



Hartlepool Borough Council **Purchase Order Terms and Conditions**

- “Order” Means the requirements of the buyer as set out overleaf
- “Supplier” Means the party to who the order is addressed.
- “Goods” Means the items to be supplied but the supplier as specified on the order.
- “Services” Means any work to be provided by the Supplier to the Buyer as specified in the order or otherwise ancillary thereto.
- “Price” - In relation the Goods means the price for the Goods including carriage packing and Insurance but excluding VAT
- In relation to Services means the price payable for the provision of the servicing excluding VAT.
- “Delivery Date” - In relation to goods means the day by which delivery is to be made by the Supplier as specified in the order time being of the essence or if not specified at the earlier practicable date (following the date of the order) delivery can be achieved by the Supplier.
- In relation to Service means the date by which such Services are required to be completed as specified in the Order time being of the essence or if not so specified at the earliest practicable date (following the date of the Order) by which such services can be completed by the Supplier.
- “Conditions” means the terms and condition of purchase and supply set out in this document and any special terms and conditions agreed in writing by the Supplier.
- “Contract” means the Order and document referred to therein. Conditions, and any other representation, statement, warranty or document relating thereto under Condition 5 hereof.

2. Priority of Conditions

- a) Acceptance of the Order by the Supplier shall constitute acceptance of these conditions and all Goods/Services shall be supplied and/or provided to the Buyer strictly in accordance therewith.
- b) These conditions shall prevail over any conditions or terms of business of the Supplier contained or referred to in any quotation tender offer or other document.
- c)

3. Payment

- a) The price for the Goods/Services shall be the Price set out overleaf exclusive of VAT which shall be due at the rate ruling on the date of the Suppliers invoice/s for payment
- b) Subject to:
 - i) the supply of the Goods/Services for which payment is claimed being ordered on the Buyers Official Authorised Order Form as overleaf and;
 - ii) the supply of Goods/Services being supplied/completed in accordance with such Order the conditions are being to the reasonable satisfaction of the Budget and;
 - iii) the Supplier giving to the Buyer on submission of the Invoice or subsequently any information required by the Buyer together with any guarantee/s and/or warranties applicable to the Goods/Services and;
 - iv) the provision of Clause 9
and unless otherwise specifically agreed payment of the Price shall be due to the Supplier at the end of the month following the month in which the suppliers invoice is received or the goods/services delivered or provided whichever is the later.
- c) The Buyer may set off against the Price (including VAT) amounts due from the Supplier whether under the applicable contract of sale or supply or otherwise.

4. Variations

Any variations to the Goods/Services ordered overleaf shall only be paid for if authorised in writing by the Buyer.

5. The Goods/Services

- a) The nature, quality, quantity and description of the Goods/Services shall:-
 - i) be strictly in accordance with the particulars of the same set out overleaf in the Order in any Specification issued by the Supplier or any manufacturer relating to the Goods and/or Services or issued by the Buyer and/or referred to in the Order.
 - ii) If Goods be of sound materials and workmanship
 - iii) Be equal in all respects to the samples, patterns or specification provided or given by the Supplier.
- b) All representations, statements, or warranties made or given by the Supplier its servants or agents (whether orally, in writing or in any of the Suppliers brochures catalogues or advertisements) regarding the performance, quality and fitness for purpose of the Goods or any part thereof or relating to provision of any Service shall be deemed to be express conditions of the Contract.
- c) The Goods shall be of satisfactory quality and work provided by the Supplier shall be of the highest quality to a professional standard and executed with the required degree of skill and care.
- d) The supplier shall ensure that the Goods are manufactured, stored and packed in accordance with all applicable British standards or equivalent European standard, marked to the Buyers requirements, and delivered to the Buyer in an undamaged condition.
- e) The Goods shall conform to British Standards Institution definition PD 2000-1
- f) The Services shall not be interrupted by reason of the failure of any equipment (whether or not in the immediate control of the supplier) employed for or relevant to the provision of the Services to conform with British Institution definition PD 2000-1.

6. Inspection and Testing

- a) It is expressly agreed that the Buyer will be entitled to inspect and test the goods during manufacture processing or storage. If the Buyer exercises this right the Supplier shall provide or shall procure the provision of all such facilities as may reasonably be required by the Buyer therefore.
- b) If as a result of any inspection or test under paragraph (a) the Buyers representative is of the reasonable opinion that the Goods do not comply with the Order or are unlikely on completion of manufacture or processing so to comply he shall inform the Supplier accordingly in writing and the Supplier shall forthwith take such steps as may be necessary to ensure such compliance. In the event that the Supplier does not forthwith take such steps or in the event that in the reasonable opinion of the Buyers representative such steps are ineffective or are unlikely to ensure such compliance the Buyer may thereupon terminate the Contract without incurring any liabilities or obligations thereunder.

7. Safety

The goods shall be so designed and supplied to ensure that upon commissioning and putting into operation they will be in full compliance with all legal requirements including Health and Safety at work etc. Act 1974, with those sections of the Factories Act 1961 that are pertinent to the same and with such other Acts or Instruments as may amend or supersede these provisions from time to time.

8. Right of Rejection

- a) Without prejudice to conditions 6 hereof the Buyer may by notice in writing to the Supplier within 30 days of Delivery/Supply of the same reject Goods or Services which are found not to be in accordance with the Contract.
- b) The Buyer shall when giving notice of rejection specify the reasons therefore and may thereafter in relation to Goods return the rejected Goods to the supplier at the risk and expense of the Supplier;
- c) Any payments that the Buyer may have made to the Supplier prior to the time when the Buyer exercises its rights under this condition shall in no way prejudice any of the rights conferred upon the Buyer under the Conditions;
- d) Any money paid by the Buyer to the Supplier in respect of such rejected Goods and Services and the value of any material (if any) supplied which the Buyer and used in the provision of those Services or in the manufacture of those Goods shall be repaid forthwith by the Supplier to the Buyer upon demand and may be recovered by the Buyer as a debt;
- e) If the buyer exercises its right of rejection of Goods or Services as aforesaid the Buyer may without prejudice to any other right which the Buyer may have against the Supplier be entitled to purchase elsewhere other Goods or Services conforming as nearly as practicable to those specified in the Order and any additional expenditure over and above the Price reasonably incurred by the Buyer in obtaining other Goods or Services in replacement therefore shall be paid by the Supplier to the Buyer and shall be recoverable as a liquidated sum.

9. Delivery of Goods/Services

- a) All goods shall be delivered by the Supplier to the place of delivery specified in the Order together with a detailed advice note quoting the Order number attached thereto or otherwise packed therewith.
- b) Deliveries of goods shall be made between 9a.m. and 4 p.m. Monday to Friday unless otherwise specified in the Order.
- c) Separate Invoices shall be rendered by the Supplier for Goods supplied and delivered under and against different orders.
- d) All Goods/Services shall be delivered/completed by the Supplier by the Delivery Date time being on the essence of the Contract.
If the supplier fails to do so without prejudice to the Buyers other rights hereunder
 - i) The buyer may terminate the contract. In this event without prejudice to the Buyer's other remedies the Supplier shall promptly collect any Goods which have been delivered.
 - ii) Where delivery of a quality of Goods which corresponds to the contract but which is less than the agreed quantity ordered and the Buyer has not exercised its rights of termination hereunder the Buyer may accept the Goods which correspondence to the Contract and recover for the Supplier's breach in respect of the failure to deliver the remainder of the Goods.
 - iii) The buyer may require the Supplier promptly to deliver sufficient goods which correspond to the contract to comply with the quantity required.
- e) The Supplier shall upon receipt of written notice from the Buyer replace free of charge Goods damaged in transit.

10. Title and Risk

Title in and Risk shall pass to the Buyer on Delivery of the Goods

11. Assignment/Sub Contracting

The Supplier shall not assign, sub contract, licence or otherwise dispose of any part of rights or obligations hereunder without the prior written consent of the Buyer.

Where the Supplier enters into a sub-contract, the Council expects that all sums due by the Supplier to the sub-contractor are paid within a specified period not exceeding 30 days from the receipt of a valid invoice.

12. Hazardous Goods

Goods which are capable of causing damage to persons or property must be accompanied by information in English in the form of written instructions as to their safe use and handling and as to precautions to be taken in the event of an accident or emergency. Such Goods must be marked by the Supplier with appropriate international danger symbols and must display the name of the material in English. Transport and other related documents must also include a declaration of the hazard and the name of the material in English and the Supplier shall observe the requirements of all Statutes and Regulations of the UK and any international agreements to which the UK is a party relating to the use, packaging, labelling and carriage of Hazardous Goods.

13. Statutory Requirements

The Supplier warrants that the design, construction, supply and quality of all Goods or Services to be supplied under the Contract comply in all respects with the relevant requirements of any statute statutory rule or order any other instrument having the force of law which may be in force at the time when the same are supplied.

14. Infringements of Patents

- a) The Supplier warrants that the design, construction, supply and quality of all Goods and any part thereof and/or any element in the supply of the Service specified in the Order will not infringe any UK or foreign patent trademark, trade name, registered design, copyright, or any other intellectual property right whatsoever (“the Rights”).
- b) The Supplier shall:
 - i) Fully indemnify the Buyer against any action claim, demand cost charges and expenses whatsoever (“claims/demands”) arising from or incurred by reason of any infringement by the Supplier of the Rights or any of them including those under any award, Judgement of settlement relating thereto and in resisting any such claims/demands.
 - ii) In the event of any claim or demand the Supplier shall forthwith take over and defend the same as its cost and either in the case of Goods modify the same to avoid the infringement or if this is not possible or the infringement arises in the provision of a Service forthwith repay to the Buyer the Price.

15. Confidentiality

- a) The Supplier shall treat the Contract and all drawings, specifications and information supplied by the Buyer in connection therewith as confidential and shall not disclose the same to any third party without the Buyers written consent except as may be necessary for implanting the Contract and the Supplier shall procure that its employees and other persons to whom it is required to disclose such information in the performance of the Contract shall similarly undertake to keep such information confidential.
- b) All patents, dyes, moulds, designs, drawings, and specifications supplied by the Buyer or prepared or obtained by the Supplier for and at the sole cost of the Buyer shall be and remain the property of the buyer

16. Indemnity

- a) Without prejudice to clause 14 hereof the Supplier shall indemnify the Buyer against all claims, liabilities, loss, damages, costs and expenses whatsoever made against or incurred by the Buyer whatsoever and arising directly or indirectly from any failure on the part of the Supplier to comply with its obligations under the Council.
- b) The Contractor where so required overleaf shall take out and maintain insurance in respect of claims arising out of the Suppliers liability under Clause 16(a) above. For all claims to which this clause applied the insurance cover shall not be less than £2,000,000 for any one occurrence or series of occurrences arising out of any one event the number of events within any year being unlimited.

17. Termination

- a) Without prejudice to other remedies and accrued rights the Buyer shall have the right forthwith to terminate the Contract and to claim any resulting losses and expenses if:
 - i) The Supplier commits a breach of the terms and conditions of this or any other contract with the Buyer and fails to remedy the breach within a reasonable time of a written notice from the Buyer to do so.
 - ii) The Supplier enters into any composition or agreement with his creditors or becomes bankrupt or insolvent or has a receiving order in bankruptcy made against him or (if a corporate body) has a receiver or manager appointed of the whole or any part its assets or enters into liquidation either voluntary or compulsory or other than for the purpose of amalgamation or reconstruction or if any order is made against the Supplier for the preservation safeguarding or regulating the use of the Supplier’s property or assets then the Supplier shall forthwith notify the buyer in writing and the Buyer shall be at liberty.
 - i) To cancel the Order summarily by notice in writing without compensation to the Supplier or.
 - ii) To give any such receiver manager of liquidator or any other person the option of carrying out the Contract.

- iii) The Contractor shall have offered or given or agreed to give to any person any gift or consideration of any kind or if the Contractor shall have committed any offence under the Prevention of Corruption Act 1889 to 1916 or, where the Buyer is a Local Authority, shall have given any fee or reward the receipt of which is an offence under sub section (2) or section 117 of the Local Government Act 1972 or any amendment or re-enactment thereof.
- b) The buyer may by notice in writing cancel any Order or part thereof Unless such cancellation shall arise from any breach by the Supplier the Buyer shall reimburse to the Supplier such direct costs only as it may have reasonably have incurred but in no circumstances whatsoever shall the Buyer Price or any monies paid by the Buyer to the date of cancellation.

18. Force Majeure

If the Supplier is prevented or prohibited from executing the Contract by reason of any status law, regulation, strike, lock-out, or any other reason beyond its control then the Buyer may forthwith cancel the Contract and the Supplier shall in such circumstances repay to the Buyer Price or any monies paid by the Buyer to the date of cancellation.

Subject to the provisions of this Force Majeure clause, the Buyer may terminate this contract with immediate effect by notice in writing to the Supplier at any time if the Supplier or any subsidiary company of the Supplier is convicted of any offence under the Employment Relations Act 1999 (Blacklists) Regulations 2010.

19. Publicity

Neither the Supplier nor its sub-contractors shall without the prior written consent of the Buyer advertise or publicly announce that it is undertaking work for the Buyer nor shall it hold itself out in any way as agent of the Buyer

20. Law of Contract

The construction, validity, performance and enforcement of these Conditions shall be governed by the Law of England.

21. Counter-Terrorism and Security

The Supplier recognises the duty of the Buyer under the Counter-Terrorism and Security Act 2015; to have due regard to the need to prevent people from being drawn into terrorism and shall assist the Buyer in the discharge of that duty through the performance of this Contract. The Supplier shall therefore ensure that its employees, agents and subcontractors are familiar with and have an understanding of the Prevent Strategy and are suitably trained to recognise vulnerability of persons who could be drawn into terrorism and will engage in programmes to conform with this duty.

22. Modern Slavery

The Supplier represents and warrants that it is compliant with its obligations under the Modern Slavery Act 2015 and that neither the Supplier nor any of its officers, employees or other persons associated with it:

- a) has been convicted of any offence involving slavery and human trafficking;
- b) has been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of or in connection with slavery and human trafficking.

The Supplier shall implement due diligence procedures for its own suppliers, subcontractors and other participants in its supply chains, to ensure that there is no slavery or human trafficking in its supply chains.