

Terms and Conditions ‘Suppliers’

Version Control

ProcureCo is an online platform run, owned and operated by 3DC Learning Limited

This document is the additional terms and conditions applicable to your registration as a Supplier and governs the relationship between you and 3DC Learning Limited (Company number 12058266), whose registered office address is at No 1 Croydon, 11th Floor, 12-16 Addiscombe Road, Croydon CR2 0XT (“us”, “we” or “3DC Learning”).

This Agreement forms a legally binding contract between you and 3DC Learning.

0. Definitions

In these terms and conditions the following words have the following meanings:

Account	means the Account created by a member on registration (or issued by our helpdesk) and all associated information.
Supplier Office	means a place whereby a business or trades person has been registered as a location on the platform
Content	means any text, graphics, link, program or other information which is capable of protection by any form of intellectual property right.
Consumer	means an individual acting for purposes that are wholly or mainly outside that individual’s trade, business, craft or profession.
Buyer/Public Sector Procurement	means an organisation that has become a member of the website to utilise the platform and source the services offered by suppliers
Supplier or ‘you’	Means you and (where the context requires) an organisation or tradesperson that has become a member of the website to offer services, and respond to requests issued by Buyers.
Trades Person	An individual that has become a member of the website to offer trades specific skills and respond to requests issued by buyers.
Members	means an organisation (or person) that has registered with the

	<p>online platform and created an account. The platform supports several types of members:</p> <p>Suppliers – those organisations looking to promote their products and services to buyers in the public sector as well as other suppliers in other categories.</p> <p>Sponsoring suppliers – Those suppliers</p> <p>Public Sector Procurement Representative Public and Social Housing Sector buyer representatives.</p> <p>Public Sector Employee other public sector staff.</p> <p>Main Contractor is an organization that has the main contract with the contracting authority</p> <p>Start Up Business for the purposes of the ProcureCo platform will be classified as a sole trader – may or may not be registered at Companies House. Has been operating for less than 18 months and has an annual turnover of less than £200, 000</p> <p>Micro Business – for the purposes of the ProcureCo platform will be classified as a sole trader – may or may not be registered at Companies House. Has been operating for less than 18 months and has an annual turnover of less than £200, 000</p> <p>Main Contractor is the organisation that is responsible for carrying out the construction activity</p> <p>Partners consist of public sector organisations that join as partners and provide knowledge, networks, time, contacts, information and other contributions to the platform.</p> <p>Social Enterprise – could be a registered social enterprise or Community Interest Company registered at Companies House with the Registrar of CIC’s</p>
Online Platform	Means the ProcureCo Platform
Profile	means the information provided by a member about its organisation and any associated information about the Member’s use of the Website Services which is viewable to other members.
Access Package	Means the package that you have chosen to pay in order to gain access to the platform and the various elements of the platform that you will be able to access.
Services	means the services provided by a supplier to a buyer
User	A person that has access to the ProcureCo platform
Verify / Verified	Means the basic checking of data uploaded by a Supplier.

	Our verification service is not an approval to work for a buyer (who are responsible for undertaking their own checks)
Website	means our website at www.procureco.uk or such other website through which the marketplace and services are provided from time to time.
Website Services	the services provided by the Website, including the platform and associated functionality and professional services as may be required, extended or varied from time to time.

For the purposes of these terms and conditions, a reference to “writing” or “written” includes email and any information provided in a Profile or through a Project or Work Package description.

- 0.1** Clause, schedule and paragraph headings shall not affect the interpretation of this Agreement.
- 0.2** A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality).
- 0.3** A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 0.4** Words in the singular shall include the plural and vice versa and a reference to one gender shall include a reference to the other genders.
- 0.5** A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 0.6** References to clauses and schedules are to the clauses and schedules of this Agreement; references to paragraphs are to paragraphs of the relevant schedule to this Agreement.

1. Our Rights and Obligations

- 1.1 Subject to our approval we grant you a non-exclusive, non-transferable right to access the online platform solely for usual business operations.
- 1.2 We shall provide the online platform to you in accordance with the terms of this Agreement using reasonable care and skill and the Software shall conform with the description detailed within Schedule 1
- 1.3 We shall use commercially reasonable endeavours to provide a service level availability for the online platform of 99% each month
- 1.4 We will provide support for your Users, offered by e-mail (9am-5pm Mon-Thu, 9am-4pm Fri, except Bank Holidays)
- 1.5 The Software is provided on an “as is” basis and you are responsible to ensure that it fulfils your requirements

- 1.6 We warrant that we have and will maintain all necessary licences, consents, and permissions necessary for the performance of our obligations under this Agreement.
- 1.7 We shall update the Software from time to time to provide upgrades, bug fixes and patches. Upgrades, Bug fixes are offered free of charge to Users. Any new modules developed by us will be out of scope and will be subject to a separate agreement
- 1.8 We shall use reasonable commercial endeavours to prevent unauthorised access to the online platform

2. Your Rights and Obligations

- 2.1 You may access the online platform from our website or from a branded site that we may provide to you.
- 2.2 You shall not allow your password or log in details to be shared with any other person
- 2.3 You shall:
 - 2.3.1 keep a secure password for the online platform and keep this password confidential;
 - 2.3.2 ensure that you will use the online platform in accordance with the terms of this Agreement and shall be responsible for any breach of this Agreement;
 - 2.3.3 comply with all applicable laws and regulations with respect to your activities under this Agreement;
 - 2.3.4 ensure that your network and systems are upto date and fit for purpose
 - 2.3.5 ensure that you access the online platform via:
 - Internet Explorer version 11 (or above)
 - Google Chrome
 - Safari
 - Firefox
 - Microsoft Edge
- 2.4 You shall not access, store, distribute or transmit any viruses or any material on the platform that is illegal or unlawful
- 2.5 not attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software in any form or media or by any means or attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software or access all or any part of the Services in order to build a product or service

which competes with the Services or use the Services to provide services to third parties or license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services available to any third party except the Authorised Users, or attempt to obtain, or assist third parties in obtaining, access to the Services, other than as provided under this clause.

- 2.6 Shall use all reasonable endeavours to ensure the information you provide on behalf of your organisation and/or any personal information is complete and accurate and that you will immediately update the information if it changes or becomes misleading.
- 2.7 You acknowledge that buyers are entirely responsible for undertaking their own assessment of your business and/or personal information including their own verification of your data along with any further checks that they may need to undertake.
- 2.8 You consent to us making the information contained in your profile (which may include your or your employee's personal information) available to appropriate Members on the Website.
- 2.9 You are responsible for agreeing and entering into contracts with the Buyer(s). We are not involved in the contract between you (as a supplier) and the buyer and you accept that all matters relating to the provision of the Services, including payment, are to be resolved between you and the buyer.
- 2.10 shall use all reasonable endeavours to prevent any unauthorised access to the platform, in the event of any such unauthorised access or use you will promptly notify us
- 2.11 The website must not be used by Consumers. You may be required to provide information about your organisation when creating an Account to establish that you are not a Consumer
- 2.12 When registering with the Platform we ask you to create a Profile. As a Supplier you may identify your company type (sub-contractor, sole trader, micro business, social enterprise, sub consultant or supplier), which buyers will use for sourcing purposes.
- 2.13 We may display to buyers the information about your use of the Website, including the number of times you have expressed interest in Work or a contract, been invited to Tender, submitted a Tender and been awarded work
- 2.14 You consent to us making your Profile (which may include your personal data, your employee's personal information, and/or your employers personal information) available to Members on the Website. You warrant and undertake that the information you provide is true and accurate and

that you will immediately update the information if it changes or becomes misleading. You agree that you will comply promptly with all reasonable requests we make for information about your identify or relevant details about your business, and/or your employers' business. You agree that you have the right to input, and make available to other members any such information with which you enter into the platform whether is be your own information, business or personal or that of an employer and/or employee.

- 2.15 You must protect your account logins at all times. If you lose control of your Account, you must notify us immediately. You will be responsible and liable for all activity carried out under your Account regardless of whether this is carried out by you or any third party.
- 2.16 You agree to log onto your Account regularly and familiarise yourself with the various policies and procedures set out on the Website. Those policies and procedures are binding on you and are, as amended from time to time, incorporated into this Agreement.
- 2.17 You warrant and undertake that you will not create multiple Accounts for your business and will only express interest in Work Packages from one Account.
- 2.18 You must not use or permit anyone else to use your Account fraudulently, in connection with a criminal offence, or in breach of any applicable law or statutory duty.
- 2.19 You are responsible for providing your own connectivity to the Website at your own cost and expense.

3. Your Content

- 3.1 You retain all of your ownership rights in the Content you post to the Website. However, when you post Content to the website you are granting, or warranting that the owner of such Content has expressly granted, to us a worldwide, royalty-free, perpetual, irrevocable, fully sub-licensable, non-exclusive right to use, reproduce, modify, transmit, distribute, perform, display and delete such Content (in whole or in part) and/or incorporate such Content.
- 3.2 You agree to indemnify us against any claims that Content you have posted breaches a third party's intellectual property rights and acknowledge that we have the right to disclose your identity to any third party who is claiming that any Content you have posted constitutes a violation of their intellectual property rights, right to privacy or is unlawful in any way.
- 3.3 You accept we may remove without prior notice to you any Content you post which we in our absolute discretion consider does not or may not comply this Agreement, including our Acceptable Use Policy.

- 3.4 If Content is deleted we will use reasonable efforts to remove it from the Website, but you acknowledge that caching or references to the Content may not be made immediately unavailable.
- 3.5 You accept that all content you post on the platform is available to be viewed by all members, with reason for doing so, regardless of the type of membership they hold

4. Fees and payment

- 4.1 Suppliers can access the basic platform free of charge. This allows you to build a profile according to the guidelines offered on the ProcureCo website and includes appearing in one category on the category map.
- 4.2 Suppliers may opt to upgrade their account at any time and may opt take either a free access package, an Access Package or Advanced Access. All the features of each of these access types are highlighted on the ProcureCo website. Each type of Access Package will have a variety of different features and benefits that benefits to choose from.

5. Intellectual Property Rights

- 5.1 You acknowledge and agree that we own all intellectual property rights in the online platform software and associated services.
- 5.2 We acknowledge and agree that you own all intellectual property rights for your data stored on the online platform.
- 5.3 In the event of any loss or damage to your data, your sole and exclusive remedy shall be for us to use reasonable commercial endeavours to restore the lost or damaged data on your behalf.

6. Confidentiality

- 6.1 We shall both hold the other's Confidential Information in strict confidence and, unless required by law, not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than in accordance of this Agreement.
- 6.2 We acknowledge that your data is the Confidential Information of your Company or yourself if you identify as a sole trader.

7. Indemnity

- 7.1 You shall defend, indemnify and hold harmless us against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with your use of the online platform and associated services, provided that:
 - 7.1.1 Your organisation is given prompt notice of any such claim;
 - 7.1.2 We provide reasonable co-operation to your organisation in the defence and settlement of such claim, at your expense; and

- 7.1.3 You are given sole authority to defend or settle the claim.
- 7.2 We shall defend you, against any claim that the online platform or Services infringes any third party registered UK patent effective as of the date of this Agreement, copyright or database right and shall indemnify you for any amounts awarded against you in judgment or settlement of such claims, provided that:
 - 7.2.1 We are given prompt notice of any such claim;
 - 7.2.2 You provide reasonable co-operation to us in the defence and settlement of such claim, at our expense; and
 - 7.2.3 We are given sole authority to defend or settle the claim.
- 7.3 In the defence or settlement of any claim, we may procure the right for you to continue using the Services, replace or modify the Services so that they become non-infringing or, if such remedies are not reasonably available, terminate this Agreement immediately by giving notice to you
- 7.4 In no event shall we, our employees, agents and sub-contractors be liable to you to the extent that the alleged infringement is based on:
 - 7.4.1 a modification of the online platform or Services by anyone other than us; or
 - 7.4.2 your use of the online platform or services in a manner contrary to the instructions given to you; or
 - 7.4.3 Your use of the online platform or services after notice of the alleged or actual infringement from us or any appropriate authority.

8. Limitation of Liability

- 8.1 Although we ask members for certain information relating to their identity we do not warrant this information has been confirmed or verified and we are not responsible for ensuring the accuracy or truthfulness of members' purported identities or the validity of the information that they provide to us. You are responsible for correctly identifying a member before entering any form of agreement with that member.
- 8.2 Subject to Clause 8.3 below, we shall have no liability for any loss of profits, anticipated savings, business opportunity, goodwill or loss of or damage to data or any indirect or consequential losses whether arising in contract, tort (including negligence) or otherwise incurred by you in connection with the online platform or associated services
- 8.3 Subject to Clause 8.4 below, our aggregate liability to you arising out of or in connection with this Agreement is limited to your total paid for the 12 months preceding the date of the relevant claim.
- 8.4 Nothing in this Agreement shall limit or exclude our liability for fraud, fraudulent misrepresentation, for death or personal injury resulting from

our negligence or the negligence of our agents or employees or for any other liability that cannot be limited or excluded by law.

9. Termination

- 9.1 You may terminate your Account at any time by emailing us directly at procureco@3dchange.co.uk and we will ensure that the next due monthly payment is not taken from your account.
- 9.2 We may terminate or suspend your Account at any time in the event that you breach any of the terms of this Agreement.
- 9.3 No refund will be given for any unused part of any fees you have paid if your Account is terminated in accordance with Clause 8.1 or 8.2.
- 9.4 We may also terminate or suspend your Account at any time on giving you notice to the email address that you provided when registering with us. We reserve the right to withdraw or amend the service that we provide via the Website without notice.
- 9.5 On termination of your Account you will be automatically withdrawn from the Website Services and your Profile will no longer be accessible to other Members. For the avoidance of doubt, you will continue to be bound by the terms of any contracts you have entered directly with Clients and Contractors.

10. Dispute Resolution

- 10.1 If a dispute arises out of or in connection with this Agreement then you shall follow the procedure set out in this clause:
 - 10.1.1 either party shall give to the other written notice of the dispute, setting out its nature and full particulars and the account manager from each party shall attempt in good faith to resolve the dispute;
 - 10.1.2 if the parties are for any reason unable to resolve the dispute within 10 Business Days of service of the written dispute notice, the dispute shall be referred to a senior officer of each party who shall attempt in good faith to resolve it; and
 - 10.1.3 if the senior officers are for any reason unable to resolve the dispute within 30 days of it being referred to them, the parties will attempt to settle it by commercial mediation services.

11. Force majeure

Neither party shall be liable to the other party under this Agreement if it is prevented from or delayed in performing its obligations under this Agreement (save for obligations to make payment) by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes, failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, extreme adverse weather condition, provided that it notifies the other as soon as reasonable practicable and makes reasonable commercial efforts to mitigate the effect of such an event.

12. Waiver

- 12.1 A waiver of any right under this Agreement is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and to the circumstances for which it is given.
- 12.2 Unless specifically provided otherwise, rights arising under this Agreement are cumulative and do not exclude rights provided by law.

13. Entire agreement

- 13.1 This Agreement, and any documents referred to in it, constitute the whole agreement between the parties and supersede any previous arrangement, understanding or agreement between them relating to the subject matter they cover.
- 13.2 Each of the parties acknowledges and agrees that in entering into this Agreement it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to this Agreement or not) relating to the subject matter of this Agreement, other than as expressly set out in this Agreement.

14. Assignment

Neither party may, without the prior written consent of the other, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement.

15. No partnership or agency

Nothing in this Agreement is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name

or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

16. Third party rights

This Agreement does not confer any rights on any person or party other than the parties to this Agreement pursuant to the Contracts (Rights of Third Parties) Act 1999.

17. Variations

We reserve the right to change our terms and conditions from time to time. We will notify you of any changes to these terms by posting them on the Website. If the changes are significant, we may provide a more prominent notice including, if appropriate, by email notification.

18. Governing law and jurisdiction

This Agreement is governed by and construed in accordance with the laws of England and Wales and the parties submit to the non-exclusive jurisdiction of the courts of England.

Schedule 1: High Level description of the ProcureCo Platform Offering.

1. Your Account

1.1 The first user from your organisation may register and create an Account to become a Supplier. You may have multiple users from your organization depending on which Access package you decide to take.

1.2 On registration and subsequent login(s) you reaffirm your agreement and undertake to comply with the Website Terms of Use. If you have multiple users from your organization when each user will have to agree with all the terms and conditions including:

Terms and Conditions

Privacy Policy

Acceptable Use Policy

You also warrant and undertake that you have the necessary authority to enter this Agreement on behalf of your organisation.

1.3 You agree that we may use your company logo and company name on our Website(s) and for our own marketing purposes.

2. The ProcureCo platform

2.1 The purpose of the Website is to help Buyers to source, identify by spend category and engage with suppliers who are able to provide the required Service(s).

2.2 Will help buyers to connect, communicate and collaborate with suppliers -to engage with supply chains

2.3 Buyers wishing to engage Suppliers may post details of anticipated Projects and associated Tenders to the Website. You accept that we do not check or have any responsibility or liability for the content of Projects and Tenders.

2.4 Procurement representatives and suppliers are responsible for connecting and communicating with each other themselves.

2.5 You accept that the information stored about your company is stored by the platform and maybe used by the Buyer or 3DC Learning to provide statistics about

your organisation, and we may include this information with your Profile and on the Website in a manner that is viewable by all Members.

- 2.6 An 'Award' issued on the platform by a buyer **is not** an instruction (or order) to proceed with the services. If you are successful with a tender and receive an Award on the platform, then you are responsible for agreeing and entering into a direct contract with the Buyer. We are not involved in the contract between you and the Buyer and you accept that all matters relating to the provision of the Supplier Services, including payment, are to be resolved between you and the Buyer.
- 2.7 You accept that any statements or information provided to a Member, whether through the Website or otherwise, are solely representations of the Member and by allowing any material to be placed on the Website we make no representation about the Member or any content placed by them.