

CITY, UNIVERSITY OF LONDON - GENERAL CONDITIONS OF PURCHASE

1 DEFINITIONS

1.1

“Buyer” means City, University of London Students’ Union or any subsidiary of City, University of London Students Union’ named as Buyer in the Purchase Order / Contract.

“Seller” means the individual, firm or company to whom the Purchase Order / Contract is issued.

“Goods” includes all goods covered by the Purchase Order / Contract whether raw materials, processed materials or fabricated products and for the avoidance of doubt “Goods” shall include all software and hardware covered by the Purchase Order / Contract.

“Services” means performance of the services which are the subject of the Purchase Order / Contract.

“Packages” includes bags, boxes, cases, carboys, cylinders, drums, pallets, tank wagons and other containers.

“Contract” means the agreement which is a legal contract between Buyer and Seller which includes both specifically drawn up Contracts and Contracts made by way of Purchase Order form. From section 3 of these conditions, all Purchase Orders, Framework Purchase Orders or specifically drawn up Contracts will be referred to as the “Contract”.

“Purchase Order” means Buyer's purchase order on which these Conditions are printed or to which they are attached or referred to on the Buyer's website.

“Framework Order” is method of using the standard Purchase Order form where the description noted on the Purchase Order is a means of capturing the Buyer's and Seller's acceptance of the stated pricing structure for Goods or Services described should a requirement to purchase be confirmed by the Buyer and shall incorporate these Conditions.

“Software” means computer software in both object code and source code contained on industry standard data transfer media and includes all relevant guides and supporting documentation.

“Service Specification” is a document agreed between the Buyer and the Seller that states in detail the services required along with relevant KPIs etc and, if applicable, shall be attached to the Purchase Order.

“Student” is an individual person who is a full member of City, University of London Students’ Union.

“IPRs” means patents, rights to inventions, copyright and related rights, trade marks, trade names and domain names, rights in get-up, rights in goodwill or to sue for passing off, rights in designs, rights in computer software, database rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which may now or in the future subsist in any part of the world.

1.2 In these Conditions the masculine includes the feminine and the neuter, and the singular includes the plural and vice versa as the context admits or requires.

1.3 The expression “person” means any individual, firm, body corporate, unincorporated association, or partnership or joint venture.

1.4 Any reference to a statute or statutory provision and all statutory instruments ,orders ,by-laws, directions and notices made pursuant to it (whether made before or after the date of this Agreement), includes a reference to the same as from time to time amended, modified, extended, re-enacted, consolidated, or replaced provided that amendments, consolidations, modifications, extensions, re-enactments or replacements made after the date of this Agreement will not have substantively changed any provision which is relevant to this Agreement.

2 GENERAL

2.1.1 The Purchase Order document constitutes an offer by the Buyer to purchase the Goods and/or acquire the Services stated on the Purchase Order from the Seller except where the Purchase Order document is being used as a Framework Order. The offer status of specifically drawn up contracts if applicable will be defined in the specifically drawn up Contract document.

2.1.2 If the Purchase Order is being used as a Framework Order, the Buyer makes no commitment to purchase all or any Goods or Services described in a Framework Order, actual commitment against a Framework Order would be made by formal call-off by appropriate means by the Buyer, referencing the Framework Order. Should the Buyer wish to purchase Goods or Services the Seller will guarantee to supply at agreed pricing for the stated dates of validity of the Framework Order.

2.2 The Purchase Order / Contract will be deemed to be accepted as binding by the Seller unless the Seller advises the Buyer of the non-acceptance within 7 days of the Purchase Order / Contract date. No conditions submitted or referred to by the Seller at any stage in the dealings between the Buyer and the Seller shall form part of the legally binding Contract unless agreed to in writing by the Buyer.

2.3 For Purchase Orders / Contracts for Services where Service Specifications are applicable, these agreed Service Specifications form an integral part of this Contract.

2.4 Should there be any inconsistency between the documents comprising the legally binding Contract, the order of precedence shall be:

2.4.1 Firstly, an agreed variation to the Purchase Order / Contract;

2.4.2 Secondly, the terms and conditions on the face of the Purchase Order / Contract;

2.4.3 Thirdly, the terms and conditions in any attachments to the Purchase Order Contract;

2.4.4 Lastly, these Conditions.

3 PRICES

Unless specifically agreed by the Buyer and the Seller in writing no variation of price is permitted for the duration of the Contract. Prices are inclusive of packing, carriage, packaging, insurance and delivery and any duties or levies, but exclusive of any VAT (unless specifically stated on the Contract) which if applied, must be shown separately on invoices. No travel or other expenses will be paid by the Buyer other than those agreed in advance between the Seller and the Buyer and included in the Contract. Expenses if agreed will not

exceed those stated in the Buyer's Travel Policy (a copy of which is available at the Seller's request) and the Seller agrees to be bound by the terms of such policy.

4 QUALITY

The quantity, quality and description of the Goods and Services shall, subject as provided in these Conditions, be as specified in the Contract and/or in any applicable Service Specification supplied by the Buyer to the Seller or agreed in writing by the Buyer. It is a condition of the Contract (and the Seller warrants) that:

4.1 All Goods and Services shall conform to the express terms of the Contract and any sample, specification or description in the Contract;

4.2 All Goods and Services supplied shall be fit and sufficient for the purpose for which they are intended to be used or held out by Seller, of satisfactory quality (within the meaning in the Sale of Goods Act 1979 as amended), good construction, of adequate strength and free of defects whether patent or latent in design, material and workmanship;

4.3 All Goods and Services supplied and all manufacture and packaging of the Goods shall comply with the implied conditions warranties and terms contained in the Sale of Goods Act 1979 and Supply of Goods and Services Act 1982 and any other applicable statutes and regulations and any statutory re-enactment(s) or modification(s) thereof and with any specification of the British Standards Institution (or equivalent) which is applicable to the Goods and Services (or any of them) at the time of the Contract and the Seller shall inform the Buyer as soon as it becomes aware of any changes in applicable legislation which may affect the supply of the Goods or Services; and

4.4 All Services shall be performed by appropriately qualified and trained personnel, with due care and diligence and to such high standard of quality as it is reasonable for the Buyer to expect in all the circumstances.

5 PROGRESS AND INSPECTION

The Buyer's representatives shall have the right to inspect all Goods or Services at the Seller's premises and the works of subcontractors at all reasonable times and to reject Goods or Services that do not comply with the terms of the Contract. The Seller's sub-contracts shall include this provision. Any inspection, checking, approval or acceptance given on behalf of the Buyer shall not relieve Seller or his sub-contractors from any obligation under the Contract. If as a result of inspection or testing the Buyer is not satisfied that the Goods or Services will comply in all respects with the Contract, and the Buyer so informs the Seller within 7 days of inspection or testing, the Seller shall take such steps as are necessary to ensure compliance and the Buyer shall be entitled to re-inspect the Goods or Services following such 7 day period.

6 DELIVERY AND PACKAGING

The date of delivery of the Goods or performance of the Services shall be as specified in the Contract unless agreed otherwise in writing between the Buyer and the Seller. The Seller shall furnish such programmes of manufacture and delivery as the Buyer may reasonably require and the Seller shall give notice to the Buyer as soon as practicable if such programmes are or are likely to be delayed. If the Goods are to be delivered, or the Services to be performed, by instalments, the Contract will be treated as a single contract and not severable. All Goods must be adequately protected against damage and deterioration in transit and delivered carriage paid. Any information relating to the handling and storage of Goods upon receipt is to be clearly marked on the packaging and accompanying paperwork.

If the Goods are delivered in excess of quantities ordered the Buyer shall not be bound to pay for the excess and any excess shall be and shall remain at the Seller's risk and returnable at the Seller's expense provided that if the Seller does not collect such excess Goods within ten days of notification by the Purchaser of the delivery of excess Goods, title to the Goods shall pass to the Buyer and it shall be entitled to retain such excess Goods at no extra cost to the Buyer. In the absence of any provision to the contrary any packaging is non chargeable and non-returnable. Unless otherwise provided in the Contract the Seller shall be responsible for the collection and disposal of all returnable packaging at no cost to the Buyer. All Goods must be delivered at the delivery point specified in the Contract during the Buyer's usual business hours unless the Contract specifies otherwise. If Goods are incorrectly delivered, the Seller will be held responsible for any additional expense incurred in delivering them to their correct destination.

7 RELATIONSHIP BETWEEN THE PARTIES (ALL CONTRACTS)

7.1 In carrying out the Services or providing Goods under this Contract, the Seller is and shall remain an independent enterprise (being a limited company, sole trader or any other organisational entity) and shall never be deemed to be an agent, partner or employee of the Buyer. The Seller shall be liable for the payment of all insurances, taxes, national insurance or any other costs which are relevant to them or their employees.

7.2 The Seller must not allocate any member of their staff or sub-contractors to solely work exclusively on the provision of Services and / or Goods to the Buyer without the specific written consent of the Buyer. The Seller indemnifies the Buyer for any and all costs and liabilities, including on an ongoing basis, incurred in dealing with obligations incurred by the Buyer under the TUPE Regulations through any breach by the Seller of this clause.

7B ADDITIONAL CONDITIONS ONLY FOR CONTRACTS FOR LECTURING, MARKING AND OTHER RELATED ACTIVITIES

This section applies in ADDITION to the other General Conditions of Purchase set out on this document and on the Contract.

7B.1 The Seller will provide an appropriately qualified and experienced worker ("the Worker") to undertake teaching and associated duties as defined in the Contract. A detailed schedule of the Services to be provided will be attached to the relevant contract and forms an integral part of this Contract ("the Schedule").

7B.2 The Worker will be expected to teach at the times agreed and at the locations specified in the Schedule. The associated duties may include, but are not limited to, preparation of programme materials, setting and marking of coursework assignments and examinations and attendance at meetings.

7B.3 The Worker will be subject to quality assurance procedures, which may include surveys of student opinions and teaching observation. The Seller will take all reasonable steps to ensure that the Worker is familiar with and observes the Buyer's policies and procedures relevant to the performance of teaching and associated duties such as academic assessment, equal opportunities and health and safety. The Buyer is responsible for ensuring that these are brought to the attention of the Seller and the Worker before the commencement of the Services.

7B.4 The identity of the Worker to be provided will be agreed in advance by the Buyer and will be named in the schedule. The Seller will supply a CV and references (if requested by the Buyer) in respect of each worker it nominates to enable the Buyer to determine whether

the Worker is appropriately qualified and experienced and to enable the Buyer to undertake a Criminal Records Bureau check in respect of the Worker.

7B.5 If the Worker is unable to undertake the scheduled work, because either: (a) the Worker has been medically certified unfit to carry out the duties; or (b) matters beyond the reasonable control of the Seller or the Worker require the Worker's attendance elsewhere at the time such programme is to be held; or (c) the Worker is no longer employed by the Seller, the Services may, with the Buyer's express agreement in writing and subject to reasonable prior notice, be re-scheduled or conducted by a suitable qualified substitute nominated and employed by the Seller.

7B.6 The Buyer shall print or otherwise reproduce sufficient copies of the materials prepared by the Seller for use on the programme. The Seller undertakes not to reproduce the Buyer's name or logo on any material without the prior written consent of the Buyer.

7B.7 The Buyer or any Student registered with the Buyer shall be entitled to record, reproduce and otherwise use in any reasonable manner, any materials created by the Seller and / or the Worker and used in connection with any teaching at the Buyer's locations or such other locations where the Services are performed. This shall without limitation include content delivered electronically, in writing, verbally or by any other media and for the avoidance of doubt, will include the recording of entire lessons or part of lessons that could be utilised / rebroadcast at any time thereafter. The Seller shall enter into any further documentation that the Buyer may require to give full effect to this clause.

7B.8 Additional Termination Conditions: The Buyer may at its sole discretion and at any time, cancel a programme with immediate effect for any reason and shall inform the Seller in writing. In this event, the Buyer shall pay the Seller all sums due and outstanding under the terms of this Contract on a pro rata basis up to and including the date of termination. Where the Buyer has paid for the Services in advance the Buyer shall refund any sums due to the Buyer on a *pro rata* basis. This Contract may be terminated by either party giving a minimum of three month's written notice to the other, receipt of which must be acknowledged in writing.

8 HEALTH & SAFETY

The Seller shall:

(a) Observe, and ensure all its personnel engaged in the provision of the Goods and/or Services observe all health and safety rules and regulations and any other security requirements that apply at any of the Buyer's premises.

The Seller reserves the right to refuse the Seller or its personnel access to the Buyer's premises, which will only be given to the extent necessary for the performance of the Services and/or delivery of the Goods.

(b) Notify the Buyer as soon as it becomes aware of any health and safety issues which arise in relation to the provision of the Goods and/or Services.

(c) Before the date on which the Goods and/or Services are to be delivered, obtain and at all times maintain all necessary licences and consents and comply with all relevant legislation in relation to the Goods and/or Services.

9A HAZARDOUS GOODS

The Seller must meet the requirements of the Health and Safety at Work Act 1974 and any re-enactment or amendment thereof in supplying hazard data sheets to the Buyer and

clearly indicating safety precautions for the handling of the Goods. Hazardous Goods must be marked by the Seller with standard international danger symbol(s) and display the name of the materials in English. Transport and other documents must include a declaration of the hazard and name of the hazardous material in English. Goods must be accompanied by emergency and safety information in English in the form of written instructions, labels or markings. The Seller shall observe the requirements of UK and International laws and regulations relating to the packing, labelling and carriage of hazardous Goods. All information held by, or reasonably available to the Seller regarding any potential hazards known or believed to exist in the transport, handling or use of the Goods shall be promptly communicated to the Buyer. The Seller indemnifies and shall keep indemnified the Buyer against any costs, claims, fines or any other detrimental impacts as a result of a breach of this clause.

9B (Restriction of the use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2006 (RoHS Regulations))

If applicable, the Seller undertakes to the Buyer that all Goods supplied to the Seller under this Contract are fully compliant with the RoHS Regulations. The Seller indemnifies and shall keep indemnified the Buyer against any costs, claims, fines or any other detrimental impacts as a result of any breach of this clause.

9C Waste Electrical and Electronic Equipment Regulations (WEEE Regulations)

For all Goods purchased by the Buyer from the Seller which are within the scope of the WEEE Regulations, all costs, including transportation and administration, associated with the end of life recycling, re-use or disposal of such Goods, shall be for the account of the Seller unless the Buyer chooses to sell or otherwise dispose of the Goods at the end of the equipment's life in the Buyers' organisation. The Buyer reserves the right to operate this clause at the beginning of a Contract by the Seller taking responsibility for a like quantity of existing equipment in the Buyer's ownership - in such cases the Seller is released from recycling, re-use or disposal costs incurred at the end of life of the newly purchased Goods. This clause applies to electrical and electronic equipment purchased before the WEEE Regulations comes into force.

10 TERMINATION AND SUSPENSION

10.1 Any time or period for delivery, dispatch or completion by the Seller shall be of the essence of the Contract. The Buyer may, without prejudice to any other of its rights, terminate the Contract or any part thereof forthwith and/or claim reimbursement for all losses and expenses suffered by notice to the Seller or any person in whom the Contract may have become vested in the event that:

- > The Seller fails to deliver Goods or Services in accordance with the Contract;
- > The Seller fails to make progress with the Contract to the extent (in the opinion of the Buyer) that jeopardises the purpose of the Contract;
- > The Seller is in breach of the Contract, where such breach is incapable of remedy;
- > The Seller is in breach of the Contract, where such breach is capable of remedy but after being given a reasonable period to rectify breach, the Seller fails to do so;
- > The Seller becomes insolvent or makes an arrangement with its creditors (or being an individual) becomes bankrupt or (being a Company) has an administrative receiver or administrator appointed or commences to be wound up (other than for the purposes of bona fide solvent amalgamation or reconstruction);
- > Any distress, execution or other process is levied upon any of the assets of the Seller;
- > There is any change in "control" (within the meaning in Section 416 Income and Corporation Taxes Act 1988) of the Seller.

In the event of termination for any of the foregoing reasons the Buyer shall not be liable for any unfulfilled commitment;

> The Seller or any of its employees is convicted of breaking any law that is in force (other than any minor driving related offences) in the United Kingdom or where to continue to trade with the Seller would put the Buyer in breach of law in force anywhere in the United Kingdom; or

> The Seller or any of its employees behave in a manner that is contrary to the spirit of the policies and ethics of the Buyer.

10.2 The Buyer's Contracts / Purchase Orders should state any applicable duration of the agreement. Where no duration is noted in the Purchase Order / Contract, the Contract shall be considered terminated by both parties after supply of the specific initial requirement against the Contract for the shortest possible duration. Any extension of the Contract must be by specific written agreement of the Buyer. No automatic or perpetual extensions of Contracts are permitted.

10.3 In the event of termination for any cause described in 9.1 and / or 9.2 above, the Buyer will have no further liability whatsoever to the Seller.

11 PASSING PROPERTY AND RISK TO BUYER

Risk in the Goods shall remain in the Seller until they are received by the Buyer at the point specified for delivery in the Contract. Property in the Goods shall pass to the Buyer upon delivery, unless payment for the Goods is made prior to delivery, when it shall pass to the Buyer once payment has been made and the Goods have been appropriated to the Contract.

12 ACCEPTANCE

The Buyer shall not be deemed to have accepted any Goods until the Buyer has had a reasonable time to inspect them following delivery or, if later, until there has been a reasonable time for any latent defect in the Goods to become apparent. In the case of Goods or Services delivered by the Seller not conforming with the Contract for whatever reason, including without limitation by reason of being of quality or in a quantity otherwise than as required by the Contract or being unfit for the purpose for which they are required, the Buyer shall be entitled at its absolute discretion (whether or not the Buyer has previously required the Seller to repair the Goods or to supply any replacement Goods or Services) to do all or any of the following (but without prejudice to any other right which the Buyer may have against the Seller):

12.1 Reject such Goods or Services;

12.2 Treat the Contract as discharged by the Seller's breach;

12.3 Require repayment of any part of the Price which has been paid;

12.4 Purchase elsewhere replacement Goods or Services with as near as reasonably practicable the same Contract specifications and conditions as circumstances shall permit. Before exercising the said right to purchase elsewhere, the Buyer shall give the Seller a reasonable opportunity to replace rejected Goods or Services with Goods or Services which conform to the Contract.

12.5 Any Goods rejected by the Buyer shall remain at the Seller's risk.

12.6 The Seller shall collect such rejected Goods from the Buyer's premises at its own cost. In the event the Seller does not collect the rejected Goods within 10 days of notification of

the rejection the Buyer shall be entitled to dispose of such Goods without liability to the Seller.

No failure or delay by the Buyer in exercising any right or remedy under this Contract shall be construed or operate as a waiver thereof nor shall any single or partial exercise of any right or remedy as the case may be. No waiver by the Buyer of any breach of the Contract by the Seller shall be considered as a waiver of any subsequent breach of the same or any other provision.

13 TERMS OF PAYMENT

13.1 The Seller shall be entitled to invoice the Buyer on or at any time after delivery of the Goods or performance of the Services, as the case may be, and each invoice shall quote the number of the Contract.

13.2 Provided Goods and Services have been received and comply with the requirements of the Contract payment will be due 30 days after receipt of the correct invoice (unless otherwise agreed).

13.3 A separate invoice must be submitted for each Contract and should detail the Goods or Services provided. The Buyer shall not be required to pay any invoice which is not supported by Buyer's Contract (Purchase Order form) number.

13.4 Value Added Tax, where applicable, shall be shown separately on all invoices.

13.5 The Buyer will normally make payments by BACS, the Seller shall therefore supply details of its bank account prior to the commencement of this Contract.

13.6 The making of a payment shall not prejudice Buyer's right of rejection should the Goods or Services not be in accordance with the provisions of the Contract.

13.7 Without prejudice to any other right or remedy it may have, the Buyer reserves the right to set off any amount owing at any time to it by the Seller against any amount payable by the Buyer to the Seller whether under this Contract or any other contract.

14 WARRANTY

Without prejudice to any rights that the Buyer may have under the Contract or by statute, common law or otherwise:

14.1 If requested by the Buyer, the Seller shall as soon as reasonably practicable repair or replace all Goods which are or become defective during the period of 12 months from putting into service or 18 months from delivery, whichever shall be the shorter, where such defects occur under proper usage and are due to faulty design, the Seller's erroneous instructions as to use or erroneous use data, or inadequate or faulty materials or workmanship, or any other breach of Seller's warranties, expressed or implied;

14.2 Repairs and replacements shall themselves be subject to the foregoing obligations for a period of 12 months from the date of delivery, reinstallation or passing of tests (if any) whichever is appropriate after repair or replacement.

15 INDEMNITY AND INSURANCE

The Seller shall indemnify and keep the Buyer indemnified in respect of all and any liability, losses, damage, injury, costs and/or expenses:

15.1 (including without limitation any liability under the Consumer Protection Act 1987) which results during proper use directly or indirectly from any breach of warranty by the Seller

15.2 against any claims for the loss or injury to any person by reason of the Seller's negligence or any act or omission on the part of the Seller's employees, sub-contractors or agents arising out of performance of the Contract.

15.3 arising out of caused by or relates to the provision of any Goods or Services or as a consequence of a direct or indirect breach, negligent performance or any failure by the Seller to perform its obligations under this Contract.

The Seller must ensure that it has satisfactory insurance cover in place that is adequate for the effective operation of its business and that such insurance cover exceeds any possible claim that could be made under this Contract and shall provide copies of such insurance policies upon the reasonable request of the Buyer.

16 CONFIDENTIALITY

16.1 Any specifications, including service specifications, plans, drawings, course notes, process information, patterns or designs supplied by the Buyer to the Seller in connection with the Contract shall remain the property of the Buyer, and any information derived there from or otherwise communicated to the Seller in connection with the Contract shall be kept secret and shall not, without the consent in writing of the Buyer, be published or disclosed to any third party, or be made use of by the Seller except for the purpose of implementing the Contract. Any specifications, plans, drawings, course notes, process information, patterns or designs supplied by the Buyer must be returned to the Buyer on demand.

16.2 The Seller shall treat all information that the Seller has access to as a result of this contract as confidential and shall not disclose it to any other party without the written authority of the Buyer.

16.3 If the Seller wishes information about their organisation or information relating to the Contract to be treated as confidential, the Seller should clearly state that this is the case on offer documentation. The Seller accepts that even if information is requested to be held confidential, that the Buyer may be required under the Freedom of Information Act to disclose such information to other parties. In such cases, the Seller accepts that the Buyer will not be held liable for any resulting impacts to the Seller's business incurred as a result of such disclosure

16.4 The Seller and any third parties (including individual consultants) appointed through them who are involved with the implementation or testing Goods or Services are contractually obliged to operate within the requirements set out by the Buyer, not to use the information for any purpose not specified by the Buyer and to destroy the information at the end of the specified period.

16.5 In the event the Seller acquires any Personal Data (as defined in the Data Protection Act 1998) the Seller shall keep such information confidential and shall only process such data in accordance with its data protection notification and the Data Subject's consent. Such Personal Data shall be processed by the Seller as instructed by the Buyer and in accordance with the seventh principle of the Data Protection Act 1998.

16.6 The provisions of this condition shall apply during the continuance of this Contract and after its termination howsoever arising.

17 FREE-ISSUE MATERIAL

Where the Buyer for the purposes of the Contract issues materials “free of charge” to the Seller such materials shall be and remain the property of the Buyer. Seller shall maintain all such materials in good order and condition subject, in the case of tooling, patterns and the like, to fair wear and tear. The Seller shall use such materials solely in connection with the Contract. Any surplus materials shall be disposed of at the Buyer’s discretion. Waste of such materials arising from bad workmanship or negligence of the Seller shall be made good at the Seller’s expense. Without prejudice to any other of the rights of the Buyer, the Seller shall deliver up such material whether processed or not to the Buyer on demand.

18 INTELLECTUAL PROPERTY RIGHTS

18.1 The Seller warrants that in respect of any IPRs owned by a third party and which are used in the provision of the Services and/or the manufacture and supply of the Goods to the Buyer, that it has obtained all necessary permissions and licences to use such IPRs. The Seller will indemnify and hold harmless the Buyer against any claim of infringement of whatever nature of any IPRs which are included in the Goods and/or Services provided by the Seller to the Buyer (save for those provided to the Seller by the Buyer) and against all costs and damages which the Buyer may incur in any action for such infringement or for which the Buyer may become liable in such an action. In the event that the Seller becomes aware of any infringement notification full details must be given to the Buyer immediately.

18.2 The Seller has no rights to use in any way, any IPRs provided to the Seller by the Buyer unless given specific written authority by the Buyer to do so.

18.3 The Seller hereby assigns to the Buyer with full title guarantee all IPR created as a result of the performance of the Services and/or the development, manufacture or provision of the Goods (immediately upon creation of such IPR) and shall execute all assignments and such other documentation and do all such acts as the Buyer shall reasonably require to give full effect to assignment of such IPR. The Seller further warrants that it will not do any act or omit doing any act which may prejudice the Buyer’s ability to obtain protection for such IPR.

19 SOFTWARE

19.1 The Seller shall be responsible for providing in accordance with the Contract, all Software and associated documentation where:

19.1.1 The Contract is for the purchase of Software and / or

19.1.2 The Goods comprise computer hardware and the Software and associated documentation is necessary for the satisfactory operation of the Goods, or

19.1.3 The Software and associated documentation is necessary for the satisfactory use of the Services and / or

19.1.4 Where the provision of such Software and associated documentation is specified in the Contract and / or any attachment

19.2 For all Software supplied under any of the above 19.1.1 to 19.1.4:

19.2.1 The Seller hereby grants to the Buyer a Worldwide irrevocable licence to use the software (whether modified as hereinafter provided or not) including that supplied on the Goods or in conjunction with the Services as the case may be;

19.2.2 The Seller will provide the Software in both object code and source code. Software should be provided on industry standard software transfer / use media;

19.2.3 The Buyer shall in perpetuity have the right to modify or add to any of the software without reference or obligation to the Seller and shall not be obliged to licence back to the Seller any modifications or additions;

19.2.4 All IPRs of the Seller in the basic Software shall remain vested in the Seller;

19.2.5 The Buyer shall have the IPRs in any modification or additions made to the Software, but shall in no case acquire the IPRs in the Software itself;

19.2.6 The Buyer shall not assign or sub-licence to any third party to have the use of the Software, including any translation, compilation, adaptation, enhancement or any other version of the Software without the prior written consent of the Seller (such consent not to be unreasonably delayed or withheld) except where the Buyer requires to do so in undertaking its activities with other organisations that it has due reason to provide access to that software to;

19.2.7 The Buyer shall only make so many copies of the Software as are reasonably necessary for operational use and security.

19.3 Where the Seller provides third party Software in accordance with the Contract or otherwise in order to enable them to meet their obligations under the Contract, the Seller shall either:

19.3.1 Purchase for the Buyer a non-exclusive, perpetual and irrevocable licence to use the Software under a separate licence agreement, or

19.3.2 Grant to the Buyer a sub-licence to use the third party Software under a separate licence agreement.

19.4 The Seller hereby warrants that it has the right to grant to the Buyer the rights in the Software and any third party Software as set out in these General Conditions of Purchase.

20 ASSIGNMENT, SUB-LETTING & RIGHTS OF OTHER PARTIES

20.1 The Contract shall not be assigned by the Seller nor sub-contract as a whole. The Seller shall not sub-contract any part of any Goods or Services without the Buyer's written consent, which shall not be unreasonably withheld, but the restriction contained in this clause shall not apply to sub-contracts for materials, for minor details, or for any part in respect of which such sub-contractors are named in the Contract as such. The Seller shall be responsible for all work done and Goods supplied by all sub-contractors. When the Buyer has consented to the placing of any subcontract copies of each sub-order shall be sent by the Seller to the Buyer immediately.

20.2 The Buyer and Seller do not intend that any terms of the Contract shall be enforceable, by virtue of the Contracts (Rights of Third Parties) Act 1999, by any person who is not a party to the Contract.

20.3 Rights and obligations under the Order / Contract are not to be assigned by either party without the written consent of the other.

20.4 Each right and remedy of the Buyer under any Contract is without prejudice to any other right or remedy of the Buyer whether under the Contract or otherwise.

20.5 If any provision of the Contract is found by any court, tribunal or other administrative body of competent jurisdiction to be unenforceable or unreasonable it shall, to the extent of such illegality, invalidity, voidability, unenforceability or unreasonableness, be deemed severable and the remainder of the provision shall continue in full force and effect.

21 VARIATIONS

No variation to the Contract or any of the Goods or Services to be supplied under this Contract shall be effective unless such variation is in writing and signed by the Buyer.

22 EQUALITY

The Seller agrees to comply with the Buyer's policies and procedures to prevent unlawful discrimination on the grounds of sex, race, disability, sexual orientation, age, religion and belief. To fulfil this obligation, the Seller shall have or must adopt policies to comply with its statutory obligations under all applicable equality related legislation or prevailing legislation for the prevention of discrimination on the grounds of disability, race, sex, sexual orientation, age, religion or belief (or if existing outside of the United Kingdom, other relevant national legislation covering the same areas of discrimination), and accordingly, will not in practice treat one group of people directly or indirectly less favourably than others because of any of the above mentioned grounds. In accordance with its responsibilities under relevant equality legislation to eliminate unlawful discrimination, promote equal opportunities and promote good relations between people of all groups of people in society, the Buyer requires the Seller to comply with the terms of this section. The Seller must also ensure that all subsequent vendors in the supply chain also comply with these requirements.

22.1 The Seller warrants that its own practices and procedures comply with legislation to prevent unlawful discrimination (whether that legislation exists in the UK or other countries as relevant) and that its employees are fully trained on matters relating to the prevention of unlawful discrimination.

22.2 The Seller will provide such information as required by the Buyer in relation to its compliance with antidiscrimination legislation and will co-operate with any investigation by the Buyer or a body empowered to carry out such investigations under the relevant legislation.

22.3 In the event of any finding of unlawful discrimination having been made in the past three years or being made at present or in the future (up to three years from the date of this Contract) against the Seller by any court or industrial tribunal, or of an adverse finding in any formal investigation by a relevant government approved body (such as the Commission for Racial Equality), the Seller shall advise the Buyer of this event(s) and advise the Buyer of steps taken to prevent repetition of the unlawful discrimination.

22.4 Where any investigation is conducted, or proceedings are brought which arise directly or indirectly out of any act or omission of the Seller, its agents or sub-contractors and where there is a finding against the Seller in any such investigation or proceedings, the Seller shall indemnify the Buyer with respect to all costs, charges and expenses (including legal and administrative expenses) incurred by the Buyer during or in connection with any such investigation or proceedings and further indemnify the Buyer for any compensation, damages, costs or other award the Buyer may be ordered or required to pay to a third party.

22.5 Without prejudice to its remedies set out above, the Buyer may terminate the Contract if notice has been given by the Buyer to the Seller of a substantial or recurring breach of this clause providing that if the breach is not substantial, a reasonable period has been given

during which the breach may have been rectified and the Seller has failed to remedy the breach within the period stated in such notice. If a breach is substantial the Buyer reserves the right to terminate the Contract without notice. To demonstrate remedy of a breach, if the Buyer deems it relevant, the Seller commits to generate an Equality Development Plan (EDP), which the Buyer has the right to monitor the Seller's progress against, failure to meet the EDP in part or in entirety will constitute a failure to remedy the breach and the Contract may be terminated. In any event of contract termination due to a breach or failure to remedy a breach, all resulting costs and liabilities will be for the account of the Seller.

23 FORCE MAJEURE

Neither party shall be liable for failure to perform its obligations under the Contract if such failure results from circumstances which could not have been contemplated and which are beyond the party's reasonable control. The obligations of the parties under the Contract will be suspended until such circumstances have eased.

24 CONSTRUCTION OF CONTRACT

24.1 These terms and conditions and any subsequent amendments to them issued by the Buyer take precedence over any contract order or other document issued by the Seller. Contracts awarded by the Buyer within budgetary years 2009/10 do not fall within the scope of EU Directives 92/50, 93/36, 93/37, 2004/18/EC.

24.2 The construction, validity and performance of the Contract shall be governed by the law of England and subject to the exclusive jurisdiction of the English courts.

28 April 2010