

1. DEFINITIONS AND INTERPRETATIONS

1.1 'Delivery Address' shall mean the location identified in the Delivery Address box on the face of this Purchase Order.
'Goods' shall mean any and all items identified on the face of this Purchase Order as being ordered or as required to satisfy the requirement set out in the Purchase Order.
'Purchase Order' shall mean this Purchase Order document, comprising the text on the face and reverse and any continuation pages thereof.
'Supplier' shall mean the person, firm or organisation identified in the 'TO' box on the face of this Purchase Order.
'Services' shall mean any and all Services identified on the face of this Purchase Order as being ordered or as required to satisfy the requirement set out in the Purchase Order.
'Terms and Conditions of Purchase' shall mean the terms and conditions on this reverse of the Purchase Order and any relevant conditions expressly set out on the face of this Purchase Order.
'the University' shall mean Cardiff Metropolitan University, its successors or assigns.

1.2 Unless the context requires otherwise, any references in these Terms and Conditions of Purchase to the singular shall include the plural, plural the singular, and any words importing persons shall include firms, companies and corporations.

1.3 Any reference in these Terms and Conditions of Purchase or on this Purchase Order to any provision of statute shall be construed as a reference to that provision as from time to time amended or re-enacted.

1.4 The headings in these Terms and Conditions of Purchase are for the convenience of the parties only and shall in no way be used to affect the interpretation or construction of this Purchase Order.

2. GENERAL PROVISIONS

2.1 Unless the Goods supplied and / or Services provided by the Supplier resulting from the requirements of this Purchase Order are supplied in accordance with a General Terms Agreement or framework agreement to which the University and the Supplier have agreed to be bound, all the Goods supplied and / or Services provided shall be in accordance with these Terms and Conditions of Purchase. These Terms and Conditions of Purchase shall supersede and render void any and all terms under which Goods or Services may have been previously supplied to the University or any Suppliers' terms, written or implied.

2.2 Acceptance in writing or by performance shall constitute full acknowledgment and acceptance of the requirements of this Purchase Order by the Supplier, and any conflicting or subsequent terms and conditions proffered by the Supplier in any form or medium whatsoever shall be deemed void and unenforceable and have no bearing whatsoever on the function or requirements of this Purchase Order or on the parties hereto unless specifically agreed to the contrary in writing by both parties.

3. SCOPE OF PURCHASE ORDER

The Supplier hereby agrees, upon the Terms and Conditions of this Purchase Order, to:

3.1 Supply and effect delivery of the Goods and / or Services as defined in the Purchase Order, in accordance with the requirements laid down in the Purchase Order, free from encumbrances, and that the University shall enjoy quiet possession.

3.2 Provide any and all relevant operating and maintenance instructions, training, COSHH and any other relevant legislative information or data. Such provision shall be effected no later than the initial date of delivery or performance unless otherwise agreed in writing.

3.4 The Supplier is deemed to have examined the locations of any and all deliveries of Goods or performance of Services and to have understood the nature and extent of the requirements of this Purchase Order and shall make no claim founded on his failure to do so save in the event of such failure being directly occasioned by errors or omissions in information supplied in writing by the University to the Supplier

4. QUALITY

4.1 The Supplier warrants to the University that the design and / or manufacture and / or installation of all Goods supplied hereunder shall conform to the specifications or descriptions set out in this Purchase Order or on any other relevant University purchase instruction or contract, shall be fit for the intended purpose, shall be of sound materials and workmanship, shall be of satisfactory quality and durability, free from any defects, latent or otherwise, and the same as any sample supplied to and approved by the University.

4.2 In addition to the requirements of clause 4.1 herein, where the requirements of this Purchase Order comprise solely or primarily of Services, the Supplier warrants that the Services shall be performed in accordance with the standards specified herein. In the absence of any such specified standards or where the standards specified are not applicable to any or all elements of the Services, the Services, or those elements of the Services not covered by the standards specified herein, shall be performed to a standard deemed as complying with the best standards normally applied within the Suppliers' own industry or profession.

4.3 The Supplier further warrants that the design and / or manufacture and / or installation of all Goods and / or performance of all Services provided hereunder shall conform in all respects with all relevant statute, orders and regulations in force at the date of supply or performance, and that the use of the Goods or Services by the University shall not infringe any patent, trade mark, intellectual property or any other similar rights.

4.4 The Supplier shall indemnify the University against any and all costs, losses, liabilities or expenses the University may incur as a result of any breach of the Suppliers' warranties contained in Clause 4 herein.

5. DELIVERY

5.1 The dates and / or frequencies and / or conditions of supply or performance shall be as specified in the Purchase Order unless otherwise agreed in writing.

5.2 The Supplier shall ensure the Goods are packed and supplied in such a manner as to reach the Delivery Address in good condition, and that the packaging and supply complies with all relevant statute and regulations.

6. PROPERTY AND RISK

6.1 Risk in the Goods shall pass to the University upon the Goods being delivered to the Delivery Address in good condition and a valid signature of acceptance is obtained. The University shall not assume any risk after delivery if the Goods are received in a damaged condition until such time as the cause of the damage is ascertained and the cost and liability of replacement and / or rectification is agreed.

6.2 Property in the Goods shall pass to the University upon payment for the Goods in full.

6.3 Neither the assumption of Risk or Property as defined in this clause nor the making of any payment whatsoever shall prejudice the University's rights of rejection or any other right or remedy, whether under this Purchase Order or at law.

7. ACCEPTANCE

7.1 Notwithstanding the requirements of clause 6 herein, the University reserves the right to reject any Goods supplied or Services performed which in its opinion fail to comply fully with the requirements set out in this Purchase Order.

7.2 In the event of rejection as herein defined, the University shall have the right to exercise the option to demand the removal of Goods or the suspension or termination of Services, and to purchase the Goods and / or Services elsewhere. Before exercising the right to purchase elsewhere, the University shall give the Supplier reasonable opportunity to replace the rejected Goods or to reperform the rejected Services with Goods and / or Services that comply fully with the requirements herein.

7.3 Save where performance and remedy criteria are agreed between the parties hereto and incorporated elsewhere in this Purchase Order, and notwithstanding Suppliers' opportunities under 7.2 herein, should the Supplier fail to provide replacement Goods or reperfomed Services that meet the requirements herein within a period of fourteen (14) days from date of initial rejection by the University, then the University shall have the right to terminate this Purchase Order in accordance with clause 13.1.3 herein.

7.4 In the event of termination under the provisions of clause 7.3 herein, the parties shall reconcile and effect remuneration for all Goods supplied and / or Services performed up to the date of termination where such Goods or Services are acceptable and compliant with the requirements of this Purchase Order, and reconcile and return any monies paid in advance by the University for Goods or Services where such delivery or performance was not effected.

8. PRICE AND PAYMENT

8.1 The price/s payable shall be in accordance with those detailed on the face of this Purchase Order. No variation to the prices set out in this Purchase Order shall be permitted save where the price quoted on this Purchase Order is

at variance with valid prices set out in any general terms agreement or framework agreement to which the University and the Supplier have agreed to be bound.

8.2 Where VAT or any other tax or duty is applicable, the Supplier shall provide a valid tax invoice, with such duty or taxes itemised. Payment of monies due shall be made on a net monthly account (NMA) basis unless otherwise agreed in writing provided that invoices are correctly addressed, completed and presented, containing this Purchase Order number and the University Purchase Order number. All invoices which are incorrectly completed or submitted shall be returned to the Supplier unpaid to be corrected and re-submitted.

9. LIABILITIES AND INDEMNITY

9.1 The Supplier shall be liable for and shall indemnify and hold harmless the University, its employees, agents and sub-contractors against any and all liabilities resulting from personal injury or death or loss or damage to any property which may arise from any act or omission, negligent or otherwise or willful misconduct of the Supplier, Suppliers' employees, agents or sub-contractors out of or in consequence of any operations under this Purchase Order, and the Supplier shall indemnify the University against all actions, demands, damages, costs, charges and expenses arising in connection therewith provided however that nothing in this condition shall render the Supplier liable for any injury or damage resulting from any negligent act or omission of the University or the University's agents or sub-contractors.

9.2 In addition to maintaining adequate levels of insurance as required by law, the Supplier shall be responsible for effecting and maintaining insurance adequate to cover the risks and potential liabilities specified herein. Satisfactory evidence of such insurance and payment of current premiums shall be made available to the University upon request.

10. FORCE MAJEURE

10.1 For the purpose of this Purchase Order 'Force Majeure' shall mean any event(s) or circumstance(s) beyond the control of either party which impedes the due performance of the obligations of such party and which by the exercise of all reasonable diligence such party is unable to prevent provided that the mere shortage of labour materials equipment or supplies shall not constitute Force Majeure.

10.2 If either party is prevented or impeded from or in performing its obligations under this Purchase Order by reason of Force Majeure it shall promptly give notice to the other party stating the circumstances constituting Force Majeure and the extent thereof. The obligations of the parties shall thereupon be suspended for so long as the circumstances of Force Majeure may continue and neither party shall be liable to the other for breach or failure to perform its obligations under shall use every reasonable effort to minimise the effects of Force Majeure and shall promptly resume performance of its obligations as soon as is reasonably possible after removal of the circumstances of Force Majeure.

10.3 If Force Majeure causes the prevention of any of the requirements of this Purchase Order being performed by the Supplier for a continuous period of twenty-one (21) days, the University shall be entitled by written notice to the Supplier to terminate this Purchase Order forthwith.

11. SUB-CONTRACTING

11.1 The Supplier shall not, without the prior written consent of the University, assign, sub-contract or transfer any part of its rights or obligations under this Purchase Order.

12. WARRANTY

12.1 The Supplier shall, as soon as reasonably practicable, repair or replace any of the Goods which are or become defective during the period of 12 months from the date of supply where such defects occur under proper usage and are due to faulty design, erroneous use data provided by the Supplier or inadequate or faulty materials or workmanship or any other breach of Suppliers' warranties, express or implied. Repairs and replacement parts shall themselves be subject to the foregoing obligations for a period of 12 months from the date of repair or replacement.

12.2 The Supplier shall not be liable for any repairs or replacement if and to the extent that such defect or damage is caused by the proven negligence of the University, its employees, agents or sub-contractors.

13. INTELLECTUAL PROPERTY

13.1 The Supplier agrees that any and all property, information and intellectual property furnished by the University under or in connection with this Purchase Order shall belong to the University and the Supplier shall take all reasonable steps to ensure protection of all such rights.

14. ADVERTISING AND CONFIDENTIALITY

14.1 Neither the Supplier or Suppliers' agents or sub-contractors shall make any reference to this Purchase Order, the University or the University's affiliates in any medium whatsoever without the express prior permission of the University.

14.2 Neither the Supplier or Suppliers' agents or sub-contractors shall make use of any images, photographs of the University property, nor use any information given by or gleaned from the University save where such is either in the public domain or is essential for the due performance of this Purchase Order

15. SEVERANCE

15.1 Any provision of this Purchase Order which is declared void or unenforceable by any competent and approved authority or court shall to the extent of such invalidity or un-enforceability be deemed severable and shall not effect the other provisions of this Purchase Order, which shall continue un-affected.

16. FREEDOM OF INFORMATION

16.1 The University is subject to the provisions of the Freedom of Information Act 2000, and under the provisions of this legislation may receive requests from third parties for the disclosure of information supplied by the Supplier. The marking or declaration by the Supplier of any literature, information of data supplied to the University as confidential cannot be taken as an assurance by the Supplier of the confidentiality of such literature, information and / or data held by the University.

16.2 In the event of any request received by the University from a third party requesting the disclosure of information supplied by or relating to You, the University will notify the Supplier at the earliest available opportunity. The University will furthermore and within the timescales provided for in the Act assess whether the request is valid or whether the nature of the request is covered by any of the exceptions provided in the legislation. In the event of any valid request under the Act, the University will disclose only to the extent required to ensure compliance with the provisions of this legislation.

17. RIGHTS OF THIRD PARTIES

17.1 Save as expressly provided in these Terms and Conditions, these Terms and Conditions shall not create any rights under the Contracts (Rights of Third Parties) Act 1999 and shall not be enforceable by any other party other than the University and the Supplier.

18. AGENCY

18.1 Nothing in these terms and Conditions or the requirements of this Purchase Order shall make, or be interpreted as making, either party the partner or agent of the other in any way whatsoever.

19. ANTI-DISCRIMINATION

19.1 The Supplier shall not unlawfully discriminate within the meaning and scope of any law, enactment, order, or regulation relating to discrimination (whether in age, race, gender, religion, disability, sexual orientation or otherwise) in employment.

19.2 The Supplier shall take all reasonable steps to secure the observance of clause 19.1 by all servants, employees or agents of the Supplier and all suppliers and sub-contractors employed in performance of this Agreement.

20. WELSH LANGUAGE

20.1 The Supplier shall use all reasonable endeavours to comply with the requirements of the Welsh Language Act and Cardiff Metropolitan University's Welsh Language Policy in performing its obligations set out in the Purchase Order.

21. GOVERNING LAW

21.1 This Purchase Order shall be construed and governed in all respects by the laws of England and Wales and shall be subject to the exclusive jurisdiction of the English and Welsh courts.