

COLNE TOWN COUNCIL

STANDARD CONDITIONS OF CONTRACT (FOR QUOTATION/TENDERS)



1. DEFINITIONS AND INTERPRETATION

In this Contract, save where the context otherwise requires, the following expression shall have the meanings hereby assigned to them.

- a. **"Commencement Date"** means the date agreed with the Council to commence the services.
- b. **"Conditions"** means these conditions, any supplementary conditions and any modification thereof.
- c. **"Contractor"** means the person, persons or company who is employed by the Council to undertake the services and whose quotation/tender has been accepted.
- d. **"Contract"** means any formal contract document entered into under seal between the Contractor and the Council or signed by any duly authorised person and includes the documents incorporated therein and forming part thereof.
- e. **"Contract Period"** means the period from the commencement date of the services until completion of the services to the satisfaction of the Town Clerk.
- f. **"Contract Price"** means the price inserted by the Contractor in the Pricing Schedule submitted with the Quotation/tender.
- g. **"Council"** means Colne Town Council or any successor authority.
- h. **"Town Clerk"** means the Clerk to Colne Town Council for the time being or any person duly authorised to act on their behalf.
- i. **"Good Industry Practice"** means the degree of skill, care prudence and foresight and operating practice which would reasonably and ordinarily be expected from time to time of a skilled and experienced Contractor (engaged in the same type of undertaking as that of the Contractor) under the same or similar circumstances.
- j. **"Services"** means the Services set out in the Specification.
- k. **"Specifications"** means the document setting out the Council's requirements and which forms part of the Quotation/Tender Documents.
- l. **"Quotation/tender"** means the Contractor's bid for the services set out in their Quotation/tender documents.
- m. **"Quotation/tender Documents"** means the Specification and these Standard Conditions of Contract together with the Quotation/tender submitted by the Contractor and any accompanying or supporting documents relating to the provision of the Services.

n. "Week" means 7 consecutive days starting on Monday and end on the following Sunday.

o. Words importing one gender include all others, and the singular includes the plural and vice versa.

2. WARRANTIES

The Contractor in submitting its quotation/tender warrants and represents to and undertakes with the Council that:

- it has complied in all respects with the conditions of quotation/tender;
- all information, representations and other matters of fact communicated (whether in writing or otherwise) to the Council by the Contractor or its employees in connection with the Contractor's quotation/tender are true, complete and accurate in all respects;
- it has not submitted its quotation/tender or entered into the Contract in reliance upon any representation or statement (whether made orally, in writing or otherwise) which may have been made by the Council;
- it has full power and authority to enter into the contract and carry out the Services;
- it is of sound financial standing and has sufficient working capital available to it to carry out the Services in accordance with the Contract for the entire duration of the contract period: and
- it will make available to the Council copies of its accounts.
- If awarded the contract shall discharge its obligation with all due skill, care and diligence including but not limited to good industry practice.

3. PROVISION AND MANNER OF CARRYING OUT THE SERVICES

The Contractor shall commence the Services on the agreed Commencement Date to be confirmed.

The Contractor shall at all times provide the Services in accordance with the Specification and the conditions referred to in the Contract.

The Contractor shall comply with all the relevant Acts of Parliament, statutory regulations and codes of practice relating to the Services, including compliance with any obligations which may be imposed by the same upon the Council.

The Contractors shall provide the Services in an efficient, effective and safe manner that is not, or is not likely to be, injurious to health or detrimental to the environment or the fabric of any property.

The Contractor shall provide the Services at all times in such a manner as shall promote and enhance the image and reputation of the Council.

The Contractor shall provide all the Equipment necessary for undertaking the Services, the use of which shall be at the Contractors own risk.

The timely undertaking of the Services shall be of the essence of the contract, including commencing the Services within the time agreed or specified by or with the Council.

4. STANDARD OF WORKS

It shall be the duty of the Contractor well and properly to provide the Services to a standard that complies in all respects with the Specification and with any Quality Standards and where applicable shall maintain accreditation with the relevant Quality Standards authorisation body when executing the Services together with reasonable care and skill and in accordance with good industry practice.

The Contractor shall deal with any complaints received (whether received orally or in writing and whether from members of the public or others) in a prompt, courteous and efficient manner.

5. STAFF AND SUPERVISION

The Contractor shall employ in and about the provision of the Services only such persons as are careful, skilled and honest and experience in the work which they are to perform.

The Contractor shall employ sufficient staff to ensure that the Services are provided at all times in accordance with the specification. Accordingly, it shall be the duty of the Contractor to ensure in particular that a sufficient reserve of staff is available to provide Service during staff holidays or absence through sickness otherwise.

The Contractor shall not unlawfully discriminate either directly or indirectly on such grounds as race, colour, ethnic, or national origin, disability, sex or sexual orientation, religion or belief, or age and without prejudice to the generality of the foregoing Contractor shall not unlawfully discriminate within the meaning and scope of the Human Rights Act 1998, the Equality Act 2010 or other relevant legislation or any statutory modification or re-enactment thereof.

The Contractor shall ensure that every person employed by the contractor in and about the provisions of the Services is at all times properly and sufficiently trained and instructed with regard to the following and take all reasonable steps to secure observance:

- the task or tasks that the person has to perform;
- any relevant provision of the Contract;
- relevant rules, procedures and standards of the Council;
- all relevant rules, procedures and statutory requirements concerning Health and safety at work;
- fire risks and fire precautions; and
- the necessity to observe the highest standards of courtesy and consideration to the public and promote and enhance the Council's image and reputation.

The Contractor shall be entirely responsible for the employment and conditions of service of its own employees, including without limitation the payment of wages.

The Contractor shall ensure that the Contractor's staff engaged in and about the provision of the Services is at all times, adequately supervised and properly perform their duties.

6. HEALTH AND SAFETY

The Contractor shall, where applicable, carry out its own risk assessments in relation to any of the tasks being undertaken and provide copies to the Council on request.

The Contractor shall notify, in writing, to the Town Clerk of all incidents, which either could have lead or did lead to injury and/or damage.

The Town Clerk shall be empowered to suspend the provision of the Services in the event of non-compliance by the Contractor with issues concerning health and safety matters. The Contractor shall not resume provisions of the Services until the Town Clerk is satisfied that the non-compliance has been rectified.

7. ASSIGNMENT AND SUB-CONTRACTING

The Contractor shall not:

- assign the Contract or any part thereof or the benefit or advantage of the Contract or any part thereof; or
- sub-contract the provision of the Services or any part thereof to any person without the previous written consent of the Town Clerk which consent (if given) shall not relieve the Contractor from any liability or obligation under the contract and the Contractor shall be responsible for the acts, defaults or neglect of any sub-Contractor or its agents, servants or workmen.

8. LIABILITY, INDEMNITY AND INSURANCE

The Contractor shall be liable for and shall fully and promptly indemnify and keep indemnified the Council fully against all claims, proceedings, actions, damages, legal costs, expenses and any other liabilities whatsoever arising out of, in respect of or in connection with the Contract including in respect of any death or personal injury, loss of or omission of the Contractor. The level of cover for both Public Liability and Employers Liability held by the contractor will be £2m (Two Million Pounds) minimum and preferably £5m (Five Million Pounds). The aggregate liability of either party for all events resulting in direct loss of cash or damage to premises or property of the other under or in connection with the Contract shall in no event exceed £100,000 (One Hundred Thousand Pounds).

Subject to the above conditions, in no event shall either Party be liable to the other for:

- loss of profits, business, revenue or goodwill; and/or
- indirect or consequential loss or damage

The Contractor shall affect and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover in respect of all risks which, may be incurred by the Contractor, arising out of the Contractor's performance of the Contract, including death or personal injury, loss of or damage to property or any other loss. Such policies shall include cover in respect of any financial loss arising from any device given or omitted to be given by the Contractor.

The Contractor shall hold employer's liability insurance in respect of staff in accordance with any legal requirement for the time being in force.

The Contractor shall produce to the Town Clerk, on request, copies of all insurance policies referred to in these conditions to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premium due under those policies.

If the Contractor fails to give effect to and maintain the insurance policies referred to in these conditions or to demonstrate that the appropriate cover is in place, the Council may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Contractor.

The terms of any insurance or the amount of cover shall not relieve the Contractor of any liabilities under the Contract. It shall be the responsibility of the Contractor to determine the amount of insurance cover that will be adequate to enable the Contractor to satisfy any liability referred to in these conditions.

9. PROFESSIONAL INDEMNITY

The Contractor shall hold and maintain professional indemnity insurance cover and shall ensure that all professional Contractors or sub-Contractors involved in the provision of the Services hold and maintain appropriate cover. To comply with its obligation under this condition and as a minimum the Contractor shall ensure professional indemnity insurance held by the Contractor and by any agent sub-Contractor or Contractor involved in the performance of the Services has a limit of indemnity of not less than £2m (preferably £5m) for any occurrences arising out of each and every event. Such insurance shall be maintained for a minimum of six (6) years following the expiration or earlier termination of the Contract.

10. PRICE PAYABLE

The Price payable to the contractor for the Services shall be that stated in the Quotation/tender.

The Price payable for the Services to be provided under the contract shall include without limitation the costs of all labour, equipment, fuel and materials to be supplied by the Contractor, all costs of purchasing, issuing, operating and maintaining vehicles, all travelling expenses involved and any additional items or expenses of whatever nature as may from time to time become necessary for the proper performance of the Services.

11. PAYMENT

The Contractor shall submit invoices following inspection and approval by the Town Clerk, and the Council shall pay such amount as may properly be due to the Contractor under the terms of the contract within thirty days of the receipt by the Town Clerk of such invoice. The Town Clerk shall notify the contractor in writing within five days of receipt of the invoice if the Town Clerk considers any invoice submitted by the Contractor to be incorrect in any way stating the grounds for such withholding.

In addition to the sums payable, the Council shall pay the Contractor such value-added tax (if any) as may be properly chargeable by the Contractor in connection with the provision of the Services under legislation from time to time in force and the Contractor shall issue a tax invoice in respect thereof.

The Council may reduce payment in respect of any Services which the Contractor has failed to provide or has provided inadequately, without prejudice to any other rights or remedies of the Council.

12. AGENCIES

The Contractor shall not be or be deemed to be an agent of the Council, and the Contractor shall not hold itself out as having authority or power to bind the Council in any way.

13. AMENDMENTS

No amendments to the Contract shall be binding unless in writing and signed by the Town Clerk and a duly authorised representative of the Contractor and expressed to be for the purpose of such amendment.

14. INCONSISTENCY

In the event of and only to the extent of any conflict between the body of the Contract, Specification, Invitation to Quote, Contractors Quotation/tender and other documents referred to or attached to the contract, the conflict shall be resolved in accordance with the following order of precedence:

The body of the Contract shall prevail over:

- (a) the specification
- (b) the invitation to Quote
- (c) the Contractors Quotation/tender
- (d) any other document referred to in the Contract.

15. LAW

The Contract shall be governed by and construed in accordance with the laws of England and the Contract irrevocably submits to the jurisdiction of the English courts.

16. DISPUTES

Any disputes between the parties concerning the interpretation of these Conditions or the performance of the Services shall be dealt with as follows.

Without prejudice to all other rights and remedies available to the parties, if any dispute arises in connection with the contract, the Town Clerk or Directors, or Senior Representatives of the Contractor with authority to settle the dispute will within fourteen days of the written request from one party to the other meet in good faith to resolve the dispute. If the dispute is not resolved at that meeting, the parties will attempt to settle the dispute by mediation. To initiate the mediation, a party must give notice in writing ("ADR Notice") to the other party to the dispute requesting mediation. The mediation will start not later than fourteen days after the date of the ADR Notice.

If not resolved following mediation, subject to any detailed provision otherwise herein contained, any disputed matter under the Contract may be referred to arbitration under the Arbitration Act 1996 to a single arbitrator appointed by the parties to the Contract.