

TEST VALLEY BOROUGH COUNCIL

TERMS AND CONDITIONS OF PURCHASE ORDERS FOR GOODS, SERVICES AND MINOR WORKS

1. By making a supply, or taking any action against the Purchase Order of which these conditions form part, the Supplier will be deemed to have accepted these terms and conditions.
2. If the Purchase Order is stated to be issued either under the provisions of an existing formal contract made between the Council and the party to whom the Purchase Order is issued, or under a framework agreement or framework contract, then conditions 1 and 2 only, of these conditions shall apply, and conditions 3 to 22 below shall not apply. If conditions 3 to 22 below do not apply then the Purchase Order is issued subject to the conditions of contract incorporated into the stated existing contract, framework agreement, or framework contract, as the case may be.
3. Unless the Council expressly agree otherwise in writing, every Purchase Order shall be governed by these terms and conditions, to the exclusion of all other conditions whether submitted before or after the date of the Purchase Order.
4. Unless stated otherwise, the price or rates given or referred to in the Purchase Order is/are fixed and the price includes delivery by the Supplier to the destination(s) stipulated in the Purchase Order.
5. The Supplier shall deliver the Goods, or perform the Services, or undertake the Works at the place(s) and time(s) stipulated in the Purchase Order.
6. Time is of the essence of this contract.
7. Property and risk in Goods shall pass on acceptance by the Council, or, in the case of delivery in instalments, on acceptance of each instalment.
8. Goods, Services and Works shall conform in every respect to the specification, drawings, samples or descriptions provided. If requested by the Council, the Supplier shall supply free of charge, certified copies of records of inspection and testing to confirm such compliance.
9. The Supplier warrants that:
 - a. in the case of Goods and computer software, that the Goods and computer software are of satisfactory quality and fit for the purpose for which they are supplied; and,
 - b. in the case of Services or Works, that it will provide the Services and undertake the Works with reasonable skill, care and diligence.
10. If Goods, computer software, Services or Works do not comply with the Purchase Order, or any conditions of the contract are not complied with, or it is clear that the Supplier will not be able to perform his part of the

contract, then, without prejudice to any other rights or remedies the Council may have, it may (at its discretion) reject the Goods or Services (or part of them) and/or cancel the Purchase Order (or part of it) by giving written notice to the Supplier. In that event, the Council may (at its option) require the Supplier to collect any rejected Goods, or require the Supplier to replace or rectify the Goods, Services or Works to the Council's satisfaction; or carry out, at the Supplier's expense, such work as may be necessary to make the Goods Services or Works comply with the contract. The Supplier shall forthwith repay to the Council any money paid by the Council for rejected or undelivered Goods, Services or Works.

11. The Council reserve the right to withhold payment of part, or the whole of any invoice and to renegotiate the contract price if the supplier has provided Goods, Services or carried out Works which are below the standard required of the specification.
12. Following acceptance of the Goods or upon completion of the Services or Works or as otherwise agreed in writing the Supplier shall deliver to the Council a detailed invoice; or, if the Supplier is registered for VAT, a valid VAT invoice.
13. The Council will bring disputed invoices to the attention of the supplier within 10 working days of receipt. Invoices paid but which are later disputed shall be corrected by the Supplier within 10 working days by issue of a credit note for the disputed amount. Overpayments shall be repaid by the Supplier to the Council within the said 10 working days. The Council shall not be obliged to accept a credit note in lieu of a refund of an overpaid sum.
14. Unless agreed otherwise, payment of invoices by the Council shall be in British pounds sterling. The Council's normal method of payment is by Bacs Direct Credit through the system operated by Bacs Payment Schemes Limited commonly known as a payment by BACS.
15. The Supplier shall not without the prior written consent of the Council, sub-contract the subject matter of the Purchase Order or assign either the benefit or the burden of the contract or any part of it.
16. The Council may cancel this contract and recover from the Supplier any loss resulting from such cancellation if the Supplier or any person acting on his behalf shall have offered, given, or agreed to give any officer or member of the Council any gift or consideration of any kind as an inducement or reward in respect of the contract, or shall have committed any offence under the Bribery Act 2010 or Section 117 of the Local Government Act 1972.
17. The Council may terminate the contract if the Supplier becomes bankrupt or is wound-up or becomes insolvent or, is subject to any application or any procedure for bankruptcy, winding up, or corporate reorganisation or, a liquidator, receiver or manager is appointed in relation to the Supplier's Business or, an administration order is made against the Supplier.

18. The Supplier shall be liable for and shall indemnify the Council against any expense liability, loss, claim, actions, or proceedings whatsoever in respect of personal injury to or death of any person arising out of or in the course of or caused by the supply of Goods, or his provision of Services, or his undertaking of Works as required by the Purchase Order, to the extent that the same is due to any act or neglect of the Supplier or any of the persons employed by the Supplier.
19. The Supplier shall be liable for, and shall indemnify the Council against, any expense, liability, loss, claim or proceedings, in respect of any loss, injury or damage whatsoever to any property real or personal in so far as such loss, injury or damage arises out of or in the course of or by reason of the carrying out of the supply of Goods, or the provision of Services, or the undertaking of Works as required by the Purchase Order and to the extent that the same is due to any negligence, breach of statutory duty, omission or default of the Supplier or the Suppliers staff.
20. Without prejudice to the requirements of clauses 18 and 19 above, unless the Council have agreed otherwise in writing, the Supplier shall take out, and maintain with a major reputable insurance company with offices in the European Economic area:
 - a. a policy of insurance covering the risks described in clause 18 and which shall comply with all relevant legislation; and,
 - b. a policy or policies of insurance covering the risks described in clause 19 above which, unless the Supplier has negotiated with the Council a lesser sum before acceptance of the Purchase Order, shall in respect of claims, be for a sum of not less than £10,000,000.00 in respect of any one occurrence or series of occurrences arising out of one event.
21. The Supplier shall, upon request, produce to the Council evidence that the policies of insurance required under condition 19 above are in place.
22. As part of their commitment to be open and transparent, the Council will publish a list of all payments of £500.00 and over made to suppliers and contractors.
23. Where any Works fall under the HMRC Construction Industry Scheme the contractor must supply the Council with a unique tax reference (UTR) and valid company registration or national insurance number. Invoices should detail costs for labour and materials separately.
24. The Purchase Order shall be subject to the laws of England and the Council and the Supplier hereby submit themselves to the exclusive jurisdiction of the courts in England.