

**Rushmoor Borough Council
(Council)
Terms and conditions applicable to
Purchase Orders**

1. Background Information

- 1.1 The Council may enter into purchase orders in relation to the purchase of goods and services (**Purchase Orders**) with providers of such good and services (**Provider**). These terms and conditions shall apply to each such Purchase Order, subject only to the specific details set out in that Purchase Order. Such specific details shall take precedence over these terms and conditions in the event of any inconsistency.
- 1.2 By signing any Purchase Order, or by providing any goods and/or services pursuant to such Purchase Order, the Provider accepts these terms and conditions in full.
- 1.3 All written quotations or proposals made by the Provider, in relation to the subject matter of the Purchase Order, are subject to these terms and conditions. No addition or variation to these terms and conditions may be made by the Provider, whether through any submission or quotation or otherwise, unless expressly agreed, in advance and in writing, by the Council.

2. Definitions

In these terms and conditions, the following terms shall have the following meanings:

- 2.1 **“Best Industry Practice”** the standards which fall within the upper quartile of the relevant industry in relation to the relevant Good or Services
- 2.2 **“Confidential Information”** any information which has been designated as confidential by either Party in writing, or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored), including information which relates to the business, affairs, properties, assets, trading practices, Services, developments, trade secrets, Intellectual Property Rights, know-how, personnel, customers and providers of either Party, all personal data and sensitive personal data within the meaning of the Data Protection Laws
- 2.3 **“Contract Officer”** the officer of the Council named on the applicable Purchase Order
- 2.4 **“Council”** Rushmoor Borough Council
- 2.5 **“Data Controller”** has the meaning given to ‘Data Controller’ (or ‘Controller’ as appropriate) in the Data Protection Laws
- 2.6 **“Data Breach”** a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data transmitted, stored or otherwise processed
- 2.7 **“Data Processor”** has the meaning given to ‘Data Processor’ (or ‘Processor’ as appropriate) in the Data Protection Laws
- 2.8 **“Data Processing Table”** the data processing table set out in the relevant Purchase Order
- 2.9 **“Data Protection Laws”** all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR; the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder); and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of Personal Data (including, without limitation, the privacy of electronic communications) and the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority and applicable to either Party

- 2.10 **"Force Majeure Event"** any cause affecting the performance by a Party of its obligations under these terms and conditions and the relevant Purchase Order and which arises from acts, events, omissions or non-events beyond its reasonable control, including acts of God, riots, war, acts of terrorism, fire, flood, storm or earthquake and any disaster, but excluding any industrial dispute relating to the Provider or any other failure in the Provider's supply chain
- 2.11 **"GDPR"** has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018)
- 2.12 **"Goods"** all or any of the items described in the relevant Purchase Order
- 2.13 **"Insolvency Event"** where:
- a) the Provider suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
 - b) the Provider commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of the Provider with one or more other companies or the solvent reconstruction of that other Party;
 - c) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Provider other than for the sole purpose of a scheme for a solvent amalgamation with one or more other companies or the solvent reconstruction of the Provider;
 - d) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the Provider;
 - e) the holder of a qualifying floating charge over the assets of the Provider has become entitled to appoint or has appointed an administrative receiver;
 - f) a person becomes entitled to appoint a receiver over the assets of the Provider or a receiver is appointed over the assets of the Provider;
 - g) the Provider (being an individual) is the subject of a bankruptcy petition or order;
 - h) a creditor or encumbrancer of the Provider attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other Provider's assets and such attachment or process is not discharged within fourteen (14) days;
 - i) any event occurs, or proceeding is taken, with respect to the Provider in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in (a) to (h) of this definition (inclusive);
 - j) the Provider suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
 - k) the Provider (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation
- 2.14 **"Intellectual Property Rights"** any patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

- 2.15 **"Losses"** all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses)
- 2.16 **"Personal Data"** has the meaning given in the Data Protection Laws
- 2.17 **"Prohibited Act"** means the Provider (or any person acting on the Provider's behalf, with or without the knowledge of the Provider):
- (a) offering, giving or agreeing to give to any person any gift or consideration of any kind as an inducement or reward for doing, forbearing to do, or for having done or refrained from doing, any action in relation to the subject matter of the relevant Purchase Order or any other contract between the Provider and the Council;
 - (b) showing, or forbearing to show, favour or disfavour to any person in relation to the subject matter of the relevant Purchase Order or any other agreement with the Council;
 - (c) in relation to any contract between the Council and the Provider (or between the Council and any person employed by the Provider, or acting on the Provider's behalf) committing any offence under the Bribery Act 2010 or any amendment to it;
 - (d) giving any fee or reward the receipt of which is an offence under section 117 (2) of the Local Government Act 1972;
 - (e) offering, giving or agreeing to give to any employee, officer or member of the Council any gift or consideration of any kind as an inducement or reward;
 - (f) doing or not doing (or having done or not having done) any wrongful act in relation to obtaining, or performance of, the subject matter of the relevant Purchase Order or any other contract with the Council;
 - (g) paying commission in relation to the subject matter of the relevant Purchase Order or any other Contract between the Council and the Provider unless, before the relevant contract is entered into, particulars of any such commission have been approved in writing by the Council; or
 - (h) committing any fraudulent act, or attempting to defraud or conspiring to defraud
- 2.18 **"Provider"** the person, partnership, company or other entity entering into the relevant Purchase Order
- 2.19 **"Purchase Order"** has the meaning set out in clause 1.1
- 2.20 **"Services"** the services (where applicable) described in the Purchase Order and to be performed by the Provider for the Council
- 2.21 **"Specification"** the requirements in conformity with which the Goods and/or Services are to be performed or supplied (as applicable) and as set out in the relevant Purchase Order

3. Quality

The Provider warrants, undertakes and represents to the Council that the Goods and/or Services:

- 3.1 comply with the quality and description as set out in the Purchase Order;
- 3.2 are fit for purpose;
- 3.3 comply in all respects with the Specification; and
- 3.4 without prejudice to any specific requirements of the relevant Purchase Order or these terms and conditions, will be performed or supplied:
 - 3.4.1 to the reasonable satisfaction of the Council;
 - 3.4.2 in accordance with Best Industry Practice; and
 - 3.4.3 in accordance with all applicable law.

4. Delivery

4.1 The Provider shall deliver the Goods:

4.1.1 to or at the address stated in the relevant Purchase Order unless otherwise instructed by the Contract Officer to the Provider in writing. All packages must bear the address of the Council and be for the attention of the Contract Officer; and

4.1.2 in accordance, in all respects, with the Purchase Order and, for Goods, shall obtain a receipt for them signed by an appropriate officer of the Council.

4.2 On delivery the Council shall not be deemed to have accepted the Goods (whether or not an advice/delivery note has been signed) until the Council has had a reasonable opportunity to examine the Goods. The Council shall have the right to reject any Goods (or part) that in its opinion fail to meet the relevant Specification, is not otherwise fit for purpose and/or are not consistent with any sample previously provided.

5. Price and Payment

5.1 Unless the Council has agreed, in writing and in advance to an increase, no increase to the price set out in the relevant Purchase Order shall be valid.

5.2 Subject to compliance by the Provider with these terms and conditions, the Council will make payment to the Provider within 30 days of receiving a valid VAT invoice.

5.3 The Provider's invoice must include the number of the relevant Purchase Order for the Goods and/or Services, and be sent to the Council at the invoice address shown on the Purchase Order.

5.4 Payment will normally be made by the Council directly to the Provider's bank account through BACS Ltd or other electronic payment means. The Provider should ensure that the Council has its correct bank account details.

6. Right of set-off

The Council may retain or set-off against any sums due to the Provider in connection with the subject matter of a Purchase Order any sum owed by the Provider to the Council under any other contract or arrangement between them.

7. Risk and ownership

Risk and ownership of the Goods will pass to the Council on delivery to the address stated in the Purchase Order unless otherwise instructed in accordance with 4.1 and 4.2 above. In the event of a dispute over receipt of the Goods by the Council the Provider must produce appropriate evidence (an advice or delivery note) signed by a Council officer.

8. Indemnities

8.1 The Provider shall keep the Council indemnified against all Losses suffered or incurred by the Council as a result of or in connection with:

8.1.1 any claim made against the Council for actual or alleged infringement of a third party's Intellectual Property Rights arising out of or in connection with the supply or use of the Goods and/or Services, to the extent that the claim is attributable to the acts or omissions of the Provider, its employees, agents or subcontractors;

8.1.2 any claim made against the Council by a third party for death, personal injury or damage to property arising out of or in connection with defects in the Goods, to the extent that the defects in the Goods are attributable to the acts or omissions of the Provider, its employees, agents or subcontractors;

- 8.1.3 any claim made against the Council by a third party arising out of or in connection with the supply of the Goods or the Services or both, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Agreement by the Provider, its employees, agents or subcontractors;
- 8.1.4 the enforcement of the relevant Purchase Order and/or these terms and conditions;
- 8.1.5 any breach of statutory duty arising in connection with the relevant Purchase Order; and
- 8.1.6 termination of the relevant Purchase Order as a result of any breach or default in which case the Losses of the Council may include, without limitation, the costs of re-procurement of the relevant Good or Services, and any additional costs incurred by the Council in relation to those Good or Services relevant to the costs agreed by the Provider under the relevant Purchase Order.

8.2 This clause 8 shall survive the termination of the relevant Purchase Order.

9. Insurance

The Provider will ensure that it has insurances in place which

- 9.1 adequately cover all of its potential liabilities to the Council pursuant to the relevant Purchase Order and these terms and conditions under this Agreement;
- 9.2 are required as a result of any law, or Best Industry Practice; or
- 9.3 have been specifically required by the Council as part of the relevant Purchase Order.

10. Assignment

The Provider shall not assign, transfer, charge or sub-contract its obligations and responsibilities in connection with the relevant Purchase Order or these terms and conditions to any third party without the written consent of the Council (and which the Council in its absolute discretion may decide to withhold). Where assignment, transfer, charge or sub-contracting is permitted the Provider shall remain directly responsible to the Council for the performance of the relevant Purchase Order and these terms and conditions.

11. Third Party Rights

A person who is not a party to the Purchase Order has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Purchase Order or these terms and conditions.

12. Intellectual Property

- 12.1 All Intellectual Property Rights in any Goods and/or Services which are original works created by the Provider for the Council pursuant to the subject matter of the relevant Purchase Order or these terms and conditions will belong to the Council and the Provider undertakes to promptly do all things necessary and execute all such documents to transfer any such rights to the Council.
- 12.2 The Provider shall indemnify the Council against all Losses incurred by the Council as a result of infringement of any third party's Intellectual Property Rights arising as a result of the subject matter of any Purchase Order.

13. Corruption Gifts and Payments

- 13.1 The Provider shall not commit any Prohibited Act in relation to the subject matter of the Purchase Order, these terms and conditions, or any other contract with the Council.

13.2 Any breach of Clause 13.1 by the Provider, (whether with or without the Provider's knowledge) or by any of its officers, employees, agents or contractors shall entitle the Council to terminate the relevant Purchase Order with immediate effect as a result of the default by the Provider.

13.3 The Provider shall indemnify the Council against any Losses which arise as a result of a breach by the Provider of its obligations under this clause 13.

14. Freedom of Information and Confidentiality

14.1 In respect of any Confidential Information it may receive from the other Party ("Discloser") and subject always to the remainder of this clause 14 (Freedom of Information and Confidentiality), each Party ("Recipient") undertakes to keep secret and strictly confidential and shall not disclose any such Confidential Information to any third party, without the Discloser's prior written consent provided that the Recipient shall not be prevented from disclosing information which:

14.1.1 is in or enters the public domain other than by breach of the relevant Purchase Order, breach of these terms and conditions, or other act or omissions of the Recipient;

14.1.2 is obtained by a third party who is lawfully authorised to disclose such information;

14.1.3 is authorised for release by the prior written consent of the Discloser; or

14.1.4 where the Discloser is the Council, is disclosed:

(a) pursuant to the Freedom of Information Act 2000 (the "FOIA") or the Environmental Information Regulations 2004 (the "EIR") or any other such relevant legislation, codes or guidance;

(b) as a result of any regulatory, audit or statutory requirement; or

(c) as a result of publication or disclosure of any Purchase Order, or these terms and conditions, in whole or in part;

14.2 is required to do so by judicial, administrative, governmental or regulatory process in connection with any action, suit, proceedings or claim or otherwise by applicable law or, provided that the information is subject to confidentiality undertakings equivalent to those set out in clause 14.1, to its professional advisors or insurers.

14.3 The Provider acknowledges that the Council is subject to the FOIA and the EIR. The Provider notes and acknowledges the FOIA, the EIR and the Codes of Practice under section 45 and 46 of the FOIA. The Provider will act in accordance with the FOIA, the EIR and these Codes of Practice (and any other applicable codes of practice or guidance notified to the Provider from time to time) to the extent that they apply to the Provider's supply or performance under the relevant Purchase Order or these terms and conditions.

14.4 The Provider agrees that:

14.4.1 without prejudice to the generality of clause 14.1.4(a), the provisions of this clause 14 are subject to the obligations and commitments of the Council under the FOIA and the Codes of Practice issued under section 45 and 46 of the FOIA; and

14.4.2 where it considers that any information should not be available for disclosure, it will:

(a) identify it specifically; and

(b) explain the grounds for exemption from disclosure and the time period applicable to that sensitivity; and

(c) all decisions regarding disclosure of information following a Request for

Information pursuant to the FOIA or EIR will, notwithstanding any information provided pursuant to clause 14.1.4(a) and (b), be made at the sole discretion of the Council. Accordingly, the Provider acknowledges that, even where the Provider has indicated that information is commercially sensitive: (i) the Council may disclose it under the FOIA or EIA without consulting the Provider; but (ii), will use reasonable endeavours to consult with the Provider prior to any such disclosure.

14.5 The Provider shall transfer to the Council any Request for Information it should receive, as soon as practicable after receipt and in any event within five (5) Business Days of receiving a Request for Information.

14.6 Where the Council is managing any Request for Information, the Provider shall co-operate with the Council and shall respond, together with copies of any documentation requested by the Council, within five (5) Business Days of any request by it for assistance.

15. Data Protection

15.1 Where the Provider, pursuant to this subject matter of the relevant Purchase Order, processes Personal Data on behalf of the Council the Provider acknowledges that the Council is the Data Controller and the owner of such Personal Data, and that the Provider is the Data Processor.

15.2 The Provider, as Data Processor, warrants that it has complied, and shall continue to comply, with the requirements of the applicable Data Protection Laws in any jurisdiction relevant to the subject matter of the relevant Purchase Order.

15.3 In respect of any Personal Data to be processed by the Provider as Data Processor pursuant to the subject matter of the relevant Purchase Order for which the Council is Data Controller the Provider, as Data Processor, shall:

15.3.1 have in place and maintain appropriate technical and organisational measures in such a manner as is designed to ensure the protection of the rights of the data subject and to ensure a level of security appropriate to the risk and shall implement any reasonable security measures as requested by the Council from time to time;

15.3.2 not engage any sub-processor without the prior specific or general written authorisation of the Council (and in the case of general written authorisation the Provider, as Data Processor, shall inform the Council of any intended changes concerning the addition or replacement of other processors and the Council shall have the right to object to such changes);

15.3.3 ensure that each of the Provider's employees, agents, consultants, sub-contractors and sub-processors are made aware of the Provider's obligations under this clause 15 and enter into binding obligations with the Provider to maintain the levels of security and protection required pursuant to this clause 15. The Provider, as Data Processor, shall ensure that the terms of this clause 15 are incorporated into each agreement with any sub-processor, sub-contractor, agent or consultant to the effect that the sub-processor, sub-contractor, agent or consultant shall be obligated to act in accordance with duties and obligations of the Provider pursuant to this clause 15. Provider is and shall remain liable to the Council for any failure of any employee, agent, consultant, sub-contractor or sub-processor to act in accordance with the duties and obligations of the Provider pursuant to this clause 15;

15.3.4 process Personal Data on behalf of the Council only in accordance with the Council's instructions and to the extent necessary in order to perform its obligations in relation to the subject matter of the relevant Purchase Order or other documented instructions and for no other purpose, save to the limited extent required by law;

15.3.5 within seven days following the end of the relevant Purchase Order (however so determined) deliver to the Council (in such format as the Council may require) a full and complete copy of all Personal Data and, following confirmation of receipt from the

Council permanently remove the Personal Data (and copies) from the Provider's systems, and the Provider shall certify to the Council that it has complied with these requirements. The Provider acknowledges that all Personal Data processed by it pursuant to the subject matter of a Purchase Order shall remain confidential in perpetuity;

- 15.3.6 ensure that all persons authorised to access the Personal Data are subject to obligations of confidentiality and receive training to ensure compliance with these terms and conditions and the Data Protection Laws;
- 15.3.7 make available to the Council all information necessary to demonstrate compliance with the obligations under Data Protection Laws and this clause 15 and allow for and contribute to audits, including inspections, conducted by the Council or another auditor mandated by the Council, of the Provider's data processing facilities, procedures and documentation (and the facilities, procedures and documentation of any sub-processors) in order to ascertain compliance with this clause 15, within five Business Days of request by the Council and, following any such audit, and without prejudice to any other rights of the Council, the Provider shall implement such measures which the Council considers reasonably necessary to achieve compliance with the Provider's obligations pursuant to this clause 15. This is provided that the Provider shall immediately inform the Council if, in its opinion, an instruction infringes Data Protection Laws;
- 15.3.8 taking into account the nature of the processing, provide assistance to the Council within such timescales as the Council may require from time to time in connection with the fulfilment of the Council's obligation as Data Controller to respond to requests for the exercise of data subjects' rights pursuant to Data Protection Laws to the extent applicable;
- 15.3.9 deal promptly and properly with all enquiries or requests from the Council relating to the Personal Data and the data processing activities and promptly provide to the Council, in such form as the Council may request, a copy of any Personal Data requested by the Council;
- 15.3.10 assist the Council (where requested by the Council) in connection with any regulatory or law enforcement authority audit, investigation or enforcement action in respect of the Personal Data;
- 15.3.11 immediately notify the Council in writing about:
 - (a) any Data Breach or any accidental loss, disclosure or unauthorised access of which the Data Processor becomes aware in respect of Personal Data that it processes on behalf of the Council;
 - (b) any request for disclosure of the Personal Data by a law enforcement authority (unless otherwise prohibited); and
 - (c) any access request or complaint received directly from a data subject (without responding other than to acknowledge receipt);
- 15.3.12 maintain a record of its processing activities in accordance with Data Protection Laws;
- 15.3.13 process Personal Data only in accordance with the details set out in the Data Processing Table as amended by the Council by notice in writing, acting reasonably, from time to time to reflect changes to the Services and/or Goods or the way in which they are delivered; and
- 15.3.14 indemnify the Council against all Losses suffered or incurred by the Council or for which it may become liable as a result of or in connection with any failure of the Data Processor, its employees, agents, consultants, sub-contractors or sub-processors to comply with this clause 15 or any Data Protection Laws.

15.4 In respect of any Personal Data to be processed by a Party acting as Data Processor pursuant to the subject matter of the relevant Purchase Order and for which the other Party is Data Controller, the Data Processor shall not transfer the Personal Data outside the UK or to an international organisation without:

15.4.1 obtaining the written permission of the Data Controller;

15.4.2 ensuring appropriate levels of protection, including any appropriate safeguards if required, are in place for the Personal Data in accordance with the Data Protection Laws;

15.4.3 notifying the Data Controller of the protections and appropriate safeguards in clause 15.4.2; and

15.4.4 documenting and evidencing the protections and appropriate safeguards referred to in clause 15.4.2 and allowing the Data Controller access to any relevant documents and evidence.

16. Compliance with Anti-Slavery and Human Trafficking Laws and Policies

In performing its obligations under the subject matter of the relevant Purchase Order and these Terms and Conditions, the Provider shall:

16.1 comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including but not limited to the Modern Slavery Act 2015;

16.2 not engage in any activity, practice or conduct that would constitute an offence under sections 1, 2 or 4, of the Modern Slavery Act 2015 if such activity, practice or conduct were carried out in the UK; and

16.3 include in its contracts with its direct subcontractors and suppliers anti-slavery and human trafficking provisions that are at least as onerous as those set out in this clause 16.

17. Health and Safety

17.1 The Provider shall (and shall ensure that all sub-contractors and other related parties shall) in relation to the subject matter of the relevant Purchase Order and these terms and conditions comply with:

17.1.1 all relevant health and safety law and regulations, including the requirements of the Health and Safety at Work etc. Act 1974, all other applicable laws;

17.1.2 its own health and safety policies and safe working systems (to be produced to the Council on request); and

17.1.3 in respect of the Council's staff and others who may be affected by the subject matter of the relevant Purchase Order, the Council's health and safety policies and procedures from time to time.

17.2 The Provider shall promptly notify the Council of any incidents related to the provision of the Goods and/or Services which are or may give rise to a health and safety or an environmental hazard.

18. Discrimination

18.1 The Provider acknowledges the Council's obligations under equality Law and agrees to perform (and procure that all of its employees, workers, staff, agents and consultants perform) its obligations in relation to the subject matter of the relevant Purchase Order and these terms and conditions in accordance with:

- 18.1.1 all applicable equality law (whether in relation to race, sex, gender reassignment, age, disability, sexual orientation, religion or belief, pregnancy, maternity or otherwise) including but not limited to the Equality Act 2010 and all applicable Codes of Practice as introduced by the Equality Act 2010 Codes of Practice (Services, Public Functions and Associations, Employment, and Equal Pay) Order 2011/857 as amended from time to time;
 - 18.1.2 the Council's equality and diversity policy as notified to the Provider from time to time;
 - 18.1.3 any other relevant statutory code of practice in relation to equalities legislation or prevention of discrimination in the workplace; and
 - 18.1.4 any other requirements and instructions which the Council imposes in connection with any equality obligations imposed on the Council at any time under applicable equality law or under the Council's own policies or rules.
- 18.2 The Provider shall take all necessary steps, and inform the Council of the steps taken, to prevent unlawful discrimination designated as such by any court or tribunal, or the Equality and Human Rights Commission or (any successor organisation).
- 18.3 To the extent that the Provider's obligations in connection with the subject matter of the relevant Purchase Order and these terms and conditions involve the exercise of public functions of the Council the Provider shall, and shall procure that any of its employees, workers, staff, agents and consultants and, if applicable, any sub-contractors shall comply to the extent permitted by Law with the provisions of:
- 18.3.1 Sections 28 and 29 of the Equality Act 2010, as if they were a body within the meaning of those Sections 28 and 29; and
 - 18.3.2 Part 11 of Chapter 1 of the Equality Act 2010, as if they were a body within the meaning of Schedule 19 of that Act.
- 18.4 The Provider shall assist the Council in its performance of its obligations under the Equality Act 2010 including, but not limited to, the provision of information that the Council shall require in order to monitor:
- 18.4.1 equality of access to the Services and/or Goods; and
 - 18.4.2 compliance with the Council's obligations under equality laws.
- 18.5 The Provider shall provide to the Council such information as the Council may require within seven days of receipt of a request from the Contract Officer.
- 18.6 The Provider shall ensure and shall procure that any sub-contractor shall ensure that any employees, workers, staff, agents and consultants of the Provider or any sub-contractor engaged in the provision of the Goods and/or Services shall comply with the requirements of this clause 18.
- 18.7 Breach of this clause 18 by the Provider shall entitle the Council to terminate the relevant Purchase Order for default of the Provider and with immediate effect.
- 18.8 The Provider shall indemnify the Council against any Losses which arise as a result of a breach by the Provider of its obligations under this clause 18.

19. Human Rights

- 19.1 The Provider shall, and shall procure that its employees, workers, staff, agents and consultants and, if applicable, any sub-contractors, shall comply with the provisions of the Human Rights Act 1998 (HRA 1998) in relation to the subject matter of the relevant Purchase Order and these terms and conditions.

19.2 The Provider shall undertake, or refrain from undertaking, and shall procure that its employees, workers, staff, agents and consultants and, if applicable, any sub-contractors, shall undertake or refrain from undertaking, such acts as the Council requests in order to enable the Council to comply with its obligations under the HRA 1998.

19.3 In the event that the Provider or any of its employees, workers, staff, agents or consultants or any sub-contractor does or omits to do, or permits or allows anything to be done, which is incompatible with the provisions of the HRA 1998 which causes or may cause the Council to be in breach of its obligations under the HRA 1998 the Provider shall immediately notify the Council in writing and the Council may terminate the relevant Purchase Order immediately for default of the Provider.

19.4 The Provider shall indemnify the Council against any Losses which arise as a result of a breach by the Provider of its obligations under this clause 19.

20. Disclosure and Barring Service

When reasonably required by the Council the Provider agrees to comply with the Council's standard requirements to carry out checks at the Disclosure and Barring Service in respect of any of its staff or sub-contractors where they may be in contact with children or vulnerable adults. Information on the Council's standard requirements is available on request.

21. Governing Law

Each Purchase Order, and these terms and conditions, shall be governed by English law and the Provider and the Council shall submit to the exclusive jurisdiction of the English courts.

22. Term and Termination

22.1 The term of the relevant Purchase Order shall be the period stated in that Purchase Order unless terminated earlier in accordance with these terms and conditions.

22.2 The Council may terminate the relevant Purchase Order, with immediate effect by the service of written notice on the Provider and for default of the Provider, where:

22.2.1 the Provider is in breach of any material obligation under the relevant Purchase Order or these terms and conditions provided that, if the breach is capable of remedy, the Council may only terminate pursuant to this clause 22.2 if the Provider has been notified by the Council of the breach and had the opportunity to remedy it and has failed to remedy such breach within 28 days of receipt of notice from the Council to do so;

22.2.2 the Provider has repeatedly breached any one or more of the Provider's obligations under this Agreement in such a manner as to reasonably justify the Council's opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Agreement;

22.2.3 there is an Insolvency Event; or

22.2.4 there is a change of control of the Provider within the meaning of section 1124 of the Corporation Tax Act 2010.

23. Force Majeure

23.1 Subject to the remaining provisions of this clause 23, neither Party shall be liable to the other for any delay or non-performance of its obligations under the relevant Purchase Order or these terms and conditions to the extent that such non-performance is due to a Force Majeure Event.

23.2 In the event that either Party is delayed or prevented from performing its obligations under the relevant Purchase Order or these terms and conditions by a Force Majeure Event, such Party shall:

- 23.2.1 give notice in writing of such delay or prevention to the other Party as soon as reasonably possible, stating the commencement date and extent of such delay or prevention, the cause thereof and its estimated duration;
 - 23.2.2 use all reasonable endeavours to mitigate the effects of such delay or prevention on the performance of its obligations under the relevant Purchase Order and these terms and conditions; and
 - 23.2.3 resume performance of its obligations as soon as reasonably possible after the removal of the cause of the delay or prevention.
- 23.3 A Party cannot claim relief if the Force Majeure Event is attributable to that Party's willful act, neglect or failure to take reasonable precautions against the relevant Force Majeure Event.
- 23.4 The Provider cannot claim relief if the Force Majeure Event is one where a reasonable provider should have foreseen and provided for the cause in question.
- 23.5 As soon as practicable following the affected Party's notification, the Parties shall consult with each other in good faith and use all reasonable endeavours to agree appropriate terms to mitigate the effects of the Force Majeure Event and to facilitate the continued performance of the relevant Purchase Order or these terms and conditions. Where the Provider is the affected Party, it shall take and/or procure the taking of all steps to overcome or minimise the consequences of the Force Majeure Event in accordance with Best Industry Practice.
- 23.6 The affected Party shall notify the other Party as soon as practicable after the Force Majeure Event ceases or no longer causes the affected Party to be unable to comply with its obligations under the relevant Purchase Order or these terms and conditions. Following such notification, the relevant Purchase Order and these terms and conditions shall continue to be performed on the terms existing immediately before the occurrence of the Force Majeure Event unless agreed otherwise by the Parties.
- 23.7 The Council may, during the continuance of any Force Majeure Event, terminate the relevant Purchase Order by written notice to the Provider if a Force Majeure Event occurs that affects all or a substantial part of the Services and/or the delivery of the Goods and which continues for more than 10 Working Days.

24. General

- 24.1 The relevant Purchase Order and these terms and conditions constitute the entire agreement between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 24.2 No failure or delay by a Party to exercise any right or remedy provided under a Purchase Order of these terms and conditions, or which arises under law, shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 24.3 If any provision or part-provision of the relevant Purchase Order or these terms and conditions is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the relevant Purchase Order or these terms and conditions.

Schedule 1 – Data Processing Table

<p>Purposes for which the Personal Data shall be processed. Please specify the purposes for which the Data Processor intends to process the Personal Data.</p>	
<p>Description of the categories of the data subjects. Please specify the categories of data subject whose Personal Data shall be processed under this Agreement.</p>	
<p>Description of the categories of Personal Data. Please specify the categories of Personal Data that shall be processed under this Agreement.</p>	
<p>Description of transfers of Personal Data to a country outside of the EEA. Please record transfers of Personal Data outside of the EEA, recording the country and/or international organization and where applicable, please document suitable safeguards.</p>	
<p>The envisaged time limits for erasure of the different categories of Personal Data. Please specify how long you think the Personal Data will be retained for, where possible.</p>	
<p>General description of technical and organizational security measures. Where possible, please describe the measures put in place under Article 32(1) GDPR.</p>	
<p>Authorised Sub-Processors. List the sub-processors who will process Personal Data.</p>	