

STANLEY GREEN INFANT ACADEMY STANDARD TERMS & CONDITIONS OF CONTRACT FOR THE SUPPLY OF GOODS AND SERVICES

1 DEFINITIONS

- 1.1 'ACADEMY' shall mean Stanley Green Infant Academy and shall include appropriate Officers of the Academy.
- 1.2 'CONTRACTOR' shall mean the person, firm or company whose offer has been accepted by the Academy and shall include the Contractors employees, personal representatives, successors and permitted assigns.
- 1.3 'CONTRACTING OFFICER' shall mean the Officer in whose name the Tender or Order is issued and shall include his representatives.
- 1.4 'CONTRACT' shall mean the agreement between the Academy and the Contractor for the provision of Goods or Services described and shall include these terms and conditions and all documents to which reference may properly be made in order to ascertain the rights and obligations of the parties.
- 1.5 'DATE OF TERMINATION' shall, unless condition 2.1 applies, mean the date on which the Contract is completed.
- 1.6 Any reference to gender in these conditions or documents consulting a tender or a contract shall apply equally to the opposite gender as appropriate.
- 1.7 'TUPE' shall refer to the Transfer of Undertakings (Protection of Employment) Regulations 1981 (as amended)

- 2.1 The Contract Period shall commence on the first day of the period to which the Contract is expressed to relate and unless previously determined at any time by either party giving to the other two calendar months' notice in writing as specified in 2.2 below, shall remain in force until the end of the stated period.
- 2.2 Termination of the Contract either in part or whole for any reason may be affected before the end of the Contract Period by at least two calendar months' notice in writing by the Academy to the Contractor at his registered office or usual place of business and sent by pre-paid post or similarly by the Contractor to the Contracting Officer at the Academy.
- 2.3 The Academy reserves the right to request that negotiations be entered into with the Contractor for the purpose of extending the Contract beyond the original Date of Termination. Such extension of the Contract may be terminated by either party giving to the other two calendar months notice in writing as in 2.2 above.

3 DESCRIPTION AND PRICE

- 3.1 During the period of the Contract the Contractor shall supply and deliver to the Academy goods or services of the description and at the prices specified in the tender of official order, in such quantities or number and at such times and places and such manner as may be required by the Academy. Provided that where the Contract is made in respect of a definite quantity or number of the goods of the description and at the price specified in the tender of official order on or before the specified delivery date.

4 QUALITY

- 4.1 The goods or services to be supplied under the Contract shall be of the quality, standard, nature or sort specified in the tender or official order and where samples have been supplied, of at least the same quality and sort as the sample supplied. Where the goods are subject to British, European or International Standards specifications the goods or services shall conform to those specifications.
- 4.2 During the Contract period where, in the opinion of the Contracting Officer, his representative or the recipient of the goods or services, the goods or services do not comply with the standards specified in the condition they may reject the goods or services and require rectification at no additional cost.

5 FOOD STUFFS

- 5.1 In the case of food stuffs or any other goods which are perishable or subject to rapid deterioration which fail to comply with the standard specified and are rejected, the decision of the Contracting Officer in any dispute arising from such rejection shall be conclusive and condition 1.5 here to shall not apply.

6 REJECTED GOODS

- 6.1 Where goods or services are rejected in accordance with condition 4 or 5 the Contractor shall remove the goods and if required to do so supply at his own expense an equal amount of goods of a proper quality or, in the case of services, re-provide the service on demand, failing which the Academy shall be entitled to purchase the goods or services elsewhere. The Contractor shall be liable to the Academy for any loss or costs, including any administrative or legal costs incurred as a result of rejection.

7 DELIVERY

- 7.1 The delivery date shall be that stated in the tender or official order and time shall be of the essence for the delivery of goods and services.
- 7.2 Where the Contractor fails to deliver goods or services, the Academy shall have the right, without prejudice to condition 11, to purchase the goods or services elsewhere and the Contractor shall be liable for any loss caused or additional costs incurred by the Academy, including any administrative or legal expenses.
- 7.3 No goods shall be supplied or work done without an official order form signed by an authorised signatory of the Academy. The Academy is obliged to accept and may reject any goods or services supplied or work done by the Contractor without an official order, either before or after commencement of the contract period and in the event that no tender is accepted or agreement reached.

8 SAMPLES

- 8.1 The Contractor shall at the request of the Academy and at his own expense, provide and furnish samples of such of the articles mentioned in any tender as the Academy shall specify.

9 TENDERS

- 9.1 The Academy do not bind themselves to accept the lowest or any tender and reserve the right to accept the tender either wholly or in part.

10 ACCOUNTS

- 10.1 Accounts shall only be rendered in respect of goods delivered or services provided and accepted by the Contracting Officer. Where performance is over a period of time accounts shall be rendered monthly in arrears for work done or goods delivered unless otherwise agreed.
- 10.2 Invoices shall specify on their face the address to which the goods were despatched, the official order number to which it relates, a full description of the goods delivered or services provided, the total cost and where applicable the unit cost, the tax point date, the amount and applicable rate of VAT, the sort code and account number to which payment is to be made. An invoice which does not contain all this information may be deemed not to be a valid invoice and returned for rectification.
- 10.3 A payment period of 30 days from the receipt of a valid invoice shall apply, except where any further discount is offered for prompt payment. Such earlier payment shall be at the discretion of the Academy.

- 10.4 Any Contractor falling under the Construction Industry Scheme as defined in the income and Corporation Taxes Act 1988 shall be registered and shall have produced evidence of such registration to the Academy prior to the payment of any moneys owed. Where such proof has not been produced no payment shall be due and no invoice received shall be a valid invoice.
- 10.5 Where applicable the Academy shall only make payments in accordance with L.R.35.

- 10.6 The Academy shall not make payment against any form of documentation other than an original valid invoice; except at its absolute discretion only. Payment may be made against other documentation where the Contractor has submitted a further written request for payment on condition that any duplicate payment made shall without further demand be immediately remitted back to the Academy.

- 10.7 The Academy reserves the right to deduct the amount of any duplicate payment from any sum then due or which at any future time may become due to the Contractor under any other Contract or other financial source.

11 TERMINATION

- 11.1 If the Contractor should fail to carry out any of the items and conditions of the Contract or if the Contractor (or any partner in the Contractors business if the Contractors be a firm) shall become bankrupt or have a receiving order made against them or him or shall present their or his petition in bankruptcy or shall make any arrangement with or assignment in favour of their or his creditors or shall agree to carry out the Contract under 3 committee of inspection of their or his creditors (or if the Contractors shall the subject of any order of winding-up whether compulsory or voluntary or if a resolution to wind-up be passed by the shareholders or if a receiver be appointed of the business of the Contractors) it shall be lawful for the Academy at any time to terminate the Contract immediately by written notice but without prejudice to the rights of the Academy in respect of any antecedent breach by the Contractor of any of the terms and conditions of the Contract.

12 PREVENTION OF CORRUPTION

- 12.1 The Academy shall be entitled to terminate the Contract and to recover from the contractor the amount of any loss resulting from such termination if the Contractor shall have offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to or for having done or forbome to do any action in relation to the obtaining or execution of the Contract or any other Contract with the Academy or for showing or forbearing to show favour or disfavour to any person in relation to the Contract or any other Contract with the Academy or if the like acts shall have been done by any person employed by him or acting on his behalf (whether with or without the knowledge of the Contractor) or if in relation to any Contract with the Academy the Contractor or any person employed by him or acting on his behalf shall have committed any offence under the Prevention of Corruption Acts 1889 to 1916 or shall have given any fee or reward the receipt of which is an offence under sub-section (2) of section 117 of the Local Government Act 1972.

13 CORRESPONDENCE

- 13.1 Any notice to the Contractor shall be in writing and shall be deemed sufficiently served if given to the Contractor or left or sent by post to him or his representative at his usual or last known place of abode or business except that notice of goods falling under conditions 4 and 5 shall be deemed to have been sufficiently given on the Contractor, his employee or other agent delivering the said goods being informed in any manner be the person rejecting the goods.

- 13.2 The Contractor shall comply with the terms of any notice specifying a breach of the provisions of the Contract and requiring the breach to be remedied so far as it may be but nothing in this clause is intended to require the Academy to serve notice of any breach before taking action in respect of it. The Contractor shall be required to pay a reasonable charge, which will relate to the Academy's costs of administering any notice of breach.

14 ASSIGNMENT

- 14.1 The contractor shall not transfer or assign or sub-let directly or indirectly to any person or persons any portion of his Contract without the previous written permission of the Academy.

15 TERMS

- 15.1 Any dispute or difference as the construction of this Contract or in any way arising from it shall except in so far as is otherwise agreed be the parties be determined by arbitration in accordance with the provisions of the Arbitration Act 1996 or any statutory modification or re-enactment thereof for the time being in force.

16 INDEMNITY AND INSURANCES

- 16.1 The Contractor shall:
a) Indemnify the Academy in respect of and be solely liable for any liability, loss claim or proceeding whatsoever arising under any statute or at common law in respect of personal injury arising to, or the death of, any person whomsoever and in respect of any injury or damage whatsoever to any property real or personal insofar as such injury, death or damage arises whether by negligence or any other cause out of the performance of the contract. The limit of the insurance indemnity shall not be less than £5 million for any one incident and subject thereto, unlimited in any one period of insurance.
b) At his own cost take out and maintain for the period of any Contract with the Academy such policy or policies or insurance as shall be required to indemnify the academy and before the commencement of or during the currency of any Contract with the Academy, produce on demand to the Academy or the Contracting Officer such policy or policies or insurance.
c) Give immediate notice in writing to the Academy if for any reason whatsoever any such policy of insurance is cancelled be the insurers, himself or for any other reason becomes inoperative.
d) Notify the Academy of any happening or event which may give rise to any claim, demand, proceeding, damages, cost or charge whatsoever arising out of the Contract and indemnify the Academy against any loss which may be occasioned by failure to give such notice.

- 16.2 Should the Contractor fail to insure or to continue to insure as provided in this condition the Academy may itself provide such insurance and may change the cost of such insurance together with a reasonable administration charge to the Contractor either by way of deduction from any amounts payable by the Academy to the Contractor under the Contract or any other Contract between the Contractor and the Academy or by recovering the same as a debt due to the Academy from the Contractor.

- 16.3 In the event TUPE applies the Academy and any new Contractor shall indemnify each other from and against all direct and consequential liability, loss cost and expenses (including legal expenses) awarded against or incurred as a result of or in connection with any failure on the part of either the Academy or the Contractor or any new Contractor to comply with their respective obligation under TUPE.

17 PRICE REVISIONS

- 17.1 Where the period of the Contract is greater than twelve months, prices under the Contract shall be fixed for the first twelve months; thereafter the Contractor may submit a request for a price revision after the anniversary of the Contract. No such price revision shall be applicable until agreed in writing by the Academy. The Contractor shall provide documentary proof of increased costs in support of any such price revision request. No price revision request shall be considered by the Academy unless supported by such documentary proof as is deemed sufficient by the Academy. The Academy shall not be bound to agree to any price revision request.

18 HEALTH & SAFETY

- 18.1 The Contractor shall at all times adopt safe methods of work and comply with the requirements of the Health & Safety at Work Act 1974 and of any other Acts, Regulations, or Orders appertaining to the health and safety of employees, employees of the Academy and of all other persons including members of the public.

19 PROPERTY AND RISK

- 19.1 Property and risk in goods supplied to the Academy shall pass upon payment unless otherwise agreed.

20 LAW

- 20.1 The law of the Contract is the law of England and the English courts shall have sole jurisdiction.

21 COPYRIGHT

- 21.1 The copyright in all documentation is the property of the Academy. Any request to copy or use the documents other than as strictly necessary for the purpose of this contract shall first be submitted to the Contracting Officer.

22 THIRD PARTIES

- 22.1 For the avoidance of doubt, nothing in this agreement shall confer or purport to confer on any third party any benefit or the right to enforce any term of this Contract, except in so far as the parties have expressly agreed that a third party may enforce a term.

23 HUMAN RIGHTS

- 23.1 In delivering the service required under the Contract, the Contractor shall not act in a way which is discriminatory or otherwise inconsistent with a person's right to respect for private and family life, freedom of expression, property, association or any other right or freedom set out in the Human Rights Act 1998.

24 STATUTORY AND OTHER REGULATIONS

- 24.1 The Contractor shall in all matters arising in the performance of the Contract conform with all Acts of parliament and with all orders, regulation, bylaws and codes of guidance made with statutory authority by Government Departments or other statutory body.

25 CONFIDENTIALITY

- 25.1 Except as statute provides otherwise all information set out or referred to in the Contract and all further information and documents provided to the Contractor at any time in connection with the Contract are and shall be strictly private and confidential and the Contractor shall not (and shall ensure that its employees do not) disclose or hand over any such information or documents to any third party without the prior written consent of the Academy. All such information and documents shall be kept secret by the Contractor and shall be used only for the performance of the Contract.

26 DATA PROTECTION

- 26.1 The Contractor shall not disclose or allow access to any personal data provided by the Academy or acquired by the Contractor during the course of executing its obligation under the contract, other than to person employed or engaged by the Contractor or its Sub-contractor where specifically instructed to do so in writing by the Academy Representative.
- 26.2 Any disclosure of or access allowed to personal data shall be made in confidence and shall extend only so far as is necessary for the purpose of carrying out the Contract.
- 26.3 The Contractor shall fully indemnify the Academy in respect of all losses, liabilities, claims, actions proceedings, demands, costs, charges or expenses arising out of or in connection with any civil claim made in respect of information subject to the Data Protection Act 1998, which claims would not have arisen but for some act, omission or negligence in breach of this condition on the part of the Contractor, its employees, agents or any Sub-contractor or anyone acting in or to their behalf.

27 FREEDOM OF INFORMATION

- 27.1 At its sole discretion and notwithstanding any other condition of the Contract, the Academy shall be entitled to disclose to third parties any and all terms and condition of the Contract and the contents of any documents and information relating to the Contract pursuant to the Freedom of Information Act 2000 ("FOI Act 2000").
- 27.2 The Contractor shall co-operate with the Academy and supply to it, at no cost to the Academy and within seven days of receipt of any request by the Academy pursuant to the FOI Act 2000, all necessary information and documentation required in connection with any such request.

28 HEADINGS

- 28.1 The clause and paragraph headings do not form part of the condition and shall not be taken in to account in its interpretation.

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