



Birmingham City University

Standard Terms & Conditions

for the Purchase of Goods & Services

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1 Definitions

In this Contract the following expressions shall have the following meanings:

- 1.1 "Address" means the address for Delivery which, unless otherwise stated in the Purchase Order or notified by the Client, will be the Premises".
- 1.2 "Acceptance" means the Supplier carrying out any act consistent with fulfilling the Purchase Order.
- 1.3 "Adjudicator" means the adjudicator to be appointed or nominated under the "Dispute Resolution" condition of this Contract.
- 1.4 "Change Request" means a written request to alter the Contract as described in Condition 9.
- 1.5 "Client" means the first party to this Contract [Birmingham City University] and shall include the Client's permitted assignees and any of its subsidiaries or associated companies.
- 1.6 "Conditions" means the standard 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 Client and the Supplier.
- 1.7 "Confidential Information" shall mean any information written or oral, disclosed, directly or indirectly through any means of communication or observation by the Client or any of its Representatives labelled or referred to as "confidential" by the Client.
- 1.8 "Contract" means the agreement between the Client and the Supplier consisting of the Purchase Order, these Conditions and any other documents, or parts thereof, specified in the Purchase Order for the sale and purchase of the Goods or supply of the Services.
- 1.9 "Contract Period" means the period during which the Supplier will provide the Goods and or Services.
- 1.10 "Correct Invoice" means a detailed invoice quoting the Client's order number setting out full accurate details of the Goods or Services supplied, agreed prices and any discounts given.
- 1.11 "Data" means all designs, models, drawings, prints, samples, transparencies, specifications, reports, manuscripts, working notes, documentation, process information, manuals, photographs, negatives, tapes, discs, software or any other similar items.
- 1.12 "Delivery" means the receipt by the Client of the Goods or Services as set out in Condition 6.
- 1.13 "EIR" means the Environmental Information Regulations 2004.
- 1.14 "Equipment" means such tools, machinery, apparatus, materials, consumables, tackle, computer equipment and software, access equipment and stores brought to the Premises by the Supplier or the Sub-Contractors for the delivery of Goods or Services.
- 1.15 "FOIA" means the Freedom of Information Act 2000.
- 1.16 "Force Majeure" means any event beyond the reasonable control of both parties, including (but without limiting the generality thereof) any act of God, any national strike or labour dispute affecting the Goods and Services, war, hostilities (whether war is declared or not), invasion, armed conflict or act of a foreign enemy, terrorism, rebellion, revolution, riot or insurrection, nuclear explosion, radioactive or chemical contamination or ionising radiation unless the source or cause of contamination or

radiation is brought to or near the Premises by or on behalf of the Supplier or its Sub-Contractors.

- 1.17 "Goods" means all products, articles or materials specified in a Purchase Order to be supplied in accordance with the Contract.
- 1.18 "Insured Perils" means fire, lightning, explosion, storm, tempest, flood, escape of water from any water tank, apparatus or pipes, earthquake, aircraft and other aerial devices or articles dropped therefrom, riot and civil commotion (excluding any loss or damage caused by ionising radiation or contamination by radioactivity from any nuclear fuel or from nuclear waste from the combustion of nuclear fuel, radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof, pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds).
- 1.19 "Plant" means any of the Client's plant or equipment referred to in the Specification to be the subject of any of the Services.
- 1.20 "Premises" means the location(s) where the Goods are to be delivered or Services are to be performed.
- 1.21 "Price" means the price inclusive of any applicable tax payable to the Supplier by the Client under the Contract for the full and proper performance by the Supplier of its obligations under the Contract.
- 1.22 "Purchase Order" means the Client's officially numbered purchase order incorporating these Conditions together with all the documents attached or referred to therein.
- 1.23 "Representative" means the persons who have the authority to make decisions on behalf of the Client and Supplier.
- 1.24 "Services" means the Services or work specified in a Purchase Order to be supplied in accordance with the Contract.
- 1.25 "Specification" means the standards and requirements of the Goods and Services as specified by the Client.
- 1.26 "Sub-Contractors" means any person (other than the Supplier or his direct employees) to whom any part of the Contract has been sub-let appointed in accordance with Condition 8.
- 1.27 "Supplier" means the second party to this Contract.
- 1.28 "Working Day" means any day other than a Saturday or Sunday or a public or bank holiday in England

2 Basis of Purchase

- 2.1 The Supplier agrees to provide and the Client agrees to purchase the Goods and or Services in accordance with the Contract. The Contract shall comprise (in order of precedence): any Purchase Order Amendments, the Purchase Order, these Standard Terms and any other document (or part document) referred to on the Purchase Order.
- 2.2 These Conditions shall apply to the Contract to the exclusion of any other terms and conditions on which any quotation has been provided to the Client or subject to which the Purchase Order is accepted or purported to be accepted by the Supplier, unless the Client agrees otherwise in writing. However, should the Contract be held by a court of competent jurisdiction to include the Supplier's terms then in the event of any conflict these Standard Terms shall always prevail over the Supplier's terms.
- 2.3 A Purchase Order will commence on the earlier of the Supplier's Acceptance or the Supplier carrying out any act consistent with fulfilling the order. The supply of Goods or provision of Services in response to a Purchase Order or Purchase Order Amendment shall be regarded as the Supplier's Acceptance of these Conditions
- 2.4 The Client is not appointing the Supplier on an exclusive basis and shall remain free to obtain Goods or Services from any other Supplier throughout the duration of the Contract.

3 Cancellation of Purchase Order

- 3.1 The Client may cancel a Purchase Order without liability to the Supplier at any time prior to Acceptance by the Supplier by giving written notice to the Supplier.
- 3.2 At any time after Acceptance of a Purchase Order by the Supplier, the Client shall be entitled to cancel a Purchase Order in respect of all or part only of the Goods and Services by giving written notice to the Supplier at any time prior to delivery, in which event the Client's sole liability shall be to pay to the Supplier fair and reasonable compensation for work-in-progress at the time of cancellation but such compensation will not include loss of profits (whether direct or indirect and whether actual or anticipated) or any indirect or consequential loss.
- 3.3 The Supplier shall take all reasonable steps to mitigate its costs involved in any work-in-progress which is cancelled by the Client.

4 Obligations of the Supplier

- 4.1 The Supplier warrants to the Client that the Goods will be provided and the Services will be performed in a proper, skilful and workmanlike manner by appropriately qualified and trained personnel in accordance with the Contract and any descriptions and performance standards as set out in the Specification;
- 4.2 The Supplier warrants to the Client that any Goods shall be of satisfactory quality within the meaning of the Sale of Goods Act 1979, in accordance with any relevant specifications, drawings, samples or descriptions; and shall comply with any statute, directive or regulation or relevant International, European or British Standard in force at the time of delivery which is relevant to the Supply.
- 4.3 The Supplier shall not unreasonably refuse any request by the Client to inspect and test the Goods during manufacture, processing or storage at the premises of the Supplier or any third party prior to despatch and in the event of any such request the Supplier shall provide the Client with all facilities reasonably required for inspection and testing.

- 4.4 If, as a result of inspection or testing, the Client is not satisfied that the Goods will comply in all respects with the Contract and the Client so informs the Supplier within a reasonable time, the Supplier shall take such steps prior to Delivery as are necessary to ensure compliance.
- 4.5 The Supplier shall, at his own expense, provide all the Equipment necessary for the proper execution of the Services and shall keep the Equipment in good repair and safe condition, unless otherwise agreed by the Parties. The Supplier shall be responsible for insuring the Supplier's Equipment.

5 Goods

- 5.1 Risk of damage to or loss of the Goods shall pass to the Client upon Delivery to the Client in accordance with these Conditions.
- 5.2 The property in the Goods shall pass to the Client upon Delivery unless advance or progress payments are made for the Goods prior to Delivery in which case:
- 5.3 Property in any materials purchased or allocated by the Supplier for the purpose of a Purchase Order shall immediately vest in the Client; and
- 5.4 If the Goods are rejected by the Client for any reason, property and risk in the Goods rejected shall immediately revert to the Supplier.
- 5.5 Where appropriate to the Goods, the Supplier shall make available to the Client, or any nominated third party maintenance source, on request, with reasonable despatch and at agreed prices, all spares and replacement parts for a minimum period of five (5) years from the commencement of the contract.
- 5.6 The Supplier shall provide the Client with all operating manuals and other documentation necessary for the satisfactory operation of the Goods, and in any event all documentation so required. If after Delivery the operating manuals and documentation need updating or replacing the Supplier shall be responsible for notifying the Client of the availability of such updates or replacements and shall supply them at and agreed price upon receipt of written instruction.

6 Delivery & Packaging

- 6.1 Any Goods supplied or installed shall be constructed, finished, packaged, marked and delivered in a proper manner and in accordance with the Client's instructions, any statutory requirements, and any requirements of the carriers. All necessary warning notices regarding hazardous Goods shall be clearly displayed so as to be safe and without risk to health and to reach the Address in an undamaged condition. All packaging must be clearly marked to show to whom it belongs. Each delivery of Goods must be accompanied by a delivery note setting out full particulars of the Goods, delivery Address and quoting the Client's Purchase Order number.
- 6.2 The time of delivery of the Goods is of the essence of the Contract. All Goods must be delivered to the Address as specified in the Purchase Order. If Goods are incorrectly delivered, the Supplier shall be responsible for remedying the situation.
- 6.3 The Client shall not be obliged to return to the Supplier any packaging or packaging material for the Goods whether or not any Goods are accepted by the Client.
- 6.4 The Client shall not be deemed to have accepted the Goods until the Client has had a reasonable time to inspect them following Delivery. The Client shall also have the right to reject the Goods as though they had not been accepted for twenty-eight (28) days after any latent defect in the Goods has become apparent.

- 6.5 The Client reserves the right to mark the Goods immediately on Delivery for the purposes of security. The Client will not be deemed to have accepted the Goods if it marks them nor shall the Supplier be entitled to raise an objection on this ground to any subsequent rejection of the Goods.

7 Price & Payment

- 7.1 The Price payable for the Goods and Services shall be as stated on the Purchase Order, and unless otherwise stated, shall be inclusive of any applicable Value Added Tax.
- 7.2 The Price shall be inclusive of all charges for packaging, packing, shipping, carriage, insurance and delivery of the Goods to the Address and any taxes, levies or duties. The Price shall be deemed to include all costs and expenses incurred and risks assumed by the Supplier in supplying the Goods or performing the Services under this Contract.
- 7.3 Unless otherwise agreed in writing, at the end of each month of the Contract Period the Supplier shall send to the Client a Correct invoice in accordance with the Value Added Tax Act 1994 in respect of sums due to the Supplier for the Goods or Services. The Client will consider and verify invoices received from the Supplier in a timely fashion and, provided they are Correct Invoices, will pay for the Goods or Services no later than thirty (30) days after receipt of such Correct Invoice unless otherwise agreed in writing.
- 7.4 The Client reserves the right to withhold payment of the relevant part of the Price without payment of interest, where the Supplier has either failed to deliver the Goods or Services at all or has delivered Goods or Services which in the Client's reasonable opinion are unsatisfactory and any such invoice will not be paid unless or until the Goods or Services have been delivered to the satisfaction of the Client.
- 7.5 Where the Client fails to consider and verify any invoices in a timely fashion, such invoice shall be deemed a Correct Invoice after a reasonable time has passed.
- 7.6 If any sum under the Contract is not paid when due then the sum shall bear interest from the due date until payment is made in full (both before and after any judgment) at the statutory rate of interest applicable under the Late Payments of Commercial Debts (Interest) Act 1998.
- 7.7 The Supplier is not entitled to suspend deliveries of the Goods or performance of the Services as a result of any sums being outstanding without prior notice in writing to the Client of at least fourteen (14) Working Days.

8 Assignment & Subcontractors

- 8.1 The Supplier shall not be entitled to assign, novate, or otherwise dispose of its rights and obligations under the Contract whether in whole or in part without the prior written consent of the Client, save for any assignment by the Supplier of the right of the Supplier to be paid.
- 8.2 Subject to Condition 8.1 the Supplier shall not at any time permit any of its obligations under the Contract to be performed or undertaken by any Sub-Contractor without the prior written consent of the Client.
- 8.3 Where the Client does give its consent to the Supplier to use a Sub-Contractor, the Supplier shall remain responsible for all acts or omissions of such Sub-Contractor and ensure that payment provisions equivalent to those set out in Conditions 7.3, 7.5 and 7.6 are included in any sub-contract and that any such sub-contract requires the

counterparty to that sub-contract to include these provisions in any sub-contract that it awards.

- 8.4 If the Client considers that there may be grounds for the exclusion of a Sub-Contractor under Regulation 57 of the Public Contracts Regulations 2015 (PCR), it shall notify the Supplier. If it is found that there are compulsory grounds for exclusion, the Supplier will either not appoint or replace the relevant Sub-Contractor. If it is found that there are non-compulsory grounds for exclusion, the Supplier shall comply with the Client's instructions.

9 Variations

- 9.1 Either party may without invalidating this Contract request in writing an addition to or omission from or other change in the Goods or Services or the order or period or the Working Hours in which the Services are to be provided by issuing to the other party a Change Request.
- 9.2 The Client shall not be obliged to consent to any Change Request. If the Client wishes to proceed with a proposed change he shall arrange for the Change Request to be signed by the Client's Representative and an authorised Representative of the Supplier and a copy will be passed to the Supplier. The Supplier shall then implement the proposed change in accordance with the Change Request.
- 9.3 If the Supplier considers that any directions of the Client to vary the scope will then or later justify a change to the Contract Price, the Supplier shall promptly notify the Client in writing. Any adjustment to the Contract Price shall be determined in accordance with the agreed rates/prices.

10 Liability & Indemnity

- 10.1 The total liability of both parties in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance or contemplated performance of this Contract, excluding death or personal injury, shall not exceed the value of the contract.
- 10.2 Neither party limits its liability for:
- 10.2.1 death or personal injury caused by its negligence, or that of its employees, agents or sub-contractors; or
- 10.2.2 fraud by it or its employees; or
- 10.2.3 any other act or omission, liability for which may not be limited by law.
- 10.3 The Supplier shall indemnify the Client fully and shall keep the Client fully indemnified against all liability, loss, damages, injury, costs, claims and expenses (including legal expenses) suffered or incurred by the Client or in connection with the provision of the Goods and Services including:
- 10.3.1 the provision of the Goods and Services including advice and recommendations made, and accepted by the Client;
- 10.3.2 breach of any warranty or undertaking by the Supplier in relation to the Goods or Services;
- 10.3.3 any claim that the Goods or Services infringe, or their use or resale infringes the patent, copyright, design right, trade mark or other intellectual property rights of any other person, except to the extent that the claim arises from compliance with any specifications, drawings, samples or descriptions provided by the Client;

- 10.3.4 any liability under the Consumer Protection Act 1987 in respect of the Goods or Services;
- 10.3.5 any act or omission of the Supplier or its employees, agents or sub-contractors in supplying, delivering and installing the Goods and Services;
- 10.3.6 any injury or other loss caused to an employee of the Client or any other person on the Client's Premises, caused by any default or negligence on the Supplier's part, including without prejudice to the generality of the foregoing, any failure by the Supplier or the Supplier's agents, employees or sub-contractors to comply with any provisions of the Health and Safety at Work Act 1974 (and any amendments or modifications thereof) or any regulations or code of practice there under; and
- 10.3.7 Any investigation or proceedings or financial redress which arises out of a breach of Conditions 19, 20, 21, 22, 23, 24 and 25.

11 Insurance

- 11.1 The Supplier shall effect and maintain (and shall require its sub-contractors or agents to effect and maintain) throughout the continuance of the Contract adequate insurance cover in respect of its liabilities with reputable insurers on terms satisfactory to the Client and for such minimum amounts per event as may be specified by the Client. The Supplier shall provide evidence of such insurance cover to the Client on request.

12 Data

- 12.1 All patents, copyright, design rights and other intellectual property rights ("IP Rights") in all Data prepared or supplied by the Client to the Supplier shall remain the property of the Client.
- 12.2 Any Data supplied by the Client shall be returned to the Client on fulfilment of the Contract, at the expense of the Supplier.

13 Confidentiality

- 13.1 Any Purchase Order placed by the Client shall be treated as confidential and in particular the Supplier shall not make use of the Client's name or the name of any of the Client's customers for publicity purposes without the prior written consent of the Client.
- 13.2 The Supplier shall keep confidential all Data or information connected with the business of the Client or which comes to the Supplier's knowledge under or as a result of the Contract and shall not disclose it to any third party or use it other than for performance of the Contract except with the prior written agreement of the Client; or by requirement of law.
- 13.3 Upon termination of this Contract howsoever arising, the Supplier shall be required to either to return all of the Client's Confidential Information in its possession or to destroy it, at the Client's discretion.

14 Force Majeure

- 14.1 Neither party shall be liable to the other or be deemed to be in breach of contract by reason of any delay in performing, or any failure to perform any of their respective obligations in relation to the Contract in whole or in part by reason of Force Majeure.
- 14.2 For the avoidance of doubt any delay in performing or failure to perform any obligation by a supplier or Sub-contractor of the Supplier shall not relieve the Supplier of liability

under this Condition 14 unless due to any cause beyond the reasonable control of the supplier or Sub-contractor concerned.

- 14.3 Any act, event, omission, happening or non-happening will only be considered Force Majeure if it is not attributable to the wilful act, neglect or failure to take reasonable precautions of the affected Party, its agents or Staff.
- 14.4 If either party seeks to rely on this Condition, it shall immediately give notice to the other with full particulars of the act or matter claimed as a Force Majeure event. The parties so affected shall take all reasonable steps to remedy the failure to perform and to keep the other party informed of the steps being taken to mitigate the effects of the Force Majeure. The Client may issue instructions to the Supplier in respect of such Force Majeure.
- 14.5 If an event of Force Majeure lasts for more than 3 months, either party may, following consultation with the other, give a notice of termination on 15 Working Days' notice in accordance with Condition 15.

15 Termination

- 15.1 The Contract may be terminated in the following circumstances:
- 15.1.1 by either party giving the other 3 months prior notice at any time;
- 15.1.2 by either party with immediate effect if the other is in breach of any of its obligations under this Contract and, if the breach is capable of remedy, the other party has failed to remedy such breach within fifteen (15) Working Days of receipt of notice to do so;
- 15.1.3 by either party with immediate effect if the other makes application or any composition or arrangement with its creditors or has a proposal for a voluntary arrangement or a composition of debts or scheme of arrangement approved in accordance with the Insolvency Act 1986;
- 15.1.4 by either party giving the other fifteen (15) Working Days' written notice if prevented from performing its obligations for more than 3 months under this Contract due to Force Majeure in accordance with Condition 14;
- 15.1.5 by the Client on notice to the Supplier:
- 15.1.6 by the Client if the Supplier ceases or threatens to cease to carry on the business;
- 15.1.7 where the Agreement should not have been entered into in view of a serious infringement of obligations under European law declared by the Court of Justice of the European Union under Article 258 of the Treaty on the Functioning of the EU;
- 15.1.8 if the Client becomes aware that the Supplier should have been excluded under Regulation 57(1) or (2) of the Public Contracts Regulations 2015 from the procurement procedure leading to the award of this Agreement; or
- 15.1.9 if the Agreement has been substantially amended to the extent that the Public Contracts Regulations 2015 require a new procurement procedure.

16 Consequences of Termination

- 16.1 If this Contract is terminated in whole or in part, the Client shall be liable to pay the Supplier only such elements of the Price, if any, that have properly accrued in accordance with the Contract or the affected part of the Contract up to the time of the termination.
- 16.2 Except for termination under Condition 15.1.1 the Client shall be entitled to deduct from any sum which would have been due to the Supplier under this Contract and to

recover the same from the Supplier as a debt any sum in respect of any loss or damage resulting from termination of this Contract. Such loss or damage shall include the reasonable cost to the Client of the time spent by officers in terminating the Contract and in making alternative arrangements for the supply of Goods and Services or any part of them.

- 16.3 Where the Client terminates the Contract for convenience (in accordance with Condition 15.1.1) the Client shall pay to the Supplier any reasonable direct and quantifiable costs reasonably incurred due to early termination subject to our maximum liability provision. If the Client terminates the Contract for breach, the Supplier shall indemnify the Client and hold it harmless in relation to actions, claims, demands, and costs, including legal and professional costs and any loss or expense suffered by the client in seeking to provide the Goods and Services for the balance of the contract term.

17 Remedies

- 17.1 Without prejudice to any other remedy, if any Goods or Services are not supplied in accordance with the Contract, then the Client shall be entitled (whether or not any part of the Goods have been accepted by the Client):
- 17.1.1 to rescind a Purchase Order;
 - 17.1.2 to return the Goods to the Supplier at the cost and risk of the Supplier on the basis that a full refund for Goods so returned shall be paid forthwith by the Supplier;
 - 17.1.3 to require the Supplier at the Supplier's expense to remedy defects and poor performance in the Goods and Services and carry out any other necessary work to ensure that the terms of a Purchase Order are fulfilled within seven (7) calendar days or any other period agreed in writing by the Client;
 - 17.1.4 to refuse to accept any further deliveries of the Goods with the Client having no further liability to the Supplier;
 - 17.1.5 to claim such damages as may have been sustained in consequence of the Supplier's breach.

18 Dispute Resolution

- 18.1 All disputes will initially be referred by either Party to a representative of each Party responsible for the overall performance of this Contract, who will meet as soon as reasonably practicable to discuss the dispute.
- 18.2 If the parties are unable to resolve the dispute within ten (10) Working Days of their meeting pursuant to Condition 18.1, the Parties will attempt to settle it by mediation in accordance with the Centre for Dispute Resolution (CEDR) Model Mediation Procedure.
- 18.3 If the matter has not been resolved by mediation within fifty-six (56) calendar days of such notice having been received, or if the other party will not participate in mediation, then the dispute or difference shall be referred to Arbitration in accordance with Condition 18.4 below.
- 18.4 Either party shall give to the other ten (10) Working Days written notice to that effect and such dispute or difference shall be referred to a single Arbitrator agreed between the parties within ten (10) Working Days after the date of the said written notice or in default of agreement as may be nominated by the president for the time being of the Chartered Institute of Arbitrators.

- 18.5 The Adjudicator's decision is binding until the dispute or difference is finally determined by an arbitrator as provided in Condition 18.4. If either party does not comply with the Adjudicator's decision the other party shall be entitled to seek to enforce the Adjudicator's decision in the English courts pending any final determination of the referred dispute or difference.
- 18.6 The Adjudicator shall not be liable for anything done or omitted in the discharge or purported discharge of his functions as adjudicator unless the act or omission is in bad faith, and any employee or agent of the adjudicator is similarly protected.
- 18.7 Neither Party may commence any court proceedings in relation to any dispute arising out of this Contract until they have attempted to settle it by mediation and such attempt has been unsuccessful, provided that nothing in this Contract will prevent either Party seeking injunctive relief to prevent or stay a breach of any provision of this Contract.

19 Health & Safety and Environmental Protection

- 19.1 The Supplier shall use reasonable skill, care and diligence to see that he and the Sub-Contractors comply with all health and safety and environmental legislation, codes of practice, and guidance as applicable in the United Kingdom (including, but without limitation, the disposal of waste).
- 19.2 The Supplier shall, in delivering the Goods and carrying out the Services, abide at all times with the Client's work place regulations. The Supplier shall, where stipulated, comply with the Client's Permit to Work procedures.

20 Anti-Discrimination

- 20.1 The Supplier shall not unlawfully discriminate on grounds of sex, race, disability, religion or belief, sexual orientation or age in accordance with the provisions of the Equality Act 2010. The Supplier shall notify the Client immediately in writing as soon as he is aware of any investigation or proceedings brought against him under the relevant legislation. The Supplier shall co-operate with any investigation by the Client or a body empowered to carry out such investigations in relation to alleged or suspected discrimination

21 Data Protection Act

- 21.1 Each party warrants to the other that in relation to the parties' obligations under these Conditions it has complied, and will continue to comply with, all the requirements of the Data Protection Act 1998 (including all regulations or orders issued pursuant thereto). Each party shall indemnify the other against all losses, costs, expenses, damages, liabilities, demands, claims, actions or proceedings which the other party may incur arising out of any breach by the first of this Condition 21.

22 Corrupt Gifts

- 22.1 The Supplier shall comply with all applicable laws, statutes, regulations relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010. The Supplier shall not offer or give or agree to give to any person acting for or on behalf of the Client 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 act in relation to the obtaining or performance of the Contract or any other contract with the Client or for showing or forbearing to show favour or disfavour to any person in relation to the Contract.

23 Young People and Vulnerable Adults

- 23.1 The Client is committed to safeguarding children and vulnerable adults that come within its sphere of influence. The Supplier shall comply with the Client's policy and procedure in this regard.

24 National Audit Office Access

- 24.1 For the purpose of the examination and certification of the Client's accounts, or any examination pursuant to Section 6(1) of the National Audit Act 1983 or any re-enactment of that Act, or of the economy, efficiency and effectiveness with which the Client has used its resources, the Comptroller and Auditor General may examine such documents as he may reasonably require which are owned, held or otherwise within the control of the Supplier. The Supplier shall produce such oral or written explanations as he considers necessary.

25 Freedom of Information

- 25.1 The Supplier acknowledges that the Client is a public authority and subject to the requirements of FOIA and EIR and that the Client is under an obligation to make all information held by it available to the general public on request, unless an exemption under FOIA or EIR applies.
- 25.2 The Supplier shall not respond to any requests it may receive directly and shall send these to the Client immediately.
- 25.3 The Supplier shall provide the Client with a copy of all Information in the Supplier's possession or power in the form that the Client requires within 5 Working Days of the Client requesting such Information and provide such assistance as the Client may reasonably require to enable it to respond to a Request for Information within the time for compliance set out in section 10 of FOIA or regulation 5 of EIR (as the case may be).

26 Right to Audit

- 26.1 The Client shall retain the right to audit the Contract to fulfil any legally enforceable request, to ensure that the Goods and Services are being provided in accordance with the Contract and to verify the charging provisions.
- 26.2 The Supplier shall allow the Client or its professionally qualified independent auditor access to all Contract Data, unprocessed or otherwise, from commencement of the Contract, on not less than ten (10) Working Days written notice at any time during normal working hours for the purposes of auditing or otherwise inspecting them.
- 26.3 Pursuant to condition 26.1 should any audit or inspection reveal that the Client has been overcharged, the Supplier shall reimburse the amount of the overcharge within seven (7) calendar days. If the overcharged amount exceeds 5% the Supplier shall reimburse the cost of the audit to the Client.
- 26.4 The Supplier shall afford the Client all reasonable assistance in the carrying out of such an audit. The Client will ensure that any information obtained in the course of the audit concerning the Supplier's business is kept in the strictest confidence and not used for any purpose other than the proper conduct of the audit.

27 Third Parties

- 27.1 The Client and the Supplier do not intend that any of the terms of the Contract will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to the Contract.

28 Law

28.1 The Contract, these Conditions, any Purchase Order and any dispute or claim arising out of or in connection with any of them shall be governed and construed in accordance with the laws of England and the parties submit to the non-exclusive jurisdiction of the English Court.

29 Notice

29.1 Any notice required to be given by a party shall be in writing and service shall be effected either personally when service shall be deemed effective on delivery, or by first class recorded delivery post when service shall be deemed effective on the day after posting.

30 General

30.1 Each right or remedy of the Client or Supplier under the Contract is without prejudice to any other right or remedy of the Client or Supplier whether under the Contract or not.

30.2 Failure or delay by the Client or Supplier in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.

30.3 No waiver by the Client or Supplier of any breach of this Contract by either party shall be considered as a waiver of any subsequent breach of the same or any other provision.

30.4 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.

30.5 In this Contract references to any statute, statutory provision, directive of the Council of the European Union (whether issued jointly with any other person or under any other name) or other legislation include a reference to that statute, statutory provision, directive or legislation as amended, extended, re-enacted, consolidated or replaced from time to time (whether before or after the date of this Contract) and include any order, regulation, instrument or other subordinate legislation made under the relevant statute, statutory provision, directive or legislation.

30.6 This Contract comprises the entire understanding and agreement of and between the parties with regard to the subject matter hereof and supersedes and cancels all prior representations and agreements oral and written.