



Purchase Order Terms and Conditions of Contract

1. DEFINITIONS

- 1.1 **“Authority”** means Care Quality Commission (CQC).
- 1.2 **“Contract”** means the arrangement between the Authority and the Contractor, comprising the Purchase Order and these terms and conditions.
- 1.3 **“Contractor”** means the person, firm, partnership or company with whom the Authority enters into the Contract
- 1.4 **“Data Protection Legislation”** means (i) the GDPR (General Data Protection Regulations), the LED (Law Enforcement Directive) and any applicable national implementing Laws as amended from time to time; (ii) the Data Protection Act (DPA) 998 until repealed and the DPA 2018 to the extent that it relates to the processing of Personal Data and privacy; (iii) all applicable Law about the processing of Personal Data and privacy;
- 1.5 **“Goods”** the goods (or any part of them) set out in the Purchase Order.
- 1.6 **“Party”** (and **“Parties”**) means a party to (and both parties to) the Contract.
- 1.7 **“Purchase Order”** means the Authority’s commercial document showing the agreed type, quantity and price of Goods and/or Service the Contractor will supply to the Authority.
- 1.8 **“Service”** means the service to be supplied as specified in the Purchase Order.
- 1.9 **“Staff”** means all persons employed by the Contractor to perform its obligations under the Contract together with the Contractor’s servants, agents, suppliers and sub-contractors used in performing the Contract.
- 1.10 **“Statement of Requirements”** means the specification for the Goods and/or Service (including as to quantity, description and quality), and the data processing schedule and Contractor’s quote as specified in Schedule 1.

2 CONTRACTOR OBLIGATIONS

- 2.1 The Contractor shall co-operate with the Authority in all matters relating to the supply of the Goods and/or Service and comply with the Authority’s instructions. The Contractor shall promptly and efficiently provide the Goods and/or Service in accordance with:
- 2.1.1 the Contract;
- 2.1.2 the skill and care which would reasonably be expected from a person engaged in a similar type of work to providing the Goods or Service; and

2.1.3 all applicable laws (including health, safety and welfare at work legislation, the Equality Act 2010 and the Human Rights Act 1998).

2.2 In carrying out the Contract, the Contractor shall comply with all relevant provisions of the Data Protection Legislation and the Authority's security policies and shall be liable for, and indemnify the Authority against, any expense, liability, loss, claim or proceedings arising as a result of or in connection with any breach by the Contractor, its sub-contractors, sub-processors staff, or agents of its obligations under this clause.

2.3 Where the Contractor is processing Personal Data for the Authority as a Processor (as defined in the Data Protection Legislation), the Contractor shall ensure that it complies with its obligations under Data Protection Legislation. The Contractor will only process Personal Data in accordance with the Authority's instructions in the Data Processing Schedule in Schedule 1.

2.4 The Contractor shall keep and maintain until 6 years after the end of the Contract, or as long a period as may be agreed between the Parties, full and accurate records of the Contract including the Goods and/or Service supplied under it and all payments made by the Authority. The Contractor shall on request afford the Authority or the Authority's representatives such access to those records as may be reasonably requested by the Authority in connection with the Contract.

3 PAYMENT

3.1 The Authority shall pay the Contractor on the amount stated on the Purchase Order, which shall be the full and exclusive remuneration of the Contractor.

3.2 The Authority shall pay the Contractor the price on the Purchase Order within 30 days from receipt of a valid and undisputed invoice/s provided that the Contractor has provided full and proper delivery of the Goods and/or Service, supported by full and accurate information and documentation to the satisfaction of the Authority.

4 SUPPLY AND DELIVERY OF GOODS AND SERVICES

4.1 The Contractor shall ensure that the Goods shall:

- (a) correspond with their description in the Purchase Order and any other specification for the Goods agreed with the Authority as set out in Schedule 1; and
- (b) be delivered on the date specified and to the location agreed with the Authority's representative.

4.2 The Contractor shall meet any performance dates for the Services

specified in the Purchase Order or notified to the Contractor by the Authority.

- 4.3 The Contractor shall ensure that the Services conform with all descriptions and specifications of the Service as agreed with the Authority and provide all equipment, tools and vehicles and such other items as are required to provide the Services.
- 4.4 The Contractor shall satisfy itself that Staff are suitable to provide the Goods and/or Service. The Contractor shall use Staff who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Contractor can fulfil its obligations under the Contract.

5 ASSIGNMENT AND SUB-CONTRACTING

The Contractor shall not without the written consent of the Authority assign, sub-contract, novate or in any way dispose of the benefit and/ or the burden of the Contract or any part of the Contract.

6 INTELLECTUAL PROPERTY RIGHTS

- 6.1 The Parties acknowledge that all intellectual property rights in any materials provided by the Authority to the Contractor for the purposes of this Contract shall remain the property of the Authority but the Authority hereby grants the Contractor a royalty-free, non-exclusive and non-transferable licence to use such materials as required until termination or expiry of the Contract for the sole purpose of enabling the Contractor to perform its obligations under the Contract.
- 6.2 All Intellectual Property Rights in any material or works that the Contractor produces to comply with its obligations under the Contract after its formation (including any guidance, specifications, instructions, plans, data, drawings, databases, models, designs or other material prepared by or for the Contractor to perform the Service) shall belong to the Authority. If, and to the extent, that any intellectual property rights in such materials vest in the Contractor by operation of law, the Contractor hereby assigns to the Authority by way of a present assignment of future rights that shall take place immediately on the coming into existence of any such intellectual property rights all its intellectual property rights in such materials (with full title guarantee and free from all third-party rights).
- 6.3 The Contractor hereby grants the Authority:
 - 6.3.1 a perpetual, royalty-free, irrevocable, non-exclusive licence (with a right to sub-licence) to use all intellectual property rights in the materials created or developed pursuant to the Contract and any intellectual property rights arising as a result of the provision of the Services; and
 - 6.3.2 a perpetual, royalty-free, irrevocable and non-exclusive licence (with a

right to sub-license) to use:

- a) any intellectual property rights vested in or licensed to the Contractor on the date of the Contract; and
- b) any intellectual property rights created during the Term but which are neither created or developed pursuant to the Contract nor arise as a result of the provision of the Services,

including any modifications to or derivative versions of any such intellectual property rights, which the Authority reasonably requires in order to exercise its rights and take the benefit of the Contract including the Services provided.

6.4 The Contractor shall indemnify the Authority against all claims, demands, actions, costs, (including legal costs and disbursements on a solicitor and client basis), and losses arising from or incurred by reason of any infringement or alleged infringement of any Intellectual Property Right in connection with provision of the Goods and/or Service by the Contractor.

7 STATUS OF CONTRACTOR

The Contractor agrees that nothing in the Contract shall create a contract of employment, relationship of agency, partnership or joint venture between the Parties.

8 REPUTATION AND PUBLIC SERVICE CONSIDERATIONS

In providing the Goods and/or Service the Contractor shall pay regard to the standing and reputation of the Authority and shall not do (by act or omission) anything that may bring the standing or reputation of the Authority into disrepute, attract adverse publicity to the Authority or harm public confidence in the Authority.

9 WARRANTIES

9.1 The Contractor warrants and represents to the Authority that:

- 9.1.1** the Goods or any goods supplied by the Contractor pursuant to the delivery of the Service shall be of satisfactory quality, fit for their purpose and free from defects in design, material and workmanship;
- 9.1.2** the Contractor has full capacity and authority and all necessary licences, permits and consents to enter into and to perform the Contract;
- 9.1.3** the provision of the Goods and/or Service and the Authority's use thereof, shall not infringe any third party intellectual property rights;

9.1.4 the Contractor will make all reasonable endeavours to ensure that any representations made to the Authority are true and accurate; and

9.1.5 there are no contractual obligations, claims, litigation, or proceedings against the Contractor which could materially affected its ability to perform its obligations under the Contract.

10 INDEMNITY AND LIABILITY

10.1 The aggregate liability of the Contractor in respect of all defaults, claims or loss, whether arising from breach of the Contract, the supply or failure to supply the Goods and/or Service, tort or otherwise shall in no event exceed 125% of the price in the Purchase Order. This clause shall not affect the Contractor's liability under the indemnity or right to recovery in clauses 2.2 (data protection), 6.3 (Intellectual Property Rights) and 12.2 (fraud).

10.2 This clause 10 shall survive termination of the Contract.

11 AUTHORITY REMEDIES

If the Contractor fails to comply with the Contract, the Authority shall, without limiting its other rights or remedies, have one or more of the following rights:

- (a) to terminate the Contract with immediate effect by giving written notice to the Contractor; and
- (b) to recover from the Contractor any costs incurred by the Authority in obtaining substitute goods and/or services from a third party.

12 FRAUD

12.1 The Contractor shall safeguard the Authority's funding of the Service or purchase of the Goods against fraud and notify the Authority immediately if it suspects that any serious irregularity or fraud has occurred or is occurring.

12.2 If the Contractor or its Staff commits fraud in relation to the Contract the Authority may terminate the Contract immediately and recover from the Contractor any loss suffered by the Authority resulting from the termination.

13 PREVENTION OF BRIBERY AND CORRUPTION

The Contractor must comply with the Bribery Act 2010 and failure to do so will allow the Authority to terminate the Contract immediately in writing.

14 CONFIDENTIALITY

The Contractor shall take all necessary precautions to ensure that all confidential information obtained from the Authority under or about the Contract is treated as confidential and not disclosed (without prior written approval) or used by it, its Staff or its professional advisors otherwise than for the purposes of the Contract.

15 FREEDOM OF INFORMATION

The Contractor acknowledges that the Authority is subject to the Freedom of Information Act 2000 and the Environmental Information Regulations and shall assist and cooperate with the Authority (at the Contractor's expense) to enable the Authority to comply with its information disclosure requirements.

16 TERM

The Contract shall take effect on the date specified on the Purchase Order and shall expire when the Contractor has supplied the Goods and/or Service to the Authority's satisfaction and the Authority has paid all sums due to the Contractor.

17 TERMINATION

- 17.1** Where the Contractor supplies the Goods or Service over a period of more than one month, the Authority may terminate the Contract without cause by giving the Contractor 1 month written notice.
- 17.2** Upon termination or expiry of the Contract, the Contractor shall give all reasonable assistance to the Authority and any incoming contractor; and return all requested documents, information and data to the Authority as soon as reasonably practicable.
- 17.3** Termination or expiry of the Contract shall not affect the continuing rights of the Parties under this clause and clauses 2, 4, 6, 8, 10, 11, 13, 14, 15, 17, and clause 19.

18 VARIATION

The Contract cannot be varied except in writing by both Parties.

19 DISPUTE RESOLUTION

The Parties shall attempt in good faith to negotiate a settlement to any dispute arising out of or about the Contract. Such efforts shall involve the escalation of the dispute to an appropriately senior representative of each Party.

20 NOTICES

Any notice to be given under the Contract shall be in writing and may be served by personal delivery, first class recorded or, save for notice under clause 17.1,

e-mail to the address of the relevant Party notified under this Contract.

21 LAW AND JURISDICTION

The formation, interpretation and operation of the Contract and any disputes arising under or in any way connected with its subject matter shall be subject to English law and the English courts.

Schedule 1 – Statement of Requirements [including where applicable Data Processing Schedule] and Quote