

Macclesfield Town Council.

Supplies : General Conditions of Contract.

1. Definitions

In the Contract (which will be made by the acceptance of a Tender in whole or in part, and will comprise the Tender as so accepted, the Conditions of Contract, the Specification and Schedule(s)), the expression "The Contractor" means the person, firm or Company whose Tender is accepted. The expression "The Council" means the Town Council of Macclesfield.

2. Quantities

Any quantities stated in the Schedule(s) are those, which are estimated as the probable requirements of the Council for the period of the Contract, but the Council has the option of requiring the supply and delivery under any item in the Schedule(s) of any greater or lesser quantity.

3. Quality

The goods or materials to be supplied under the Contract are to be of the quality or type and weight or measure (exclusive of packaging) mentioned in the Specification and/or Schedule(s), and shall correspond in every respect with the Council's standard samples (if any) or (if so provided in the Specification) with the samples submitted by the Tenderer (which shall, on the acceptance of the Tender by the Council in such event become the standard samples for the purposes of the Contract); and be such as the Council's officers, duly authorised, shall approve.

A nominated officer of the Council shall at all times have full power to inspect the goods at all stages of the manufacture and shall be at liberty at all times to reject any goods as provided in clause 4 below.

The Council shall be entitled to order the Contractor to carry out at his expense such tests as are considered necessary for ascertaining the quality of the goods and to certify that the goods have been tested and comply with the drawings, the Specification and the Conditions of this Contract.

4. Rejections

Any goods or materials delivered which, in the opinion of the Council's authorised officers, are not to the stipulated specification, quality, weight or measure, or are not otherwise approved, may be rejected and notice of rejection may be given by the Council to the Contractor at any time before payment becomes due and failure to reject the goods or materials at any time before the date payment becomes due (whether or not the goods have been inspected) shall not create any deemed acceptance of the goods or materials. Any goods or materials which are rejected, remain on the Council's premises at the Contractor's sole risk

Rejected goods or materials are to be removed by and at the expense of the Contractor immediately after the notice of such rejection and the Contractor shall, if so required, supply and deliver other goods or materials in lieu thereof, to the approval of the Council's authorised officers, within seven days after the notice of such rejection. If any rejected good or materials are not removed within three days after notice to the Contractor of such rejection, the Council may cause the same to be removed, sold or otherwise disposed of and charge the Contractor with all expenses incurred in such removal, sale or disposal, and the Council shall not be liable for any damage or loss thereby sustained by the Contractor.

These time limits shall apply unless otherwise agreed between the Contractor and the duly authorised officers of the Council.

5. British/European Standard Specification

Where an appropriate British or European Standard Specification or Standard Code of Practice issued is current at the date of the Tender, all goods used or supplied shall be in accordance with that Standard and to the Council's Specification.

6. Delivery

- (a) The goods are to be delivered free of charge to the Council, and at the risk of the Contractor, in such quantities, to such locations and in such manner as the Council's officers, duly authorised, may from time to time order upon the Official Purchase Order form. (Provided that an order number issued verbally and subsequently confirmed by an officer of the Council shall be deemed to have been properly made in accordance with this clause at the time of receipt by the

Contractor of the verbal order). The Council will not be liable for goods ordered in any other manner.

- (b) A delivery note, quoting the Official Purchase Order Number must accompany all goods supplied.
- (c) Invoices, quoting the Official Purchase Order Number and Delivery Note Number must be submitted in accordance with the instructions on the Official Purchase Order.
- (d) Goods in Transit – Where the Contract provides for delivery elsewhere than as detailed in clause 6(a) above, the goods shall remain at the risk of the Contractor until delivery is completed.

7. Prices

If the tender is subject to price variation:-

- (a) Any application for price variation shall be submitted in writing to the Council at least 30 days before the proposed implementation date of the increase and be accompanied by relevant supporting documents.
- (b) If the Council is not prepared to accept the price increase so proposed, the Council shall have the right to terminate the contract, giving to the contractor at least 30 days notice in writing, to expire not later than 90 days from the receipt of the application. The current prices shall remain in force until the date of termination of the Contract.
- (c) Tenders containing clauses such as 'prices subject to fluctuation' or 'those ruling at the date of delivery' will not be accepted.
- (d) Where settlement discount is to be allowed to the Council by the Contractor, the settlement discount period shall commence from the date of receipt of the goods or the invoice, whichever is the later.

8. Value Added Tax – Increase of Contract Sum

Prices must be quoted net of Value Added Tax to the extent that the supply of goods under the Contract is chargeable with Value Added Tax.

9. Breach

If the Contractor shall fail to deliver the goods or materials or any proportion of them within the time or times specified in the Contract or shall supply goods or materials of unsatisfactory quality, the Council without prejudice to any other remedy for breach of Contract it may have, shall be at liberty to determine the Contract either wholly or in part and to purchase other goods or materials as the case may be of the same or similar description to make good such default; and in the event of the Contract being wholly determined, the goods or materials remaining to be delivered, the amount of the Council's loss in securing replacement goods shall be paid by the Contractor to the Council.

10. Entitlement to Contract

The Council has the right to contract with any person or persons firm or company other than the Contractors for the supply and delivery of similar items.

11. Cancellation of Contracts in Case of Corruption, etc.

The Council shall be empowered to cancel the Contract and recover from the Contractor the amount of any loss resulting from the cancellation if the Contractor is guilty of any practice considered by the Council to be improper or corrupt. This clause covers such activities as inducements or gifts and acts prohibited by the Prevention of Corruption Acts, 1889-1916 and the Local Government Act, 1972, Sections 117(2) and (3). The Council's decision on these matters is final.

12. Assignments and Underletting of Contracts

The Contractor shall not assign or underlet the Contract or any part of it and shall not sub-contract except with the written consent of the Council.

13. Indemnity

The Contractor shall indemnify the Council in respect of:-

- (a) Any liability which may be imposed on the Council under any Act Of Parliament or Common Law in respect of personal injury to any person, whether employed by the Council or not, occasioned by or in consequence of the performance of this Contract.
- (b) Any damage or injury to the property of the Council by the Contractor, his workmen, servants or agents.

14. Insurance

The Contractor shall adequately insure against the liabilities referred to in Clause 13 and shall complete the insurance Certification Form

attached.

15. Royalties and Patent Rights

The Contractor shall fully indemnify the Council for any claim or action that may be brought against it regarding infringement of copyright, patent or similar protected rights in respect of any items supplied under the Contract. All payments and royalties which may be payable shall be included by the Contractor in the prices named in his tender and shall be paid by him to the relevant persons.

16. Health and Safety

All items delivered by the Contractor to the Council shall comply with the provisions of the Health and Safety at Work Act, 1974 and any other relevant Health and Safety Regulations and appropriate Codes of Practice in force or brought into force during the currency of the Contract.

17. Law

The Contract shall be construed in all respects in accordance with English Law. Nothing in these conditions shall prejudice any condition or warranty (expressed or implied) or right of remedy to which the Council are entitled in relation to the material goods or services ordered by virtue of statute or common law.

18. Equal Opportunities

The Contractor shall at all times observe a policy of equal opportunities in employment for all workers regardless of sex, marital status, sexual orientation, age, disability, creed, colour, race or ethnic or national origins. The Contractor or firm or organisation shall therefore comply with the requirements of the Sex Discrimination Act, 1975, the Equal Pay Act, 1970, (as amended on 1st January 1984), the Race Relations Act, 1976 (as amended by the Race Relations (Amendment) Act 2000), the Disability Discrimination Act, 1995 and the Employment Equality (Age) Regulations 2006.

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19. Conditions

These conditions shall have precedence over any printed condition appearing on any acceptance form, delivery form or other documents or letter emanating from the Contractor and such conditions shall have no effect whatsoever except insofar as they confirm the terms of this Contract.

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