

PURCHASE ORDER



GENERAL CONDITIONS (version 2)

1. (a) The Council in these General Conditions shall mean the Mayor and Burgesses of the London Borough of Southwark acting by the Council of the said Borough.
- (b) The Contractor in these General Conditions shall be the Supplier named on the face of this order and any successor in title to the Supplier.
2. All goods materials and things complete as specified, must be delivered by the Contractor free of all costs and charges, at such place or places as the Council or their officers may direct, if not otherwise specified, and in such quantities or numbers within such time and in such manner as the Council or their officers may from time to time order. Every such delivery shall be accompanied by a delivery note or similar document which shall become the property of the Council. No charge is to be made for packing cases boxes sacks cans receptacles or other covers.
3. All goods materials and things must correspond with the description, specification (if any), sample (if any) and be of best quality and where an appropriate British Standard (or EC equivalent) issued by the British Standards Institution (or equivalent EC Standards Institution) is current at the date of the tender the quality of the goods and materials used in the execution of this order shall not be less than that Standard and at the time of delivery, in unimpaired condition and properly packed or otherwise guarded until acceptance during working business hours.
4. In the case of quotations for the supply of a fixed quantity of goods a reasonable variation in quantity order is to be permitted. In such cases, the contract price shall be added to or deducted from as the case may be in accordance with the rates quoted.
5. All goods in respect of which a tender has been submitted and which are sold by way of sample shall conform in all respects to the sample submitted by the Contractor.
6. If any goods, services or works supplied under this order shall not be duly supplied and delivered when and as ordered by the Council or if any of the goods, services or works delivered shall not in every respect be of the quality sort or description contracted for or meet the approval in all respects of the Council, then the Council may reject and decline to pay for the same, and if the goods are not removed by the Contractor within a reasonable period (as specified by the Council) such rejected goods may be returned by the Council to the Contractor at the expense of the Contractor. If the Contractor shall fail to supply such goods, services or works of the quality sort or description in the prescribed time then it shall be lawful for the Council to employ any other person to supply the goods, services or works required during the whole or any part of the remainder of the term of this order and in such case the Contractor shall, without prejudice to any other right of action which the Council may have, pay to the Council the difference between the amount actually paid by the Council and the amount that would have become due to the Contractor had the said goods, services or works been supplied by it at the rates or prices set out in this order.
7. No payment will be made by the Council until a priced invoice has been submitted by the Contractor to the Chief Officer of the Department originating the order. Unless otherwise stated in this order payment will be made within 30 days of receipt and agreement of the invoice. The Council shall notify the Contractor if it considers any invoice submitted to be incorrect. In such case, the undisputed part of such invoice shall be paid in accordance with this clause and after settlement of the dispute any amount agreed or adjudged to be due shall be paid to the Contractor within 14 days of such agreement or adjudgment. The Council will pay to the Contractor on late payment of any invoice submitted under this clause interest at 4 % above the base rate of the National Westminster Bank in force at that time, from the day following the end of the specified payment period until the payment is made. The Council shall pay VAT on the sum to be paid under the invoice at the prevailing rate provided that such VAT shall not fall due for payment until receipt by the Council of a formal VAT invoice.
8. The Council reserve the right to deduct from any monies due or becoming due to the Contractor the amount of any sum then due or which may at anytime thereafter become due to the Contractor under any other order placed by the Council.
9. The Council may by notice having immediate effect terminate this order and recover from the Contractor the amount of any loss resulting from such termination if:
 - (i) the Contractor or any employee or any other person acting on its behalf has offered, given or agreed to give any gift or consideration of any kind as an inducement or reward for doing something or for showing favour or disfavour in relation to this or any other agreement with the Council; or shall have committed any offence under the Bribery Act 2010, or shall have offered or given any fee or reward to any officer of the Council which if accepted is or would be an offence contrary to S.117 Local Government Act 1972 or any amendment or re-enactment thereof;
 - (ii) the Contractor suffers any distress or execution to be levied, commits an act of bankruptcy, makes any composition or arrangement with creditors, has a receiver appointed or goes into liquidation; Provided that the Contractor shall, if required by the Council, complete any order which may have previously been given by the Council on the terms provided by this order;
 - (iii) the Contractor breaches any provision of this order, provided that the breach is incapable of remedy or has not been remedied to the satisfaction of the Council within 14 days of notice or such longer period as agreed by the Council; Termination of this order shall be without prejudice to either party's rights or remedies in respect of any default or breach of contract which may have arisen prior to the date of termination.Clauses 10, 14, 22 and 25 (vii) shall remain in force notwithstanding termination or expiry of this order.
10. The Contractor shall fully indemnify and keep fully indemnified the Council its employees or agents against all claims, demands, proceedings, damages, costs, charges and expenses whatsoever in connection with the provision of, or failure or delay in providing the goods, services or works, or resulting from any act, neglect or default of the Contractor its employees or agents, or breach of these General Conditions. The Contractor shall maintain a comprehensive policy of insurance to cover its liability under this order.
11. The Contractor shall not assign or sub-let this order or any part thereof without the previous consent in writing of the Council.
12. No variation in price will be accepted unless the Contractor has given notice to the Council of such variation and obtained its prior written approval.
13. The Contractor shall in all matters arising in the performance of this order conform at its own expense with all Acts of Parliament and with all orders, regulations and bye laws made with statutory authority by Government departments or by local or other authorities that shall be applicable to this order.
14. The Contractor shall not, in connection with this order, infringe any patent, patent rights, trade marks, database rights, know-how, copyright or other intellectual property rights of any third party and warrants that the Council's use of the items to be supplied under this order shall not infringe such intellectual property rights.
15. The property in the goods supplied under this order shall pass to the Council on delivery without prejudice to any right of rejection which may accrue to the Council under this order or at common law.
16. The Notice required by these conditions to be given or sent to the Council or the Contractor shall be deemed to be duly given and sent if posted in a pre-paid letter addressed to the Director of Law and Democracy, at PO Box 64529, London, SE1P 5LX or delivered by hand to the Director of Law and Democracy at 160 Tooley Street, London, SE1 2QH, or to the Contractor at its last known place of business or the Registered Office of the Contractor if a Company.
17. This order shall be subject to and construed according to English law unless otherwise agreed.
18. Notwithstanding any other provisions in this order, nothing in these General Conditions confers or purports to confer any right to enforce any of its terms on any person who is not a party to it.
19. Delivery of goods by the Contractor to the Council in accordance with this order shall be conclusive evidence of the Contractor's acceptance of these conditions.
20. All representations, statements or warranties made or given by the Contractor its employees or agents, whether in writing, orally or in any of the Contractor's brochures, catalogues and advertisements, regarding the quality and fitness for purpose of the goods, or as to the services or works to be provided shall be express provisions of these conditions.
21. The Council may cancel this order at any time by giving written notice before the goods are delivered or services/works supplied. Upon such written notice the Council shall cease to be bound to pay that part of the price which relates to goods which have not been delivered, or services/works not yet supplied. The Council shall pay to the Contractor any direct costs which may have been reasonably incurred by the Contractor by such cancellation (up to a maximum of the value of the undelivered goods, services or works) provided that the Contractor shall use all reasonable endeavours to limit such costs.
22. The Contractor shall keep confidential any information obtained under this order and shall not divulge the same to any third party without the consent in writing of the Council. The Contractor shall not, without the prior written consent of the Council, advertise or publicly announce that it is supplying goods, services or works to the Council. The Contractor will assist the Council to comply with its obligations under the Freedom of Information Act 2000, Environmental Information Regulations 2004 or any other relevant legislation or codes of practice, and will provide any information requested by the Council within a reasonable period. The Contractor acknowledges that the Council may be required to disclose this information. The Council is also required to publish details of its expenditure on works, goods and services and your supply of works, goods or services to the Council constitutes your acceptance of this fact.
23. The Council and the Contractor shall use their best endeavours to resolve by agreement any disputes arising between them in respect of this order. If any such dispute cannot be settled amicably through ordinary negotiations between the parties it shall be referred to mediation in accordance with the Centre for Dispute Resolution (CEDR) Model Mediation Procedure.
24. Without prejudice to the provisions contained within these general conditions the Contractor shall also be bound by any specific conditions required by the Council relating to the supply of goods, services or works under this order. In the event of there being any conflict between these general conditions and the specific conditions, the specific conditions shall prevail.
25. Without prejudice to the general conditions contained in this order the following additional provisions shall be applicable for the provision of services or works by the Contractor under this order. In the event of any conflict between the general conditions and these additional conditions these additional conditions will prevail:
 - (i) The Contractor shall provide the services or works detailed on the face of this order in accordance with these conditions and in a competent and diligent manner, free from dishonesty and corruption;
 - (ii) Services or works shall be provided from the date shown on the face of this order and completed within the timescales shown on the face of this order. Unless otherwise specified the time noted for the completion of the services or works shall be of the essence. Where no timescales are indicated the services or works shall be completed in a reasonable period;
 - (iii) The Council shall have the right to require the Contractor to remove any member of staff employed or used by the Contractor under this order provided such requirement shall be stated in writing and be made reasonably. The Council shall not be liable to the Contractor or to the specified person in respect of any costs, expenses, liability, loss or damage caused by such removal;
 - (iv) Unless otherwise stated all copyright or other proprietary rights in any work produced by the Contractor under this order shall be vested solely in the Council;
 - (v) In carrying out the services or works the Contractor shall not unlawfully discriminate within the meaning of the Equality Act 2010, or any comparable provision relating to discrimination in employment or service provision and ensure that all employees and agents do not unlawfully discriminate, and comply with all relevant codes of practice issued by the Equality and Human Rights Commission or any comparable body and, so far as practicable, operate an equal opportunities policy which complies with the practical guidance and recommendations contained in such codes of practice;
 - (vi) In carrying out the services or works the Contractor shall adopt safe methods of work and comply with all other requirements of the Health and Safety at Work Act 1974 in order to protect the health and safety of its personnel and those of the Council and all other persons;
 - (vii) The Contractor must comply with the Data Protection Act 2018 (DPA). If the Contractor processes personal data where the Council is data controller, the Contractor shall: only act on instruction from, and agree the nature, scope and duration of the processing with, the Council; implement appropriate technical, operational, organisational and security measures to ensure processing satisfies the DPA and protects the rights of data subjects and permit the Council to inspect those measures; and maintain records of processing activities.
 - (viii) The Contractor is not and shall in no circumstances hold itself out as being a servant or agent of the Council;
 - (ix) In the event that this order is deemed to be a construction contract within the meaning of the Housing Grants Construction and Regeneration Act 1996 then if either party shall refer any dispute to adjudication, the adjudication shall be carried out pursuant to the TeCSA Adjudication Rules.