

Procurement

Policy Statement

Halesowen College aims to obtain the best value for money and ensure compliance with relevant public procurement laws and regulations. Our procurement of goods and services will be fair, transparent, free from bribery and corruption, and conducted with proportionate due diligence. It will also be ethical and environmentally responsible. Procurement of goods and services will be at the best possible cost and quality, contributing to excellent business management.

Procurement Policy

Purpose

The policy shall ensure:

- Pursuance of the strategic objectives, notably: maintaining an outstanding financial profile while ensuring investment in delivering activities that align with defined aims. Continuous review and promotion of excellent value for money, efficient resource utilisation, and maximised learning outcomes, while maintaining facilities that meet current and future requirements.
- Clearly defined, documented, and communicated roles, responsibilities, and procedures for procurement.
- Attainment of value for money through the optimum combination of whole-life cost and quality to fulfil the user's requirements.
- Accountability: As a publicly funded institution, the College must secure and demonstrate value for money. Additionally, all suppliers must be treated fairly, and procurement must remain free from undue influence, corruption, or malpractice.
- Implementation of proportionate due diligence and approval of new suppliers.
- Adherence to all relevant procurement legislation, including but not limited to the Public Contracts Regulations 2015, the Procurement Act 2023, Procurement Regulations 2024, Freedom of Information Act, Bribery Act, Modern Slavery Act, and applicable environmental laws.
- Promotion of sustainability through responsible environmental considerations and strategic use of consortia.

Roles and Responsibilities

The primary procurement governance documents are:

- Financial Regulations, detailing the College's purchasing procedures and cross-referencing this policy. Roles at each stage of procurement are clearly outlined.
- Standing Orders Relating to Contracts, which establish a comprehensible framework for procurement, defining authority limits and responsibilities.
- All College staff must comply with Financial Regulations, Standing Orders Relating to Contracts, and associated policies.
- The Internal Audit function monitors compliance with regulations as part of its oversight of key financial controls.
- Budget holders must ensure effective and efficient use of resources.
- The Head of Finance works with budget holders and manages an approved list of suppliers.

- Tenders must always be conducted with oversight from the Chief Finance Officer & Vice Principal or their designated representative.
- The College encourages procurement via professionally procured framework agreements through purchasing consortia, ensuring competitive pricing and value. Protocols for joining a consortium are in Appendix D.

The Chief Finance Officer & Vice Principal is responsible for:

- The arrangement and oversight of all purchase orders.
- Ensuring suppliers have access to the College's standard terms and conditions.
- Issuing and monitoring procurement/credit cards for budget holders.
- Seeking legal advice for procurement-related legal matters when required.

Legal and Regulatory Framework

The College must comply with all relevant procurement laws. The primary legislation governing procurement is The Procurement Act 2023. Legacy contracts initiated (i.e., tendered or advertised) before 24th February 2025 will remain subject to the Public Contracts Regulations 2015 until their expiration.

Value for Money

The College's Value for Money policy outlines objectives, roles, and responsibilities.

- Achieving value for money requires balancing whole-life cost and quality to meet requirements.
- Lowest cost does not equate to best value; high price does not guarantee quality.
- Key factors in procurement decisions include:
 - Capacity of provider and qualifications of key personnel;
 - Quality of deliverables;
 - Responsiveness and service levels;
 - Reliability, including product lifespan and maintenance costs;
 - Alignment with College values (equality, diversity, sustainability);
 - Environmental and ethical considerations.

Budget holders must document procurement decisions and ensure compliance with Financial Regulations and Standing Orders.

- Preliminary market consultations (soft market testing) must be documented and conducted transparently in accordance with the Procurement Act 2023.
- If a waiver is required, justifications must be documented and approved, covering scenarios such as:
 - Lack of market competition for technical reasons;
 - Urgent procurement due to unforeseeable events;
 - Ongoing supplier support for integrated systems;
 - Sole supplier situations (e.g., examination boards).
- If a procurement leads to a formal tender, soft market testing must be documented in line with regulations and policies (See Appendix A, procedures for tender via FTS).

Environmental and Sustainability Considerations

- Budget holders must consider environmental impact when procuring goods and services.
- Procurement decisions should support waste reduction, recycling, and the use of sustainable products.
- Suppliers should align with UK Net Zero targets where possible.

Ethical Procurement

- The College's Anti-Slavery Statement and Policy mandates a transparent supply chain.
- Suppliers must disclose their policies on modern slavery and ethical labour practices.
- International suppliers must be assessed for compliance with relevant human rights and labour laws.
- For service contracts, suppliers must provide relevant HR policies upon request.

Accountability

- As a publicly funded body, the College is accountable to the Department for Education (DfE) and subject to audit by the National Audit Office.
- Procurement must be conducted with full transparency and integrity.
- The College has a strict Anti-Bribery Policy, and staff must report any suspicious activity.
- Staff with conflicts of interest must declare them and recuse themselves from relevant procurement activities. The conflict of interest declaration form can be found within the College's Conflict of Interest Policy.
- Paper based tender openings must be conducted by a panel of three people, including one independent observer.

Under the Procurement Act 2023, all Invitations to Tender for contracts exceeding the relevant Threshold must be issued and received via an electronic procurement system. This is a mandatory requirement.

In exceptional circumstances, the College may be permitted to redact information or withhold it from publication entirely. These exemptions are typically related to national security concerns or the protection of sensitive commercial information where there is an overriding public interest in withholding it.

Therefore, while the general expectation is for electronic submission of tenders, paper tenders may still be accepted in specific situations where electronic communication is not feasible or appropriate. The College is encouraged to ensure that their procurement processes are accessible to all suppliers, including those who may face barriers to electronic communication.

Related Policies

The College has a robust financial framework in place to ensure resources are utilised effectively and that budget holders are accountable for securing best value in procurement. The following policies provide further guidance:

- Financial Regulations: Define responsibilities, principles, and procedures, including the scheme of delegation.
- Standing Orders Relating to Contracts: Outline the tendering and estimation requirements.

Final Notes

- Compliance with this policy is mandatory, and deviations must be justified and approved.
- The policy is subject to regular review to ensure continued alignment with legal and regulatory frameworks.

Appendices

Appendix A – Public Contracts Regulations and Procedures

Appendix B – Halesowen College Terms and Conditions of Contract

Appendix C – Sustainable Procurement
Appendix D – Protocol for joining a Purchasing Consortium
Appendix E – Compliance with Standing Orders/Value for Money Monitoring
Appendix F – Protocol for Approving New Suppliers

Reviewed/Approved	By
Updated by	Sean Rudolph
Approved at	College Executive
	Finance & Resources Committee
Website	Yes
Policy Code	03Z

Appendix A

Public Contracts Regulations and Procedures

Procurement of goods and services by public bodies, including central and local government, as well as non-commercial organisations predominantly funded by the state, is regulated in the UK under the Procurement Act 2023 and the Procurement Regulations 2024.

1. Procurement Act 2023 and Tendering Requirements

The Procurement Act 2023 mandates that the College must procure contracts by publishing tenders on the UK Government's Find a Tender Service (FTS) when the contract value exceeds the designated thresholds:

- Goods and Services: £214,904 (incl. VAT)
- Works Contracts: £5,372,609 (incl. VAT)
- Light Touch Regime: £663,540 (incl. VAT)

The thresholds are reviewed/updated every two years, with the most recent amendment taking effect from 1st January 2024.

The estimated contract value is calculated inclusive of VAT, over the life of the contract. All procurement procedures and tenders must comply with the Procurement Act 2023. The Act also applies to extensions, renewals, or amendments of existing contracts where these thresholds are exceeded.

The Head of Finance will conduct an annual supplier spend analysis to ensure compliance. If a supplier's status changes, the necessary documentation will be updated accordingly. The Chief Finance Officer & Vice Principal is responsible for ensuring that contract advertisements comply with FTS requirements.

To support small and medium-sized enterprises (SMEs), tenders should be divided into lots wherever possible. Whilst the College encourages the use of SMEs, there should be no disaggregation of requirement to artificially lower the estimated value of the contract or purchase value to avoid compliance with the Procurement Act 2023.

2. Compliance and Fair Practice

The College must deal with suppliers fairly, transparently, and impartially. Equality and diversity must be promoted during the tendering process, with candidates required to submit their Equality and Diversity policies where appropriate for review by the College.

For contracts exceeding the relevant FTS threshold, the Procurement Specific Questionnaire (PSQ) allows candidates to self-assess compliance with equality legislation. Additional documentation may be requested at the contract award stage.

A similar approach applies to environmental and health and safety compliance.

All requests for quotations or tenders must reflect a genuine intent to procure. Evaluation criteria must be established in advance, weighted appropriately, and published as part of the tender pack. A tender evaluation panel must be appointed before tenders are opened. Tender evaluation documents must be retained by the Chief Finance Officer & Vice Principal for six years.

Following an 'above threshold' tender, unsuccessful suppliers must be given feedback at the same time as the successful supplier is notified. Feedback must include:

- The unsuccessful supplier's score for each criterion.
- A summary of the evaluation for each criterion (e.g., what was strong or lacking).
- The winning supplier's score for each criterion.

- Justification for the scores (not just numbers, a meaningful explanation must be provided).
- Any advantages of the winning supplier's bid, as far as relevant.
- Details of any material reasons the supplier was unsuccessful.

For below threshold tenders, offering feedback is considered best practice and should be provided wherever possible.

For FTS tenders, a standstill period of at least 8 working days must be observed before awarding a contract.

Procedures for Tender via FTS

1. Overview of the Rules

The Procurement Act 2023 provides for two competitive tendering procedures:

- Open Procedure – open to all interested parties and allows any supplier to submit a full tender response in one stage. There is no pre-qualification or shortlisting stage.
- Competitive Flexible Procedure – open to all interested parties but enables the College to run a tender with the freedom of structuring the process to allow for different stages (e.g. selection stage, dialogue/negotiation stage, final tender stage) and shortlisting of suppliers.

All contracts valued between £30,000 (inclusive of VAT) and the relevant threshold for mandatory FTS publication must be published on Contracts Finder within 24 hours of first being published elsewhere. For contracts below the FTS thresholds, they must still be advertised on Contracts Finder if they meet the £30,000 minimum. The Procurement Act 2023 emphasises the importance of transparency, demonstrated by the requirement for more frequent publication of notices. The Act mandates contract notice publications at various stages, including initial planning, active procurement, and contract management. Contracts exceeding £5 million (incl. VAT) must have redacted copies published on the Central Digital Platform (CDP).

2. Thresholds and Aggregation

The contract's estimated value must include VAT. Contracts must not be artificially divided to avoid thresholds. Non-compliance with FTS requirements may result in an ineffectiveness breach.

3. Pre-Procurement and Market Engagement

Under the Public Services (Social Value) Act 2012, the College must consider economic, environmental, and social benefits when procuring services.

Preliminary market engagement may be conducted to assess costs and availability, ensuring fairness and transparency.

4. Contract Notice Requirements

- To advertise on FTS, a contract notice must be completed. Please refer to the 'Procurement Flowchart: Key Steps Explained' for further guidance.

Tender opportunities should be divided into lots where feasible. If not, a rationale must be recorded as per Section 98 of the Procurement Act 2023.

The Most Advantageous Tender (MAT) criteria and weightings must be disclosed in the contract notice.

5. Supplier Information and Selection

Candidates must provide information under three key areas:

- Legal status – insolvency history, convictions, etc.
- Financial capacity – financial stability of the candidate.
- Technical ability – resources and expertise to fulfil the contract.

A separate pre-qualification stage is not permitted for contracts between £30,000 and the relevant FTS threshold.

6. Contracting Procedures

The College may use either open or competitive flexible procedures. Other procedures, such as Direct Awards, may require advice from the Chief Finance Officer & Vice Principal and possibly legal experts.

Alternatively, the College may use a framework agreement. Frameworks enable the College to procure supplies, services and works contracts from a list of pre-approved suppliers, whose ability to offer value for money is tested as part of the framework tendering process. Each framework supplier has been through a robust procurement process to get a place on the framework.

7. Common Procurement Vocabulary (CPV)

The College must use up-to-date CPV codes to accurately classify contracts.

8. Tender Timescales

- Open Procedure:
 - Contract notice to receipt of tenders: 25 calendar days
 - Standstill period: 8 working days minimum
- Competitive Flexible Procedure:
 - Request to participate: 30 calendar days
 - Receipt of tenders: 25 calendar days
 - Standstill period: 8 working days minimum

The College typically invites 6 to 10 tenderers following shortlisting.

9. Urgent Notices and Amendments

Urgent tenders may use accelerated notices with shorter timescales:

- 15 calendar days for requests to tender
- 10 calendar days to receive tenders

Justifications must be recorded. If major amendments are required, the notice should be cancelled and reissued.

Urgent notices are only to be used when there is a genuine, legally justifiable urgency that makes it impossible to comply with the standard minimum time periods. The College can use shortened tender timeframes only if:

- There are objectively urgent circumstances
- The urgency was not caused by the authority (i.e. it wasn't foreseeable or due to delay)
- The procurement is strictly necessary and cannot wait for the standard process

Using urgency to reduce timescales or make a direct award is only allowed in limited, exceptional cases and may be scrutinised or challenged. The College must still:

- Publish the relevant procurement notices
- Provide clear justification for the urgency in the notice or procurement documents

Follow all other procedural rules (fairness, equal treatment, etc.)

10. Tender Evaluation and Award

A clear distinction must be maintained between candidate selection and tender evaluation.

Selection (via the Procurement Specific Questionnaire) involves closed questions and mandatory criteria. Tenderers failing key criteria may be excluded.

Tender evaluation must be conducted using predefined weighted criteria. Example criteria may include, but is not limited to:

- Quality
- Financial evaluation (including maintenance and running costs)
- Technical merit
- Environmental impact
- Equality and diversity compliance (where relevant to the contract)
- After-sales service and statutory requirements

Scoring Scale:

4 - Excellent: Meets all expectations / Demonstrates complete understanding of all the requirements of this particular specification / No reservations.

3 - Good: Meets most expectations / Demonstrates good understanding of most of the requirements of this particular specification / No reservations.

2 - Marginal: Meets some expectations / Response is standardised with no apparent understanding of the requirements of this particular specification / Minor reservations.

1 - Poor: Does not meet expectations / Response is weak & does not adequately address the specification / Significant reservations.

0 - Unacceptable: Response is missing / Response is very weak and does not address the specification / Major reservations.

All tenderers will be informed of outcomes as soon as possible, including the provision of feedback, observing the standstill period of 8 working days.

11. Contract Award

The preferred supplier will be required to sign a contract before service delivery commences. Unsuccessful bidders will be notified throughout the process. Please refer to the 'Procurement Flowchart: Key Steps Explained' for further guidance. Feedback must be provided to unsuccessful bidders, while maintaining confidentiality.

12. Record-Keeping

The College must maintain records of key procurement decisions for at least three years after the contract signing date, in line with Section 98 of the Procurement Act 2023. This includes communications with suppliers related to the contract award.

Under the Procurement Act 2023, the College must keep such records as the authority considers sufficient to explain a material decision made for the purpose of awarding or entering into a public contract.

A decision is considered 'material' under the Act if a contracting authority is required to:

- publish or provide a notice, document or other information in relation to the decision or
- to make the decision

A contracting authority must keep records of any communication between the authority and a supplier that is made:

- in relation to the award of, or entry into, a public contract, and
- before the contract is entered into.

The Act also states that a record must be kept until:

- the day on which the contracting authority gives notice of a decision not to award the contract

- (the Procurement Termination Notice under section 55) or the end of the period of three years beginning with the day on which the contract is entered into or, if the contract is awarded but not entered into, awarded.

Appendix B

Halesowen College Terms and Conditions of Contract

Procurement Policy

1. DEFINITIONS

1.1 In these conditions:

Adequate Procedures	shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issues under section 9 of that Act).
Anti-Slavery Policy	the College's Anti-Slavery Policy is available on request from the Chief Finance Officer & Vice Principal and as amended by notification to the Supplier from time to time.
Associated Persons	shall have the meaning ascribed to it in section 8 of the Bribery Act and shall include but is not limited to any employees, agents and/or subcontractors of the Agent.
Authorised officer	is a member of staff designated by the Principal.
Bribery Act	means the Bribery Act 2010 (and any amendment thereto).
College	means Halesowen College of Whittingham Road, Halesowen, West Midlands, B63 3NA
College Materials	means materials, equipment and tools, drawings, Specifications, and data which is provided by the College to the Supplier for the purposes of the Contract.
Conditions	means the standard terms and conditions of purchase set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in Writing between the College and the Supplier.
Confidential Information	means all information designated as such by either party in writing and all other information which relates to the business affairs, properties, assets, trading practices, goods, services, developments, trade secrets, know-who, personnel, customers and suppliers of either party which may reasonably be regarded as the confidential information of the disclosing party.
Contract	means the contract for the purchase and sale of the Goods and/or the Service; the agreement between the College and the supplier consisting of these conditions where appropriate, the specification, invitation to tender, the suppliers tender and any other documents (or parts thereof) specified by the College.
Contract Period	means the period of duration of the contract.

Contract Price	means the price exclusive of any applicable tax payable to the supplier by the College.
Data Protection Act	means the General Data Protection Regulation (the GDPR) and all applicable laws and regulations relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner.
Data Protection Principles	means the data protection principles under the General Data Protection Regulation (the GDPR).
Deliverables	all documents, products and materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Goods and Services in any form or media, including without limitation drawings, maps, plans, diagrams, designs, pictures, computer programs, data specifications and reports (including drafts).
Exempt Information	means any information or class of information (including but not limited to any document, report, contract or other material containing information) relating to this Contract or otherwise relating to the Supplier which potentially falls within an exemption to FOIA (as set out therein).
FOIA	means the Freedom of Information Act 2000 and all regulations made thereunder from time to time or any superseding or amending enactment and regulations, and words and expressions defined in the FOIA shall have the same meaning in this clause 19; and
FOIA Notice	means a decision notice enforcement notice and/or an information notice.
Foreign Official	shall be determined in accordance with section 6(5) of the Bribery Act 2010 (and any guidance issues under section 9 of that Act).
Goods	means the goods (including any instalment of the Goods or any parts for them) which the Supplier is to supply in accordance with these Conditions.
Invitation to Tender	means an invitation for suppliers to bid for the goods or services required by the College.
Order	means the College's purchase order set out overleaf.
Quotation	means an offer which may be written or verbal unless otherwise stated.
Service	means any service which the Supplier is to supply in accordance with these Conditions.
Supplier	means the person, firm or company with whom the College contracts, subject to these Conditions.

Tax	means Value Added Tax, customer duties and any other taxes or duties.
Tender	means a written offer to execute works or supply goods or materials or services for a stated sum of money; the supplier's response to the invitation to tender.
Writing	includes telex, cable, facsimile transmission, email and comparable means of communication.

- 1.2 In these terms and conditions, unless the context otherwise requires:
- 1.2.1 references to numbered clauses are references to the relevant clause in these terms and conditions;
- 1.2.2 any obligation on any Party not to do or omit to do anything shall include an obligation not to allow that thing to be done or omitted to be done;
- 1.2.3 the headings to the clauses of these terms and conditions are for information only and do not affect the interpretation of the Agreement;
- 1.2.4 any reference to an enactment includes reference to that enactment as amended or replaced from time to time and to any subordinate legislation or byelaw made under that enactment; and
- 1.2.5 the word 'including' shall be understood as meaning 'including without limitation'.

2. **PLACING AND ACCEPTANCE OF ORDERS**

- 2.1 The College appoints the Supplier on a non-exclusive basis to provide the Goods and / or Services.
- 2.2 The acceptance (whether in writing or by the commencement of any work related to the College's order) by or on behalf of the Supplier of the College's Order includes the acceptance of these Conditions. No other terms or conditions (including, but not limited to, any terms or conditions proposed by the Supplier and/or the Supplier's agents which conflict with these Conditions) shall be incorporated into the Contract unless expressly agreed in writing by the College and signed by an authorised officer of the College.
- 2.3 Without prejudice to the provisions of the above paragraph no variation of or addition to these Conditions, whether written or oral, shall have effect unless and until agreed in Writing by the College and signed by an authorised officer of the College.
- 2.4 The Supplier shall in connection with the sale of Goods and/or provision of any Service comply with:
- 2.4.1 all and any College standing orders (copies of which are available on request) unless an authorised officer of the College has given prior approval in Writing for non-compliance in respect of a particular matter;
- 2.4.2 all and any directives, requirements and guidance issued by the Skills Funding Agency or Education Funding Agency;
- 2.4.3 all and any applicable financial regulations (copies of which are available on request);
- 2.4.4 all applicable laws.

3. SPECIFICATION

- 3.1.1 The Goods and/or Services shall, subject to the provisions of these Conditions, be of the best quality, material, and workmanship, free from defects, and shall conform in all respects with the Order and any specification supplied or advised by the College to the Supplier.
- 3.2 The Supplier shall ensure that all activities carried out pursuant to the Contract shall be documented in accordance with the requirements of the College and shall provide such documentation to the College as the College shall request from time to time.
- 3.3 The Supplier shall keep in place a system for dealing with any failure to provide the Goods and/or Services at the level and to the standard required by the College and shall carry out a review of such system and report the results to the College at such times as the College shall reasonably require.
- 3.4 The Supplier shall make available for the purposes of the provision of the Goods and/or Services any individuals named in the specification as key personnel. The Supplier shall provide the College with a list of names and addresses of all others regarded by the Supplier as key personnel and, if instructed by the College, any other persons who may be at any time concerned with the provision of the Goods and/or Service or any part of them, specifying in each case the capacities in which they are so concerned and giving such other particulars and evidence of identity and other supporting evidence as the College may reasonably require. The College may at any time by notice to the Supplier designate any person concerned with the supply of the Goods and/or Service or any part of them as a key person. The Supplier shall not without the prior written approval of the College make any changes in the key personnel referred to in this paragraph.
- 3.5 The Supplier shall take any steps reasonably required by the College to prevent unauthorised persons being admitted to College premises. If the College gives the Supplier notice that any person is not to be admitted to or is to be removed from College premises or is not to become involved in or is to be removed from involvement in the Contract, the Supplier shall take all reasonable steps to comply with such notice. The Supplier shall bear the cost of any notice, instruction or decision of the College under this condition.
- 3.6 The College's rights under these Conditions are in addition to the statutory conditions implied in favour of the College by the Sale of Goods Act 1979 and the Supply of Goods and Services Act 1982.

4. INTELLECTUAL PROPERTY

- 4.1 The Supplier hereby assigns to the College with full title guarantee, free from all third-party rights, all right, title, and interest in and to any intellectual property made, originated, or developed during the course of or otherwise related to the provision of the Goods and/or Services, including the Deliverables. Intellectual property includes all copyright, design rights, or any other intellectual property rights in all designs, drawings, data, and specifications, including, but not limited to, all readable, computer, or other machine-readable data or material and any other material submitted to the College under the terms of the Contract. All intellectual property rights in all materials submitted under the terms of this Contract by the College shall remain with the College at all times. Such material shall not be reproduced or disseminated for any other purpose by the Supplier without the written permission of the College..
- 4.2 The Supplier shall obtain waivers of all moral rights in the products, including for the avoidance of doubt the Deliverables, of the Services to which any individual is now or may be at any future time entitled under Chapter IV of Part I of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction.

4.3 The Supplier shall, promptly at the College's request, do (or procure to be done) all such further acts and things and the execution of all such other documents as the College may from time to time require for the purpose of securing the College the full benefit of the Contract, including all right, title and interest in and to the Intellectual Property Rights assigned to the College in accordance with clause 4.1.

4.4 All College Materials are the College's exclusive property. The Supplier shall keep the College Materials in safe custody at its own risk, maintain them in good condition until returned to the College, and not dispose of or use the same other than in accordance with the College's written instructions or authorisation.

5. PRICE AND PAYMENT TERMS

5.1 The price shall be as stated in the Order and, unless otherwise so stated, shall be exclusive of any applicable value added tax (which shall be payable by the College subject to receipt of a VAT invoice) and inclusive of all charges for packaging, packing, shipping, carriage, insurance and delivery and any duties, costs, imposts or levies other than value added tax.

5.2 No increase in the price may be made (whether on account of increased material, labour, or transport costs, fluctuation in rates of exchange, or otherwise) and no extra charges shall be made without the prior consent of the College in writing.

5.3 The Supplier shall be entitled to invoice the College on or at any time after delivery of the Goods or performance of the Services, whichever shall be later, and each invoice shall quote the number of the Order. Unless otherwise stated in the Order, the College shall pay the price of the Goods within 30 days from the date of receipt of a proper invoice or receipt of the Goods, whichever is later, and the College shall be entitled to set off against the price any sums owed to the College by the Supplier by means of a credit note. The College aims to satisfy the terms of the Public Sector Prompt Payment Policy, but time for payment shall not be of the essence of the Contract.

5.4 Where a cash discount is to be allowed to the College by the Supplier the cash discount period shall commence from delivery of the Goods, performance of the Service or the date of the Supplier's invoice, whichever shall be later.

6. OWNERSHIP OF GOODS

6.1 The property in the Goods shall pass to the College at the time of delivery unless payment for the Goods is made prior to delivery, in which case property shall pass to the College once payment has been made and the Goods have been appropriated to the Contract. The acceptance of the ownership of the Goods under this clause is without prejudice to any right of rejection which the College may have or which may become available to the College. Risk in any Goods shall pass to the College at the time of delivery.

6.2 If the College supplies goods to the Supplier for the Supplier to perform any Service upon those goods, the property in those goods shall remain with the College at all times and the Supplier hereby waives any implied lien which the Supplier may have in respect of the same. Risk of loss of or damage to such goods shall be with the Supplier from the time of receipt until redelivery in accordance with the College's instructions.

7. DELIVERY

7.1 The Supplier shall deliver the Goods to the address specified in the College's Order; unless otherwise stipulated by the College in the Order, delivery must be made between the hours of 8.30 am and 4.30 pm Monday to Friday inclusive, and delivery shall take

place when the Goods have been unloaded by the Supplier. Where the date of delivery of the Goods is to be specified after the placing of the Order, the Supplier shall give the College reasonable notice of the specified date and shall deliver the Goods on that date in accordance with these Conditions. The time of delivery of the Goods is of the essence of the Contract. If the Goods are to be delivered by instalments, the Contract will be treated as a single contract and not severable. Any delivery note accompanying the Goods shall quote the College's Order number..

- 7.2 Delivery of the Goods shall be completed upon the completion of unloading of the Goods at the delivery location.
- 7.3 If the Supplier:
 - 7.3.1 delivers less than **95** per cent of the quantity of Goods ordered, the College may reject the Goods; or
 - 7.3.2 delivers more than **105** per cent of the quantity of Goods ordered, the College may at its sole discretion reject the Goods or the excess Goods.
- 7.4 The Supplier shall perform the Service at the address specified in the College's Order. Unless otherwise stipulated by the College in the order, performance must be made between the hours of 8.30am to 4.30pm inclusive. Where the date of performance is to be specified after the placing of the Order, the Supplier shall give the College reasonable notice of the specified date and shall perform the Service on that date in accordance with these Conditions. The time of performance of the Service is of the essence of the Contract. If the Service is to be performed in stages, the Contract will be treated as a single contract and not severable.
- 7.5 The Supplier shall not deliver the Goods in instalments without the College's prior written consent. Where it is agreed that the Goods are delivered by instalments, they may be invoiced and paid for separately. However, failure by the Supplier to deliver any one instalment on time or at all or any defect in an instalment shall entitle the College to the remedies set out in these terms and conditions.

8. **LATE DELIVERY**

- 8.1 The College shall be entitled to reject the Goods or any part thereof and to treat the Supplier as in breach of contract if the Supplier fails to make delivery in accordance with these Conditions. Non-delivery of the Goods shall also be grounds for rejection. If, as a result of the late or non-delivery of the Goods, the College has to obtain the Goods elsewhere, the College reserves the right to claim from the Supplier any and all reasonable costs incurred by reason of having to procure the Goods.
- 8.2 The College shall be entitled to treat the Supplier as in breach of contract if the Supplier fails to perform the Services in accordance with these Conditions. If as a result of the late or non-performance of the Services, the College has to procure the provision of the Services from elsewhere the College reserves the right to claim from the Supplier any and all reasonable costs incurred by reason of having to procure the Services.

9. **WARRANTIES AND UNDERTAKINGS**

- 9.1 The Supplier warrants and undertakes to the College that the Goods:
 - 9.1.1 will be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for any purpose held out by the College or made known to the College in Writing on or before the time the Order is placed;

- 9.1.2 shall conform to all the British and International Standards relevant for such goods in effect at the time of delivery;
- 9.1.3 will be free from defects in design, material and workmanship at the time of delivery;
- 9.1.4 where they are manufactured products, they will be free from defects in design, material and workmanship and remain so for 15 months after delivery;
- 9.1.5 do not infringe any patent, registered design, copyright trademark, intellectual property right, or any other right of any third party;
- 9.1.6 will correspond with any relevant specification or sample; and
- 9.1.7 will comply with all statutory requirements and regulations relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods.
- 9.2 The Supplier warrants and undertakes that the Services shall be performed with reasonable care and skill, by properly qualified personnel and that the Supplier will take all reasonable measures in the management of Health and Safety and comply with all relevant Health and Safety legislation and all other applicable statutory requirements.

10. **INSPECTION**

- 10.1 The right is reserved to the College and those authorised by the College to inspect and test the Goods and the Supplier shall provide the College with all facilities reasonably required for inspection and testing. Any such inspection or testing shall not relieve the Supplier of its obligations hereunder nor imply acceptance of the Goods by the College.

11. **REJECTION**

- 11.1 If any Goods delivered do not conform to the Contract, the College shall be entitled (but not bound) to return the Goods to the Supplier at the Supplier's risk and expense and either to treat the Contract as discharged and require repayment within seven days of any part of the price which has been paid or require the Supplier to replace the Goods in accordance with the Contract within seven days from such notice as the College may require. The College shall not be obliged to return to the Supplier any packaging or packing materials for the Goods, whether or not any Goods are accepted by the College. The College also reserves the right to claim the cost incurred by the College in making good defects in the Goods in addition to any other right the College has arising therefrom.
- 11.2 The College shall not be deemed to have accepted the Goods until it has had seven days to inspect them following delivery. The College shall also have the right to reject the Goods as though they had not been accepted for seven days after any latent defect in the Goods has become apparent.
- 11.3 If any Service is not performed in accordance with the Contract, the College shall be entitled (but not bound) to treat the Contract as discharged and to require repayment within seven days of any part of the price which has been paid or require the Supplier to re-perform the Service in accordance with the Contract within seven days. The College also reserves the right to claim the cost incurred by the College in making good any failure or defect in the performance of the Service in addition to any other right the College has arising therefrom.

12. DEFECTIVE GOODS AND/OR SERVICE

- 12.1 The Supplier will within 7 days replace any Goods proving in any way defective at any time within 15 months from the date of delivery or 12 months from the date of supply to the end user, whichever is later, at the sole cost of the Supplier.
- 12.2 Without prejudice to any other right or remedy of the College the Supplier will, at the College's option, within 7 days of notification by the College remedy any defect in or failure to perform the Service at the sole cost of the Supplier.
- 12.3 The conditions, warranties and remedies provided for in these Conditions shall be in addition to those implied by or available at law and shall exist notwithstanding the College's acceptance of all or any part of the Goods or Service.

13. INSURANCE

- 13.1 The Supplier shall effect and maintain during the term of the Contract and for a period of six years thereafter a reputable insurance company a comprehensive policy or policies of insurance providing full cover in respect of any default for which it may become liable to indemnify the College under this Contract.
- 13.2 Where appropriate, the Supplier will hold:
 - 13.2.1 professional indemnity insurance in the sum of £1 million at least in respect of any one incident, unless this is otherwise agreed in writing by the College;
 - 13.2.2 employer's liability insurance in the sum of £5 million (or amount as required by law) at least in respect of any one incident;
 - 13.2.3 third party and public liability insurance in the sum of £5 million at least in respect of any one incident and in the annual aggregate, unless this is otherwise agreed in writing by the College;
- 13.3 The Supplier shall provide copies of any insurance certificates to the College upon request including, without limitation, professional indemnity, employer's liability and public liability insurance.

14. RECORDS

- 14.1 The Supplier shall maintain proper books, vouchers, accounts and records in respect of the Goods and/or Service at its place of business and shall make them available for inspection by the College, its employees and agents at reasonable times during the Contract and thereafter for a period of two years from delivery of the Goods or performance of the Service, whichever shall be the later.
- 14.2 The Supplier shall also, when requested, provide oral or written explanations and all other reasonable assistance to representatives of the College, the Secretary of State and any other relevant statutory authority for the purposes of the examination and certification of the College's accounts and for the purpose of any examination of the economy, efficiency and effectiveness with which the College has used its resources.

15. INDEMNITY

- 15.1 Without prejudice to the College's other rights and remedies, the Supplier will indemnify the College against all losses, liabilities, actions, demands, claims, costs, damages and expenses of any kind whatsoever and howsoever arising or arisen and whether direct,

consequential or special, including without limitation any injury, loss or damage resulting from or arising out of or incidental to:

- 15.1.1 any negligence of the Supplier or any of its employees or agents;
 - 15.1.2 the Supplier's performance of or failure to perform or breach of any of its obligations, whether express or implied, under the Contract;
 - 15.1.3 any defect in any Goods or any claim under Part 1 of the Consumer Protection Act, 1987;
 - 15.1.4 the Supplier's failure to deliver the Goods or perform the Service within the time specified;
 - 15.1.5 any claim that the Goods and/or their sale and/or use infringes any intellectual property rights (including without limitation copyright, patent, trade mark, registered designs, or in respect of passing off) of any third party.
- 15.2 This clause 15 shall survive termination of the Contract.

16. **TAX**

- 16.1 The Supplier must not breach any tax or social security obligations and must enter into a binding agreement to pay any late contributions due, including where applicable, any interest or any fines. The Buyer cannot terminate the Contract where the Supplier has not paid a minor tax or social security contribution.
- 16.2 Where the Supplier or any Supplier Staff are liable to be taxed or to pay National Insurance contributions in the UK relating to payment received under the Contract, the Supplier must both:
- 16.2.1 comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax, the Social Security Contributions and Benefits Act 1992 (including IR35) and National Insurance contributions;
 - 16.2.2 indemnify the Buyer against any Income Tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made during or after the Contract Period in connection with the provision of the Deliverables by the Supplier or any of the Supplier Staff.
- 16.3 If any of the Supplier Staff are Workers who receive payment relating to the Deliverables, then the Supplier must ensure that its contract with the Worker contains the following requirements:
- 16.3.1 the Buyer may, at any time during the term of the Contract, request that the Worker provides information which demonstrates they comply with clause 16.2, or why those requirements do not apply, the Buyer can specify the information the Worker must provide and the deadline for responding;
 - 16.3.2 the Worker's contract may be terminated at the Buyer's request if the Worker fails to provide the information requested by the Buyer within the time specified by the Buyer;
 - 16.3.3 the Worker's contract may be terminated at the Buyer's request if the Worker provides information which the Buyer considers isn't good enough to demonstrate how it complies with clause 30.2 or confirms that the Worker is not complying with those requirements;
 - 16.3.4 the Buyer may supply any information they receive from the Worker to HMRC for revenue collection and management.

17. TERMINATION

- 17.1 The College shall have the right at any time and for any reason to terminate the Contract in whole or in part by giving the Supplier written notice whereupon the College may return or reject at the Supplier's risk and expense any Goods already delivered and all work on the Contract shall be discontinued. The College shall pay to the Supplier the value of any Goods not so returned or rejected and fair and reasonable compensation for work in progress at the time of termination provided that such compensation shall not include loss of anticipated profits or any consequential loss.
- 17.2 The College shall be entitled (without prejudice to any other rights and remedies available to it under these Conditions or otherwise) forthwith to terminate the Contract, to return or reject at the Supplier's risk and expense any Goods already delivered and to recover any monies paid by the College in respect of any Goods and any additional expenditure incurred by the College in any of the following events:
- 17.2.1 if any Goods are not delivered within the time specified for delivery;
- 17.2.2 if any Service is not performed within the time specified for performance;
- 17.2.3 if the Supplier commits any breach of any contract between the College and Supplier;
- 17.2.4 without prejudice to the generality of the foregoing, if any Goods are defective or otherwise fail to conform to specification or sample or otherwise fail to meet the requirements of the Order or the quality and/or workmanship is not to the College's reasonable satisfaction;
- 17.2.5 if the Supplier commits an act of insolvency which shall be deemed to mean and include any one or more of the following:
- (a) the making of a voluntary arrangement by the Supplier with its creditors (within the meaning of the Insolvency Act 1986); or
 - (b) the bankruptcy of the Supplier (being an individual or firm); or
 - (c) the Supplier (being a company) becoming subject to an administration order; or
 - (d) the liquidation of the Supplier (otherwise than for the purpose of amalgamation or reconstruction); or
 - (e) an encumbrancer taking possession or a receiver being appointed of any of the property or assets of the Supplier; or
 - (f) the Supplier ceasing or threatening to cease to carry on business; or
 - (g) the College reasonably apprehending that any of the events mentioned above is about to occur in relation to the Supplier and notifies the Supplier accordingly.
- 17.2.6 this Contract has been subject to a substantial modification which would have required a new procurement procedure in accordance with regulation 72(9) of the Procurement Act 2023 and Procurement Regulations 2024;
- 17.2.7 the Supplier has, at the time of contract award, been in one of the situations referred to in regulation 57(1), including as a result of the application of regulation 57(2), and should therefore have been excluded from the procurement procedure; or
- 17.2.8 this Contract should not have been awarded to the Supplier in view of a serious infringement of the Procurement Act 2023.

- 17.3 if the College becomes aware that the Goods and/or their sale and/or use infringe and/or are alleged to infringe the intellectual property rights (including without limitation copyright, patent, trademark, registered designs or in respect of passing off) of a third party.
- 17.4 The termination of the Contract, however arising, shall be without prejudice to the rights and duties of the College accrued prior to termination. The conditions which expressly or impliedly have effect after termination shall continue to be enforceable notwithstanding termination.
- 17.5 On termination of the Contract however arising the Supplier shall deliver to the College all Deliverables whether or not then complete and return all College Materials to the College. If the Supplier fails to do so, then the College may enter the Supplier's premises and take possession of them until they have been returned or delivered the Supplier shall be solely responsible for their safekeeping and will not use them for any purpose not connected with this Contract.
18. **TUPE**
- 18.1 In the event that TUPE applies at the Commencement Date with the effect that any employees of the College ("**College Personnel**") transfer to the Supplier, the College shall Indemnify the Supplier and keep the Supplier fully and effectively indemnified against any statutory redundancy payments due under the provisions of the Employment Rights Act 1996 (together with any applicable payment in lieu of statutory or contractual notice made to any such College Personnel) to each or any of the College Personnel who so transfers incurred by the Supplier in dismissing any College Personnel by reason of redundancy (as defined by the Employment Rights Act 1996) where the effective date of termination falls within six (6) months of the Commencement Date, provided always that the Supplier shall take all reasonable steps to mitigate the amount of any such payments payable by the College pursuant to this Clause 18.1 including by taking all reasonable steps to secure suitable alternative employment.
- 18.2 In the event of a transfer of the Services or any part thereof to any Replacement Supplier or to the College which is a transfer to which TUPE applies, the Supplier shall indemnify the College and/or any of the College's affiliates and/or the Replacement Supplier and keep the College and/or the College's affiliates and/or the Replacement Supplier fully and effectively indemnified against any losses, damages, penalties, orders, awards, reasonable costs (including legal costs), expenses or other payments incurred as a result of any claim by any of the Supplier's Personnel (or any former Supplier's Personnel) or their representatives against the College and/or against the College's affiliates and/or against any Replacement Supplier arising out of any act, fault or omission (including, but not limited to, any breach of Regulation 13 of TUPE and in relation to the contract of employment and any collective agreement concerning the Supplier's Personnel) of their employer (whether such employer was the Supplier or otherwise) which occurred prior to any such transfer.
- 18.3 The Supplier shall ensure that full payment is made to all Supplier's Personnel in respect of wages, salary, accrued holiday pay, bonus or any other payments and provision of benefits in kind accrued by the Supplier's Personnel up to the transfer date and shall keep the College and/or any of the College affiliates and/or the Replacement Supplier fully and effectively indemnified against any losses, damages, penalties, orders, awards, reasonable costs (including legal costs), expenses or other payments incurred as a result of any claim by any of the Supplier's Personnel or former Supplier's Personnel or their representatives against the College and/or any of the College's affiliates and/or against any Replacement Supplier arising from any failure by the Supplier to ensure that all such payments are made (including, but not limited to, any claim for accrued but untaken holiday entitlement and unpaid national insurance or income tax).
- 18.4 In the event of a transfer of the Services or any part thereof to any Replacement Supplier or to the College which is a transfer to which TUPE applies, the Supplier shall Indemnify

the College and/or any of the College's affiliates and/or the Replacement Supplier and keep the College and/or the Replacement Supplier fully and effectively indemnified against any statutory redundancy payments due under the provisions of the Employment Rights Act 1996 to each or any of the employees who so transfers and who was not identified as transferring Supplier's Personnel under this clause 18 and any enhanced redundancy payments to which they are entitled under their employment contracts (based on any formula to which they each have a contractual entitlement) as at the transfer date ("Redundancy Costs") incurred by the College or by any of the College's affiliates or by any Replacement Supplier in dismissing any of them by reason of redundancy (as defined by the Employment Rights Act 1996) where the effective date of termination falls within six (6) months of the transfer date, provided always that the College or the College's affiliate or the Replacement Supplier shall take all reasonable steps to mitigate the amount of the Redundancy Costs payable by the Supplier pursuant to this Clause 18.4 including by taking all reasonable steps to secure suitable alternative employment.

- 18.5 In the event of termination of the Services by the College in whole or part under clause 17 and there is no relevant transfer under the Regulations, the College shall indemnify the Supplier for the portion of any Redundancy Costs associated with the portion of affected Supplier's Personnel's employment prior to the transfer date of the employee to the Supplier. The Supplier shall be liable for the portion of any redundancy associated to the period of employment with the Supplier after the transfer date. It is a condition of this indemnity that the Supplier shall at all times act within its legal redundancy obligations and make all reasonable attempts to either redeploy the affected Staff, and/or mitigate any Redundancy Costs.
- 18.6 The Supplier shall promptly and in any event within one (1) month following:
- 18.6.1 the giving or receiving notice of termination of this Agreement or the termination of any part of the Services; or
- 18.6.2 the receipt of a written request from the College (which the College anticipates will not ordinarily be given before commencement of the last nine (9) months of the Term),
- 18.6.3 provide to the College and/or Replacement Supplier full details of the following. The Parties hereby acknowledge and agree that the information so provided shall be Confidential Information save that it may be released to others, provided appropriate non-disclosure agreement is signed, in connection with the tendering or re-tendering of the Services or any part thereof which are the subject of this Agreement at any time prior to the expiry or termination of this Agreement. The information to be provided in accordance with this clause shall be limited to:-
- 18.6.4 all of the information listed in Regulation 11 of TUPE (but to include anonymous identifiers rather than names);
- 18.6.5 how many of the Supplier's Personnel are absent from work together with the reason and anticipated return date;
- 18.6.6 full details of any enhanced redundancy scheme operated for the benefit of the Supplier's Personnel; and
- 18.6.7 full pension details, if any, including identity of pension scheme and employer contribution levels;
- 18.6.8 the average proportion of total working time of each member of Supplier's Personnel named on such list wholly and exclusively dedicated to providing the Services (averaged over the 6 months prior to the date this information is provided).
- 18.7 The Supplier hereby warrants that all information disclosed pursuant to Clause 18.6 shall be full, true and accurate and up to date and the Supplier shall update such information

as soon as reasonably practicably if it becomes aware (or ought reasonably to have become aware) that it has become materially inaccurate or incomplete. The Supplier shall keep the College and/or any of the College's affiliates and/or the Replacement Supplier fully and effectively indemnified from and against any losses, damages, penalties, orders, awards, reasonable costs (including legal costs), expenses or other payments incurred by the College and/or any of the College's affiliates and/or Replacement Supplier arising from any failure by the Supplier to supply the information required under Clause 18.6.

- 18.8 In Clauses 18.2, 18.3, 18.4 and 18.9 the warranties and indemnities given by the Supplier to the Replacement Supplier shall be given to the College for itself and as trustee for the Replacement Supplier but without prejudice to the right of any Replacement Supplier to enforce such indemnities directly pursuant to the Contracts (Rights of Third Parties) Act 1999. For the avoidance of doubt, and notwithstanding any other provisions of this Agreement the provisions of the Contracts (Rights of Third Parties) Act 1999 shall not be excluded for the purposes of Clauses 18.2, 18.3, 18.4 and 18.9.
- 18.9 The Supplier undertakes that either as soon as it receives notice of termination of this Agreement or of the termination of any part of the Services, or in the six (6) months immediately prior to the expiry of the Agreement (whichever occurs earlier) it shall not without the prior written consent of the Supplier (which shall not be unreasonably withheld):-
- 18.9.1 materially vary or allow to be varied the terms and conditions of employment of any of the Supplier's Personnel (including, but not limited to, remuneration, benefits, and other perquisites, notice periods and collective agreements) or recruit or allow to be recruited a replacement for any of the Supplier's Personnel on terms and conditions of employment which differ materially from those of the individual being replaced by such replacement;
- 18.9.2 increase or allow to be increased the number of Supplier's Personnel assigned to the provision of the Services;
- 18.9.3 change or allow to be changed the identity of the Supplier's Personnel assigned to the provision of the Services by transferring or allowing to be transferred any of the Supplier's Personnel to or from the provision of the Services or replacing or allowing to be replaced any of the Supplier's Personnel engaged in the provision of the Services even if this does not increase the overall number of Supplier's Personnel;
- 18.9.4 except where the Supplier is required to do so by law or by force of contract, whereupon the Supplier shall promptly notify the College in writing of the terms of such legal requirement or contractual requirement and shall obtain the written consent of the College (which shall not be unreasonably withheld) to any such variation or proposed increase or change. In the event that the Supplier breaches the provisions of this clause, then the College and/or any of the College's affiliates and/or the Replacement Supplier shall be entitled in their absolute discretion to terminate the employment of any of the Supplier's Personnel who transfer to them and the Supplier shall Indemnify the College and/or any of the College's affiliates and/or the Replacement Supplier and keep the College and/or any of the College's affiliates and/or the Replacement Supplier fully and effectively indemnified against any termination payment and in respect of any other payments whether by way of remuneration or otherwise payable to any such Supplier's Personnel (including but not limited to notice pay, arrears of wages, accrued holiday pay and redundancy pay) and against any claim arising out of such termination.

19. **PROHIBITED ACTIVITIES**

- 19.1 The Supplier shall procure that persons associated with it or other persons who are performing services in connection with this agreement shall:
- 19.1.1 comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption ('Relevant Requirements'), including but not limited to the Bribery Act 2010;
 - 19.1.2 comply with the College's Anti Modern Slavery, Ethics, Anti-bribery and Anti-corruption Policies, in each case as issued and updated by the College from time to time ('Relevant Policies');
 - 19.1.3 not do, or omit to do, any act that will cause or lead the College to be in breach of any of the Relevant Requirements or Relevant Policies;
 - 19.1.4 promptly report to the College any request or demand for any undue financial or other advantage of any kind received by the Supplier in connection with the performance of this agreement;
 - 19.1.5 have and shall maintain in place throughout the term of this agreement its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements and, the Relevant Policies, and will enforce them where appropriate;
 - 19.1.6 if requested, provide the College with any reasonable assistance, at the College's reasonable cost, to enable the College to perform any activity required by any government or statutory body for the purpose of compliance with any of the Relevant Requirements or Relevant Policies;
 - 19.1.7 within three months of the date of this agreement, and annually thereafter, certify to the College in writing signed by an officer of the Supplier compliance with this clause 17 by the Supplier and all its Associated Persons or other persons who are performing services in connection with this agreement. The Supplier shall provide such supporting evidence of compliance as the College may reasonably request.
- 19.2 The Supplier shall prepare and deliver to the College, no later than 31 December each year, an annual slavery and human trafficking report setting out the steps the Supplier has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its business.
- 19.3 The Supplier shall not enter into any contract with any political or religious organisation if the effect of that contract would be to promote a particular political or religious point of view.
- 19.4 The Supplier shall not hold itself out as acting on behalf of the College without the College's permission.
- 19.5 The Supplier shall ensure that any of its Associated Persons who is performing services in connection with this agreement does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Supplier in this clause 17 ('Relevant Terms'). The Supplier shall in any circumstances be responsible for the observance and performance by such persons of the Relevant Terms, and shall in any circumstances be directly liable to the Customer for any breach by such persons of any of the Relevant Terms howsoever arising.
- 19.6 Breach of this clause 17 shall be deemed a material breach of this agreement.

- 19.7 For the purpose of this clause 17, whether a person is associated with another person shall be determined in accordance with section 8 of that Act. For the purposes of this clause 17 a person associated with the Supplier includes but is not limited to any subcontractor of the Supplier.
- 19.8 Halesowen College is committed to countering bribery and has zero tolerance of bribery. Integrity and College values are made clear as fundamental and non- negotiable. Halesowen College prohibits bribery and will not tolerate its staff, students or third parties in their relationship with the College being involved in bribery, whether by offering, promising, soliciting, demanding, giving or accepting bribes or behaving corruptly in the expectation of a bribe or an advantage.

20. **DATA PROTECTION**

- 20.1 In this clause, the following definitions shall apply:

Contact Data means the information listed as such in the table at clause 19.7.

Controller, Processor, Data Subject, Personal Data, Personal Data Breach, processing and appropriate technical and organisational measures: as defined in the Data Protection Legislation.

Shared Personal Data: the personal data to be shared between the parties listed as such in the table at clause 19.7.

Data Protection Legislation: 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, and any other 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); and the guidance and codes of practice issued by the relevant data protection or supervisory authority and applicable to a party.

- 20.2 Each of the Parties shall comply with all applicable requirements of the Data Protection Legislation. This clause is in addition to, and does not relieve, remove or replace, a Party's obligations or rights under the Data Protection Legislation.

Contact Data

- 20.3 The Parties each acknowledge and agree that they may need to process Contact Data (in their respective capacities as controllers) in order to (as appropriate):

administer this Agreement;

compile, dispatch and manage payments relating to this Agreement;

manage the Agreement and resolve any disputes relating to it;

respond and/or raise general queries relating to this Agreement; and

comply with their respective regulatory obligations.

- 20.4 Each Party shall act as a Controller in respect of the Processing of the Personal Data on its own behalf and each Party shall be a Controller of the Personal Data acting individually and in common, as a Controller of:

its own Contact Data for internal business and administration purposes; and

the other Party's Contact Data in order to administer the Agreement.

20.5 Each Party shall process such Contact Data for the purposes set out in clause 20.3 above in accordance with their respective privacy policies.

20.6 The Parties acknowledge that they may be required to share Contact Data with other relevant parties, within or outside of the country of origin, in order to carry out the activities listed in clause 20.3, and in doing so each Party will ensure that the sharing and use of this Contact Data complies with applicable Data Protection Laws.

20.7 The subject matter and nature of the Processing under this Agreement are set out below:

Duration of the processing: For the Term.			
Category/ies of data subjects	Type of personal data	Yes / No	Permissible Use and Territory
Contact Data - Special category data	Information concerning special categories of data	No	N/A
Contact Data – personal data	Names Email address Telephone number Name of Business Occupation / Role	Yes	UK mainland only Use of the personal data by the Supplier is solely for the purposes of providing the functions and activities of the Supplier or for regulatory purposes.

20.8 Without prejudice to the generality of clause 20.2, if the College acting as a Controller, appoint the Supplier as a Processor, the Supplier shall, in relation to any Personal Data processed in connection with the performance by the Supplier of its obligations under this Agreement:

20.9 Where the Supplier is Processing Personal Data as a Data Processor for the College the Supplier shall:-

process the Personal Data only in accordance with instructions from the College as set out in this Agreement or as otherwise notified by the College unless the Supplier is required by Data Protection Legislation to otherwise process that Personal Data. Where the Supplier is relying on Data Protection Legislation as the basis for processing Personal Data, the Supplier shall promptly notify the Controller of this before performing the processing required by the Data Protection Legislation unless those Data Protection Legislation prohibit the Supplier from so notifying the Controller;

ensure that all Supplier's Personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential;

implement appropriate technical and organisational measures to protect the Personal Data against unauthorised or unlawful Processing and against accidental loss, destruction, damage, alteration or disclosure Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);

not cause or permit the Personal Data to be transferred outside the European Economic Area without the prior written consent of the College;

assist the Controller, at the Controller's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

notify the Controller without undue delay on becoming aware of a Personal Data Breach;

at the written direction of the Controller, delete or return Personal Data and copies thereof to the Controller on termination of the agreement unless required by Applicable Law to store the Personal Data; and

maintain complete and accurate records and information to demonstrate its compliance with this clause and allow for audits by the Controller or the Controller's designated auditor and immediately inform the Controller if, in the opinion of the Supplier, an instruction infringes the Data Protection Legislation.

- 20.10 The Supplier confirms that it has entered or (as the case may be) will enter with any third-party processor into a written agreement substantially on that third party's standard terms of business or incorporating terms which are substantially similar to those set out in this clause and in either case which the Supplier undertakes reflect and will continue to reflect the requirements of the Data Protection Legislation. As between the Controller and the Supplier, the Supplier shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 45.10.

The Supplier shall indemnify the College against all claims, expenses, Loss or damage suffered or incurred by the College arising out of or in connection with the breach of the Data Protection Legislation by the College, its employees or agents (a "DP Claim"), provided that the College gives the Supplier prompt notice of such DP Claim, full information about the circumstances giving rise to it, reasonable assistance in dealing with the DP Claim and sole authority to manage, defend and/or settle it.

- 20.11 The provisions of this Clause shall apply during the Term and six (6) Years after its expiry or termination.

21. **FREEDOM OF INFORMATION**

21.1 Freedom of Information

- 21.1.1 The Supplier acknowledges and agrees that The College is subject to legal duties under FOIA which may require the College to disclose on request information relating to this Contract or otherwise relating to the Supplier.
- 21.1.2 The Supplier acknowledges and agrees that the College is required by law to consider each and every request made under FOIA for information.
- 21.1.3 The Supplier acknowledges and agrees that all decisions made by the College pursuant to a request under FOIA is solely a matter for and at the discretion of the College.
- 21.1.4 Notwithstanding anything in this Contract to the contrary (including without limitation any obligations of confidentiality), the College shall be entitled to disclose information in whatever form pursuant to a request made under FOIA, save that in relation to any information that is Exempt Information the College shall use reasonable endeavours (but shall not be obliged) to consult the Supplier and shall not:

(a) confirm or deny that information is held by the College; or

(b) disclose information requested

to the extent that in the College's opinion the information is eligible in the circumstances for an exemption and therefore the College may lawfully refrain from doing either of the things described in parts (a) and (b) of this Clause.

21.1.5 In relation to information relating to the Supplier or the Contract which the Supplier requests should be exempt under the FOIA the Supplier shall indemnify the College for any and all costs (including legal fees) incurred by the College in:

(a) assessing the application of any exemption under FOIA; and/or

(b) responding to any FOIA notice; and/or

(c) lodging any appeal against a decision of the Information Commissioner in relation to disclosure

where such costs are incurred pursuant to efforts by the College to withhold Exempt Information.

21.2 The College shall in no event be liable for any loss, damage, harm or detriment, howsoever caused, arising from or in connection with the disclosure under FOIA of any Exempt Information or other information whether relating to this Contract or otherwise relating to the Supplier.

21.3 The Supplier shall assist the College as reasonably necessary to enable the College to comply with its obligations under FOIA.

22. **CONFIDENTIALITY**

22.1 The Supplier shall treat as confidential all documents and information provided by the College during or in connection with the performance of this Contract which contain Confidential Information. Such documents and information shall not be used by the Supplier except for the purposes for which they were made available and shall not be disclosed by the Supplier to any other person without the prior written consent of the College. The Supplier shall use all reasonable endeavours to ensure that its employees and its sub-contractors are under a similar obligation of confidentiality in respect of the relevant documents and information.

22.2 The obligations in this clause 22 shall not apply to information which:

22.2.1 is or has become part of the public domain other than as a result of a breach of the obligations of confidentiality under this Contract;

22.2.2 is disclosed to sub-contractors contracted to deliver all or part of the Services; or

22.2.3 is required to be disclosed by applicable law, regulation, judicial order or other governmental authority.

22.3 The College reserves the right to share information about the Supplier's performance under this Contract with the Department for Education and Skills and any other government department or government agency or other public body.

22.4 The Supplier shall not make any announcement about this Agreement without the prior written consent of the other party, such consent not to be unreasonably withheld.

22.5 The provisions of this clause 22 will apply for the duration of the Contract and after its termination.

23. **AUDIT**

- 23.1 The Supplier shall keep and maintain until six years after the Contract has been completed, or as long a period as may be agreed between the parties, full and accurate records of the Contract including:
- 23.1.1 the Goods and Services provided under it;
 - 23.1.2 all expenditure reimbursed by the College;
 - 23.1.3 all payments made by the College.
- 23.2 The Supplier shall on request afford the College or its representatives such right to audit and access to those records as may be required in connection with this Contract.

24. **FORCE MAJEURE**

Neither party shall have any liability whatsoever for any failure to perform or for any delay in performance of any of its obligations under the Contract arising wholly or in part by reason of any factor beyond its direct control including (but without limitation) shortage of raw materials, components or services, Acts of God, war, national emergency, laws or regulation of any country, industrial dispute, civil commotion, fire, tempest or flood. If the performance is substantially prevented for a continuous period of six months by virtue of any of the aforesaid events, then either party may terminate this Contract by written notice to the other.

25. **DISPUTES AND SET-OFF**

- 25.1 Any liability of the College under the Contract shall be subject to and conditional upon the due performance and observance by the Supplier of all its obligations under these Conditions, and, subject to these Conditions, the Supplier shall not be entitled to withhold or delay supplying the Goods or performing the Service or exercise any right of set-off whatsoever and howsoever arising or arisen which might otherwise be available to it.
- 25.2 The College may without notice set off any sums from time to time owed to the Supplier towards the satisfaction of all and any liabilities of the Supplier to the College whether the liability is present or future, liquidated or unliquidated, and whether or not liability arises under this Contract.

26. **GENERAL**

- 26.1 Subject to clause 26.2, the Supplier shall not be entitled to assign the whole or any part of its rights and/or obligations under the Contract and may not transfer, mortgage charge, sub-contract or declare a trust over or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of the College.
- 26.2 The Supplier may assign to a third party the right to receive payment of the price or any part thereof due to Supplier under the Agreement.
- 26.3 Where the College has consented to the placing of sub-contracts, the Supplier shall not be relieved of any obligation or duty attributable to it under the Contract or these Conditions and shall send copies of the sub-contract to the College if requested to do so.
- 26.4 If the Supplier proposes to enter into any sub-contract in connection with this Contract, the Supplier shall provide to the College the following information about the proposed sub-contractor:
- 26.4.1 its name, registered office and company registration number, contact details and legal

representatives;

26.4.2 a copy of the proposed sub-contract; and

26.4.3 any further information reasonably requested by the College.

26.5 Any notice required or permitted to be given by either party to the other under these Conditions shall be in Writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant on this provision to the party giving the notice. A notice shall be deemed to have been received, in the case of a facsimile, upon transmission and, in the case of a letter, forty-eight hours after posting. In proving service by letter, it shall be sufficient to show that the envelope containing the notice was properly addressed and stamped and duly posted.

26.6 No waiver by the College of any breach of the Contract by the Supplier shall be considered as a waiver of any subsequent breach of the same or any other provision.

26.7 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby unless such provision goes to the root of the Contract.

26.8 The Conditions and all documents referred to herein shall constitute the entire agreement in relation to the sale of the Goods and no modification or waiver thereof shall be valid unless made in Writing expressly for the purpose and signed by an authorised officer of the College and of the Supplier.

26.9 A waiver of any right or remedy under the Contract or law is effective if given in writing and shall not be deemed a waiver at any subsequent breach or default.

26.10 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

26.11 The Contract shall be governed by the laws of England and the Supplier agrees to submit to the non-exclusive jurisdiction of the English courts.

26.12 Except as otherwise provided in these Conditions, the parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.

26.13 The College when procuring goods and services takes account of equality and diversity requirements for users.

Every order notifies the supplier that the order is bound by these conditions and directs the supplier to the College's website where the terms and conditions of trade can be found. A paper copy is also available from finance.

Appendix C

Sustainable Procurement

1. Introduction

Sustainable procurement is the process by which the College acquires goods, services, works, and utilities in a manner that delivers value for money on a whole-life basis. This approach ensures that procurement decisions not only benefit the College but also contribute positively to society and the economy while minimising environmental harm.

Sustainable procurement requires consideration of the environmental, social, and economic impact of purchasing decisions. This includes assessing the materials used, their origins, manufacturing processes, and whether a purchase is necessary. The College is committed to reducing the negative environmental and social effects of its procurement activities wherever possible.

2. Key Considerations for Sustainable Procurement

To integrate sustainability into procurement decisions, the College must assess several factors, including:

- **Use of non-renewable materials** – Preference should be given to renewable, recycled, or sustainably sourced materials.
- **Manufacturing and production methods** – Ethical and environmentally friendly production processes should be prioritised.
- **Re-use, recycling, and disposal options** – Consideration should be given to products with minimal waste and high recyclability.
- **Delivery options** – Efficient logistics that reduce carbon emissions should be sought.
- **Reduction of landfill and CO₂ emissions** – Preference should be given to goods and services that support lower carbon footprints.
- **Supplier policies on social and economic responsibility** – Companies with strong commitments to social, economic, and environmental responsibility should be prioritised.
- **Energy efficiency and carbon footprint** – Goods and services that reduce energy consumption and emissions should be selected where possible.

3. Responsibilities of Budget Holders

Budget holders play a crucial role in embedding sustainability into procurement. They must consider:

- Whether the goods or services are essential.
- The materials used in products and their sustainability.
- The transportation and delivery impact.
- The supplier's sustainability credentials.
- The manufacturing processes employed.

Procurement from companies that actively promote environmental responsibility should be encouraged. Budget holders are authorised to specify environmental conditions in procurement contracts.

4. Environmental Standards and Eco-Labeling

Products bearing recognised **eco-labels** should be preferred where they meet the required functionality and quality standards. Eco-labels are awarded to goods and services that meet strict environmental criteria, ensuring minimal environmental impact.

As environmental labels often operate on a national basis, care must be taken to ensure that procurement specifications do not discriminate against suppliers from different regions. Where relevant, tenderers should be allowed to demonstrate compliance through equivalent certifications or other verifiable means.

5. Environmental and Sustainability Requirements in Tenders

All tenders must include appropriate **environmental and sustainability** considerations. Tenderers' responses to these factors must be assessed and scored as part of the overall evaluation process. This ensures that sustainability remains a core component of procurement decisions, alongside cost and quality considerations.

By embedding sustainable procurement principles into its purchasing activities, the College can contribute to broader social, economic, and environmental objectives while maintaining best value for money.

Appendix D

Protocol for joining a Purchasing Consortium

1. Background

Halesowen College is committed to procuring goods and services using a value-for-money approach. One method of achieving this is through participation in purchasing consortia.

A purchasing consortium is a group of two or more independent organisations that collaborate—either formally, informally, or through a third-party entity—to combine their purchasing requirements. This collaboration enables them to secure better pricing, enhanced service, and improved technology from suppliers than they could achieve individually.

2. Protocol for Joining a Purchasing Consortium

Before joining and utilising a purchasing consortium, the following conditions must be met:

- The consortium's head office must be located within England or Wales.
- The College must not knowingly trade via consortia that support industries or businesses with objectives that conflict with the College's strategic values, including those related to equality, diversity, and environmental sustainability.
- The consortium must actively operate within the public sector, preferably with further education (FE) institutions as members, such as Crescent Purchasing Consortium (CPC). Consortia operating in the private sector will not automatically be excluded; however, unless the organisation that procured the framework agreement is itself governed by the Public Contracts Regulations 2015 or the Procurement Act 2023, the College will be unable to enter into a contract with that organisation unless it has undertaken a compliant procurement process under the Act.
- The College's value-for-money principles must remain central when using any consortium.
- There must be no obligation for the College to make purchases through the consortium.

3. Procedures for Joining a Purchasing Consortium

The College may join and utilise purchasing consortia through one of the following methods:

a) Associate Membership (No Obligation to Purchase)

Some consortia allow institutions to join on a non-obligatory basis or as associate members to access membership benefits. In such cases, individual College users may purchase goods or services as required.

- Before engaging with such a consortium, approval must be obtained from either the College Accountant or the Chief Finance Officer & Vice Principal.

b) Legally Binding Membership

Certain consortia require institutions to become legally bound members of a company limited by shares or guarantee.

- In these circumstances, a business case must be presented to the College Executive for consideration.
- If approved, the proposal must then be ratified by the College Corporation before the consortium can be used.

4. Related Policies and College Framework

The College has a robust financial framework in place to ensure resources are utilised effectively and that budget holders are accountable for securing best value in procurement. The following policies provide further guidance:

- Financial Regulations: Define responsibilities, principles, and procedures, including the scheme of delegation.
- Standing Orders Relating to Contracts: Outline the tendering and estimation requirements.
- Procurement Policy: Establishes the value-for-money principles and the responsibilities of budget holders.

This protocol ensures alignment with the College's procurement objectives and compliance with relevant legislative frameworks.

Appendix E

Compliance with Standing Orders/Value for Money Monitoring

Quotation Form

Please use this form to ensure that value for money is achieved and that Standing Orders Relating to Contracts are observed.

These records may be subject to audit inspection.

Item(s)				
	Value (inc VAT)	Company	Quote expiry date	Has quote been obtained
Company 1	£			
Company 2	£			
Company 3	£			

Please attach quotations to this form.

Please observe the College Procurement and Value for Money Policies.

I confirm that the above are bonafide quotations from legitimate suppliers

Signed _____ Date _____

Finance use only

Quotations verified <input type="checkbox"/>	Signed: Print Name:
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Date:	Order no:
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Appendix F

Protocol for Approving New Suppliers

Background

Halesowen College is committed to trading with suppliers that are financially secure and whose own objectives are compatible with the College's strategic objectives and values.

With this in mind, the following procedure has been developed for the approval and use of new suppliers.

Procedure

In order to use a supplier that the College has not dealt with before the requisitioner must complete a 'New Supplier Request via eBIS' depending on the estimated annual spend with the proposed supplier, the Head of Finance will carry out the requirements set out in the 'Criteria for Approved Supplier List' (attached). The Head of Finance will contact the supplier to obtain any necessary information and inform the requisitioner within two working days of receipt of the information with the outcome. Should there be a significant delay in the receipt of information from the supplier, the Finance and Procurement Manager will keep the requisitioner informed.

If the College already trades with a supplier that can supply the required goods/services, then the Head of Finance will establish with the requisitioner the need to use a new supplier. This will be documented.

All new suppliers will be subject to financial checks as appropriate. Specialist software may be used to access supplier information. Should a supplier not be listed on the software (for example they may be a sole trader or an LLP) then it will be necessary for the 'Approved Supplier Application Form' (attached) to be completed. Prior to any order being placed, the Head of Finance will communicate with the supplier in order to capture the business details necessary (dependent on size of the order) in the form, together with a copy of the most recent two years' financial statements.



An analysis of the information will be carried out by the Head of Finance who will then pass recommendations on to the Director of Finance or Vice Principal & Chief Finance Officer for approval. This process should be done as expeditiously as possible to prevent delays in goods being ordered.

Criteria for Approved Supplier List

Estimated Value of Order	Threshold	Requirements
£0 - £1,000	A	<ul style="list-style-type: none"> Supplier should have EU trading address else checks in band C required.
£1,001 - £29,999	B	<ul style="list-style-type: none"> As band A plus supplier to be subject to financial checks using specialist software. Scores below 25 points to be referred to the College Accountant. Should the purchase not be a one off and include ongoing warranties/services then if score is below 25 points then College Accountant will assess: length of time supplier has traded <p>A minimum score of 6 should be achieved based on the matrix below.</p> <p>In exceptional circumstances the Chief Finance Officer & Vice Principal or the College Accountant may waive the requirement for financial information to be collected. Rationale for decisions must be fully documented on a risk-based model.</p>
£30,000+	C	<ul style="list-style-type: none"> As band B plus Insurance cover regarding goods/services supplied to the College (if appropriate) Environmental/Sustainability Policy (if appropriate) Health & Safety Policy (if appropriate) Equal Opportunity Policy/Statement (if appropriate) Most recent Audited Accounts (containing at least two years financial information)

¹ Note the College's anti-bribery statement is communicated to all suppliers.

Band A: Checks to be carried out on set up only

Band B: Checks to be carried out on set up only unless there is an ongoing service/ warranty relationship then every five years

Band C: Checks to be carried out at tender (else three years)

NB: Please note that if a supplier is only used once during a 24 month period they will be removed from the Approved Supplier List

Financial Evaluation Matrix

Criteria	Score
Length of time trading	< 1 yr = 0 1 yr – 3 yrs = 1 > 3 yrs = 3
Profitability	> 5% surplus as a % of income =5 > 1 - 4.9% surplus as a % of income =3 breakeven =1 deficit =0
Liquidity	>3=5 1–2.9=3 0 – 0.9 = 1 < 0 = 0

Approved Supplier Application Form

Business Details

Name of Business	
Business Address	
Postcode	
Telephone:	Fax: Email:
Time in Business _____years _____months	Time at this Address _____years _____months
If less than 2 years please supply previous address	
Previous Postcode	

Proprietor Details

Applicant	
Surname _____ Forenames _____	
Second Proprietor (if any)	
Surname _____ Forenames _____	
Applicant's Home Address (if different from Business Address)	
Postcode	

Other Details

Do you have Public Liability Insurance	Yes <input type="checkbox"/> No <input type="checkbox"/>
Company insurance held with	
Value of Public Liability insurance	
Policy Number	
Copy of most recent two years financial statements enclosed	Yes <input type="checkbox"/> No <input type="checkbox"/>

