obligation of confidence;
- (c) is known to the Receiving Party prior to its receipt for the purposes of the Contract;
- (d) is the subject of a request made to the Council by a third party under the Freedom of Information Act 2000 ("FOIA") and which is not exempt from disclosure in accordance with the provisions of the FOIA; or
- (e) is the subject of a request made to the Council by the Audit Commission under Part 2A of the Audit Commission Act 1998 (as amended).

13.2 The Supplier acknowledges that the Council is subject to the requirements of the FOIA. The Supplier shall provide all necessary assistance and cooperation as reasonably requested by the Council to enable the Council to comply with its obligations under the FOIA.

13.3 The Supplier acknowledges that the Council may be required under the FOIA to disclose Information without consulting or obtaining consent from the Supplier. The Council shall take reasonable steps to notify the Supplier of a Request For Information to the extent that it is permissible and reasonably practical for it to do so but the Council shall be responsible for determining in its absolute discretion whether any information is exempt from disclosure in accordance with the FOIA.

13.4 This Condition 13 shall survive termination of the Contract.

### **14. DATA PROTECTION**

14.1 Both parties to the Contract acknowledge and agree that for the purposes of the Data Protection Legislation the obligations of the Supplier under the Contract shall not include the processing by it of personal data for which the Council is the Controller.

### **15. TERMINATION**

15.1 Without limiting its other rights or remedies, the Council may terminate the Contract:

- (a) in respect of the supply of Services, by giving the Supplier 6 months' written notice; and
- (b) in respect of the supply of Goods, in whole or in part at any time before delivery with immediate effect by giving written notice to the Supplier, whereupon the Supplier shall discontinue all work on the Contract. The Council shall pay the Supplier fair and reasonable compensation for any work in progress on the Goods at the time of termination, but such compensation shall not include loss of anticipated profits or any consequential loss.

15.2 In any of the circumstances in these Conditions in which a party may terminate the Contract, where both Goods and Services are supplied, that party may terminate the Contract in respect of the Goods, or in respect of the Services, and the Contract shall continue in respect of the remaining supply.

15.3 Without limiting its other rights or remedies, the Council may terminate the Contract with immediate effect by giving written notice to the Supplier if:

- (a) the Supplier commits a material breach of the terms of the Contract and (if such a breach is remediable) fails to remedy that breach within 14 days of receipt of notice in writing to do so;
- (b) the Supplier repeatedly breaches any of the terms of the

Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of the Contract;

- (c) the Supplier breaches Condition 24;
- (d) the Supplier commits an offence under the Bribery Act 2010 or Section 117(2) of the Local Government Act 1972;
- (e) the Supplier suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
- (f) the Supplier commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors [other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of the Supplier with one or more other companies or the solvent reconstruction of the Supplier];
- (g) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Supplier (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the Supplier with one or more other companies or the solvent reconstruction of the Supplier;
- (h) the Supplier (being an individual) is the subject of a bankruptcy petition or order;
- (i) a creditor or encumbrancer of the Supplier attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
- (j) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Supplier (being a company);
- (k) the holder of a floating charge over the assets of the Supplier (being a company) has become entitled to appoint or has appointed an administrative receiver;
- (l) a person becomes entitled to appoint a receiver over the assets of the Supplier or a receiver is appointed over the assets of the Supplier;
- (m) any event occurs, or proceeding is taken, with respect to the Supplier in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in Condition 15.3(e) to Condition 15.3(l) (inclusive);
- (n) the Supplier suspends or ceases, or threatens to suspend, or cease, to carry on all or a substantial part of its business;
- (o) the Supplier's financial position deteriorates to such an extent that in the Council's opinion the Supplier's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; or
- (p) the Supplier (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.

15.4 Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination.

15.5 Conditions which expressly or by implication survive termination of the Contract shall continue in full force and effect.

### **16. CONSEQUENCES OF TERMINATION**

16.1 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 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.

**17. FORCE MAJEURE**

- 17.1 Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under it if such a delay or failure result from events, circumstances or causes beyond its reasonable control.
- 17.2 The Supplier shall use all reasonable endeavours to mitigate the effect of an event of force majeure on the performance of its obligations.
- 17.3 If an event of force majeure prevents, hinders or delays the Supplier's performance of its obligations for a continuous period of more than 20 Business Days, the Council may terminate the Contract immediately by giving written notice to the Supplier.

**18. ASSIGNMENT AND SUB-CONTRACTING**

- 18.1 The Council may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.
- 18.2 The Supplier may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of the Council.
- 18.3 In the event that the Supplier enters into any subcontract in connection with the Contract it shall remain responsible to the Council for the performance of the Supplier's obligations under the Contract notwithstanding the appointment of any subcontractor and be responsible for the acts omissions and neglects of its sub-contractors.

**19. NOTICES**

- 19.1 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 (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this Condition, and shall be delivered personally, or sent by pre-paid first class post or other next working day delivery service, commercial courier, or e-mail.
- 19.2 A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in Condition 19.1; 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 e-mail, one Business Day after transmission.
- 19.3 The provisions of this Condition shall not apply to the service of any proceedings or other documents in any legal action.

**20. SEVERANCE**

- 20.1 If any provision or part-provision of the contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this condition shall not affect the validity and enforceability of the rest of the contract.

**21. WAIVER**

- 21.1 A waiver of any right or remedy under the Contract or law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

**22. VARIATION**

- 22.1 Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by the Council.

**23. CORRUPTION**

- 23.1 The Supplier shall comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 and Section 117(2) of the Local Government Act 1972.

**24. ANTI-SLAVERY AND HUMAN TRAFFICKING**

- 24.1 In performing its obligations under the Contract, the Supplier shall:
- (a) comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including but not limited to the Modern Slavery Act 2015;
  - (b) include in contracts with its direct subcontractors and suppliers provisions which are at least as onerous as those set out in this Condition 24.
  - (c) notify the Council as soon as it becomes aware of any actual or suspected slavery or human trafficking in a supply chain which has a connection with the Contract.
  - (d) maintain a complete set of records to trace the supply chain of all Goods and Services provided to the Council in connection with the Contract; and permit the Council and its third party representatives to inspect the Supplier's premises, records, and to meet the Supplier's personnel to audit the Supplier's compliance with its obligations under this Condition 24.
- 24.2 The Supplier represents and warrants that it not has been convicted of any offence involving slavery and human trafficking; nor has it been the subject of any investigation, inquiry or enforcement proceedings regarding any offence or alleged offence of or in connection with slavery and human trafficking.

**25. AUDIT**

- 25.1 The Supplier shall keep and maintain until six years after the Contract has been completed, or as long a period as may be agreed between the Council and the Supplier full and accurate records of the Contract including the Goods and/or Services provided under it and all payments made by the Council. The Supplier shall on request afford the Council or the Council's representatives such access to those records as may be required in connection with the Contract.

**26. NO PARTNERSHIP OR AGENCY**

- 26.1 Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, nor constitute either party the agent of the other for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.

**27. THIRD PARTIES**

- 27.1 A person who is not a party to the Contract shall not have any rights to enforce its terms.

**28. GOVERNING LAW**

- 28.1 The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the law of England and Wales.

**29. JURISDICTION**

- 29.1 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Contract or its subject matter or formation (including non-contractual disputes or claims).