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**Publication Date: 25 October 2024**

**Submission deadline: 7th January 2025 MIDDAY**

**Invitation to tender for:** **Christmas Lights for 2025-2027**

**Document 5: Terms & Conditions**

Contract for the supply and installation of Festive Lighting

between

1. Aylesbury town council

and

1. [supplier]

This agreement is dated

**Parties**

**(1)** **Aylesbury Town Council** of Town Hall, 5 Church Street, Aylesbury, Buckinghamshire. HP20 2QP (**Customer**)

**(2)** [**XXXXXXXXX**] [incorporated and registered in England and Wales with company number [XXXXX] whose registered office is at [XXXXXXXXXX] (**Supplier**)

**Background**

(A) The Supplier is in the business of providing, inter alia, community Christmas decorations.

(B) The Customer has undertaken a procurement process to identify and appoint a contractor to design, provide, install, remove and store Christmas decorations for the town of Aylesbury.

(C) Following the said procurement process, the Supplier has been awarded the contract for the design, provision, installation, removal and storage of Aylesbury’s Christmas decorations on the terms set out in this agreement.

Agreed terms

1. Interpretation

The following definitions and rules of interpretation apply in these Conditions.

* 1. Definitions:

1. Business Day: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.
2. Business Hours: the period from 9.00 am to 5.00 pm on any Business Day.
3. Change Order: has the meaning given in clause 17.
4. Christmas Tree: a tree of such species and size as selected, purchased, installed and removed by the Customer.
5. Commencement Date: means the date of this agreement.
6. Conditions: these terms and conditions as amended from time to time in accordance with clause 18.10.
7. Contract: the contract between the Customer and the Supplier for the supply of the Decorations and the Services in accordance with these Conditions.
8. control: has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression **change of control** shall be interpreted accordingly.
9. Customer Materials: has the meaning set out in clause 5.3(i).
10. Deliverables: all documents, products and materials developed (including the Decorations) by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form or media, including drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).
11. **Decorations**: the goods (or any part of them) designed by the Supplier as set out in the Supplier’s Proposals as varied by a Change Order.
12. Intellectual Property Rights: 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.
13. Lighting Hours: the times during which the Decorations should be lit as set out in the Specification.
14. Mandatory Policies: the Customer's business policies listed in the Specification.
15. Remembrance Sunday: the day publicised by the Royal British Legion as the National Day of Remembrance in the UK unless the Customer notifies the Supplier of a different date in writing.
16. Services: the services, including any Deliverables, to be provided by the Supplier under the Contract as set out in the Service Specification which shall include the design, installation, removal and storage of the decorations.
17. Specification: the Customer’s specification for the design, supply, installation, removal and storage of the Decorations set out in Schedule 1.
18. Supplier’s Proposal: the proposal of the Supplier setting out how the Decorations will appear, their technical specification and cost, how the Decorations will be installed, removed and stored as contained in Schedule 2.
    1. Interpretation:
       1. A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
       2. A reference to a party includes its personal representatives, successors and permitted assigns.
       3. A reference to legislation or a legislative provision is a reference to it as amended or re-enacted. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision.
       4. Any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be interpreted as illustrative and shall not limit the sense of the words preceding those terms.
       5. A reference to **writing** or **written** excludes fax but not email.
19. Commencement and duration
    1. This Contract shall commence on the Commencement Date and shall continue, unless terminated earlier in accordance with its terms, until 31 January 2028 when it shall terminate automatically without notice.
    2. The Supplier shall provide the Services to the Customer in accordance with this Contract from the date of this agreement.
    3. These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
    4. All of these Conditions shall apply to the supply of both Decorations and Services except where the application to one or the other is specified.
20. Design and supply of decorations
    1. The Supplier shall ensure that the Decorations shall:
       1. comply with all requirements set out in the Specification.
       2. correspond with their description and specification as set out in the Supplier’s Proposals.
       3. comply with any amendments or variations as set out in any Change Order.
       4. be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for any purpose set out in the Specification or held out by the Supplier or made known to the Supplier by the Customer, expressly or by implication, and in this respect the Customer relies on the Supplier's skill and judgement.
       5. where they are manufactured products, be free from defects in design, materials and workmanship and remain so for the term of the Contract; and
       6. comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Decorations.
    2. The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract in respect of the Decorations.
    3. The Customer may inspect and test the Decorations at any time before delivery. The Supplier shall remain fully responsible for the Decorations despite any such inspection or testing and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract.
    4. If following such inspection or testing the Customer considers that the Decorations do not comply or are unlikely to comply with the Supplier's undertakings at clause 3.1, the Customer shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance.
    5. The Customer may conduct further inspections and tests after the Supplier has carried out its remedial actions.
21. Installation of decorations
    1. The Supplier shall install the Decorations in two phases:
       1. the first phase will commence on or around 15th October in each year and shall end on 31st October in each year; and
       2. the second phase will commence on the day after Remembrance Sunday in each year and will end:
          1. in 2025, on 22nd November.
          2. in 2026, on 21st November; and
          3. in 2027, on 20th November.
    2. Notwithstanding any other provision of the Contract:
       1. the Supplier shall procure that no works of installation or anything related to the installation (including maintenance, repair or testing) of the Decorations shall take place on Remembrance Sunday; and
       2. for the avoidance of doubt, installation of the Decorations forms part of the Services.
    3. The dates in clause 4.1 may be varied by the Customer from time to time in accordance with clause 17.
    4. Notwithstanding the generality of clause 5, the Supplier shall procure and ensure that:
       1. the Decorations are properly packed and secured in such manner as to enable them to reach their destination in good condition.
       2. the Decorations are installed in accordance with the requirements set out in the Specification and in accordance with the Supplier’s Proposal.
       3. the Decorations will be installed in the fixed locations identified in the Supplier’s Proposal as varied from time to time in accordance with clause 17.
       4. installation of the Decorations shall be in accordance with the requirements of Buckinghamshire County Council from time to time, such current requirements set out in Schedule 4 of the Contract.
       5. the Decorations are installed outside of Business or as otherwise directed by the Customer in writing.
       6. between the date the Decorations are turned on pursuant to clause 4.7 and turned off on 5th January in each year, the Decorations are lit each day between the hours of 4.00 pm and 11.30 pm; and
       7. prior to installation of the Decorations, all tests and inspections have been carried out to ensure that the Decorations may be safely installed, that such installation will not cause damage to any property and that the Decorations will remain safely and securely installed for the period that they are in situ prior to their removal.
    5. With the prior approval of the Customer, the Supplier may leave Decorations in situ between the period that they are turned off until they are turned on again in the following year provided that all Decorations must be removed prior to the expiry or earlier termination of the Contract.
    6. If Decorations are left in situ pursuant to clause 4.5, they shall remain at the risk of the Supplier at all times and must be checked and retested in accordance with the Specification as if they had been removed and reinstalled.
    7. The Decorations shall be turned on (which for the avoidance of doubt forms part of the Services) as follows:
       1. in 2025, the Decorations shall be turned on at 5.30 pm on 23rd November.
       2. in 2026, the Decorations shall be turned on at 5.30 pm on 22nd November; and
       3. in 2027, the Decorations shall be turned on at 5.30 pm on 21st November.

provided always that the timings set out in this clause may be changed at any time at the direction of the Customer.

* 1. The Decorations shall be turned off on 5th January in each year of the Contract.
  2. In relation to the turning on and turning off of the Decorations, the Supplier shall:
     1. procure that all Decorations are turned on and turned off simultaneously.
     2. ensure that sufficient, qualified staff are located at the required locations to support and supervise the turning on of the Decorations and where the number of such staff is not specified in the Supplier’s Proposals, the Customer shall direct the number and location of such staff to be on site.
  3. The Supplier shall procure the removal of the Decorations (which for the avoidance of doubt forms part of the Services) in accordance with the following:
     1. the Decorations on or related to the Christmas Tree lights shall be removed on 5th January in each year outside of Business Hours; and
     2. in relation to all other Decorations save for the Decorations which the Customer has confirmed may remain in situe, all Decorations shall be removed by 31st January in each year save that in the last year of the Contract, all Decorations shall be removed.
  4. At all times when the Decorations are not installed, the Supplier shall procure that they are stored (and for the avoidance of doubt such storage shall form part of the Services) at a location provided by the Supplier.
  5. Any damage or deterioration which the Decorations suffer during the term of the Contract is at the sole risk and cost of the Supplier and the cost of repair, maintenance or renewal of the Decorations during such time so as to ensure that the Decorations comply with the requirements of the Contract and is at the sole risk and cost of the Supplier.
  6. Title and risk in the Decorations shall remain with the Supplier at all times irrespective of whether they are installed or in storage.

1. Supply of Services
   1. The Supplier shall from the Commencement Date and for the duration of the Contract supply the Services to the Customer in accordance with the terms of the Contract.
   2. The Supplier shall meet any performance dates for the Services set out in the Specification or otherwise agreed or directed pursuant to the Contract and time is of the essence in relation to any of those performance dates.
   3. In providing the Services, the Supplier shall:
      1. co-operate with the Customer in all matters relating to the Services and comply with all instructions of the Customer.
      2. perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade.
      3. use personnel who are suitably skilled and experienced to perform tasks assigned to them and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Contract.
      4. ensure that the Services will conform with all descriptions, standards and specifications set out in the Specification and that the Deliverables shall be fit for any purpose that the Customer expressly or impliedly makes known to the Supplier.
      5. provide all equipment, tools and vehicles and such other items as are required to provide the Services.
      6. use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to the Customer, will be free from defects in workmanship, installation and design.
      7. obtain and at all times maintain all licences and consents which may be required for the provision of the Services.
      8. observe all health and safety rules and regulations and any other security requirements that apply at any of the Customer's premises.
      9. hold all materials, equipment and tools, drawings, specifications and data supplied by the Customer to the Supplier (Customer Materials) in safe custody at its own risk, maintain the Customer Materials in good condition until returned to the Customer, and not dispose of or use the Customer Materials other than in accordance with the Customer's written instructions or authorisation.
      10. not do or omit to do anything which may cause the Customer to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that the Customer may rely or act on the Services.
      11. comply with any additional obligations as set out in the Specification.
2. Customer remedies
   1. If the Supplier fails to deliver the Decorations by the applicable date or to perform the Services by the applicable date, the Customer shall, without limiting or affecting other rights or remedies available to it, have any one or more of the following rights and remedies:
      1. to terminate the Contract with immediate effect by giving written notice to the Supplier.
      2. to refuse to accept any subsequent performance of the Services or delivery of the Decorations which the Supplier attempts to make.
      3. to recover from the Supplier any costs incurred by the Customer in obtaining substitute goods or services from a third party.
      4. to require a refund from the Supplier of sums paid in advance for Services that the Supplier has not provided or Decorations that it has not delivered; and
      5. to claim damages for any additional costs, loss or expenses incurred by the Customer which are in any way attributable to the Supplier's failure to meet such dates.
   2. If the Supplier has delivered Decorations that do not comply with the requirements of the Contract, then, without limiting or affecting other rights or remedies available to it, the Customer shall have one or more of the following rights and remedies, whether or not it has accepted the Decorations:
      1. to terminate the Contract with immediate effect by giving written notice to the Supplier.
      2. to reject the Decorations (in whole or in part) and to return them to the Supplier at the Supplier's own risk and expense.
      3. to require the Supplier to repair or replace the rejected Decorations, or to provide a full refund of the price of the rejected Decorations.
      4. to refuse to accept any subsequent delivery of the Decorations which the Supplier attempts to make.
      5. to recover from the Supplier any expenditure incurred by the Customer in obtaining substitute goods from a third party; and
      6. to claim damages for any additional costs, loss or expenses incurred by the Customer arising from the Supplier's failure to supply Decorations in accordance with the Contract.
   3. If the Supplier has supplied Services that do not comply with the requirements of the Contract, then, without limiting or affecting other rights or remedies available to it, the Customer shall have one or more of the following rights and remedies:
      1. to terminate the Contract with immediate effect by giving written notice to the Supplier.
      2. to return the Deliverables to the Supplier at the Supplier's own risk and expense.
      3. to require the Supplier to provide repeat performance of the Services, or to provide a full refund of the price paid for the Services.
      4. to refuse to accept any subsequent performance of the Services which the Supplier attempts to make.
      5. to recover from the Supplier any expenditure incurred by the Customer in obtaining substitute services or deliverables from a third party; and
      6. to claim damages for any additional costs, loss or expenses incurred by the Customer arising from the Supplier's failure to comply with the Contract.
   4. These Conditions shall extend to any substituted or remedial services or repaired, or replacement goods supplied by the Supplier.
   5. The Customer's rights and remedies under the Contract are in addition to, and not exclusive of, any rights and remedies implied by statute and common law.
3. Customer's obligations
   1. The Customer shall:
      1. provide, install and remove the Christmas Tree in each year in sufficient time to allow the Supplier to undertake its obligations in relation thereto in accordance with the time requirements set out in the Contract.
      2. provide such necessary information for the provision of the Services as the Supplier may reasonably request and which is held by the Customer.
      3. be responsible for the electricity consumption of the Decorations once installed and when in situ.
      4. arrange for structural integrity testing of lamp columns where appropriate.
4. Charges and payment
   1. The price for the Decorations:
      1. shall be the price set out in Schedule 3; and
      2. shall be inclusive of the costs of packaging, insurance and carriage of the Decorations. No extra charges shall be effective unless agreed in writing and signed by the Customer.
   2. The charges for the Services shall be set out in Schedule 3 and shall be the full and exclusive remuneration of the Supplier in respect of the performance of the Services. Unless otherwise agreed in writing by the Customer, the charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.
   3. The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Services, and the Supplier shall allow the Customer to inspect such records at all reasonable times on request.
   4. The Supplier shall invoice the Customer for the Decorations and the Services at the times and in accordance with the provisions of Schedule 3. Each invoice shall include such supporting information required by the Customer to verify the accuracy of the invoice.
   5. In consideration of the supply of Decorations and/or Services by the Supplier, the Customer shall pay the invoiced amounts within thirty days of the date of a correctly rendered invoice to a UK bank account nominated in writing by the Supplier.
   6. All amounts payable by the Customer under the Contract are exclusive of amounts in respect of valued added tax chargeable from time to time (VAT). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Decorations or Services or both, as applicable, at the same time as payment is due for the supply of the Decorations or Services.
   7. The Customer may at any time, without notice to the Supplier, set off any liability of the Supplier to the Customer against any liability of the Customer to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract. Any exercise by the Customer of its rights under this clause shall not limit or affect any other rights or remedies available to it under the Contract or otherwise.
5. Intellectual property rights
   1. All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any Customer Materials) shall be owned by the Supplier.
   2. The Supplier grants to the Customer or shall procure the direct grant to the Customer of, a fully paid-up, worldwide, non-exclusive, royalty-free perpetual and irrevocable licence to copy and modify the Deliverables (excluding Customer Materials) for the purpose of receiving and using the Services and the Deliverables.
   3. The Customer grants the Supplier a fully paid-up, non-exclusive, royalty-free non-transferable licence to copy any materials provided by the Customer to the Supplier for the term of the Contract for the purpose of providing the Services to the Customer.
   4. The Supplier acknowledges that all rights in the Customer Materials are and shall remain the exclusive property of the Customer.
6. Indemnity
   1. The Supplier shall indemnify the Customer against all liabilities, costs, expenses, damages and losses (including 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 professional costs and expenses) suffered or incurred by the Customer arising out of or in connection with:
      1. any claim made against the Customer for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with, the manufacture, supply or use of the Decorations, or receipt, use or supply of the Services (excluding the Customer Materials);
      2. any claim made against the Customer by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in the Decorations, as delivered, or the Deliverables, to the extent that the defects in the Decorations or Deliverables are attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors.
      3. any claim made against the Customer by a third party for death, personal injury or damage to property arising out of, or in connection with the performance or non-performance of the Services to the extent that such claim is attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors; and
      4. any claim made against the Customer by a third party arising out of or in connection with the supply of the Decorations, as delivered, or the Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Supplier, its employees, agents or subcontractors.
   2. This clause 10 shall survive termination of the Contract.
7. Insurance
   1. During the term of the Contract and for a period of six years afterwards, the Supplier shall maintain in force, with a reputable insurance company:
      1. professional indemnity insurance with a limit of liability of no less than £1 million.
      2. product liability insurance with a limit of liability of no less than £5 million.
      3. public liability insurance with a limit of liability of no less than £5 million.
      4. employers’ liability insurance with a limit of liability of no less than £10 million.
      5. hire in plant insurance with a limit of liability of no less than £500,000.

to cover the liabilities that may arise under or in connection with the Contract and shall produce to the Customer on demand both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

1. Compliance with relevant laws and policies
   1. In performing its obligations under the Contract, the Supplier shall:
      1. comply with all applicable laws, statutes, regulations and codes from time to time in force.
      2. comply with the certification requirements set out in the Specification; and
      3. comply with the Mandatory Policies.
2. Data protection
   1. The following definitions apply in this clause 13:
      1. Controller, Processor, Data Subject, Personal Data, Personal Data Breach, processing and appropriate technical and organisational measures: as defined in the Data Protection Legislation.
      2. Data Protection Legislation: 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 (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (*SI 2003/2426*) and the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority and applicable to a party.
      3. **Domestic Law**: the law of the United Kingdom or a part of the United Kingdom.
      4. UK GDPR: has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.
   2. Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 13 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.
   3. The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Controller, and the Supplier is the Processor.
   4. Without prejudice to the generality of clause 13.2, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Supplier and/or lawful collection of the Personal Data by the Supplier on behalf of the Customer for the duration and purposes of the Contract.
   5. Without prejudice to the generality of clause 13.2, the Supplier shall, in relation to any Personal Data processed in connection with the performance by the Supplier of its obligations under the Contract:
      1. process that Personal Data only on the documented written instructions of the Customer unless the Supplier is required by Domestic Law to otherwise process that Personal Data. Where the Supplier is relying on Domestic Law as the basis for processing Personal Data, the Supplier shall promptly notify the Customer of this before performing the processing required by the Domestic Law unless the Domestic Law prohibits the Supplier from so notifying the Customer.
      2. ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Customer, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
      3. ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
      4. not transfer any Personal Data outside of the UK unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:
         1. the Customer or the Supplier has provided appropriate safeguards in relation to the transfer.
         2. the Data Subject has enforceable rights and effective legal remedies.
         3. the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
         4. the Supplier complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data.
      5. assist the Customer, at the Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators.
      6. notify the Customer without undue delay on becoming aware of a Personal Data Breach.
      7. at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the Contract unless required by Domestic Law to store the Personal Data; and
      8. maintain complete and accurate records and information to demonstrate its compliance with this clause 13 and allow for audits by the Customer or the Customer's designated auditor and immediately inform the Customer if, in the opinion of the Supplier, an instruction infringes the Data Protection Legislation.
   6. The Customer does not consent to the Supplier appointing any third-party processor of Personal Data under the Contract.
   7. The Customer may, at any time on not less than 30 days' notice, revise this clause 13 by replacing it with any applicable controller to processor standard clauses or similar terms adopted under the Data Protection Legislation or forming part of an applicable certification scheme (which shall apply when replaced by attachment to the Contract).
3. Termination
   1. Without affecting any other right or remedy available to it, the Customer may terminate the Contract:
      1. with immediate effect by giving written notice to the Supplier if:
         1. there is a change of control of the Supplier.
         2. the Supplier commits a breach of clause 11.1; or
         3. the Supplier commits a breach of clause 12.1
      2. for convenience by giving the Supplier three months' written notice.
   2. Without affecting any other right or remedy available to it, the Customer may terminate the Contract with immediate effect by giving written notice to the other party if:
      1. the other party commits a material breach of any term of the Contract and (if such breach is remediable) fails to remedy that breach within a period of fourteen days after being notified in writing to do so.
      2. the Supplier takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
      3. the Supplier suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
      4. the Supplier’s financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy.
4. Consequences of termination
   1. On termination of the Contract, the Supplier shall immediately deliver to the Customer all Deliverables whether or not then complete and return all Customer Materials. If the Supplier fails to do so, then the Customer may enter the Supplier's premises during Business Hours and take possession of them. Until they have been returned or delivered, the Supplier shall be solely responsible for their safekeeping and will not use them for any purpose not connected with the Contract.
   2. Termination or expiry of the Contract shall not affect the parties' rights and remedies that have accrued as at termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.
   3. Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.
5. Confidentiality
   1. Each party undertakes that it shall not at any time during the Contract and for a period of two years after termination or expiry of the Contract, disclose to any person any confidential information concerning the business, assets, affairs, customers, clients or suppliers of the other party, except as permitted by clause 16.2.
   2. Each party may disclose the other party's confidential information:
      1. to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under the Contract. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 16; and
      2. as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
   3. Neither party shall use the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.
6. Change control

17.1The Customer may propose changes to the scope, nature, design or execution of the Decorations and/or the Services or to any other provision of the Contract, but no proposed changes shall come into effect until a relevant Change Order has been signed by both parties. A **Change Order** shall be a document setting out the proposed changes and the effect those changes will have on:

* + 1. the Services.
    2. the Decorations.
    3. costs.
    4. the timetable for the Services; and
    5. any terms of this agreement.

17.2 If the Customer wishes to make a change:

1. it shall notify the Supplier, providing as much detail as is reasonably necessary to enable the Supplier to prepare the draft Change Order; and
2. the Supplier shall, within ten Business Days of receiving the Customer's request at clause 17.2(a), provide a draft Change Order to the Customer.

17.3The Supplier shall use all reasonable endeavours to meet the requirements and objectives of the Customer as communicated to the Supplier in as cost effective and efficient manner as possible.

* 1. If the Customer:
     1. agrees to the Change Order, both parties shall sign the same and that Change Order shall amend this agreement; or
     2. does not agree the Change Order, the Customer may require the disagreement to be dealt with in accordance with clause 19 (multi-tiered dispute resolution procedure).

17.5The Supplier shall not be entitled to charge for the time it spends on preparing and negotiating Change Orders which originate from the Customer in accordance with clause 17.2.

1. General
   1. **Assignment and other dealings.**
      1. The Customer may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with all or any of its rights and obligations under the Contract.
      2. The Supplier shall not assign, transfer, mortgage, charge, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of the Customer.
   2. **Subcontracting.** The Supplier may not subcontract any or all of its rights or obligations under the Contract without the prior written consent of the Customer. If the Customer consents to any subcontracting by the Supplier, the Supplier shall remain responsible for all the acts and omissions of its subcontractors as if they were its own.
   3. **Notices.**
      1. Any notice given to a party under or in connection with the Contract shall be in writing and shall be:
         1. delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
         2. sent by email to the following addresses (or an address substituted in writing by the party to be served):

Supplier: [ADDRESS].

Customer: Aylesbury Town Council, Town Hall, 5 Church Street, Aylesbury, Buckinghamshire HP20 2QP

* + 1. Any notice shall be deemed to have been received:
       1. if delivered by hand, at the time the notice is left at the proper address.
       2. if sent by pre-paid first-class post or other next working day delivery service at 9.00 am on the second Business Day after posting; or
       3. if sent by email at the time of transmission, or, if this time falls outside Business Hours in the place of receipt, when Business Hours resume.
    2. This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.
  1. **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract.If any provision of the Contract is deemed deleted under this clause 18.4 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.
  2. **Inadequacy of damages.** Without prejudice to any other rights or remedies that the Customer may have, the Supplier acknowledges and agrees that damages alone would not be an adequate remedy for any breach of the terms of this agreement by the Supplier. Accordingly, the Customer shall be entitled to the remedies of injunction, specific performance or other equitable relief for any threatened or actual breach of the terms of this agreement.
  3. **Waiver.**
     1. a waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.
     2. A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.
  4. **No partnership or agency.** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party. Each party confirms it is acting on its own behalf and not for the benefit of any other person.
  5. **Entire agreement.**
     1. The Contract constitutes the entire agreement between the parties.
     2. Each party acknowledges that in entering into the Contract it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.
  6. **Third party rights.**
     1. The Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
     2. The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.
  7. **Variation.** Except as set out in these Conditions, no variation of the Contract save for a variation set out in a Change Order, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by the parties or their authorised representatives.
  8. **Force Majeure.** Neither party shall be in breach of the Contract or otherwise liable for any failure or delay in the performance of its obligations if such delay or failure results from events, circumstances or causes beyond its reasonable control. The time for performance of such obligations shall be extended accordingly. If the period of delay or non-performance continues for six weeks, the party not affected may terminate the Contract by giving ten Business Days written notice to the affected party.
  9. **Governing law.** The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.
  10. **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

**19** **Multi-tiered dispute resolution procedure**

19.1 If a dispute arises out of or in connection with this agreement or the performance, validity or enforceability of it (Dispute) then the parties shall follow the procedure set out in this clause:

* + 1. either party shall give to the other written notice of the Dispute, setting out its nature and full particulars (Dispute Notice), together with relevant supporting documents. On service of the Dispute Notice, authorised representatives of the Customer and the Supplier shall attempt in good faith to resolve the Dispute.
    2. if the Dispute remains unresolved 30 days after it being raised, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR. To initiate the mediation, a party must serve notice in writing (ADR notice) to the other party to the Dispute, requesting a mediation. A copy of the ADR notice should be sent to CEDR.

19.2 The commencement of mediation shall not prevent the parties commencing or continuing court proceedings in relation to the Dispute under clause 18.2 (Jurisdiction) which clause shall apply at all times.

1. Specification

[This Schedule will contain the Customer’s Specification which formed part of the procurement process together with any clarifications.]

1. **Supplier’s Proposal**

[This Schedule will contain the Supplier’s tender submission.]

1. **Costs and Charges**

[This schedule will reflect the Supplier’s financial submission as to the amount of and the timing of payments.]

1. **Buckinghamshire County Council Installation Requirements**

A collage of a street light

Description automatically generated

A white text on a black background

Description automatically generated

Graphical user interface, text, application

Description automatically generated



Graphical user interface, text, application

Description automatically generated