

**DUNDEE CITY COUNCIL
CONDITIONS OF CONTRACT FOR THE PURCHASE OF GOODS
(AND ANY RELATED SERVICES)**

GENERAL CONDITIONS

These Conditions may be varied only by the written agreement of the Purchaser. No terms or conditions put forward at any time by the Supplier shall form any part of the Contract unless specifically agreed in writing by the Purchaser.

1. DEFINITIONS

In these Conditions:

'Purchaser' means Dundee City Council, 21 City Square, Dundee, DD1 3BY;

'Supplier' means the person, firm or company to whom the Contract is issued;

'Goods' means any such goods as are to be supplied to the Purchaser by the Supplier (or by any of the Supplier's sub-contractors) pursuant to or in connection with this Contract;

'Services' means the services provided as specified in the contract including (but not restricted to) installation of goods and shall, where the context so admits, include any materials, articles and goods to be supplied in connection with any such services;

'Premises' means the location where the services are to be performed as specified in the Contract or Purchase Order;

"Data Controller", "Data Processor", "Data Subject" and "Data Subject Access Request" have the meanings given in the Data Protection Laws;

"Data Protection Laws" means any law, statute, subordinate legislation regulation, order, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body which relates to the protection of individuals with regard to the processing of Personal Data to which a Party is subject including the Data Protection Act 2018 and any statutory modification or re-enactment thereof and the GDPR;

"GDPR" means General Data Protection Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC;

"Personal Data" has the meaning given in the Data Protection Laws;

"Processing" has the meaning given in the Data Protection Laws and cognate expressions shall be construed accordingly;

"Supervising Authority" has meaning given in Data Protection Laws.

'Contract' means the contract between the Purchaser and the Supplier consisting of the Specification of Requirements, these Conditions and any other documents (or parts thereof) specified in the Specification of Requirements;

'Specification of Requirements' means the document setting out the Purchaser's requirements for the Contract. Where the Contract proceeds on the basis of an invitation to tender issued by the Purchaser this phrase means the invitation to tender and any document incorporated therein by reference as forming or comprising the Contract between the Purchaser and the Supplier. Where the contract between the Purchaser and Supplier proceeds only on a purchase order and acceptance of that order this phrase means that purchase order and any document incorporated in the purchase order by reference setting out the Purchaser's requirement.

2. THE GOODS

2.1 The Goods shall be to the reasonable satisfaction of the Purchaser and shall conform in all respects with any particulars specified in the Contract and in any variations thereto.

2.2 The Goods shall conform in all respects with the requirements of any statutes, orders, regulations or bye-laws from time to time in force.

2.3 The Goods shall be fit and sufficient for the purpose for which such goods are ordinarily used and for any particular purpose made known to the Supplier by the Purchaser and the Purchaser relies on the skill and judgement of the Supplier in the supply of the Goods and the execution of the Contract.

3. THE PRICE

3.1 The price of the Goods and any related Services shall be as stated in the Contract and no increase will be accepted by the Purchaser unless agreed by the Purchaser in writing before the commencement of performance of the Contract.

3.2 Unless otherwise agreed in writing by the Purchaser, the Supplier shall render a separate invoice in respect of each consignment delivered under the Contract. Payment shall be due 30 days after receipt of the Goods or the correct invoice therefor, whichever is the later.

3.3 Value Added Tax, where applicable, shall be shown separately on all invoices as a strictly net extra charge.

3.4 Notwithstanding Condition 24(Assignation and Sub-Contracting) of this Contract the Supplier may assign to another person (an "assignee") the right to receive payment of the Price or any part thereof due to the Supplier under this Contract subject to (i) deduction of sums in respect of which the Purchaser exercises the right of recovery under Condition 23(Recovery of Sums Due) of this Contract and (ii) all the related rights of the Purchaser under this Contract in relation to the recovery of sums due but unpaid. The Supplier shall notify or procure that any assignee notifies the Purchaser of any variations to the arrangements for payment of the Price or for handling invoices, in each case in good time to enable the Purchaser to redirect payments or invoices accordingly. In the absence of such notification the Purchaser shall be under no obligation to vary its arrangements for payment of the Price or for handling invoices.

4. CHANGE TO CONTRACT REQUIREMENTS

4.1 The Purchaser may order any variation to any quantity or Specification of Goods or to any part of the Services that for any other reason shall in the Purchaser's opinion be desirable. Any such variation may include (but shall not be restricted to) additions, omissions, alterations, substitutions to the Goods or Services and changes in quality, form, character, kind, timing, method or sequence of the delivery of Goods or provision of Services.

4.2 Save as otherwise provided herein, no variation of the Specification of Goods or of the Services as provided for in Condition 4.1 hereof shall be valid unless given or confirmed in the form of an order given by the Purchaser. All such orders shall be given in writing provided that if for any reason the Purchaser shall find it necessary to give any such order orally in the first instance the Supplier shall comply with such oral order which must be confirmed in writing by the Purchaser within 2 working days of the giving of such oral order by the Purchaser, failing which the variation made by such oral order shall cease to have effect on the expiry of the said 2 working day period.

4.3 Where any such change in quality or Specifications of Goods or variation of the Services made in accordance with Condition 4.1 and 4.2 has affected or may affect the costs incurred by the Supplier delivering the Goods or providing the Services, the Supplier will notify the Purchaser in writing of the effect which it has had or may have on the said costs and such notification shall be considered by the Purchaser, who shall take all of the facts into account (including such information as may be provided by the Supplier in respect of the effect which such variation has had or may have on the costs incurred by the Supplier in providing the Goods or Service) and may authorise such alteration to the sums to be paid to the Supplier in accordance with the provisions of the Contract as are, in the Purchaser's opinion, appropriate and reasonable in the circumstances.

5. INSPECTION OF PREMISES AND NATURE OF SERVICES

5.1 The Supplier is deemed to have inspected the Premises before tendering so as to have understood the nature and extent of the Services to be carried out and is deemed to be satisfied in relation to all matters connected with the Services and Premises.

5.2 The Purchaser shall, at the request of the Supplier, grant such access as may be reasonable for this purpose.

5.3 Unless otherwise specified, the Supplier shall provide all plant, tools, material, labour, haulage and any other things necessary to complete the Contract.

6. SUPPLIER'S STATUS

In carrying out any Services associated with the Contract the Supplier shall be acting as principal and not as the agent of the Purchaser. Accordingly:

- (a) the Supplier shall not (and shall procure that his agents and servants do not) say or do anything that might lead any other person to believe that the Supplier is acting as the agent of the Purchaser, and
- (b) nothing in this Contract shall impose any liability on the Purchaser in respect of any liability incurred by the Supplier to any other person but this shall not be taken to exclude or limit any liability of the Purchaser to the Supplier that may arise by virtue of either a breach of this Contract or any negligence on the part of the Purchaser, or the Purchaser's staff or agents.

7. SUPPLIER'S PERSONNEL

7.1 The Supplier shall take the steps reasonably required by the Purchaser to prevent unauthorised persons being admitted to the Premises. If the Purchaser gives the Supplier notice that any person is not to be admitted to or is to be removed from the Premises or is not to become involved in or is to be removed from involvement in the performance of the Contract, the Supplier shall take all reasonable steps to comply with such notice and if required by the Purchaser the Supplier shall replace any person removed under this Condition with another suitably qualified person and procure that any security pass issued to the person removed is surrendered. The giving of such notice by the Purchaser to the Supplier as aforesaid shall not entitle the Supplier to delay, suspend, terminate or withhold the performance of any of its obligation in terms of the Contract and it shall

remain bound to timely implement its obligations in full, whether or not it complies with the terms of the said notice or otherwise.

7.2 If and when instructed by the Purchaser, the Supplier shall give to the Purchaser a list of names and addresses of all persons who are or may be at any time concerned with the Services or any part of them specifying the capacities in which they are so concerned, and giving such other particulars and evidence of identity and other supporting evidence as the Purchaser may reasonably require.

7.3 The decision of the Purchaser shall be final and conclusive as to whether any person is to be admitted to or is to be removed from the Premises or is not to become involved in or is to be removed from involvement in the performance of the Contract and as to whether the Supplier has furnished the information or taken the steps required of the Supplier by this Condition.

7.4 The Supplier shall bear the cost of any notice, instruction or decision of the Purchaser under this Condition.

8. DELIVERY

8.1 The Goods shall be delivered to the place named in the Contract. Any access to premises and any labour and equipment that may be provided by the Purchaser in connection with delivery shall be provided without acceptance by the Purchaser of any liability whatsoever and the Supplier shall **indemnify** the Purchaser in respect of any actions, suits, claims, demands losses, charges, costs and expenses which the Purchaser may suffer or incur as a result of or in connection with any damage or injury (whether fatal or otherwise) occurring in the course of delivery or installation to the extent that any such damage or injury is attributable to any act or omission of the Supplier or any of his sub-contractors. This indemnity shall be limited to the minimum insurance value specified at 18.3b below.

8.2 The time of delivery shall be of the essence and failure to deliver within the time promised or specified shall enable the Purchaser (at the Purchaser's option) to release themselves from any obligation to accept and pay for the Goods and/or to cancel all or part of the Contract therefor, in either case without prejudice to the Purchaser's other rights and remedies.

9. ACCESS

9.1 Where any access to the Premises is necessary in connection with delivery or installation the Supplier and the Supplier's sub-contractors shall at all times comply with the reasonable requirements of the Purchaser's Facilities Manager for the Premises.

9.2 Access to the Premises shall not be exclusive to the Supplier but only such as shall enable the Supplier to carry out the Services concurrently with the execution of work by others. The Supplier shall co-operate with such others as the Purchaser may reasonably require.

9.3 The Purchaser shall have the power at any time during the progress of the Services to order in writing:

- (a) the removal from the Premises of any materials which in the opinion of the Purchaser are either hazardous, noxious or not in accordance with the Contract;
- (b) the substitution of proper and suitable materials;
- (c) the removal and proper re-execution notwithstanding any previous test thereof or interim payment therefor of any work which, in respect of material or workmanship is not in the opinion of the Purchaser in accordance with the Contract.

The Supplier shall comply forthwith with the terms of any such order.

9.4 On completion of the Services the Supplier shall remove the Supplier's plant, equipment and unused materials and shall clear away from the Premises all rubbish arising out of the Services and leave the Premises in a neat and tidy condition.

10. PROPERTY AND RISK

Property and risk in the Goods shall without prejudice to any of the rights or remedies of the Purchaser (including the Purchaser's rights and remedies under Condition 12 (Inspection, Rejection and Guarantee) hereof) pass to the Purchaser at the time of delivery.

11. DAMAGE IN TRANSIT

On dispatch of any consignment of the Goods the Supplier shall send to the Purchaser at the address for delivery of the Goods an advice note specifying the means of transport, the place and date of dispatch, the number of packages and their weight and volume. The Supplier shall free of charge and as quickly as possible either repair or replace (as the Purchaser shall elect) such of the Goods as may either be damaged in transit or having been placed in transit fail to be delivered to the Purchaser provided that:

- (a) in the case of damage to such Goods in transit the Purchaser shall within thirty days of delivery give notice to the Supplier that the Goods have been damaged;
- (b) in the case of non-delivery the Purchaser shall (provided that the Purchaser has been advised of the dispatch of the Goods) within ten days of the notified date of delivery give notice to the Supplier that the Goods have not been delivered.

12. INSPECTION, REJECTION AND GUARANTEE

12.1 The Supplier shall permit the Purchaser or the Purchaser's authorised representatives to make any inspections or tests they may reasonably require and the Supplier shall afford all reasonable facilities and assistance free of charge at the Supplier's premises. No failure to make complaint at the time of such inspection or tests and no approval given during or after such tests or inspections shall constitute a waiver by the Purchaser of any rights or remedies in respect of the Goods.

12.2 The Purchaser may by written notice to the Supplier reject any of the Goods which fail to meet the requirements specified in the contract. Such notice shall be given within a reasonable time after delivery to the Purchaser of Goods concerned. If the Purchaser shall reject any of the Goods pursuant to this Condition the Purchaser shall be entitled (without prejudice to the Purchaser's other rights and remedies) either:

- (a) to have the Goods concerned as quickly as possible either repaired by the Supplier or (as the Purchaser shall elect) replaced by the Supplier with Goods which comply in all respects with the requirements specified herein; or
- (b) to obtain a refund from the Supplier in respect of the Goods concerned.

12.3 The guarantee period applicable to the Goods shall be 12 months from putting into service or 18 months from delivery of the Goods, whichever shall be the shorter (subject to any alternative guarantee arrangements stipulated in the Specification of Requirements, the Supplier's tender (if any) or otherwise agreed in writing between the Purchaser and the Supplier). If the Purchaser shall within such guarantee period or within 30 days thereafter give notice in writing to the Supplier of any defect in any of the Goods as may have arisen during such guarantee period under proper and normal use the Supplier shall (without prejudice to any other rights and remedies which the Purchaser may have) as quickly as possible remedy such defects (whether by repair or replacement as the Purchaser shall elect) without cost to the Purchaser.

12.4 Any Goods rejected or returned by the Purchaser as described in paragraphs 12.2 or 12.3 shall be returned to the Supplier at the Supplier's risk and expense.

13. LABELLING AND PACKAGING

- 13.1 The Goods shall be packed and marked in a proper manner and in accordance with the Purchaser's instructions and any statutory requirements and any requirements of the carriers. In particular the Goods shall be marked with the purchase order number, the net, gross and tare weights, the name of the contents shall be clearly marked on each container and all containers of hazardous goods (and all documents relating thereto) shall bear prominent and adequate warnings. The Supplier shall **indemnify** the Purchaser against all actions, suits, claims, demands, losses, charges, costs and expenses which the Purchaser may suffer or incur as a result of or in connection with any breach of this Condition. The indemnity shall be limited to the minimum insurance level specified at 12.3b below.
- 13.2 All packaging materials will be considered non-returnable and will be destroyed unless the Supplier's delivery advice note states that such materials will be charged for unless returned. The Purchaser accepts no liability in respect of the non-arrival at the Supplier's premises of empty packages returned by the Purchaser unless the Supplier shall within ten days of receiving notice from the Purchaser that the packages have been dispatched notify the Purchaser of such non-arrival.
- 13.3 The Supplier represents and warrants that the maximum use will be made of recycled materials in the manufacture of crates, pallets, boxes, cartons, cushioning and other forms of packing where these fulfil other packing specifications.

14. AUDIT

The Supplier shall keep and maintain until 5 years after the Contract has been completed records to the satisfaction of the Purchaser of all expenditures which are reimbursable by the Purchaser and of the hours worked and costs incurred in connection with any employees of the Supplier paid for by the Purchaser on a time charge basis. The Supplier shall on request afford the Purchaser or his representatives such access to those records as may be required by the Purchaser in connection with the Contract.

15. CORRUPT GIFTS OR PAYMENTS

The Supplier shall not offer or give, or agree to give, to any employee or representative of the Purchaser any gift or consideration of any kind as an inducement or reward for doing or refraining from doing or for having done or refrained from doing, any act in relation to the obtaining or execution of this or any other contract with the Purchaser or for showing or refraining from showing favour or disfavour to any person in relation to this or any such Contract. The attention of the Supplier is drawn to the criminal offences created by the Bribery Act 2010.

16. INTELLECTUAL PROPERTY RIGHTS

- 16.1 All Intellectual Property rights in any material, including (but not limited to) reports, guidance, specification, instructions, toolkits, plans, data, drawings, databases, patents, patterns, models, designs which are created or developed by the Supplier on behalf of the Purchaser for use, or intended use, in relation to the performance by the Supplier of its obligations under the Contract are hereby assigned to and shall vest in the Purchaser absolutely.
- 16.2 Except as may expressly be provided for in the Contract, neither party acquires any interest in or license to use the other party's Intellectual Property Rights owned or developed prior to or independently of the Contract
- 16.3 The Supplier must not infringe any Intellectual Property Rights of any third party in providing the Services or otherwise performing its obligations under the Contract. The

Supplier shall indemnify the Purchaser against all actions, claims, demands, losses, charges, costs and expenses which the Purchaser may suffer or incur as a result of or in connection with any breach of this Condition 16.3. The Purchaser agrees to provide prompt notice of such claims and allow the Supplier to assume responsibility for any legal proceedings and negotiations.

16.4 The provisions of this Condition 16 shall apply during the continuance of this Contract and after its termination howsoever arising.

17. HEALTH AND SAFETY

17.1 The Supplier represents and warrants to the Purchaser that the Supplier is satisfied that all necessary tests and examinations have been made or will be made prior to delivery of the Goods to ensure that the Goods are designed and constructed so as to be safe and without risk to the health or safety of persons using the same, and that the Supplier has made available to the Purchaser adequate information about the use for which the Goods have been designed and have been tested and about any conditions necessary to ensure that when put to use the goods will be safe and without risk to health.

17.2 The Supplier shall perform the Services in such a manner as to be safe and without risk to the health or safety of persons in the vicinity of the place where the Services are being performed (whether such persons are in the vicinity of the said place at the time when the Services are being performed or otherwise) and in such a manner as to comply with any relevant health and safety or other legislation (including Statutory Instrument, Orders, or Regulations made under the said legislation) and any requirements imposed by a local or other regulatory authority in connection with the performance of services of the type supplied to the Purchaser, whether specifically or generally.

17.3 With prejudice to the generality of condition 17.1 hereof, the Supplier shall indemnify the Purchaser against all actions, suits, claims, demands, losses, charges, costs and expenses which the Purchaser may suffer or incur as a result of or in connection with any breach of conditions 17.1 or 17.2 hereof.

18. INDEMNITY AND INSURANCE

18.1 Without prejudice to any rights or remedies of the Purchaser (including the Purchaser's rights and remedies under Condition 12 (Inspection, Rejection and Guarantee) hereof) the Supplier shall **indemnify** the Purchaser against all actions, suits, claims, demands, losses, charges, costs and expenses which the Purchaser may suffer or incur as a result of or in connection with any damage to property or in respect of any injury (whether fatal or otherwise) to any person which may result directly or indirectly from any defect in the Goods or the negligent or wrongful act or omission of the Supplier. This indemnity shall be limited to the minimum insurance value specified at 18.3b below.

18.2 The indemnity contained in Condition 18.1 shall not apply to the extent that the loss, damage or injury is caused by the negligent or wilful act or omission of the Purchaser or any servant or agent of the Purchaser.

18.3 The Supplier shall have in force and shall require any sub-contractor to have in force:

- (a) **Employer's Liability Insurance** covering the death of or bodily injuries to employees of the bidder arising out of and in the course of their employment in connection with this contract to the level of 10,000,000 GBP in respect of each claim, and

- (b) **Public Liability Insurance** covering the death of or bodily injury to a person (not an employee of the bidder) or loss of or damage to property resulting from an action or failure to take action by the bidder to the level of 5,000,000 GBP in respect of each claim, and
- (c) **Professional Indemnity Insurance/Medical Malpractice Insurance** covering the failure of the bidder to use the skill and care normally used by professionals providing the services described in this tender to the level of £2,000,000 GBP in respect of each claim, and
- (d) **Product Liability Insurance** covering the death of or bodily injury to a person (not an employee of the bidder) or loss of or damage to property resulting from an action or failure to take action by the bidder to the level of 5,000,000 GBP in respect of each claim, and
- (e) **Vehicle Insurance (provider motor vehicles).** Provider responsible for ensuring that motor insurance of staff or volunteers who use their own vehicles have business use insurance covered. If carrying service users includes, business use and personal accident cover for passengers.

18.4 The policy or policies of insurance referred to in Condition 18.3 shall be shown to the Purchaser whenever the Purchaser requests. But in the first instance, satisfactory evidence of a certificate of insurance shall be deemed sufficient.

19. DISCRIMINATION

The Supplier shall not unlawfully discriminate against any person within the meaning of the Equality Act 2010 in its activities relating to the Contract or any other contract with the Purchaser.

20. ACCESS TO AND PROVISION OF INFORMATION

20.1 No term of the Contract shall preclude the parties from making public, under the Freedom of Information (Scotland) Act 2002 (“the Act”), and any codes applicable from time to time relating to access to public authorities information, details of any matters relating to the Contract, unless any such details constitute a trade secret; the disclosure of such details would or would be likely to prejudice substantially the commercial interest of any person (including but not limited to the Purchaser or the Supplier or such details fall within such other exemption as may be applicable at the discretion of the Purchaser, in terms of the Act. The Supplier shall facilitate the Purchaser’s compliance with the Purchaser’s obligations under these provisions and comply with any request from the Purchaser for that purpose. No term of the Contract either shall preclude the Purchaser from sharing pricing and other information under the Contract with other UK public bodies for the purpose of achieving better public procurement and subject to a reciprocal obligation of confidence upon such other public bodies as is imposed on the Purchaser in terms of Condition 20.2(b).

20.2 Subject to Condition 20.1:-

- (a) The Supplier shall keep secret and not disclose and shall procure that the Supplier’s employees keep secret and do not disclose any information of a confidential nature obtained by the Supplier by reason of this Contract except information which is in the public domain otherwise than by reason of a breach of this provision.
- (b) Commercially sensitive information related to the Contract with the Supplier will be treated as commercial in confidence by the Purchaser except insofar as required by law, regulatory authority or judicial order to be disclosed.

21. DATA PROTECTION

21.1 The Supplier acknowledges that Personal Data described in the scope of the Schedule (Data Protection) may be processed in connection with the Services under this Contract.

For the purposes of any such Processing, Parties agree that the Supplier acts as the Data Processor and the Purchaser acts as the Data Controller.

21.2 Both Parties agree to negotiate in good faith any such amendments to this Contract that may be required to ensure that both Parties meet all their obligations under Data Protection Laws. The provisions of this Condition 21 are without prejudice to any obligations and duties imposed directly on the Supplier under the Data Protection Laws and the Supplier hereby agrees to comply with those obligations and duties.

21.3 The Supplier will, in conjunction with the Purchaser and its own right and in respect of the Services, make all necessary preparations to ensure it will be compliant with the Data Protection laws.

21.4 The Supplier will provide the Purchaser with the contact details of its data protection officer or other designated individual with responsibility for data protection and privacy to act as the point of contact for the purpose of observing its obligations under the Data Protection Laws.

21.5 The Supplier must:

21.5.1 process Personal Data only as necessary in accordance with obligations under the Contract and any written instructions given by the Purchaser (which may be specific or of a general nature), including with regard to transfers of Personal Data outside the European Economic Area unless required to do so by European Union or Member state law or Regulatory Body to which the Supplier is subject; in which case the Supplier must inform the Purchaser of that legal requirement before processing unless prohibited by that law the Personal Data only to the extent, and in such manner as is necessary for the performance of the Supplier's obligations under this contract or as is required by the law;

21.5.2 subject to Condition 21.5.1 only process or otherwise transfer any Personal Data in or to any country outside the European Economic Area with the Purchaser's prior written consent;

21.5.3 take all reasonable steps to ensure the reliability and integrity of any Supplier Personnel who have access to the Personal Data and ensure that the Supplier Personnel:

- a) Are aware of and comply with the Supplier's duties under this Condition;
- b) Are subject to appropriate confidentiality undertakings with the Supplier or the relevant Sub-contractor;
- c) Are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Purchaser or as otherwise permitted by this Contract; and
- d) Have undergone adequate training in the use, care, protection and handling of Personal Data.

21.5.4 implement appropriate technical and organisational measures including those in accordance with Article 32 of the GDPR to protect Personal Data against unauthorised or unlawful Processing and against accidental loss, destruction, damage, alteration or disclosure, such measures being appropriate to the harm which might result from any unauthorised or unlawful Processing accidental loss, destruction or damage to the Personal Data and having regard to the nature of the Personal Data which is to be protected.

21.6 The Supplier shall not engage a sub-contractor to carry out Processing in connection with the Services without prior specific or general written authorisation from the Purchaser. In the case of general written authorisation, the Supplier must inform the

Purchaser of any intended changes concerning the addition or replacement of any other sub-contractor and give the Purchaser an opportunity to object to such changes.

21.7 If the Supplier engages a sub-contractor for carrying out processing activities on behalf of the Purchaser, the Supplier must ensure that same data protection obligations as set out in this Contract are imposed on the sub-contractor by way of a written and legally binding contract, in particular providing sufficient guarantees to implement appropriate technical and organisational measures. The Supplier shall remain fully liable to the Purchaser for the performance of the sub-contractor's performance of the obligations.

21.8 The Supplier must provide to the Purchaser reasonable assistance including by such technical and organisational measures as may be appropriate in complying with Articles 12-23 of the GDPR. The Supplier must notify the Purchaser if it:

- a) Receives a Data Subject Access Request (or purported Data Subject Access Request);
- b) Receives a request to rectify, block or erase any Personal Data;
- c) Receives any other request, complaint or communication relating to either Party's obligation under the Data Protect laws;
- d) Receives any communication from the Supervisory Authority or any other regulatory authority in connection with Personal Data processed under this Contract; or
- e) Receives a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by law or regulatory order;

And such notification must take place as soon as is possible but in any event within 3 business days of receipt of the request or any other period as agreed in writing with the Purchaser from time to time.

21.9 Taking into account the nature of the Processing and the information available, the Supplier must assist the Purchaser in complying with the Purchaser's obligations concerning the security of personal data, reporting requirements for data breaches, data protection impact assessments and prior consultations in accordance with Articles 32 to 36 of the GDPR. These obligations include:

- a) Ensuring an appropriate level of protection through technical and organisational measures that take into account the circumstances and purposes of the processing as well as the projected probability and severity of a possible infringement of the law as a result of security vulnerabilities and that enable an immediate detection of relevant infringement events.
- b) Notifying a Personal Data breach to the Purchaser without undue delay and in any event no later than 24 hours after becoming aware of a Personal Data breach;
- c) Assisting the Purchaser with communication of a personal data breach to a Data Subject;
- d) Supporting the Purchaser with preparation of a data protection impact assessment;
- e) Supporting the Purchaser with regard to prior consultation of the Supervisory Authority.

21.10 At the end of the provision of Services relating to processing the Supplier the Supplier must, on written instruction of the Purchaser, delete or return to the Purchaser all Personal Data and delete existing copies unless EU or Member State law requires storage of the Personal Data.

21.11 The Supplier must:

- a) Provide such information as is necessary to enable the Purchaser to satisfy itself of the Supplier's compliance with this Condition 21;
- b) Allow the Purchaser, its employees, auditors, authorised agents or advisers reasonable access to any relevant premises, during normal business hours, to

- inspect the procedures, measures and records referred to in this Condition 21 and contribute as is reasonable to those audits and inspections;
- c) Inform the Purchaser if in its opinion an instruction from the Purchaser infringes any obligation under the Data Protection Laws.

21.12 The Supplier must maintain written records including in electronic form, of all Processing activities carried out in performance of the Services or otherwise on behalf of the Purchaser containing the information set out in Article 30(2) of the GDPR.

21.13 If requested, the Supplier must make such records referred to in Condition 21.12 available to the Supervisory Authority on request and co-operate with the Supervisory Authority in the performance of its tasks.

21.14 Parties acknowledge that the inspecting party will use reasonable endeavours to carry out any audit or inspection under Condition 21.13 with minimum disruption to the Supplier's day to day business.

22. TERMINATION

22.1 Without prejudice to any other rights or remedies of the Purchaser under the Contract the Purchaser shall have the right (in relevant and appropriate circumstances as the Purchaser may determine) forthwith to terminate the Contract by written notice to the Supplier or the appropriate trustee in bankruptcy or sequestration, receiver, liquidator, administrator or other representative of the Supplier:

(a) where the Supplier is an individual and if a petition is presented for the Supplier's bankruptcy or the sequestration of his estate or a criminal bankruptcy order is made against the Supplier, or the Supplier is apparently insolvent, or makes any composition or arrangement with or for the benefit of creditors, or makes any conveyance or assignment for the benefit of creditors, or if an administrator or trustee is appointed to manage the Supplier's affairs or if the Supplier shall die or be adjudged incapable of managing his or her affairs within the meaning of the Adults with Incapacity (Scotland) Act 2000; or

(b) where the Supplier is not an individual but is a firm or a number of persons acting together in any capacity, if any event in (a) or (c) of this Condition occurs in respect of the firm or any partner in the firm or any of those persons or a petition is presented for the Supplier to be wound up as an unregistered company; or

(c) where the Supplier is a company, if the company passes a resolution for winding-up or dissolution (otherwise than for the purposes of and followed by an amalgamation or reconstruction) or the court makes an administration order or a winding-up order, or the company makes a composition or arrangement with its creditors, or an administrator, administrative receiver, receiver or manager is appointed by a creditor or by the court, or possession is taken of any of its property under the terms of a floating charge.

22.2 On the occurrence of any of the events described in condition 22.1 or, if the Supplier shall have committed a material breach of this contract and (if such breach is capable of remedy) shall have failed to remedy such breach within 30 days of being required by the Purchaser in writing to do so or, where the Supplier is an individual, if the Supplier shall die or be adjudged incapable of managing his or her affairs within the meaning of the Adults with Incapacity (Scotland) Act 2000, the Purchaser shall be entitled to terminate this Contract by notice to the Supplier with immediate effect. Thereupon, without prejudice to any other of the Purchaser's rights, the Purchaser may complete the Services or have them completed by a third party, using for that purpose (making a fair and proper allowance therefore in any payment subsequently made to the Supplier) all materials, plant and equipment on the Premises belonging to

the Supplier, and the Purchaser shall not be liable to make any further payment to the Supplier until the Services have been completed in accordance with the requirements of the Contract, and shall be entitled to deduct from any amount due to the Suppliers the costs thereof incurred by the Purchaser (including the Purchaser's own costs). If the total cost to the Purchaser exceeds the amount (if any) due to the Supplier, the difference shall be recoverable by the Purchaser from the Supplier.

22.3 The Purchaser may terminate the Contract in the event that:

- (a) The Contract has been subject to substantial modification which would have required a new procurement procedure in accordance with regulations 72 (9) (modification of contracts during their term) of The Public Contracts (Scotland) Regulations 2015;
- (b) The Supplier has, at the time of contract award, been in one of the situations referred to in regulations 58 (1) (exclusion grounds) of the Public Contracts (Scotland) Regulations 2015, including as a result of the applications of regulation 58(2) of those regulations, and should therefore have been excluded from the procurement procedure; or
- (c) The Contract should not have been awarded to the Supplier in view of a serious infringement of the obligations under the Treaties and the Directive 2014/24/EU that has been declared by the Court of Justice of the European Union in a procedure under Article 258 of the Treaty of the Functioning of the European Union.

In this Condition, 'the Treaties' has the meaning given in the European Communities Act 1972.

22.4 The Purchaser may also terminate the Contract in the event of a failure by the Supplier to comply in the performance of the Services with legal obligations in the field of environmental, social and employment law.

22.5 In addition to the Purchaser's rights of termination under condition 22.2, 22.3 and 22.4, the Purchaser shall be entitled to terminate this Contract by giving to the Supplier not less than thirty day notice to that effect.

22.6 Termination under Conditions 22.2, 22.3, 22.4 or 22.5 shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereupon accrue to the Purchaser and shall not affect the continued operation of Conditions 16 (Intellectual Property Rights) and 20 (Access To and Provision of Information).

23. RECOVERY OF SUMS DUE

Wherever under the Contract any sum of money is recoverable from or payable by the Supplier, that sum may be deducted from any sum then due under this contract, or which at any later time may become due, to the Supplier under this Contract.

24. ASSIGNATION AND SUB-CONTRACTING

24.1 The Supplier shall not without the written consent of the Purchaser assign the benefit or burden of the Contract or any part thereof.

24.2 No sub-contracting by the Supplier shall in any way relieve the Supplier of any of the Supplier's responsibilities under the Contract.

24.3 Where the Supplier enters into a sub-contract the Supplier must ensure that a provision is included which:

24.3.1 requires payment to be made of all sums due by the Supplier to the sub-contractor within a specified period not exceeding 30 days from receipt of a valid invoice as defined by the sub-contract requirements and provides that,

where the Purchaser has made payment to the Supplier in respect of Services and the sub-contractor's invoice relates to such Services then, to that extent, the invoice must be treated as valid and, provided the Supplier is not exercising a right of retention or set-off in respect of a breach of contract by the sub-contractor or in respect of a sum otherwise due by the sub-contractor to the Supplier, payment must be made to the sub-contractor without deduction;

24.3.2 notifies the sub-contractor that the sub-contract forms part of a larger contract for the benefit of the Purchaser and that should the sub-contractor have any difficulty in securing the timely payment of an invoice, that matter may be referred by the sub-contractor to the Purchaser; and

24.3.3 in the same terms as the set out in the condition 24.3 (including for the avoidance of doubt this Condition 24.3.3) subject only to modification to refer to the correct designation of the equivalent party as the Supplier and sub-contractor as the case may be.

24.4 The Supplier shall also include in every sub-contract:

24.4.1 a right for the Supplier to terminate that sub-contract if the relevant sub-contractor fails to comply in the performance of its contract with legal obligations in the fields of environmental, social or employment law or if any of the termination events (involving substantial modification of the Contract, contract award despite the existence of exclusion grounds or a serious infringement of EU legal obligations) specified in Condition 24.3 occur; and

24.4.2 a requirement that the sub-contractor includes a provision having the same effect as 24.4.1 above in any sub-contract which it awards.

In this condition 24.4, 'sub-contract' means a contract between two or more suppliers, at any stage of remoteness from the Purchaser in a sub-contracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Contract.

25. BLACKLISTING

The Supplier must not commit any breach of the Employment Relations Act 1999 (Blacklists) Regulations 2010 or section 137 of the Trade Union and Labour Relations (Consolidation) Act 1992, or commit any breach of the Data Protection Laws by unlawfully processing personal data in connection with any blacklisting activities. Breach of this Condition is a material default which shall entitle the Purchaser to terminate the Contract.

26. NOTICES

Any notice given under or pursuant to the Contract may be sent by hand or by post or by registered post or by the recorded delivery service or transmitted by telex, teletext, facsimile transmission or other means of telecommunication resulting in the receipt of a written communication in permanent form and if so sent or transmitted to the address of the party shown on the Specification of Requirements, or to such other address as the party may by notice to the other have substituted therefor, shall be deemed effectively given on the day when in the ordinary course of the means of transmission it would first be received by the addressee in normal business hours.

27 DISPUTE RESOLUTION

27.1 The parties must attempt in good faith to resolve any dispute between them arising out of or in connection with the Contract.

27.2 any dispute or difference arising out of or in connection with the Contract, including any questions regarding its existence, validity or termination which cannot be resolved in good faith, shall be determined by the appointment of a single arbitrator to be agreed between the parties, and failing agreement within 14 days after either party has given to

the other a written request to concur in the appointment of an arbitrator, by an arbitrator to be appointed by the Scottish Arbitration Centre on the written application of either party. The seat of the arbitration shall be in Scotland. The language used in the arbitral proceedings shall be English.

27.3 Any arbitration under 27.2 is subject to the Arbitration (Scotland) Act 2010

28. HEADINGS

The headings to Conditions shall not affect their interpretation.

29. COMPLIANCE WITH THE LAW ETC

In performing the Contract, the Supplier must comply in all respects with:

- 29.1 all applicable law;
- 29.2 any applicable requirements of regulatory bodies; and
- 29.3 Good Industry Practice.

In the condition 'Good Industry Practice' means standards, practices, methods and procedure conforming to legal and regulatory requirements and the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar type of undertaking as the Supplier under the same or similar circumstances.

30. GOVERNING LAW

These Conditions shall be governed by and construed in accordance with Scottish law and the Supplier hereby irrevocably submits to the jurisdiction of the Scottish courts. The submission to such jurisdiction shall not (and shall not be construed so as to) limit the right of the Purchaser to take proceedings against the Supplier in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdiction, whether concurrently or not.

SUPPLEMENTARY NOTICE

1. PROTECTING THE ENVIRONMENT

Suppliers to the purchasing authority are requested to satisfy themselves that no product will be supplied or used in the Supply of Goods to the Purchaser which will endanger the health of the consumers or others, will cause significant damage to the environment during manufacture, use, or disposal, which consumes a disproportionate amount of energy during manufacture, use, or disposal, which causes unnecessary waste because of over-packaging or because of an unusually short shelf life, or which contains materials derived from threatened species or threatened environments.

2. LATE PAYMENT OF INVOICES

Suppliers to the purchasing authority are requested to address complaints regarding late payment of invoices to, in the first instance, the addressee of the invoice and, in the second instance to the Executive Director of Corporate Services, Dundee City Council, Dundee House, 50 North Lindsay Street, Dundee, DD1 1NZ; Telephone 01382-434000;

e-mail:

generalfinance@dundeecity.gov.uk

This procedure is suggested as the best practical way of ensuring problems of late payment are resolved, and is not intended to interfere with Suppliers' legal rights.

THIS NOTICE DOES NOT FORM PART OF THE CONDITIONS OF CONTRACT

SCHEDULE (DATA PROTECTION)

This Schedule includes certain details of the Processing of Personal Data in connection with the Contract:

Subject matter and duration of the Processing of Personal Data

The subject matter and duration of the Processing of Personal Data are (insert description here)

The nature and purpose of the Processing of Personal Data

(include description here)

The type of Personal Data to be processed

(include list of data types here)

The categories of Data Subject to whom Personal Data relates

(include categories of data subjects here)

The obligations and rights of the Purchaser as the Data Controller are set out in Condition 16 of the Contract.-+

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