



## **1. DEFINITIONS**

- 1.1 "WBC" means Wokingham Borough Council of Shute End, Wokingham, Berkshire, RG40 1WN.
- 1.2 "Order" means the Purchase Order placed by WBC for the supply of Services.
- 1.3 "Vendor" means the person, firm or company to whom the Order is addressed.
- 1.4 "Services" means the requirements and services described in the Order, including any goods and tools provided by the Vendor in order to deliver the Services.
- 1.5 "Staff" means all personnel involved in the delivery of the Services on behalf of the Vendor, whether employed by the Vendor directly, as a contractor or via sub-contract.
- 1.6 "Personal Data" means any information relating to an identified or identifiable natural person provided by or on behalf of the WBC to the Vendor so that the Vendor can perform the Services.

## **2. QUALITY AND DESCRIPTION**

- 2.1 The Services must:
  - (a) comply with the quality, quantity and description as stated in the Order;
  - (b) be fit for any purpose held out by Vendor or made known to Vendor at the time of Order;
  - (c) be at least equal in all respects to any specifications or Service Level requirements provided by WBC;
  - (d) be delivered by Staff, appropriately qualified, skilled and trained;
  - (e) be delivered in accordance with good industry practice and to the relevant industry norms;
  - (f) be measured and monitored by the Vendor in sufficient detail to verify compliance with the Order.

## **3. DELIVERY**

- 3.1 Vendor must deliver the Services on the date/s and for the duration/s specified in the Order and at the locations specified in the Order or as otherwise agreed.

## **4. PAYMENT**

- 4.1 Payment will be made by WBC within twenty eight days of receiving an undisputed, valid VAT invoice.
- 4.2 Vendor invoice must include the Order number and be sent to the invoice address shown on the Order.
- 4.3 Payment will normally be made direct to Vendor's bank account. Vendor should ensure that WBC has its bank account details
- 4.4 A valid VAT debit or credit note must support any alterations to the amount invoiced.

## **5. WARRANTY, INSURANCES AND INDEMNITY**

- 5.1 Vendor warrants that the Services comply with the description in the Order.
- 5.2 Vendor warrants that the supply of Services under the Order does not infringe any third party intellectual property rights.
- 5.3 Vendor will fully indemnify WBC against any breach of clause 5.2.
- 5.4 Vendor must maintain throughout the duration of the Services, up-to-date policies covering agreed levels of Public Liability, Employer's Liability and, as appropriate, Professional

Indemnity. Where Professional Indemnity insurance is required, this must remain in place for an appropriate period following expiry of the Order.

## **6. DISPUTE RESOLUTION AND TERMINATION**

- 6.1 If the Services, or any part thereof, are not delivered in accordance with 3.1, WBC will, without prejudice to any other rights or remedies, be entitled to determine the Contract unfulfilled.
- 6.2 At WBC's option the Vendor will, at its own expense and with all possible speed, rectify any failure or shortcoming/s in the Services, provided that WBC gives the Vendor reasonable written notification of such failure or shortcomings.
- 6.3 If the Vendor fails to rectify the failure or shortcoming/s of the Services within the agreed period, WBC may, without prejudice to any other rights and remedies and at the Vendor's expense: cancel the Order and obtain a full refund; carry out any work necessary to make the Services comply with the Order; itself supply or procure the Services until such time as the Vendor is once more able to supply the Services to the reasonable satisfaction of WBC; terminate this agreement in respect of part of the Services only, with a corresponding reduction in charges; charge the Vendor for any costs reasonably incurred to the extent that such costs exceed the payment, which would otherwise have been payable to the Vendor for such part of the Services.
- 6.4 In the event that the Vendor fails to remedy the situation and such failure or shortcoming/s is materially adverse to WBC's interests or statutory duty, WBC may terminate this Order with immediate effect by giving the Vendor notice in writing.
- 6.5 If Vendor has a Receiver appointed to the whole or any part of its assets, or if an order is made or a resolution is passed winding up Vendor's business, unless such order or resolution is part of a scheme of reconstruction, WBC will be at liberty:
- to cancel the Order by giving Vendor written notice without compensation to Vendor.
  - to give any such Receiver or Liquidator or other person the option of carrying out Vendor's responsibilities under the Order.

## **7. ASSIGNMENT**

- 7.1 Vendor must not assign or transfer its responsibilities under the Order to any third party without WBC's written consent.

## **8. CONFIDENTIALITY**

- 8.1 Any drawings, designs, technical information, advice and other things communicated or supplied by WBC under the Order should be treated as confidential and will remain the property of WBC. Vendor must not disclose any WBC confidential information to any third party without WBC's prior written consent.

## **9. TOOLS**

- 9.1 Any tools, moulds, parts, materials and other things supplied or paid for by WBC in order to assist Vendor to fulfil the Order are WBC property, must be used solely for the purpose of the Order and returned to WBC promptly upon request.

## **10. INTELLECTUAL PROPERTY RIGHTS**

- 10.1 All Intellectual Property Rights, which are original works, created by Vendor for WBC pursuant to the Order (including any and all background information which informs the final output), will belong to WBC and Vendor undertakes to promptly do all things necessary to transfer any such rights to WBC.

## **11. CONTRACT**

- 11.1 In the absence of a formal contract between the parties:
- (a) the Order and any agreed written amendments will constitute a binding agreement;

- (b) all written quotations received and formally accepted are subject to these terms and conditions, and
- (c) no addition or variation should be made or applied unless agreed in writing to WBC.

**12. ASSISTANT ON EXPIRY OR TERMINATION**

- 12.1 When the Order expires or is terminated, the Vendor shall, where so requested by WBC, provide assistance to WBC to migrate the provision of the Services to a replacement Vendor.

**13. SUPPLIER RELATIONSHIP**

- 13.1 Nothing in these terms and conditions is intended to create any legal relationship between the parties, other than that of a supplier and customer. For the avoidance of doubt, the parties agree that this agreement does not constitute a partnership or agency relationship between WBC and Vendor.

**14. RIGHTS OF THIRD PARTIES**

- 14.1 Any third party who is not a party to this Order has no rights under the Contracts (Rights of Third Parties) Act 1999 ("Act") to enforce any term of this Order notwithstanding that any such terms may purport to confer or may be construed as conferring a benefit on such third party.

**15. STATUTORY OBLIGATIONS**

- 15.1 The Vendor recognises that WBC has statutory obligations in accordance with the current versions, including any amendments, of legislation and Government guidance including, but not limited to: Freedom of Information Act; Data Protection Act and the General Data Protection Regulations; Health & Safety at Work Act; Environmental Protection Act; Equality Act; Bribery Act; Prevention of Corruption Acts; Audit Commission Act; Accounts & Audit Regulations, transparency & reporting obligations.
- 15.2 The Vendor agrees to support WBC, as reasonably required, to meet any of WBCs statutory obligations.
- 15.3 In providing the Services, the Vendor shall use personnel who have the necessary standard of English language skills to enable the Council to fulfil its fluency duty set out in the Code of Practice issued under s.80 of the Immigration Act 2016.

**16. FORCE MAJEURE**

- 16.1 Neither party shall be liable to the other as a result of any delay or failure to perform its obligations under this agreement if and to the extent such delay or failure is caused by an event or circumstance which is beyond the reasonable control of that party which by its nature could not have been foreseen by such a party or if it could have been foreseen was unavoidable. If such event or circumstances prevent the Vendor from providing any of the Services for more than 4 weeks, the Council shall have the right, without limiting its other rights or remedies, to terminate this agreement with immediate effect by giving written notice to the Vendor.

**17. GOVERNING LAW**

- 17.1 The Order will be governed by the laws of England, and the Parties submit to the non-exclusive jurisdiction of the English courts.

**18. DATA PROTECTION**

- 18.1 The Council is compliant with current Data Protection laws. Please see our Privacy Notice(s) which are available on: <http://www.wokingham.gov.uk/privacy/> for more information.

- 18.2 The Vendor shall, in relation to any Personal Data processed in connection with its obligations under this agreement:
- (a) ensure that it has in place protective measures, which have been reviewed and approved by the Council, as appropriate, to protect against a data loss event;
  - (b) take all reasonable steps to ensure the reliability and integrity of any personnel and/ or any sub-contractor who have access to the Personal Data;
  - (c) at the written direction of the Council, delete or return Personal Data (and any copies of it) to the Council on termination of the agreement unless the Vendor is required by Law to retain the Personal Data.
  - (d) notify the Council and provide the Council with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under the Data Protection Act 2018.