

GENERAL CONDITIONS OF CONTRACT - GOODS

1. DEFINITIONS

The terms and expressions used in these Terms and Conditions shall have the meanings set out below:

‘Acceptance Date’ means the date on which the Authorised Officer has accepted the Goods in accordance with Condition 16 below.

‘Acceptance’ means that The City of Liverpool College’s Authorised Officer has accepted the Goods as meeting the requirements of the Contract.

‘Authorised Officer’ means Our employee authorised either generally or specifically by Us to sign Our Purchase Order, confirmation of which may be obtained from Our Head of Finance.

‘Authorised’ means signed by One of Our Authorised Officers.

‘Business Day’ means any day other than a Saturday or Sunday or a public or bank holiday in England.

‘Contract Period’ means such period as set out in the Contract or as otherwise may be agreed between the parties from time to time.

‘Contract’ has the meaning given in Condition 5 below.

‘Delivered’ shall mean the delivery of goods to the place notified in the purchase order.

‘Delivery Date’ means the date specified in the Contract and/or confirmed by the Purchase Order.

‘Delivery Instructions’ means the instructions set out in the Contract for the provision of the goods, including any milestone events, and any other information The City of Liverpool College considers appropriate to the provision of the services.

‘Good Industry Practice’ means the exercise of such degree of skill, diligence, care and foresight which would reasonably and ordinarily be expected from a skilled and experienced contractor engaged in the supply of Goods similar to the Goods under the same or similar circumstances as those applicable to the Contract.

‘Goods’ means the materials, articles, works and services described in the Contract.

‘Installation’ means the installation of the Goods in the designated location and into the operating environment specified by Us at the site and ‘Install’ shall be interpreted accordingly.

‘Intellectual Property Rights’ means patents, copyright, registered and unregistered design rights, utility models, trade marks (whether or not registered), database rights, rights in know-how and confidential information and all other intellectual and industrial property rights and similar or analogous rights existing under the laws of any country and all rights to apply for or register such rights.

‘Liabilities’ means all costs, actions, demands, expenses, losses, damages, claims, proceedings, awards, fines, orders and other liabilities (including reasonable legal and other professional fees and expenses) whenever arising or brought.

‘Premises’ means the location(s) where the Goods are to be delivered.

‘Replacement Contractor’ means any company, organisation or person who replaces the contractor following termination or expiry of all or part of this Contract.

‘Order Amendment’ means Our Authorised Order Amendment or series of Order Amendments, each Order Amendment having precedence over any earlier Order Amendment.

‘Package’ means any type of package including bags, cases, carboys, cylinders, drums, pallets, tank wagons and other containers.

‘Price’ has the meaning given in Condition 6 below.

‘Purchase Order’ means Our Authorised Purchase Order in the format set by Us having these general conditions of purchase on its reverse or attached to it or referring to these general conditions of purchase on its face.

‘Sale of Goods Act 1979’ shall mean the Sale of Goods Act 1979 as amended by the Sale and Supply of Goods Act 1994.

‘Services’ means the services described in the specification and set out in the Contract together with all equipment required and any allocated goods provided by the Contractor in relation to the Services.

‘Supply of Goods and Services Act 1982’ shall mean the Supply of Goods and Services Act 1982 as amended by the Sale and Supply of Goods Act 1994.

‘Tender’ means a tender issued by Us for the supply of Goods to Us.

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'Warranty Period' means the period set out in Condition 30 below.

'Warranty Services' means such maintenance, repair and other services that are required to be provided in order to reinstate the Goods and/or the Installation or any part thereof to the standards of performance, and/or to provide the Services to standards that are in accordance with and as detailed in the Contract.

'We', 'Us' and 'Our' means any Authorised Officer of The City of Liverpool College placing a Purchase Order within the terms of this Contract.

'You' and 'Your' means the person, firm or company to whom the Purchase Order is addressed and any employees, sub-contractor or agents of said person, firm or company.

- 1.1. Any reference to a person shall include any natural person, partnership, joint venture, body corporate, incorporated association, government, governmental agency, persons having a joint or common interest, or any other legal or commercial entity or undertakings.
- 1.2. A reference to any statute, order, regulation or similar instrument shall be construed as a reference to the statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.

"Data Breach" means any act or omission that (i) compromises the security, confidentiality or integrity of the Personal Data that Supplier Processes for and on behalf of the College (including, by way of example, the unauthorised loss or disclosure of any such Personal Data by Supplier); (ii) compromises the physical, technical, administrative or organisational safeguards put in place by the Supplier that relate to the protection of the security, confidentiality or integrity of such Personal Data (including any breach of the IT and data security requirements); or (iii) causes the College or Supplier to be in breach of data protection Law (in particular the General Data Protection Regulation).;

"Data Controller" has the meaning set out in the DPA up to and including 24 May 2018 and has the meaning of "Controller" set out in the GDPR from 25 May 2018.;

"Data Protection Particulars" means, in relation to any Processing under this Agreement: (a) the subject matter and duration of the Processing; (b) the nature and purpose of the Processing; (c) the type of Personal Data being Processed; and (d) the categories of Data Subjects.

"Data Subject" has the meaning set out in the DPA up to and including 24 May 2018 and from 25 May 2018 has the meaning set out in the GDPR.

"DPA" means the Data Protection Act 1998 and the rules and regulations made or having effect under it.

"GDPR" means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) OJ L 119/1, 4.5.2016.;

"Personal Data" has the meaning set out in the DPA up to and including 24 May 2018 and from 25 May 2018 has the meaning set out in the GDPR. For the purposes of this Agreement, Personal Data shall include Sensitive Personal Data.

"Processing" has the meaning set out in the DPA up to and including 24 May 2018 and has the meaning set out in the GDPR from 25 May 2018, and "Process" and "Processed" shall be construed accordingly.

"Processor" has the meaning of "Data Processor" as set out in the DPA up to and including 24 May 2018 and has the meaning set out in the GDPR from 25 May 2018.; and

"Sensitive Personal Data" means Personal Data that reveals such categories of data as are listed in Article 9(1) of the GDPR.

2. HEADINGS

- 2.1. The index and headings to the Conditions and where applicable the appendices and schedules of this Contract are for convenience only and will not affect its construction or interpretation.

3. NOTICES

- 3.1. Any notice required by this Contract to be given by either party to the other shall be in writing and shall be served personally, by fax or by sending it by registered post or recorded delivery

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to the appropriate address, fax number or e-mail address notified to each other as set out in the Contract Particulars.

- 3.2. Any notice served personally will be deemed to have been served on the day of delivery; any notice sent by post will be deemed to have been served 48 hours after it was posted; any notice sent by fax will be deemed to have been served 24 hours after it was despatched and any notice sent by e-mail before 5 p.m. will be deemed to have been served on the day of despatch and otherwise on the following day save where the deemed date of service falls on a day other than a Business Day in which case the date of service will be the next Business Day.

4. ENTIRE AGREEMENT

- 4.1. The Contract constitutes the entire agreement between the parties relating to the subject matter of the Contract. The Contract supersedes all prior negotiations, representations and undertakings, whether written or oral, except that this Condition shall not exclude liability in respect of any fraudulent misrepresentation.

5. THE CONTRACT

- 5.1. You agree to sell, and we agree to purchase the Goods in accordance with the Contract. The Contract shall comprise (in order of precedence) any Purchase Order Amendments, the Purchase Order, these conditions of purchase and any other document (or part document) referred to on the Purchase Order. The Contract shall expressly exclude your conditions of sale however these are purported by you to apply. Delivery of Goods in response to a Purchase Order or Order Amendment shall be taken by us that you have accepted the terms and conditions of this Contract.

6. PRICE

- 6.1. Goods should be supplied at the prices detailed in the Price Schedule until the minimum fixed price period is reached. All variations (increases & decreases) to price within the contract period will be subject to 30 days written notice. Such notice shall provide full justification for the proposed change.
- 6.2. The Goods should be supplied as per the contract. Any deviation from this must be by mutual consent and any substitution will be of equal or greater quality to the items being substituted at no increase in cost.
- 6.3. We shall have the right to conduct price benchmarking and, in the event, that we find a lower price for the same quality Goods You will match such lower price. The price shall include storage, packing, insurance, delivery, installation and commissioning (as applicable) but shall exclude VAT.

7. VARIATION OF REQUIREMENT

- 7.1. You shall not alter any of the Goods except as directed by Us but We shall have the right from time to time during the execution of the Contract, by written notice to direct You to add to or omit, or otherwise vary, the Goods, and You shall carry out such variations and be bound by the same Contract terms and conditions set out in this Contract so far as is applicable, as though the said variations were stated in the Contract.
- 7.2. In the event of any variation of the contractual requirement in accordance with Condition 7.1 above which would occasion an amendment to the Price You shall within seven (7) calendar days of receipt of such notification of variation, advise Us in writing of the impact on the Price and/or previously agreed Delivery Date. Any such proposed amendment shall be ascertained at the same level of pricing as that contained in your tender. Any proposed change to the Delivery Date shall give the reasons for such change.
- 7.3. If in Your opinion any such variation in accordance with this Condition 7.1 above is likely to prevent You from fulfilling any of Your obligations under the Contract, You shall notify Us in writing immediately whereupon We shall inform You within a maximum of ten (10) business days whether or not the said variations shall be carried out. Until we confirm such variation

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instructions in writing they shall be deemed not to have been given. Our view shall be final in deciding whether to proceed with a variation or not.

8. RIGHTS OF CANCELLATION

- 8.1. In addition to our rights of termination under this Contract We may cancel the Purchase Order and any Purchase Order Amendment thereto at any time by sending you in writing a notice of termination. You will comply with any such instructions that we may issue regarding the Contract. If you submit a termination claim then we will consider such claim and will pay to you the cost of any commitments, liabilities or expenditure which in our reasonable opinion were a direct consequence of this contract at the time of termination. Our opinion will take due account of your obligation to mitigate any of your losses so arising. Our maximum liability so arising shall not exceed the Price.
- 8.2. If you fail to submit a termination claim within one (1) month of the date of our notice of termination, then we shall have no further liability under the Contract.

9. INTELLECTUAL PROPERTY

- 9.1. All Intellectual Property Rights in any specifications, instructions, plans, data, drawings, databases, patents, patterns, models, designs or other material:
 - 9.1.1. provided to You by Us shall remain Our property;
 - 9.1.2. prepared by or for you specifically for the use, in relation to the performance of the Contract shall belong to us subject to any exceptions set out in the Contract Particulars.
- 9.2. You shall obtain necessary approval before using any material, in relation to the performance of the Contract which is or may be subject to any third-party Intellectual Property Rights. You shall procure that the owner of the Intellectual Property Rights grant to Us a non-exclusive licence, or if You is itself a licensee of those rights, You shall grant to Us an authorised sub-licence to use, reproduce, and maintain the Intellectual Property Rights. Such licence or sub-licence shall be non-exclusive, perpetual and irrevocable, shall include the right to sub-licence, transfer, or assign to the replacement contractor or to any other third-party providing Goods to us, and shall be granted at no cost to us.
- 9.3. It is a Condition of this Contract that the Goods will not infringe any Intellectual Property Rights of any third party and You shall during and after the Contract Period on written demand indemnify and keep indemnified without limitation Us against all Liabilities which We may suffer or incur as a result of or in connection with any breach of this Condition 9, except where any such claim relates to the act or omission of Us.
- 9.4. At the termination of the Contract You shall at the request of Us immediately return to Us all materials, work or records held in relation to the Goods, including any back-up media.

10. CORPORATE REQUIREMENTS

- 10.1. You shall comply with all obligations under the Human Rights Act 1998 or any subsequent re-enactment.
- 10.2. You shall comply with all Our policies and rules, such as, but not limited to:
 - 10.2.1. Equality and diversity policies
 - 10.2.2. Sustainability and Social Responsibility
 - 10.2.3. Information security rules
 - 10.2.4. Whistleblowing and/or confidential reporting policies: and
 - 10.2.5. All site rules relevant to the fulfilment of Your obligations
- 10.3. You shall not unlawfully discriminate within the meaning and scope of any law, enactment, order, or regulation relating to discrimination (whether age, race, gender, religion, disability, sexual orientation or otherwise) in employment.

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- 10.4. You shall comply with all relevant legislation relating to your employees however employed including (but not limited to) the compliance in law of the ability of the employees to work in the United Kingdom.
- 10.5. If you have a finding against you relating to your obligations under this Condition 10.4 you will provide us with:
 - 10.5.1. details of the finding: and
 - 10.5.2. the steps you have taken to remedy the situation.

11. FREEDOM OF INFORMATION ACT

- 11.1 The City of Liverpool College is committed to meeting its responsibilities under the Freedom of Information Act 2002.
- 11.2 Accordingly, all information submitted to The City of Liverpool College may need to be disclosed and/or published. If you consider that any of the information included in your tender would give rise to an actionable breach of confidence and/or would prejudice your commercial interests, and/or constitute trade secrets (“commercially sensitive”) please identify it and explain (in broad terms) what harm might result from disclosure and/or publication. You should be aware that, even where you have indicated that information is commercially sensitive, we may be required to disclose and/or publish it, whether your tender is accepted or not. We may also require to disclose and/or to publish details of unsuccessful tenders.
- 11.3 Whilst information of a sensitive nature in unsuccessful tenders, (e.g. pricing and daily rates) will not normally be disclosed and/or published, in certain circumstances we may be required to disclose and/or publish such sensitive information where the public interest in its disclosure and/or publication outweighs the public interest in keeping such information confidential.

12. GENERAL DATA PROTECTION ACT (GDPR)

- 12.1. Definitions
 - 12.1.1 In the present provision, the following definitions shall apply:
 - 12.1.2 **Agreement:** the contractual document in which the Supplier and the Buyer are parties to, relating to the supply of goods and/or services from the Supplier to the Buyer.
 - 12.1.3 **Buyer:** [The City of Liverpool College] and, if applicable, acting for and on behalf of all of its affiliated companies or third parties.
 - 12.1.4 **Products:** means those goods and/or services supplied under the Agreement.
 - 12.1.5 **Supplier:** [“Supplier”] and, if applicable, acting for and on behalf of all of its affiliated companies.
- 12.2. Each the Supplier and Buyer being a Party and together the Parties.
- 12.3. For the avoidance of doubt, any terms used and not defined herein shall have the meaning given to it by the GDPR.
- 12.4. In the context of their contractual relations, the Parties undertake to comply with the Applicable Personal Data Protection Regulations in force applicable to the processing of Personal Data and, in particular, GDPR (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and the free movement of such data (hereinafter the ‘GDPR’), including in particular any updated, additional, amended provisions, directives, recommendations or regulations or other substitute provisions, even if promulgated after the effective date of this document, as well as local laws and regulations to which the Personal Data are subject, which together form the “ **Applicable Personal Data Protection Regulations** ”.

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- 12.5. In the course of the Agreement, each Party, acting as Controller, may process a set of personal data (“Personal Data”) relating to the employees, agents, consultants, representatives or any other natural persons authorized to act on the other Party’s behalf (“Data Subjects”), in accordance with the definitions of the GDPR.
- 12.6. For the sake of clarity in the present provision, each Party shall be acting as Controller for the purposes of processing any Personal Data pursuant to the Agreement.
- 12.7. Obligations
- 12.7.1 Each Party commits to comply with the Applicable Personal Data Protection Regulations and specifically undertakes to:
- 12.7.1.1 Implement and maintain the necessary security measures to secure the Personal Data and, if necessary, taking into account the state of the art, the costs of implementation, and the nature, scope, context and purpose of the processing as well as the risks, the degree of probability and severity of which varies, for the rights and freedoms of natural persons, in order to guarantee a level of security adapted to the risk including inter alia as appropriate:
- 12.7.1.1.1 pseudonymisation and encryption of personal data;
- 12.7.1.1.2 the means to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services;
- 12.7.1.1.3 the means to restore the availability of Personal Data and access to it in good time in the event of a physical or technical incident;
- 12.7.1.1.4 a procedure to test, analyse and regularly evaluate the effectiveness of technical and organizational measures to ensure safe processing.
- 12.7.2 Conduct internal audits, as the case may be, regarding its compliance with the Applicable Personal Data Protection Regulations
- 12.7.3 Regularly provide training to its personnel regarding the criticality and applicable rules regarding Personal Data protection management in the course of their duties. Each Party also commits to have each of its employees processing Personal Data in the course of their duties bound by an appropriate confidentiality contractual obligation.
- 12.7.4 Provide complete and transparent information towards the Data Subjects in accordance with the requirements of the Applicable Personal Data Protection Regulations. In this regard, each Party commits to maintain on its commercial website a privacy policy (hereinafter the “Privacy Policy”) addressed to the end-users of the website which shall be easily accessible as from the homepage of the website and to provide a copy of the Privacy Policy upon request.
- 12.7.5 Give, in a timely manner, appropriate responses to any requests received from Data Subjects and in any case meet, as a minimum, the requirements of the Applicable Personal Data Protection Regulations.
- 12.7.6 Keep a register of all categories of processing activities performed in the course of purchasing and/or delivering Products and/or Services during the Agreement.
- 12.7.7 Consideration, for tools, products, applications or services that have been conceived after the entry into force of GDPR, the principles of data protection by design and by default.
- 12.7.8 Guarantee that it complies with the legal requirements of the Applicable Personal Data Protection Regulations regarding transfer of personal data.
- 12.8. As the Buyer might be transmitting Personal Data to the Supplier in the course of the Agreement and as such transmission shall be considered as indirect in accordance with the Article 14 of the GDPR, the Buyer undertakes to inform the Data Subjects on behalf of the

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Supplier, acting as Data Controller, in order to fulfill its obligation of information laid down in Article 14 of the GDPR. In order to do so the Buyer shall direct the Data Subjects to the Supplier's website and inform the Data Subjects that the Supplier Privacy Policy is accessible as from the homepage of the website.

- 12.9. Whenever the Data Subjects transmit directly their Personal Data, in accordance with Article 13 of the GDPR, through the Supplier's website or through any other means, the Data Subjects may access the Supplier's Privacy Policy from the homepage of the Supplier's websites and therefore obtain all required information.

13. PROPERTY AND RISK

- 13.1. You shall bear all risks of loss or damage to the Goods until they have been delivered and shall insure accordingly.
- 13.2. Ownership of the Goods shall pass to Us;
- 13.2.1. when the Goods have been Delivered but without prejudice to Our right of rejection under this Contract, and
- 13.2.2. if we make any stage payment in accordance with this Contract at the time such payment is made you must immediately mark the Goods as Our property.

14. INDEMNITY AND INSURANCE

- 14.1. You will indemnify and keep Us indemnified fully in respect of and in connection with:
- 14.1.1. all loss and/or expense which results during proper use directly from defective materials, goods, workmanship or design supplied by You; and
- 14.1.2. all loss and/or expense, and all actions, claims, demands, costs and expenses incurred by or made against Us which arises from any Installation and/or any Services and/or advice given or anything done or omitted to be done under, or in connection with the Contract by You; and
- 14.1.3. all and any actions, claims, demands or costs in respect of the death or injury to any person arising from defective materials, Goods, workmanship or design, or by reason of Your negligence, or any act or omission on the part of Your employees, sub-contractors, or agents in connection with the Contract; and
- 14.1.4. any damage to our property (including any materials, tools or patterns sent to you for any purpose).
- 14.2. You must take out and maintain insurance adequate to cover the risks set out in this Condition 13 and Your liabilities under the Contract and in any event shall take out and maintain:
- 14.2.1. Product Liability Insurance coverage of not less than five million pounds sterling (£5,000,000) for anyone, or series of claims that may arise; and
- 14.2.2. Professional Indemnity Insurance coverage for a period from the date of this Contract to a date of not less than six (6) years from the date of this Contract of not less than two million pounds sterling (£2,000,000) for anyone, or series of claims that may arise; and
- 14.2.3. Public Liability Insurance coverage of not less than five million pounds sterling (£5,000,000) for anyone, or series of claims that may arise.
- 14.3. You will take out and maintain such insurances as set out in this Condition 13 with a reputable insurance company and shall at our request provide evidence of the insurance policy or policies and of payment of the premiums. Your failure to maintain such insurances shall be treated as a material breach of the Contract and shall give us the right to terminate the Contract in accordance with Condition 34.

15. PROGRESS AND INSPECTION

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- 15.1. You shall at your expense provide any programmes of manufacture and delivery that we may reasonably require.
 - 15.2. You shall notify us, in writing, without delay if your progress falls behind or may fall behind any of these programmes.
 - 15.3. We shall have the right to check progress at your works or the works of your sub-contractors at all reasonable times to inspect and to reject Goods that do not comply with the Contract. Your sub-contracts shall reserve such rights for us.
 - 15.4. Any inspection or approval shall not relieve you from your obligations under this Contract.
16. DELIVERY
- 16.1. The Goods shall be delivered in accordance with any delivery instructions. If no time for delivery is stated in the delivery instructions Goods shall be delivered between 9 a.m. and 5 p.m. on a Business Day.
 - 16.2. The time of the delivery of the Goods is of the essence to the Contract.
 - 16.3. Where the Goods are delivered by you, the point of delivery shall be when they are removed from the transporting vehicle and delivered in accordance with the delivery instructions. Where the Goods are collected by us from you, the point of delivery shall be when they are loaded onto our vehicle.
 - 16.4. Except where otherwise provided in the Contract, delivery shall include the uploading or stacking of the Goods by You at such places we may direct in the Contract.
 - 16.5. The issue by us of a receipt note for the Goods shall not constitute any acknowledgement of the condition or nature of those Goods. We shall not be deemed to have accepted any Goods until we have had reasonable time after any latent defect in the Goods has become apparent.
 - 16.6. All Goods must be properly packaged to survive transit without damage, clearly and legibly labelled and addressed. We will not be liable to pay for any pallets, packages or containers in which the Goods are supplied. All packaging must be clearly marked to show to whom it belongs. Any packaging that you require returning will be done so at your cost and risk.
 - 16.7. Where specified in the contract you shall be responsible for the removal and disposal of all packaging complying with the law at your own expense.
 - 16.8. Unless expressly agreed to the contrary, we shall not be obliged to accept delivery by instalments. If We do not specify or agree to delivery by instalments, delivery of any one instalment not in accordance with the delivery instructions shall without prejudice to any other rights or remedies of Us, entitle Us to terminate the whole of any unfulfilled part of the Contract without further liability to You.
 - 16.9. If you at any time become aware of any act or omission, or proposed act or omission by us which prevents or hinders, or may prevent or hinder you from supplying the Goods in accordance with the Contract, You shall inform us in writing.
 - 16.10. We retain you for the supply of Goods on a non-exclusive basis unless stated otherwise in the Contract.
 - 16.11. Deliveries shall be to individual sites of any department, faculty or building on that site including non-ground floor locations (provided they are agreed at the time of order Acceptance). It should be noted that these sites might vary over the duration of this contract.
17. ACCEPTANCE
- 17.1. We shall have the right to reject the Goods in whole or in part irrespective of payment, within a reasonable time of delivery if they do not conform to the requirements of the Contract. It is agreed that we may exercise the right of rejection notwithstanding any provision contained in section 11 or section 15A or section 30 (subsections 2A and 2B) or section 35 of the Sale of Goods Act 1979. We shall give you a reasonable opportunity to replace the Goods with new Goods that conform to the Contract, after which time, we shall be entitled to cancel the Contract and purchase the nearest equivalent Goods elsewhere. In the event of cancellation

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under this Condition You shall promptly repay any monies paid under the Contract without any retention or offset whatsoever. Cancellation of the Contract under this Condition shall not affect any other rights we may have. You must collect all rejected Goods within a reasonable time of rejection, or we shall return them to you at your risk and expense.

18. E PROCUREMENT

- 17.1 If requested by the Buyer, the Supplier shall accept the use of corporate Purchasing cards at no additional costs to the Buyer
- 17.2 If requested by the Buyer, the Supplier shall participate in the e-procurement System of the Buyer's choice. This shall be at no additional costs to the Buyer Providing that any ongoing Supplier costs do not exceed the costs of purchasing Cards.

19. PAYMENT

- 19.1 We shall pay the Price for the Goods to You.
- 19.2 You shall unless otherwise instructed submit a VAT invoice to us no later than seven (7) calendar days after the end of each calendar month detailing the Goods provided during the calendar month the amount payable and the purchase order number.
- 19.3 We will use 'reasonable endeavours' to make Payment of any undisputed invoice no later than thirty (30) days following the date of receipt of the invoice by Us.
- 19.4 We reserve the right to withhold payment of the relevant part of the Price without
- 19.5 payment of interest, where You have either failed to deliver the Goods at all or delivered Goods which in Our reasonable opinion are unsatisfactory and any invoice relating to such Goods will not be paid unless or until the Goods have been delivered to Our satisfaction.
- 19.6 We will be entitled but not obliged at any time or times without notice to You to set off any liability of Ours to You against any liability of You to Us and may for such purpose convert or exchange any sums owing to You into any currency or currencies in which the obligations of Us are payable under this Contract. Our rights under this Condition 18 will be without prejudice to any other rights or remedies available to us under this Contract or otherwise.

20. LATE DELIVERIES

- 20.1 If the Goods or any part of them are not delivered by the time or times specified in the Contract, then we may by written notice cancel any undelivered balance of the Goods. We may also return for full credit and at your expense any Goods which in our opinion cannot be used owing to this cancellation.

21. CONSUMABLE SUPPLIES

- 21.1 We reserve the right to procure consumable supplies to be used on or with the Goods, and suitable for the Goods from You or such other source as we deem appropriate. Such procurement of consumables from a source other than You shall not invalidate Our rights under these General Conditions of Contract, and shall in no way affect the provisions in respect of warranty claims made in accordance with Condition 30 nor Our rights under this Condition 21 provided that the consumables utilised meet the minimum standards as published by You or the manufacturer, or where no published standards are available, the standards generally accepted as being appropriate to the consumable supplies for use on or with the Goods concerned.
- 21.2 In the event that You shall claim that the use of specific consumables is adversely affecting the standards of performance of the Goods and/or increasing the cost to You of meeting Your obligations to provide Warranty Services it shall be for You to prove that the consumables do not meet the requisite minimum standards, and are affecting the Goods and/or increasing Your costs as set out above. If you shall prove that the consumables do not meet the requisite

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minimum standards, we shall cease using the consumables concerned and procure alternative consumables which meet the standards required.

22. MAINTENANCE

- 22.1. If required by us before the end of the Warranty Period You shall enter into a separate contract for the maintenance of the Goods.
- 22.2. If a maintenance contract commences before the end of the Warranty Period, the maintenance charges during the Warranty Period shall reflect your obligations under Condition 30.

23. SPARES

- 23.1. Where appropriate to the Goods supplied in accordance with this Contract, You shall make available to us, or any nominated third party maintenance source, on request, with reasonable despatch and at reasonable prices, all spares and replacement parts as We, or nominated third party maintenance source shall require for the Goods.
- 23.2. You shall maintain a supply of such spares or replacement parts for a period of five (5) years from the date of delivery or the Acceptance Date, whichever is the latest.
- 23.3. Such spares or replacement parts shall be required to be fully compatible with and maintain as a minimum the same levels of performance as the Goods originally supplied but need not be identical to those items.
- 23.4. If during the period set out in Condition 22.2 You or Your sub-contractor intend to discontinue the manufacture of spares or replacement parts for the Goods You shall forthwith give notice to Us of such intention and advise Us of any third party source from which the spares or replacement parts will be available, or to which third party source You intend to provide drawings, patterns, specifications and other information.
- 23.5. If during the stipulated period set out in Condition 22.2 You or Your sub-contractor either:
 - 23.5.1. fails to make available to Us, or any nominated third-party maintenance service provider, with reasonable despatch, at reasonable prices all such spares or replacement parts as We or nominated third party maintenance source shall require for the Goods; or
 - 23.5.2. becomes insolvent or has a receiving order made against them or commences to be wound up (not being a member's winding up for the purposes of reconstruction) then You shall so far as it is legally entitled to do so and if so required by Us as soon as practicable deliver to Us or Our nominated third party maintenance source, free of charge such drawings, patterns, specifications and other information as referred to in Condition 22.4 and which We or Our nominated third party source shall be entitled to retain for such time only as necessary for the exercise by Us of Our rights under this Condition 22.4 and which if You so require shall be returned by Us to You at Our cost and expense.

24. OPERATING MANUALS

- 24.1. You shall supply to us all operating manuals and other documentation necessary for the satisfactory operation of the Goods, and in any event all documentation so required. If after the Acceptance Date the operating manuals and documentation need updating or replacing you shall be responsible for notifying us of the availability of such updates or replacements and shall supply them at reasonable prices upon receipt of our written instructions. You shall provide the operating manuals and other documentation in the media format in which they are available at the appropriate time

25. ATTACHMENT TO THE GOODS

- 25.1. We shall have the right to attach to, or install into or onto the Goods any goods (including but not limited to software) which We consider to be appropriate and necessary to enable the Goods to be utilised to the fullest extent as required by Us, If We attach or install goods then

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this shall not have the effect of degrading the performance of the Goods and shall not relieve You from meeting Your obligations to provide Warranty Services in accordance with Condition 30 or replacement goods in accordance with Condition 21 hereof provided that:-

- 25.1.1. the goods attached or installed are not specified in any of Your and/or the Manufacturer's published specifications as having the effect of degrading the standards of performance or invalidating Our rights under Conditions 30 and 21 as aforesaid;
 - 25.1.2. You have not otherwise notified Us in writing that the attachment or installation of specific goods will degrade the standards of performance or invalidate Our rights under Conditions 30 and 21 as aforesaid; and
 - 25.1.3. The goods have been attached or installed in accordance with the published instructions of you.
- 25.2. In the event that the attachments and/or installation is made by Us and You can prove that such attachment or installation is adversely affecting the standard of performance of the Goods or otherwise increasing the frequency of the provision of the Warranty Services then You shall be entitled to be reimbursed any associated direct costs which You can demonstrate as being reasonably and necessarily incurred in providing Warranty Services or returning the Goods to the normal standards of performance in accordance with this Contract as a direct result of the attachment or installation being made by Us (other than where such attachment or installation has been with the approval of You).

26. TRAINING

- 26.1. Where appropriate, the Contract Price shall include the cost of instruction of our personnel in the use of the Goods, such instructions shall be in accordance with the requirements of the Contract.

27. PUBLICITY

- 26.1 Unless expressly permitted in writing by Us the Supplier shall not publish or permit to be published either alone or in conjunction with any other person any information, articles, photographs or other illustrations relating to or connected with this Agreement or our work. This clause shall not preclude us and the Supplier from mutually agreeing to promotional or publicity initiatives regarding the supply of Goods to Us.

28. WORK ON OUR PREMISES

- 28.1. If the Contract involves any works or services which You perform on Our premises, then the following Conditions shall apply:
- 28.1.1. You shall ensure that you and your employees, your sub-contractors and their employees and any other persons associated with you will adhere in every respect to the obligations imposed upon you by current safety legislation.
 - 28.1.2. You shall ensure that you and your employees, your sub-contractors and their employees and any other person associated with you will comply with any regulations that we may notify to you in writing.
 - 28.1.3. When required You and Your employees, Your sub-contractors and their employees shall comply with any security requirements including a right to search when entering or leaving Our site(s) and shall comply with any alcohol and/or drug testing programme that may be in place from time to time
 - 28.1.4. You shall ensure all employees or sub-contractor staff will always be clearly identifiable by wearing a uniform and/or name badge .
- 28.2. You shall make no delivery of materials, plant or other things nor commence any work on our premises without obtaining our prior consent.

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- 28.3. Access to Our premises shall not be exclusive to you but only such as shall enable the performance of the Contract concurrently with the execution of work by others. You shall co-operate with such others as we may reasonably require.
- 28.4. We shall have the power at any time during the progress of the Contract to order in writing:
- 28.4.1. the removal from Our premises of any materials which in Our opinion are either hazardous, noxious or not in accordance with the Contract, and/or:
- 28.4.2. the substitution of proper and suitable materials, and/or;
- 28.4.3. the removal and proper re-execution notwithstanding any previous test thereof or interim payment therefore of any work or Goods which, in respect or material or workmanship, is not in our opinion in accordance with the Contract.
- 28.5. On completion of the Contract You shall remove your plant, equipment and unused materials and shall clear away from our premises all waste materials arising out of the Contract and leave our premises in a neat and tidy condition.
29. HAZARDOUS GOODS AND SAFETY
- 29.1. Where the Goods comprise or include substances hazardous to health, You will supply to Us on or before delivery with all data necessary to allow Us to form a suitable and sufficient assessment of the attendant risks and of the steps which need to be taken in order to meet the requirements of all relevant Statutory Regulations.
- 29.2. You shall observe all legal requirements of the United Kingdom, European Union and relevant international agreements in relation to health, safety and environment, and to the marking of hazardous goods, the provision of data sheets for hazardous materials and all provisions relating to food.
30. ARTICLES ON LOAN AND USE OF INFORMATION
- 30.1. All tools, materials, drawings, specifications and other equipment and data (the Articles) loaned by Us to You in connection with the Contract shall remain always Our property and be surrendered to Us upon demand in good and serviceable condition (fair wear and tear allowed) and are to be used by You solely for the purpose of completing the Contract. You agree that no copy of any of the Articles will be made without the consent in writing of Our Authorised Officer. Until you return all the Articles to Us, they shall be at your risk and insured by you at your expense against the risk of loss, damage or theft. Any loss of or damage to such Articles shall be made good by you at your expense. All scrap arising from the supply of such Articles must be disposed of at our discretion and all proceeds of sales of such scrap must promptly be paid to us.
31. WARRANTY
- 31.1. You warrant that the Goods will be:
- 31.1.1. of satisfactory quality within the meaning of the Sale of Goods Act 1994 and fit for purpose as required by the Specification or held out by You; and
- 31.1.2. new (unless otherwise specified on the Purchase Order) and free from defects in design, material and workmanship; and
- 31.1.3. provided in accordance with the Contract, correspond to the specification and any drawings, samples or descriptions provided by You; and
- 31.1.4. so formulated, designed, constructed, finished and packaged as to be safe and without risk to health.
- 31.1.5. free from asbestos content unless specifically required under the Contract.
- 31.1.6. comply with all current legislation.
- 31.1.7. be fit for any purpose made known to you expressly or by implication and in this respect, we rely on your skill and judgement.

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- 31.1.8. You warrant that to the extent that associated services are performed by appropriately qualified, trained and experienced personnel with a high standard of skill, care and diligence and in accordance with Good Industry Practice.
- 31.2. Without prejudice to Our right to terminate under Condition 35 (Termination), if any of the Goods supplied are not in accordance with the Contract, We shall be entitled to:
- 31.2.1. require You to repair the Goods or to supply replacement Goods in accordance with the Contract as soon as reasonably practicable and in any event within ten (10) working days of a request to do so: or
- 31.2.2. subject to Condition 13 (Indemnity and Insurance) treat the Contract as discharged by your breach and require repayment of a proportion of the Price which has been paid together with payment of any additional expenditure over and above the Price reasonably incurred by us in obtaining replacement Goods.
- 31.3. You further warrant that you will make good at your expense any defect in the Goods that we discover under proper usage during the first twelve months of actual use or 18 months from the date of acceptance by us whichever period shall expire first. Such defects may arise due to your faulty design, your erroneous instructions as to the use or inadequate or faulty materials or poor workmanship or any other breach of your obligations whether in this Contract or at law.
- 31.4. Repairs or replacements will themselves be covered by the above warranty but for a period of 12 months from acceptance by us.
32. ASSIGNMENT AND SUB-CONTRACTING
- 32.1. The Contract shall not be assigned by you nor sub-contracted as a whole. You shall not sub-contract any part of the Contract without Our written consent, but we shall not refuse such consent unreasonably. The restriction contained in this Condition shall not apply to sub-contracts for materials, minor details or for any part of which the makers are named in the Contract. You shall be responsible for all work done and Goods supplied by all your sub-contractors.
33. YOUR INSOLVENCY AND/OR CHANGE OR OWNERSHIP
- 33.1. If You become insolvent or bankrupt or (being a Company) make an arrangement with Your creditors or have an administrative receiver or administrator appointed or commence to be wound up (other than for the purpose of amalgamation or reconstruction) We may without replacing or reducing any other of Our rights terminate the Contract with immediate effect by written notice to You or any person in whom the Contract may have become vested.
- 33.2. If the ownership of Your Company changes during the period of the Contract, then We may without replacing or reducing any other rights terminate the Contract with immediate effect by written notice to You or any person in whom the Contract may have become vested.
34. MODERN SLAVERY ACT 2015
- 34.1. The City of Liverpool College Group (The Group) is absolutely committed to preventing slavery and human trafficking in its corporate activities and to ensuring that its supply chains are free from slavery and human trafficking.
- 34.2. The Group expects all suppliers and their respective supply chains to comply fully with this legislation.
- 34.3. The Group expects that upon request suppliers will provide appropriate assurances/evidence that they are actively following all provisions of the act.
- 34.4. The Group reserve the right to remove any supplier who fails to provide the appropriate assurances that they are complying with the act from its active suppliers list.
35. TERMINATION ON CHANGE OF CONTROL OR INSOLVENCY
- 35.1. We may terminate the Contract by written notice having immediate effect if:

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- 35.1.1. You undergo a change of control within the meaning of Section 416 of the Income and Corporation Taxes Act 1988, impacting adversely and materially on the performance of the Contract; or
 - 35.1.2. Where You are an individual or a firm You or any partner in the firm becomes bankrupt or has a receiving order or administration order made against him; or makes any compromise or arrangement with or for the benefit of his creditors; or appears unable to pay a debt within the meaning of Section 268 of the Insolvency Act 1986; or any similar event occurs under the law of any other jurisdiction within the United Kingdom; or
 - 35.1.3. Where You are a company, You pass a resolution or the Court makes an order that You be wound up otherwise than for the purpose of solvent reconstruction or amalgamation; or a receiver, manager or administrator is appointed on behalf of a creditor in respect of Your business or any part of it; or You are unable to pay Your debts within the meaning of Section 123 of the Insolvency Act 1986; or any similar event occurs under the law of any other jurisdiction within the United Kingdom.
 - 35.2. We may only exercise Our right under Condition 34.1.1 within six (6) months after a change of control occurs and shall not be permitted to do so where it has been agreed in advance to a change of control that occurs. You shall notify us immediately when any change of control occurs.
36. TERMINATION FOR REASONS OTHER THAN CHANGE OF CONTROL OR INSOLVENCY
- 36.1. We may terminate the Contract with immediate effect by notice in writing to You on or at any time if in addition to Our rights under Condition 34:
 - 36.1.1. You are convicted of a criminal offence; or
 - 36.1.2. You cease or threaten to cease to carry on Your business; or
 - 36.1.3. There is genuine belief that there is a risk that reputational damage to Us will occur as a result of the Contract continuing; or
 - 36.1.4. You are in breach of any of Your obligations under this Contract that is capable of remedy and which has not been remedied to Our complete satisfaction within ten (10) days or such other reasonable period as may be specified by Us after issue of a written notice specifying the breach and requesting it to be remedied; or
 - 36.1.5. There is a material or substantial breach by You of any of Your obligations under this Contract which is incapable of remedy; or
 - 36.1.6. You commit persistent minor breaches of this Contract, whether remedied or not.
 - 36.2. We reserve the right to terminate the Contract in part in the case of termination under Conditions 35.1.4, 34.1.5 and 35.1.6.
 - 36.3. We reserve the right to terminate the Contract at will, in whole or in part, at any time with 30 days written notice.
37. CONSEQUENCES OF TERMINATION
- 37.1. If this Contract is terminated in whole or in part, We shall:
 - 37.1.1. be liable to pay to You 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; and/or
 - 37.1.2. except for termination under Condition 35.3 be entitled to deduct from any sum or sums which would have been due from Us to You under this Contract or any other Contract and to recover the same from You as a debt any sum in respect of any loss or damage to Us resulting from or arising out of termination of this Contract. Such loss or damage shall include the reasonable cost to Us of the time spent by Our officers in terminating the Contract and in making alternative arrangements for the supply of Goods or any part of them; and/or

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- 37.1.3. where termination arises under Condition 35.3, We agree to pay to You any reasonable direct and quantifiable costs reasonably incurred by You due to early termination subject to Our maximum liability provision in Condition 8; and/or
- 37.1.4. in the event that any sum of money owed by You to Us (Your debt) exceeds any sum of money owed by Us to You (Our debt) under this Contract then We shall, at Our sole discretion, be entitled to deduct Your debt from any of Our future debt or to recover Your debt as a civil debt.
- 37.2. Upon termination of the Contract for any reason, subject as otherwise provided in this Contract and to any rights or obligations which have been accrued prior to termination, neither party shall have any further obligation to the other under the Contract.
38. DISPUTE RESOLUTION
- 38.1. If any dispute or difference shall arise between the parties in connection with or arising out of the Contract then either party may give the other seven (7) calendar days notice to resolve the dispute or difference through an Alternative Dispute Resolution (ADR) procedure as recommended by the Centre for Dispute Resolution. If the matter has not been resolved by an ADR procedure within fifty-six (56) calendar days of such notice having been received, or if the other party will not participate in the ADR procedure, then the dispute or difference shall be referred to Arbitration in accordance with Condition 37.2 below.
- 38.2. If any dispute or difference which may arise between You and Us in connection with or arising out of the Contract is under Condition 37.1 is to be referred to ADR but is not so resolved as specified in Condition 37.1 then either party shall give to the other ten (10) business 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) business 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
39. CORRUPT GIFTS
- 39.1. In connection with this or any other Contract between You and Us You shall not give, provide, or offer to our staff and agents any loan, fee, reward, gift or any emolument or advantage whatsoever. In the event of any breach of this Condition 38. We shall without prejudice to any other rights we may possess, be at liberty forthwith to terminate this and any other Contract and to recover from you any loss or damage resulting from such termination.
40. LAW AND CHANGE IN LAW
- 40.1. You shall always comply with the Law in Your performance of the Contract.
- 40.2. On the occurrence of a change in law which has a direct effect upon the Price the parties shall meet within ten (10) business days of You notifying Us of the change in law to consult and seek to agree the effect of the change in law and change in the Price as a result following the principle that this Condition 39.2 is not intended to create an artificial cushion from market forces for You. If the parties, within ten (10) business days of this meeting have not agreed the occurrence or the impact of the change in law, either party may refer the matter to dispute resolution in accordance with Condition 37.
- 40.3. Any agreed additional sums payable as a result of the operation of this Condition 39.2 shall be included in the Price. For the avoidance of doubt nothing in this Contract will permit you double recovery of any increase in your costs.
- 40.4. This Contract shall be subject to English Law and the jurisdiction of the English courts.
- 40.5. This Agreement shall be subject to the law of the country of the Buyer's main address.
41. THE CONTRACT (RIGHTS OF THIRD PARTIES) ACT 1999
- 41.1. Nothing in this Contract is intended to confer on any person any right to enforce any term of this Contract which that person would not have had but for the Contracts (Rights of Third Parties) Act 1999 or any statutory modification or re-enactment thereof.

42. WAIVER

- 42.1. A failure at any time to enforce any provision of the Contract shall in no way affect the right at a later date to require complete performance of the Contract, nor shall the waiver of the breach of any provision be taken or held to be a waiver of any subsequent breach of the provision or be a waiver of the provision itself.