

Bristol City Council - Terms and Conditions for supply of goods and/or work

- 1.1 **These Terms** apply to anything ordered by the Council unless either: -
 - 1.1.1 The Council has expressly agreed otherwise in writing, or
 - 1.1.2 This order is for something covered by an existing written contract.
- 1.2 These terms will prevail over any standard terms you may have sent to the Council.
- 1.3 In these terms 'you' includes anyone you employ, anyone acting on your behalf, anyone associated with you and any subcontractor whether authorised by the Council or not.

2 Formalities

- 2.1 You may only regard something as ordered if it has been ordered on a Council's order form duly signed or if an electronic ordering system is in place between us has been ordered according to the protocols governing such system. Failure to comply with this means you will not be entitled to be paid.

3 Contract Standards

- 3.1 The Council is relying on you to fulfil this order with the skill, experience and judgement of a person fully qualified and experienced in all areas of business required to do so. This includes reliance on your skill, experience and judgement in respect of health and safety and in the selection of anything that may be required.
- 3.2 You will perform the contract to the Council's satisfaction. Work will be done in a good, substantial and workmanlike manner. Anything supplied will be of satisfactory quality. If you know the Council requires something for a particular purpose, it will be fit for that purpose. Anything described in this Order or in any quotation or any other representation you may have made to the Council will comply with that description. Anything sold by reference to a sample will be as good as or better than the sample.
- 3.3 Where there is a current appropriate British Standard Specification or British Standard Code of Practice issued by the British Standards Institute or an equivalent European standard, all goods and materials used or supplied and all workmanship will meet that standard unless the Council agrees, or this Order specifies, otherwise.
- 3.4 You will transfer good title to anything supplied to the Council unencumbered and without any reservation to anyone else.
- 3.5 Where anything supplied to the Council is subject to any intellectual property rights, you will ensure that the supply does not infringe those rights, and they are not limited in any way which will inhibit the Council's use of whatever is supplied for the purposes envisaged by the supply or expose the Council to any claim for additional charges that were not set out and quantified in full in your quotation.
- 3.6 You will comply with all legislation and guidance as may from time be in force relating to health and safety, race relations, disability and sex or any other forms of discrimination.

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4 Delivery

- 4.1 Work will be done and goods delivered in accordance with any timetable that was stipulated by the Council or formed part of your quotation before or at the time of the order. If there was no such timetable work will be done and goods delivered within a reasonable time. In such case, the Council may give you a reasonable time limit within which the contract must be performed. If so, you will meet that timetable.
- 4.2 You are responsible for delivery of goods to the Council. You will not charge for transport or delivery unless this was set out and quantified in full in your quotation and has been agreed by the Council in the order. Goods remain at your risk until delivered in accordance with this contract. If you use a third party to transport or deliver goods, they are your agent, and you are responsible for their actions or failures.
- 4.3 Unless agreed otherwise, title to goods will pass to the Council on whichever is the earlier of delivery or payment.

5 Payment

- 5.1 All prices you have quoted to the Council are firm prices and will not be varied. Quotations should be exclusive of VAT and this must be clearly stated. If this is not indicated clearly, the Council is entitled to treat any quotation as inclusive of VAT.
- 5.2 You will provide the Council with a valid VAT invoice which clearly identifies to what it relates and states the Council's order number. If it relates to more than one order or chargeable item, they, and their prices and quantities will be fully itemised. Unless the Council has expressly agreed otherwise, you will not invoice the Council before the whole of an order has been performed. An invoice is only a valid invoice if it complies in full with this clause.
- 5.3 Unless it is disputed the Council will pay you by the end of the month next after the month in which it received a valid invoice. It is not obliged to pay you at all unless it has received a valid invoice.
- 5.4 The Council may set off anything you owe it, whether under this contract or some other basis, against any sum due to you. If so, it will give you a statement in writing that it is making a set off and how it is made up. This may include sums owed to it as a public body.

6 Breach

- 6.1 The Council may reject goods or work which in its opinion do not meet the Contract Standards, are not what it ordered or which have not been provided in accordance with instructions the Council gave you in the order or with what you have agreed with the Council.
- 6.2 Immediately on receiving notice of such rejection you will at your own expense remove any rejected goods and/or complete the rejected work to the standard required. If you do not remove rejected goods within three days of such notice the Council may remove them and you will reimburse it the cost of doing so. The Council may dispose of such removed goods in whatever way it thinks fit including sale or destruction.

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- 6.3 If the Council rejects goods or work and you do not replace them in accordance with the Contract or if you do not perform the Contract in accordance with its terms or at all, the Council may purchase other goods or work elsewhere as near as practicable as circumstances permit to what you should have provided.
- 6.4 Instead of rejecting unsatisfactory goods or work, the Council may choose to pay you a reduced price for them/it. The reduced price will be whichever is the lower of the actual market value of the goods or work in their unsatisfactory condition or the contract price less whatever the Council would need to spend to make the goods or work up to the Contract Standard.

7. Remedies

- 7.1 You will indemnify the Council in full in respect of any loss or expense of any kind and whether direct or indirect which it may suffer as a result of any breach of this contract by you or anyone for whom you are answerable. For the avoidance of doubt, this indemnity will include;
- 7.1.1 the cost of any remedial measures and any steps the Council may take to recover anything from you or any third party;
- 7.1.2 the excess over what the Council would have paid you if it purchases alternative goods or work from someone else in place of what you should have provided;
- 7.1.3 anything the Council pays anyone else as a result of such breach whether or not as a result of litigation by that person unless it was manifestly unreasonable that the Council should have agreed to make such payment;
- 7.1.4 the costs of any delay;
- 7.1.5 any costs to which the Council is put as a result of terminating this contract; and
- 7.1.6 any intellectual property claims.
- 7.2 You may withhold delivery of goods or work if the Council does not pay you, but only after a written notice to the Council which allows it a reasonable time to pay you, and not in respect of sums that are disputed.
- 7.3 The Council may terminate this Contract if :-
- 7.3.1 you do not perform it;
- 7.3.2 you break its terms significantly;
- 7.3.3 you offer, give or agree to give anyone any gift, bribe, inducement or consideration for doing or not doing anything in relation to this or any other contract with the Council or any other local authority or public body or commit any offence under the Prevention of Corruption Acts 1889 to 1916 or give any fee or reward the receipt of which is an offence under Section 117(2) Local Government Act 1972 or any re-enactment of them; or
- 7.3.4 you cease trading, become bankrupt, make any sort of arrangement with your creditors, commence or suffer winding up (other than for purposes of reconstruction), have a liquidator, receiver, administrator or manager appointed or have steps taken by anyone to enforce any sort of charge against you;

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7.4 If the Council terminates this contract it shall not owe you anything beyond what it owes you for goods or work which it has received.

8 Miscellaneous

8.1 Receipt or acceptance of any goods or work, payment of money or the passage of time shall not be a waiver of any right by either of us against the other or an acknowledgement by either party that goods or work has met the Contract Standards.

8.2 You will insure with a reputable insurance company against the risk of your liabilities to the Council under 6.1 and if it requires you to do so, will produce evidence to the Council that such insurance is in place.

8.3 You will not subcontract anything covered by this contract without the Council's written approval. If approval is given, it will be on the basis that you remain liable to the Council for anything done or omitted by the subcontractor as though you had done it yourself.

8.4 The rate of interest payable in respect of any sum due under this agreement shall be 2% above Bank of England Base Rate as it may be from day to day in lieu of any rate otherwise prescribed by law, and no interest shall accrue in respect of sums genuinely disputed during the period of dispute. In the interests of commercial certainty interest shall only be payable if claimed in writing within two months of the date when sum on which the interest is being claimed was due.