



Cheshire Academies Trust  
*Collaboration and Creativity*



# TERMS AND CONDITIONS

Next review date: Autumn 2021

## **1. DEFINITIONS AND RELEVANT LAW**

The Trust means Cheshire Academies Trust (CAT) or one of its Academies (Boughton Heath Academy, Kelsall Primary School, Mill View School) or the Cheshire Learning & Teaching Alliance (CLTA). The Head of School means the Headteacher or Principal of one of the Trust Academies. The Contractor means the person, firm or company to whom the Contract is awarded and to whom the Order is addressed. 'Goods' means such articles, materials or commodities as are described in the Tender Schedule or Order placed by the Trust with the Contractor for the supply of goods. These conditions shall be construed in accordance with English Law.

## **2. ACCEPTANCE**

Unless a formal Contract is prepared and executed, the Contractor's tender if accepted under the hand of the Head of School or his duly authorised representative together with these Standard Conditions of Contract shall constitute a binding Contract. Any Conditions of Contract of the Contractor shall not form part of the Contract.

## **3. PERIOD OF CONTRACT**

The Contract shall be in force for the whole of the period as defined in the Tender.

## **4. VARIATIONS**

Neither the Trust nor the Contractor shall be bound by any variation, addition to, or waiver of these conditions except as agreed by both parties in writing and signed on their behalf by their respective duly authorised representative.

## **5. DELIVERY**

During the period of the Contract the Contractor shall on executing an order properly pack and secure the goods in such a manner as to reach their destination in good condition under normal conditions of transport and thereafter deliver the same or cause them to be delivered free from delivery, carriage and other charges (unless otherwise stated in the tender documents) at the place or places as may be directed and in such quantities and at such times as specified in the Order by the Trust or its duly authorised officer.

## **6. PASSING OF TITLE**

Title to goods which are the subject of an official order shall pass to the Trust on delivery, unless otherwise stated in the tender.

## **7. RETURN OF CONTAINERS**

If any containers in which goods are delivered are to be returned to the Contractor, the Contractor will be required at his own expense, within 14 days of delivery, to arrange for the collection or return to him of such containers, and no charge is to be made in respect of such containers.

## **8. QUALITY, DESIGN AND CONSTRUCTION**

The goods shall:-

- Conform as to quality and description within the particulars stated in the Tender.
- be of satisfactory quality and fit for purpose.
- be equal in all respects to the samples, patterns, drawings or specification provided or given by either party.
- be capable of any standard of performance specified in the Tender.

Where an appropriate British Standard Specification issued by the British Standards Institution or EEC equivalent is in force at the date of tender, all goods supplied shall be at least in accordance with that standard.

The Contractor warrants that the design, construction and quality of goods to be supplied under the Contract comply in all respects with all relevant requirements of any Statute, Statutory rule or order, or other instrument having the force of law which is in force at the time when the same are supplied.

## **9. INSPECTION AND ANALYSIS**

The Trust shall at all reasonable times have access to the premises or works of the Contractor and shall be afforded facilities for inspecting the testing of any goods at the works of the Contractor before delivery. The Trust may analyse or test or cause to be analysed or tested any goods delivered by the Contractor, and if such goods are found not to be equal to or vary from the specification the Trust may reject the whole or any part thereof and recover the cost of the analysis from the Contractor in accordance with Condition 10 hereof.

#### **10. REJECTION**

The Trust may by notice in writing to the Contractor reject the goods if the Contractor fails to comply with any obligations under Conditions 5,8 and 9 hereof and may also by notice in writing to the Contractor given within 14 days or such period as may be agreed after delivery, reject any goods which are found not to be in accordance with the tender provided that the Trust when giving notice or rejection shall specify the reasons thereof and shall thereafter return the rejected goods to the Contractor at the Contractor's risk and expense. In such a case the Contractor shall within 7 days of return replace such rejected goods which are in all respects in accordance with the tender.

#### **11. ACCOUNTS**

Accounts for goods shall be rendered for payment quoting the order number of the Trust. All discounts quoted by the Contractor in the Tender shall be allowed on such accounts.

#### **12. POWER TO PURCHASE IN DEFAULT**

In the case of failure by the Contractor to deliver goods demanded within a period for delivery specified in the Order, or in the case of goods being rejected by the Trust under Condition 10 hereof the Trust shall have absolute power to purchase other goods and any excess reasonable costs so incurred shall be recoverable by the Trust from the Contractor.

#### **13. QUANTITIES**

The quantities set out in the Tender are given as a guide to tenderers and are unless determined estimated requirements. Nevertheless the Trust does not bind itself to purchase such quantities but reserves the right to order only such quantities as it may require from time to time during the period of the Contract.

#### **14. LOWEST TENDER**

The Trust does not bind itself to accept the lowest or any tender and reserves the right to accept any tender wholly or in part. It may select such item or items for acceptance as it shall see fit and the Contractor shall be bound by such acceptance unless determined in the tender.

#### **15. ORDER**

All goods must be the subject of an order issued by the Trust. The order must be on an official Trust Order Form. The Trust shall not be responsible for any goods which are delivered by the Contractor which are not the subject of an Order. Such goods must be collected within 14 days of notification by the Trust by the Contractor at the Contractor's expense.

#### **16. GIFTS OR REWARDS TO TRUSTEES, GOVERNORS OR MEMBERS OF STAFF**

The Trust shall be entitled to cancel the Contract and to recover from the Contractor the amount of any loss resulting from such cancellation if the Contractor shall have offered or given or agreed to give any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of the Contract or any other Contract with the Trust or for showing or forbearing to show favour or disfavour to any person in relation to the Contract or any other Contract with the Trust, or if the like acts shall have been done by any person employed by him or acting on his behalf (whether with or without the knowledge of the Contractor) or if in relation to any Contract with the Trust the Contractor to or any person employed by him or acting on his behalf shall have committed any offence under the Prevention of Corruption Act 1889 to 1916

#### **17. ASSIGNMENT**

The Contract or any part thereof shall not be assigned or sub-let without the written consent of the Trust which shall not be unreasonably withheld under the hand of The Head of School.

#### **18. DETERMINATION OF CONTRACT**

The Contract may be determined by the Trust at any time by notice in writing to the Contractor in the event of any breach of any of the stipulations and conditions contained therein or of the Contractor (or any partners in the Contractor's business if the Contractor be a firm) shall become bankrupt or have a receiving order made against them or him or shall present their or his petition in bankruptcy or shall make any arrangements with or assignment in favour of their or his creditors or shall agree to carry out the Contract under a committee of inspection of their or his creditors if the Contractor (being an incorporated Company) shall be the subject of any Order for the winding up whether compulsory or voluntary or if a resolution to wind up shall be passed by the shareholders or if a Receiver be appointed to the business of the Contractor. Provided that the rights of the Trust in respect of any antecedent breach by the Contractor of any terms of the Contract shall remain unaffected and provided also that the Contractor shall, if called upon by the Trust to do so, complete any orders which may have been given to him prior to the determination of the Contract on the terms provided by the Contract.

## **19. INDEMNITY**

The Contractor shall indemnify the Trust against:-

Any claim for bodily injury, loss of life or damage to property of third parties provided always that this indemnity shall not apply where the bodily injury, loss of life or damage to property results from any act or default of the Trust, its officers or agents or other Contractors (not being employed by the Contractor), and the Contractor shall effect and maintain insurance policies which provide full cover in respect of such claims and shall when required by the Trust or its officers produce satisfactory evidence that he is insured against such liability.

Any breach by the Contractor of the provisions relating to quality, design and construction in Clause 8 hereof including the legal costs of defending any proceedings, criminal or civil, bought against the Trust arising from such breach.

## **20. MATERIAL AND PROPERTY OF THE TRUST**

The Contractor shall be liable for any damage to or loss of any material or property of the Trust sent to the Contractor by the Trust for any purpose in connection with the Contract whilst the material or property is in the possession of the Contractor and the Contractor shall insure any such material or property against such damage or loss. The Contractor shall be permitted to use any plans, designs provided by the Trust and the Contractor shall only use these for the purpose of fulfilling his contractual obligations. The Contractor shall not acquire any rights and shall not publish or disclose to third parties unless such disclosure has been authorised in writing by the Trust.

## **21. COMPLIANCE WITH RELEVANT LEGISLATION**

The Contractor shall comply with all legislation at the time being in force in the EU and England, which is relevant to the goods or services to be supplied. In particular, the Contractor's attention is drawn to the requirements of:-

- The Health and Safety Act at Work Act 1974 S6 which required suppliers to ensure so far as is reasonably practicable that any article or substance supplied is safe and without risks to health when properly used and to secure that such article or substance is capable of being supported by information about its proper use and any conditions necessary to ensure that such use will be safe and without risk to health.
- Classification, Packaging and Labelling of Dangerous Substances Regulations 1984 or any modification.
- The Consumer Safety Act 1978 and regulations thereunder.
- The Race Relations Act 1976 which prohibits an employer treating one group of people less favourably than others because of their colour, race, nationality or ethnic origin in relation to decisions to recruit, train or promote employees.
- Data Protection Act.

## **22. ROYALTIES AND PATENT RIGHTS**

The Contractor shall indemnify the Trust from and against all claims proceedings, damages cost and expenses which may be bought or made against the Trust or to which they may put by reason of the Contractor infringing or being held to have infringed any patent rights in relation to any patented articles, processes and inventions and in the event of any injunction being obtained against the use of the same the Contractor shall forthwith replace the same with other goods or materials as the case may be to the satisfaction of the Trust and will ensure that they do not infringe any such patent rights.

### **23. NOTICES**

Any notice to the Contractor shall be deemed to be sufficiently served if given to the Contractor or his duly authorised agent or left or sent by post addressed to him at his usual or last known place of abode or business or in the case of an incorporated Company at the registered office of the Company.

### **24. DISPUTES**

If any difference shall arise between the Contractor and the Trust as to the interpretation or operation of these Conditions as to the rights, duties, obligations or liabilities or either party hereto which cannot be resolved between the parties the said difference shall be referred to a single arbitrator if the parties can agree or in default of agreement to two arbitrators one to be appointed by each party or their umpire and in either case in accordance with the provisions of the Arbitration Act 1996 or any statutory modification or re-enactment thereof.

### **25. TIME OF ESSENCE**

In these conditions or any addition thereto or variation thereof made in accordance herewith where a period of time is referred to time shall be deemed to be of the essence in all such cases.

### **26. THIRD PARTY**

Contract (Rights of Third Parties) Act 1999. The provisions of this Act are expressly excluded from this Contract.

### **27. PAYMENT TERMS**

The Trust will on receipt of an invoice make payment to the Contractor within 30 days. In the event of a dispute payment will be made within 30 days of the resolution of the dispute.

### **28. SET OFF**

Neither the Contractor nor the Trust will have the right of set off.