

Terms and Conditions of Contract for the Supply of Goods

THIS CONTRACT is made the.....day of..... 201

The Contract is for the supply of self-service payment kiosks], (“the Goods”) between

BETWEEN

(1) [Name of company] whose address for service within the jurisdiction of the courts of (England and Wales) is

AND

(2) The Mayor and Burgesses of the London Borough of Lambeth, Lambeth Town Hall, Brixton Hill, London SW2 1RW (the Council)

1 The Specification

1.1 The Supplier agrees to provide the Goods to the quantity, quality and description as specified by the Council in the Specification.

2 The Goods

2.1 If required by the Council, samples of the Goods shall be submitted by the Supplier to the Council for evaluation and approval at the Supplier's cost and expense and all subsequent deliveries of the Goods shall be equal in quality to approved samples.

2.2 The Goods shall be to the reasonable satisfaction of the Council and shall conform in all respects with any sample approved by the Council and with any particulars specified in this Contract and in any variations thereto.

2.3 The Goods shall operate in accordance with the relevant technical specifications and shall correspond with the requirements of the Specification and conform in all respects with the requirements of any statutes, orders, regulations or bye-laws from time to time in force. In the absence of a specification or sample, all the Goods supplied shall be within the normal limits of industrial quality.

2.4 The Goods shall be free from defects in design, materials and workmanship and be fit and sufficient for all the purposes for which such Goods are ordinarily used and for any particular purpose made known to the Supplier by the Council and the Council relies on the skill and judgment of the Supplier in the supply of the Goods and the execution of the Contract.

2.5 The Goods shall be fully compatible with the Council's equipment.

3 Delivery

3.1 The Goods shall be delivered at the times and dates specified in the Specification.

3.2 Unless otherwise stated in the Specification, where the Goods are delivered by the Supplier, the point of delivery shall be when the Goods are removed from the

transporting vehicle. Where the Goods are collected by the Council, the point of delivery shall be when the Goods are loaded on the Council's vehicle.

- 3.3 Any access to the Council's Premises and any labour and equipment that may be provided by the Council in connection with delivery shall be provided without acceptance by the Council of any liability whatsoever and the Supplier shall indemnify the Council and the Crown in respect of any actions, suits, claims, demands, losses, charges, costs and expenses which the Council or the Crown may suffer or incur as a result of or in connection with any damage or injury (whether fatal or otherwise) occurring in the course of delivery or installation to the extent that any such damage or injury is attributable to any act or omission of the Supplier or any of the Supplier's sub-suppliers or suppliers.
- 3.4 Except where otherwise provided in the Contract, delivery shall include the unloading, stacking or installation of the Goods by the Staff or the Supplier's suppliers or carriers at such place as the Council or duly authorised person shall reasonably direct.
- 3.5 Where any access to the Council's Premises is necessary in connection with delivery or installation, the Supplier and the Supplier's sub-suppliers or suppliers shall at all times comply with the reasonable requirements of the Council's security procedures.
- 3.6 Time of delivery shall be of the essence and failure to deliver within the time promised or specified shall enable the Council (at the Council's option) to release itself from any obligation to accept and pay for the Goods and/or cancel all or part of the Contract, in either case without prejudice to other rights and remedies.
- 3.7 The Council shall be under no obligation to accept or pay for any Goods delivered in excess of the quantity ordered. If the Council elects not to accept such over-delivered the Goods it shall be entitled to give notice in writing to the Supplier to remove them within 7 days of receipt by the Supplier of such notice and to refund to the Council any expenses incurred by the Council as a result of such over-delivery (including but not limited to the costs of moving and storing them) failing which the Council shall be entitled to dispose of such Goods and to charge the Supplier for the costs of such disposal. The risk in any over-delivered Goods shall remain with the Supplier until they are collected by or on behalf of the Supplier or disposed of or purchased by the Council, as appropriate.
- 3.8 The Council shall be under no obligation to accept or pay for any Goods supplied earlier than the date for delivery stated in the Specification.
- 3.9 Unless expressly agreed to the contrary, the Council shall not be obliged to accept delivery by instalments. If, however, the Council does specify or agree to delivery by instalments, delivery of any instalment later than the date specified or agreed for its delivery shall, without prejudice to any other rights or remedies of the Council, entitle the Council to terminate the whole of any unfulfilled part of the Contract without further liability to the Council.
- 3.10 If the Council is affected by circumstance of Force Majeure, the Council shall be entitled to partially or totally suspend the date or dates for delivery of the Goods until such time as the circumstances of Force Majeure have ceased and such suspension shall not give rise to any claim by the Supplier against the Council nor entitle the Supplier to terminate the Contract.

4 Property and Risk

- 4.1 Property and risk in the Goods shall without prejudice to any other rights or remedies of the Council.

5 Damage in Transit

- 5.1 On dispatch of any consignment of the Goods the Supplier shall send to the Council at the address for delivery of the Goods an advice note specifying the means of transport, the place and date of dispatch, the number of packages and their weight and volume. The Supplier shall free of charge and as quickly as possible either repair or replace (as the Council shall elect) such of the Goods as may either be damaged in transit or having been placed in transit fail to be delivered to the Council provided that:

- (a) in the case of damage to such Goods in transit the Council shall within thirty days of delivery give notice to the Supplier that the Goods have been damaged;
- (b) in the case of non-delivery the Council shall (provided that the Council has been advised of the dispatch of the Goods) within ten days of the notified date of delivery give notice to the Supplier that the Goods have not been delivered

6 Inspection, Rejection and Guarantee

- 6.1 The Supplier shall permit the Council or authorised representatives to make any inspections or tests which may reasonably be required and the Supplier shall afford all reasonable facilities and assistance free of charge at the Supplier's premises. No failure to make complaint at the time of such inspection or tests and no approval given during or after such tests or inspections shall constitute a waiver by the Council of any rights or remedies in respect of the Goods and, in particular, the Council retains the right to reject the Goods.

- 6.2 The Council may by written notice to the Supplier reject any of the Goods which fail to conform to the approved sample or fail to meet the requirements specified herein. Such notice shall be given within a reasonable time after delivery to the Council of the Goods concerned. If the Council shall reject any of the Goods pursuant to this Condition the Council shall be entitled (without prejudice to other rights and remedies) either:

- (a) to have the Goods concerned as quickly as possible and in any event within 7 days either repaired by the Supplier or (as the Council shall elect) replaced by the Supplier with The Goods which conform in all respects with the approved sample or with the requirements specified herein and due delivery shall not be deemed to have taken place until such repair or replacement has occurred; or
- (b) to treat the Contract as discharged by the Supplier's breach and require a refund from the Supplier in respect of the Goods concerned together with payment of any additional expenditure over and above the price reasonably incurred by the Council in obtaining other the Goods in replacement.

- 6.3 The issue by the Council of a receipt note for the Goods shall not constitute any acknowledgement of the condition or nature of those The Goods.

- 6.4 Unless agreed otherwise, the Supplier shall guarantee the Goods for the shorter of 12 months from putting into service or 18 months from delivery. If the Council shall within such guarantee period or within 30 days thereafter give notice in writing to the Supplier of any defect in any of the Goods as may have arisen during such guarantee period under proper and normal use, the Supplier shall (without prejudice to any other rights and remedies which the Council may have) as quickly as possible remedy such defects (whether by repair or replacement as the Council shall elect) without cost to the Council.
- 6.5 Any Goods rejected or returned by the Council shall be returned to the Supplier at the Supplier's risk and expense.

7 Variation

- 7.1 The Supplier shall not alter any of the Goods except as directed by the Council, but the Council shall have the right from time to time during the execution of the Contract, by written notice to the Supplier to change the Specification and add to or omit, or otherwise vary, the Goods. Such a change is hereinafter called "a Variation". The Supplier shall carry out such Variations and be bound by the same Conditions so far as is applicable, as though the said Variations were stated in the Contract.
- 7.2 In the event that the Supplier is unable within the timescale reasonably directed by the Council to carry out the Variation in accordance with 8.1. above, the Council may terminate the Contract and recover from the Supplier the amount of any loss suffered by the Council resulting from the termination.
- 7.3 In the event of any Variation of the Specification which would occasion an amendment to the Contract Price, such amendment to the Contract Price shall be calculated by the Council and agreed with the Supplier and shall be such amount as properly and fairly reflects the nature and extent of the Variation in all the circumstances. Failing agreement the matter shall be determined by negotiation or mediation.
- 7.4 If, in the opinion of the Supplier, any such Variation in accordance with Clause 7.1 is likely to prevent the Supplier from fulfilling any of their obligations under the Contract, the Supplier shall notify the Council immediately, whereupon the Council shall inform the Supplier within 14 days whether or not the said Variations shall be carried out. Until the Council confirms such instructions in writing they shall be deemed not to have been given.

8 Labelling and Packaging

- 8.1 The Goods shall be packed and marked in a proper manner and in accordance with the Council's instructions and any statutory requirements and any requirements of the carriers. In particular the Goods shall be marked with the Council's PO number and the net, gross and tare weights, the name of the contents shall be clearly marked on each container and all containers of hazardous The Goods (and all documents relating thereto) shall bear prominent and adequate warnings. The Supplier shall indemnify the Council and the Crown against all actions, suits, claims, demands, losses, charges, costs and expenses which the Council or the Crown may suffer or incur as a result of or in connection with any breach by the Supplier of this Condition.
- 8.2 All packaging materials will be considered non-returnable and will be destroyed unless the Supplier's advice note states that such materials will be charged for unless returned. Such materials shall be collected by the Supplier free of charge

or delivered to the Supplier at the Supplier's cost. The Council accepts no liability in respect of the non-arrival at the Supplier's premises of empty packages returned by the Council unless the Supplier shall within ten days of receiving notice from the Council that the packages have been dispatched notify the Council of such non-arrival.

9 Training

- 9.1 Where appropriate, the Contract Price shall include the cost of instruction of the Council's personnel in the use of the Goods, such instruction to be in accordance with the requirements of the Contract in accordance with the training specified in the Specification.

10 Manner of Carrying out the Installation Work

- 10.1 The Supplier shall make no delivery of materials, plant or other things nor commence any work on the Council's Premises without obtaining prior Approval.
- 10.2 Access to the Council's Premises shall not be exclusive to the Supplier but shall be limited to such Staff and Supplier's suppliers as are necessary to enable the performance of the Contract concurrently with the execution of work by others. The Supplier shall co-operate with such others as the Council may reasonably require.
- 10.3 The Council shall have the right at any time during the progress of the Contract to order in writing:
- (a) the removal from the Council's Premises of any materials which in the opinion of the Council are either hazardous, noxious or not in accordance with the Contract; and/or
 - (b) the substitution of proper and suitable materials; and/or
 - (c) the removal and proper re-execution notwithstanding any previous test thereof or interim payment therefor of any work or The Goods which, in respect of material or workmanship, is not in the opinion of the Council in accordance with the Contract.
- 10.4 On completion of the Contract the Supplier shall remove the Supplier's plant, equipment and unused materials and shall clear away from the Council's Premises all rubbish arising out of the Contract and leave the Council's Premises in a neat and tidy condition.
- 10.5 The supplier will be responsible for ensuring the kiosk is properly installed, commissioned and tested prior to leaving site.

11 Anti-fraud and Corruption

- 11.1 The Council may terminate this contract and recover all its loss if the Contractor, its employees or anyone acting on the Contractor's behalf do any of the following things:
- (a) Offer, give or agree to give to anyone any inducement or reward in respect of this or any other Council contract (even if the Contractor does not know what has been done), or
 - (b) Commit an offence under, but not limited to, the Public Bodies Corrupt Practices Act 1889, the Prevention of Corruption Acts 1906 – 1916, the

Appendix 1

Pricing Schedule and Payment Terms

Pricing Schedule

Item #	Line Item Description	Fixed Price
1		
2		

Payment Terms

1. The Council operates an electronic only policy for issuing Purchase Orders and receiving Invoices from service providers and contractors through an internet portal managed in partnership with the Council by a third party provider.
2. The electronic portal is offered free of charge to service providers and contractors. The Council will direct the third party partner to make contact with the Service Provider in order to create an account within the electronic portal to enable them to invoice the Council.
3. The Service Provider will be able to view their Purchase Orders and the status of their Invoices within the electronic portal in real time.
4. Both the Council and the Service Provider shall adhere to the following procedure in respect of invoicing and payments in respect of the Services:-
 - (a) The Service Provider shall submit to the Council each month (or as otherwise agreed by the Parties in writing) an invoice, by electronic means through the portal only setting out the sums for each type of work together with a record detailing the work carried out, in accordance with the prices tendered and;
 - (b) Once the Council agrees the details of the electronic invoice and the work record it will arrange payment, which will be made within a 30 days of invoice date unless disputed by the Council.
 - (c) Where the Council disputes the amounts entered on an invoice the parties shall discuss the differences and the Service Provider shall submit such further information as required by the Council to verify the invoice sum.
 - (d) Once agreed, the Service Provider shall submit a corrected Invoice as agreed pursuant to Condition 4(a), above.
5. Where the Service Provider fails to submit its invoices electronically through the portal the timescale in 4(b) will increase by a further 30 days.