**Coventry City Council (the "Council")**

**GENERAL CONDITIONS OF PURCHASE (THE “CONTRACT”)**

This Contract is applicable to this purchase order (the order) placed with the supplier (the “Contractor")

1. **Definitions**

“Advanced Payment” means any payment made by the Council to the Contractor prior to delivery of the Goods

"Goods" means any such goods which are to be provided by the Contractor under this Contract as specified in the purchase order.

“Notified Body” means a conformity assessment body which has been approved by the UK and notified to the European Commission as competent to perform conformity assessment procedures required in respect of the EU PPE Regulations

1. **Condition of Goods**

The Contractor shall supply the Goods in accordance with the agreed specification. The Contractor warrants, represents, undertakes and guarantees that the Goods supplied under this Contract shall:

a) be free from defects (manifest or latent), in materials and workmanship and remain so for 12 months after delivery;

b) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and comply with any applicable statutory requirements, regulatory requirements, statutory rule or order or other instrument having the force of law or European and British Standard specifications which may be in force at the time of supply relating to the manufacture, design, construction, quality, labelling, packaging, storage, handling and delivery of the Goods;

c) conform with the specifications, drawings, descriptions given in quotations, estimates, brochures, sales, marketing and technical literature or material (in whatever format made available by the Contractor) supplied by, or on behalf of, the Contractor;

d) be free from design defects;

e) be fit for any purpose held out by the Contractor or made known to the Contractor by the Council expressly or by implication, and in this respect the Council relies on the Contractor’s skill and judgement. The Contractor acknowledges and agrees that the approval by the Council of any designs provided by the Contractor shall not relieve the Contractor of any of its obligations under this sub-clause;

(f) be provided in adherence with the EU Regulation 2016/425, the Personal Protective Equipment (Enforcement) Regulations 2018 and/or the EU Recommendation 2020/403. For the avoidance of doubt EU Recommendation 2020/403 allows the temporary provision of PPE specifically necessary for protection in the context of the Covid-19 crisis to be placed on the market provided it meets the essential health and safety requirements and the conformity assessment procedures have been started by the Contractor through a Notified Body such even if the conformity assessment including affixing of the CE marking procedures have not been completed; and

(g) the Contractor itself shall comply with all applicable laws.

1. **Rejection of Goods**

3.1 The Council may reject any Goods wholly or in part if the Goods do not comply with the requirements specified herein and shall be entitled (without prejudice to the other rights and remedies of the Council) to have the Goods repaired or replaced by the Contractor as quickly as possible and in any event within 7 days (at the option of the Council) or to treat the Contract as discharged and seek damages from the Contractor including any costs incurred by the Council in obtaining substitute Goods from a third party.

3.2 The Council may request that the Contractor remove the Goods in an agreed time period and the Contractor shall be responsible for any and all costs reasonably incurred.

3.3 Where the Council rejects the Goods in whole and an Advanced Payment has been made by the Council to the Contractor such Advanced Payment will be returned to the Council within 7 days of rejection. Where the Council rejects the Goods in part and an Advanced Payment has been made by the Council to the Contractor and the Advanced Payment exceeds the value of the Goods that have not been rejected the amount of the Advanced Payment that is greater than the value of the unrejected Goods will be returned to the Council within 7 days of rejection.

1. **Cancellation of Goods**

4.1 Notwithstanding clause 13 the Council shall have the right to cancel the order for the Goods, or any part of the Goods, which have not yet been delivered to the Council. The cancellation shall be made in writing.

4.2 Where the Council cancels the Goods in whole and an Advanced Payment has been made by the Council to the Contractor such Advanced Payment will be returned to the Council within 7 days of cancellation. Where the Council cancels the Goods in part and an Advanced Payment has been made by the Council to the Contractor and the Advanced Payment exceeds the value of the Goods that have not been cancelled the amount of the Advanced Payment that is greater than the value of the uncancelled Goods will be returned to the Council within 7 days of cancellation.

1. **Substitution or amendments of Goods**

5.1 The Contractor shall not alter or substitute any of the Goods unless approved in writing by the Council.

5.2 Notwithstanding clause 13 the Council may alter, vary or substitute any of the Goods at its sole discretion at any time by notice in writing.

1. **Delivery of Goods**

6.1 Goods shall be delivered by the Contractor at the times dates and places specified in the purchase order. If no times and dates are specified then the Goods shall be delivered promptly following the Contractor’s receipt of the order. A delivery note shall be included with each consignment. Receipt or delivery of the Goods does not constitute any acknowledgement of the condition or nature of Goods delivered.

6.2 The Council shall be under no obligation to accept or pay for any Goods delivered in excess of the quantity specified in the purchase order and the Contractor shall be responsible for any and all reasonable costs incurred in the removal of Goods delivered in excess of the quantity set out in the purchase order.

6.3 The Goods shall be properly packed and marked in a proper manner and in accordance with the Council’s instructions and all statutory requirements and any requirements of the carriers. All packaging materials will be considered non-returnable unless specifically agreed otherwise.

6.4 Unless specified otherwise delivery of Goods shall include unloading and stacking by the Contractor at such a place as the Council shall reasonably direct.

1. **Delivery default by Contractor**

Should the Contractor fail to deliver the Goods at the times, dates, and places specified in the purchase order, the Council shall without prejudice to any other rights or remedies of the Council, terminate the Contract either wholly or in part and the Council shall not be liable to the Contractor for such termination. Where an Advanced Payment has been made by the Council to the Contractor such Advanced Payment will be returned to the Council within 7 days of termination.

1. **Insurance and Indemnity**

8.1 During this Contract and for a period of one year afterwards the Contractor shall maintain in force insurance policies with reputable insurance companies, against all risks that would normally be insured against by a prudent businessman in connection with the risks associated with this Contract, and produce to the Council on demand full particulars of that insurance and the receipt for the then current premium. Unless otherwise agreed in writing by the council, the minimum level of public liability insurance required under this clause shall be £5 million.

8.2The Contractor shall 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 damage to property, financial loss arising from any advice given or omitted to be given by the Contractor, or any other loss which is caused directly or indirectly by any act or omission of the Contractor.

8.3 The Contractor warrants that the performance of the Contract does not in any way infringe the patent, design, copyright or trademark rights of any person or company and indemnifies the Council against any costs, damages, proceedings, claims and demands of whatever nature in respect of any alleged infringement

1. **Price/Rates**

The Council will pay the Contractor at the price or rate set out in the purchase order, providing always that the Goods shall be in accordance with these conditions.

1. **Payment**

10.1 Payment will only be made on receipt of a valid invoice quoting the Council's order number contained in the purchase order. The invoice shall correctly state at least the price and separately any value added tax, any costs associated with the delivery of or execution of an order, the quantity and/or dimensions and description of the Goods. More information, including the Council’s Prompt Payment Policy can be found on the Council’s website.

10.2 The Council's normal terms of payment are 30 days from the date payment is due (following receipt of a valid invoice) or delivery of goods whichever is the later.

10.3 In the event of failure by the Council to make any payment of any charges for undisputed Goods, then the Contractor shall be entitled to interest on any payment overdue there under from the due date to the date of actual payment calculated at the prevailing base rate per annum of the Council's bankers.

10.4 The parties acknowledge that the payment is paid inclusive of all Pay As You Earn tax and National Insurance Contributions applicable in respect of the staff which the Contractor shall have responsibility for payment to HMRC in accordance with applicable legislation.

1. **Recovery of sums due**

Wherever under this Contract any sum of money is recoverable from or payable by the Contractor that sum may be deducted from any sum then due or which at any later time may become due to the Contractor under this Contract or under any other agreement or contract with the Council.

1. **Passing of Property**

12.1 Where no Advanced Payment is made the Goods shall remain the property and risk of the Contractor until delivered to; accepted by and signed for by the Council, without prejudice to the Council’s right to reject the goods, wholly or in part, at which time the title to the goods shall pass from the Contractor to the Council. The risk of any over-delivered Goods that do not comply with the Order shall remain with the Contractor.

12.2 Where the Council make any Advanced Payment in respect of such Goods, at the time the first such payment is made, the Contractor shall mark the Goods as Council property and the Contractor shall ensure that the Goods are at all times clearly identifiable as belonging to the Council, and where such Goods are stored at Contractor premises, held in a separate bonded area suitable for such storage purposes.

1. **Variation**

Subject to clause 4.1 and 5.2 neither the Council nor the Contractor shall be bound by any waiver, variation or addition to these conditions unless that variation, waiver or addition shall have been agreed and evidenced in writing and signed on behalf of both parties.

1. **Bribery**

The Council shall have the right to cancel any order, and to recover from the amount of any loss resulting from such cancellation or determination if the Contractor or any person employed by the Contractor or acting on the Contractor's behalf:

a) has offered, paid or given, directly or indirectly, any gift in money or any other form to any member, employee or agent of the Council as an inducement or reward in connection with their behaviour in relation to an order; or

b) appears to have committed any offence under the Bribery Act 2010, or to have paid or offered any fee or reward contrary to section 117(2) of the Local Government Act 1972.

1. **Termination**

16.1 Without limiting its other rights or remedies, the Council may terminate the order with immediate effect by giving written notice to the Contractor if the Contractor commits a material breach of any term of this Contract and (if such a breach is remediable) fails to remedy that breach within 14 days of that party being notified in writing to do so.

16.2 The Council shall have the right to terminate an order summarily by notice in writing should the Contractor become bankrupt or insolvent or compound with or assign in favour of creditors or (being an incorporated company) shall resolve to wind up or be ordered to be wound up, or shall carry on business under a Receiver, or if as regards the interest of the Contractor a contract shall become vested in any other person or body without the consent of the Council, otherwise than by the death of the contractor, and to recover from the contractor any additional costs incurred as a result of the termination of an order under this condition.

16.3 The Council may terminate this Contract if any warranty given by the Contractor in clause 2 of this Contract is found to be untrue or misleading.

16.3 Any Advanced Payment made to the Contractor will be repayable to the Council on termination of this Contract.

1. **Data Protection**

17.1 Data Protection Legislation:  means the UK Data Protection Legislation and any other European Union legislation relating to personal data 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);

UK Data Protection Legislation:  means all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

17.2 The Parties will comply with all applicable requirements of the Data Protection Legislation.

17.3 The Parties agree to:

* maintain the confidentiality of personal data to which it has authorised access under the terms of this Contract;
* The Contractor agrees to indemnify the Council against all liability, loss, costs, expenses, and proceedings incurred or suffered by the Council due to any failure by the Contractor or its employees, agents or third-party processors to comply with any of its obligations under the Data Protection Legislation;
* process personal data only to the extent and in such a manner as is necessary for its obligations under this Contract and in all respects as is required and permitted by law and;
* ensure that in the event that any personal data is shared between the Parties, that it is done so securely and in accordance with the Data Protection Legislation.

1. **Freedom of Information**

18.1 The Contractor acknowledges that the Council has legal responsibilities to make information available under the Freedom of Information Act 2000 ("the Act")

18.2 The Contractor shall give reasonable assistance to the Council to comply with the Act

In particular the Contractor shall supply all such information and records (together with reasonable assistance to locate the same) which are needed by the Council to comply with its obligations under the Act

18.3 The Council shall have the discretion to disclose any information which is the subject to this agreement to any person who makes a request under the Act and which in the opinion of the Council it has to disclose to discharge its responsibilities under the Act

18.4 When exercising its right, the Council shall consult the Contractor and may take account of any reasonably suggestions made by it

18.5 The Council shall not be responsible for any loss damage harm or detriment however caused arising from disclosure of information relating to this contract under the Act

18.6 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the Act, the text of this agreement, and any Schedules to this agreement, is not confidential information. The Council shall be responsible for determining in its absolute discretion whether any part of the agreement or its Schedules is exempt from disclosure in accordance with the provisions of the Act

18.7 Notwithstanding any other term of this Agreement, the Contractor gives its consent for the Council to publish this agreement and its Schedules in its entirety, including from time to time agreed changes to the agreement, to the general public in whatever form the Council decides

1. **Entire agreement**

19.1 These conditions of Contract constitute the entire agreement between the Parties relating to the subject matter of the Contract.

19.2This Contract shall supersede any prior agreement with the Contractor, whether written or oral, and shall have precedence over any printed terms and conditions appearing on any acceptance form, delivery form or other documents or letters emanating from the Contractor. The Contractor's terms and conditions shall have no effect whatsoever, except insofar as they confirm the terms and conditions of this Contract.

1. **Governing law**

This 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.

1. **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 this Contract or its subject matter or formation.