

Dacorum Borough Council - Standard Terms and Conditions - for the Supply of Goods, Services and Works

1. General

1.1 These terms and conditions shall apply to the purchase order:

- unless the purchase order refers to a specific contract, or the Provider has been asked to sign a separate contract, in which case the terms and conditions set out in that specified contract shall apply;
- in relation to the subject matter of the purchase order the Provider's terms and conditions of contracting are expressly excluded. The purchaser order and these terms and conditions shall therefore take priority over any other arrangements, communications (whether verbal or written), or any other documents (including, but not limited to, other purchase orders, or other terms and conditions);

1.2 Any purchase by the Council is conditional upon acceptance of these terms and conditions by the Provider. If the Provider does not wish to accept these terms and conditions, then the Provider should not accept the purchase order, and should inform the Council immediately.

2. Definitions

'Council' means Dacorum Borough Council.

'Goods' means the goods to be supplied by the Supplier to the Customer under the description in the purchase order and in any additional specification documents supplied with the purchase order.

'Provider' means the person, firm or company named as such on page 1 of the purchase order (or its successors in title).

'Services' means the services to be supplied by the Supplier to the Customer under the description in the purchase order and in any additional specification documents supplied with the purchase order.

'Specification' means the specification for the Goods to be supplied by the Supplier to the Customer (including as to quantity, description and quality) as specified in the purchase order.

3. Cancellation and Corruption

The Council shall have the right to cancel any order, and to recover from the Provider the amount of any loss resulting from such cancellation or determination if the Provider or any person employed by the Provider or acting on the Provider's behalf: a) has offered, paid or given, directly or indirectly, any gift in money or any other form to any member, employee or agent of the Council as an inducement or reward in connection with their behaviour in relation to an order; or ; b) appears to have committed any offence under the Bribery Act 2010, or to have paid or offered any fee or reward contrary to Section 117(2) of the Local Government Act 1972.

4. Intellectual Property

All intellectual property rights in all works, services or supplies provided under this Contract which are written or produced on a bespoke or customised basis, shall be owned by the Council and the Provider shall ensure that it executes all documents necessary to effect such ownership. Where the Provider provides existing intellectual property right protected material to the Council under this Agreement it shall disclose this to the Council, warrants it has the right to do so and shall fully indemnify and hold the Council harmless against all loss or liability arising from any third party intellectual property rights claims.

5. Confidentiality, Data Protection and Freedom of Information

5.1 The Provider shall comply with the data protection principles under the Data Protection Act 1998 and any equivalent or associated legislation ("the Act") Any confidential information supplied by the Council to the Provider or vice versa, shall be kept confidential and shall only be used by the Provider for the performance of its obligations under the purchase order. Upon request, and in any event upon expiry or termination of the purchase order for whatever reason, the Provider shall either, immediately destroy, or at the Council's written request, immediately return to the Council, any confidential information provided to it pursuant to the purchase order.

5.2 The Provider acknowledges that the Council is subject to the requirements of the Freedom of Information Act 2000 ("the Act"). The Provider further acknowledges that the Council may be obliged under the Act to disclose information without consulting the Provider, or having consulted the Provider and taken the Providers' views into account. The Council shall be responsible for determining at its absolute discretion whether information held by the Council relating to the purchase order shall be disclosed in response to a request for information under the Act.

6. Price Variation

The prices in the purchase order shall apply (without variation) for both the period and/or stated quantity of the Goods and/or Services, unless specifically otherwise agreed in writing by the parties.

7. Liability

The Provider shall effect such product liability, public liability and/or professional indemnity insurance as is necessary and shall indemnify the Council against any claims on whatsoever grounds in the event of damage to any property, or the death of, or injury to, any person during any act carried out in the execution of an order at any time prior to the authorised representative of the Council having signed a properly presented note of acceptance or receipt. Unless otherwise agreed in writing by the Council, the minimum levels of insurance cover required under this Clause shall be £5million for public liability and £2million for professional indemnity.

8. Quality and Performance

8.1 The Goods and/or Services shall conform with the Specification; be of sound design, materials and workmanship; be fit for the purpose for which they are procured by the Council and be capable of the required performance.

8.2 All Services performed under the purchase order must be executed by the Provider in a timely, efficient and professional manner to the appropriate prevailing standards and to the reasonable satisfaction of the Council.

8.3 The Contractor shall replace any Goods that do not conform with their description if the Council gives notice in writing to the Council's registered address of the relevant defects: a) in the case of a defect that is apparent on normal visual inspection within 5 working days of delivery; and; b) in the case of a latent defect, within a reasonable time of the latent defect having become apparent. If the Council has not given notice of any defects in the Goods within the relevant time period, it shall be deemed to have accepted the Goods.

9. Extension of Time, Rescheduling or Cancellation

9.1 If, for any cause beyond the reasonable control of the Provider, delivery of the Goods, or performance of the Services, is delayed, then unless time is of the essence the time for delivery/performance may be rescheduled by the Council (acting reasonably). If the delay is for any other reason it shall be at the sole discretion of the Council whether to accept a re-scheduled delivery, in which case the Provider shall be responsible for any additional costs.

9.2 Notification of any anticipated or actual delay must be immediately communicated via e-mail to the Council via procurement@dacorum.gov.uk by the Provider specifying the reasons for the delay.

9.3 If in the reasonable opinion of the Council it is inappropriate to reschedule delivery of the goods and/or performance of the Services then the Council may cancel the purchase order without incurring any liability for such cancellation.

9.4 No goods, services or works shall be deemed acceptable or accepted unless an authorised representative of the Council shall have signed a properly presented note of acceptance or receipt.

10. Risk and Title

10.1 Risk and title in the goods and/or services shall only pass to the Council upon acceptance of the goods and/or services when delivered to the place and address specified in the purchase order, unless otherwise agreed in writing by the parties, subject to 8.1, 8.2 and 8.3 (above).

10.2 The Council also reserves the right to take possession of all goods to which it has title.

11. Terms of Payment

11.1 The Council agrees to pay the Provider either, the total price for the goods and/or services which is stated in the purchase order (or otherwise agreed in writing between the parties) within 30 days of the date of receipt of a valid and undisputed invoice, which (if the Provider determines that VAT is payable) must comply with the requirements of H.M. Revenue and Customs for VAT purposes.

11.2 All prices and rates which are stated in the purchase order are exclusive of VAT (unless otherwise stated in the purchase order).

11.3 The Provider shall accept payment of monies due by electronic funds transfer through BACS or other electronic payment means, as good discharge of the Council's indebtedness under the purchase order,

11.4 The Council shall be entitled to set off against any sums due to the Provider under the purchase order any sums which become payable by the Provider to the Council in relation to the purchase order or any other contract between the parties.

12. Compliance

12.1 The Provider and its personnel shall at all times comply with all applicable laws, including statutes, regulations and bye-laws of local or other competent authorities.

12.2 Where supplies are specified in the purchase order on a supply and fix basis, the Provider and/or relevant staff must, where necessary, be duly licensed, qualified and/or registered to install them safely and legally.

13. Contracts (Rights of Third Parties) Act 1999

The contract between the Parties does not confer (and is not intended to confer) any rights on any third party, whether pursuant to the Contracts (Rights of Third Parties) Act 1999, or otherwise.

14. Publicity

The Provider shall not, without the prior written permission of the Council, advertise or disclose to any third party that it is providing goods and/or services to the Council.

15. Governing Law

This contract shall be governed by English law and the Parties shall submit to the exclusive jurisdiction of the English courts.