

CONDITIONS OF CONTRACT FOR THE PURCHASE OF GOODS

1. INTERPRETATION

1.1 In these Conditions:-

- 1.1.1 "the Contract" means the agreement concluded between the Company and the Contractor subject to these Conditions, including all specifications, patterns, Contractor's samples, plans, drawings and other documents which are incorporated or referred to therein;
- 1.1.2 "the Contractor" means the person who by the Contract undertakes to supply the Goods to the Company as is provided for in the Contract. Where the Contractor is an individual or partnership, the expression shall include the personal representatives of that individual or of the partners;
- 1.1.3 "the Company" means Staffordshire University HEC or Staffordshire University Enterprises Limited or Octagon Computer Centre Limited, as the case may be.
- 1.1.4 "the Goods" means all goods, materials or articles (including any instalment or any part thereof) which the Contractor is required to supply under the Contract;
- 1.1.5 "the Contract Price" means the price exclusive of Value Added Tax payable to the Contractor by the Company under the Contract for the full and proper performance by the Contractor of its part of the Contract;
- 1.1.6 "Order" means the Company's purchase order to which these Conditions are annexed.
- 1.1.7 unless the context otherwise requires, reference to any enactment, order, regulation or other similar instrument shall be construed as a reference to the enactment, order, regulation or instrument as amended or re-enacted by any subsequent enactment, order, regulation or instrument.

1.2 The headings to these Conditions shall not affect their interpretation.

1.3 Any decision, act or thing which the Contractor is required to take or do under the Contract may be requested by any officer or employee of the Company authorised either generally or specially by the Company provided that upon receipt of a written request from the Company the Contractor shall inform the Company of the name of any such officer or employee.

1.4 Any Order raised in writing by the Company constitutes an offer on the part of the Company to purchase the goods subject to these Conditions which must be accepted in writing by the Contractor or by the actual execution of the Order. The Contractor is deemed to have understood the nature and extent of the work and to have visited the site and shall make no claim founded on his failure to do so. The Company shall not be liable for any order unless it is issued or confirmed on its official order form and signed by the designated officer of the Company.

2. VARIATION OF CONDITIONS

The Goods shall be supplied in accordance with these Conditions. Any conditions which the Contractor may seek to impose and which in any way add to, vary or contradict these Conditions shall be excluded and not form part of the Contract, unless each of such conditions has been specifically agreed to in writing by the Company.

Acceptance of an order will be deemed to bind the Contractor to these Conditions and no Goods shall be supplied or performed by the Contractor, their employees, agents or representatives, except in accordance herewith. The Contractor's Conditions of Sale do not form part of the Contract.

3. SPECIFICATION

The Goods shall be of the qualities and kinds described and equal in all respects to the descriptions, specifications, patterns and Contractor's samples which form part of the Contract or are otherwise relevant for the purpose of the Contract. Except in so far as may otherwise be indicated by such descriptions, specifications, patterns or Contractor's samples, the Goods shall be strictly in compliance with the latest relevant British Standards where such exist. The Company may require the Contractor to meet the minimum requirements of BS5750 or other recognised quality standards. The Contractor shall ensure that the design, construction, quality and safety of any Goods manufactured or supplied by him comply with any Statute, Statutory Rule or Order, or Regulations which may be in force at the time.

4. IDENTIFICATION OF GOODS

All goods which customarily bear any mark, tab, brand, label or other device indicating place of origin, inspection by any Government or other body or standard of quality must be delivered with all the said marks, tabs, brands, labels or other devices intact.

5. PACKAGING

5.1 The Goods shall be securely packed in trade packages of a type normally used by the Contractor for commercial deliveries of the same or similar goods either in retail or in bulk quantities within the United Kingdom.

5.2 The following details shall be shown on the outside of every package unless otherwise specified in the Contract:

description of the Goods;
quantity in package;
any special directions for storage;
expiry date of contents (where applicable);
batch number;
name of manufacturer.

5.3 Hazardous Goods must be marked by the contractor with the appropriate International Danger Symbols and the name of the materials in English. Transport and other documents must disclose the hazard and the name of the materials in English. Goods must be accompanied by such information in English in the form of written instructions, hazard data sheets, labels or markings as may be required by English Law and such E C Law as has effect in England relating to packaging, labelling and carriage of hazardous goods.

5.4 All information held by or available to the Contractor regarding any potential hazards known or believed to exist in the transport, handling or use of the Goods shall be communicated to the Company.

5.5 The Contractor warrants that in the design, manufacture and installation of Goods (including all work on site) and information relating thereto, it will comply with all duties imposed on it by the Health & Safety at Work Act 1974 or any amendment thereto or re-enactment thereof and by all other statutory provisions, by laws, rules and regulations so far as they are applicable to the site or goods.

5.6 Packages which do not comply with these requirements may be rejected by the Company.

6. CONTAINERS AND PALLETS

The Contractor shall collect without charge any returnable containers (including pallets) within twenty-one days of the date of the relevant delivery note, unless otherwise instructed by the Company. Empty containers not so removed may be returned by the Company at the Contractor's expense or otherwise disposed of at the Company's discretion. Charged containers shall be credited in full by the Contractor upon collection or return.

7. FORMS

A delivery note shall accompany each delivery of the Goods. A bill shall be rendered on the Contractor's own invoice form to the Company. All delivery notes, other relevant correspondence and invoices shall be clearly marked with the Company's order number, the consignee and the description and quantity of the Goods concerned, and shall show separately any additional charge for containers or, where no charge is made, whether the containers are required to be returned, and shall be compatible in all respects with these Conditions.

8. DELIVERY

- 8.1 The Goods shall be delivered by the Contractor carriage paid at the Contractor's risk in such quantities as the case may be, in such manner, at such times and to such places as the Company may order in writing from time to time, being times and places within the period and localities specified in the Contract.
- 8.2 Delivery shall be made within fourteen days of receipt of an order, if no time for delivery is named thereon.
- 8.3 The time of delivery of the Goods shall be of the essence.
- 8.4 Parcels or packages delivered to the Company which do not clearly display the name of the company or person sending the parcel and the name of the person or department to whom it is consigned may not be accepted.

9. PROPERTY AND RISK

- 9.1 Risk of damage to or loss of the Goods shall pass to the Company when the Goods have been delivered to the Company and unloaded.
- 9.2 The property in the Goods shall pass to the Company upon delivery, unless payment for the Goods is made prior to delivery, when it shall pass to the Company once payment has been made and the Goods have been appropriated to the Contract.
- 9.3 Goods issued free of charge by the Company for the purpose of one or more processes being carried out upon them shall remain at all times the property of the Company. The Company shall have the right at any reasonable time both to inspect any goods so issued and to remove them. The Contractor shall indemnify the Company against any loss or damage to the goods while in the Contractor's care.

10. REJECTION OF GOODS

- 10.1 Without prejudice to the operation of Condition 10.4 the Goods shall be inspected on behalf of the Company within a reasonable time after delivery and may be rejected if found to be defective or inferior in quality to, or differing in form or material from, the requirements of the Contract or if they do not comply with any term, express or implied, of the Contract.
- 10.2 Without prejudice to the operation of Condition 10.4 the Company shall notify the Contractor of the discovery of any defect within fourteen days of inspection and shall give the Contractor all reasonable opportunities to investigate such defect.
- 10.3 The whole of any consignment may be rejected if a reasonable sample of the Goods taken from that consignment is found not to conform in every material respect to the requirements of the Contract.

- 10.4 The Company's right of rejection shall continue irrespective of whether the Company has in law accepted the Goods. The Company shall not be deemed to have accepted any Goods by the handing over by the Contractor of any delivery note or other document purporting that the Goods are thereby accepted. No signature on any such note or document by any officer, employee or agent of the Company, nor taking delivery, inspection, use or payment by the Company of the Goods or part of them shall constitute acceptance, waiver or approval and shall be without prejudice to any right or remedy which the Company may have against the Contractor; provided that the right of rejection shall cease within a reasonable time from the date on which the Company discovers or might reasonably be expected to discover the relevant breach of contract.
- 10.5 Goods so rejected after delivery shall be removed by the Contractor at its own expense within eight days from the date of the receipt of notification of rejection. In the event of the Contractor failing to remove them within such period the Company may return the rejected goods at the Contractor's risk and expense.

11. DEFAULT BY CONTRACTOR

If the Contractor shall have failed to comply with any terms of the contract, either in relation to time of delivery or otherwise, the Company shall be entitled (whether or not any Goods have been accepted by the Company and whether the property in the goods has passed to the Company or not) to avail itself of any of the following remedies at the Company's discretion:-

- 11.1 rescind the contract;
- 11.2 return Goods or any part thereof to the Contractor. Any costs incurred thereby to be paid by the Contractor. The Company shall be entitled to be repaid in full for any Goods so returned;
- 11.3 give the Contractor the opportunity to replace, repair or reinstate the Goods at the Contractor's expense so that they comply with the terms of the contract;
- 11.4 refuse to accept any further deliveries of Goods without any liability to the Contractor;
- 11.5 carry out at the Contractor's expense such work as may be necessary to make the Goods comply with the contract;
- 11.6 claim such damages, costs and expenses as the Company may have sustained in consequence of any breach of the terms of the contract or failure by the Contractor any statutory or other legal obligations herein specified or implied by law.

These rights shall be in addition to and without prejudice to any other rights the Company may have.

12. FORCE MAJEURE

Neither party shall be liable to the other for any failure to perform its obligations under the Contract where such performance is rendered impossible by circumstances beyond its control, but nothing in this Condition shall limit the obligations of the Contractor to use its best endeavours to fulfil its obligations under the Contract.

13. PRICE AND PAYMENT

13.1 The Contract Price shall be 'net', that is, after deduction of all agreed discounts. It shall include the cost of packaging, packing materials, addressing, labelling, loading and delivery to the addresses named in the Contract or orders. The amount of any duty additional to the Contract Price and any early settlement discounts shall be shown separately in the Contract.

13.2 Payment for Goods supplied within the terms of any order will normally be made at the end of the month following the date of the Contractor's invoice following satisfactory conclusion of the contract. The Company will seek to encourage genuine early settlement discounts whenever possible. Value Added Tax, where applicable, shall be shown separately on all invoices as a strictly net extra charge. Delays in payment of invoices are possible if the Contractor does not show the Company order number on its invoices. Payment terms will not be varied without the express authority of the Director of Finance.

13.3 Whenever under the Contract any sum of money shall be recoverable from or payable by the Contractor, the same may be deducted from any sum then due, or which at any time thereafter may become due, to the Contractor under the Contract or under any other contract with the Company.

13.4 No increase in price will be accepted (whether an account of increased material, labour or transport costs, fluctuation in rates of exchange or otherwise) unless 60 days written notice shall have been given to the Company and such increase shall have been agreed in writing by the Company prior to execution of the Order.

14. WARRANTIES

14.1 The Contractor warrants to the Company that the Goods:-

14.1.1 will be of merchantable quality and fit for any purpose held out by the Contractor or made known to the Contractor in writing at the time the Order is placed;

14.1.2 will be free from defects in design material and workmanship;

14.1.3 will correspond with any relevant specification or sample; and

14.1.4 will comply with all statutory requirements and regulations relating to the sale of Goods.

14.2 Without prejudice to any other remedy if any Goods are not supplied or performed in accordance with the Contract then the Company shall be entitled:-

14.2.1 at the Company's option to require the Contractor to repair the Goods or to supply replacement Goods in accordance with the Contract within the time stated in writing by the Company; or

14.2.2 at the Company's sole option and whether or not the Company has previously required the Contractor to repair the Goods or to supply any replacement Goods to treat the Contract as discharged by the Contractor's breach and require the repayment of any part of the price which has been paid.

15. INDEMNITY

Without prejudice to its liability for breach of any of its obligations under the Contract the Contractor shall be liable for and shall indemnify the Company against all liability, loss, damages, costs, expenses, claims or proceedings whatsoever arising under any statute or at common law as a result of or in connection with:

15.1 breach of any warranty given by the Contractor in relation to the Goods;

15.2 any claim that the Goods infringe, or their importation, use or resale, infringes the patent, copyright, design right, trademark or other intellectual property rights of any other person, except to the extent that the claim arises from compliance with any specification supplied by the Company.

15.3 any liability under the Consumer Protection Act 1987 in respect of the Goods;

15.4 any act or omission of the Contractor or its employees, agents or sub contractors in supplying, delivering, unloading and installing the Goods; and

15.5 any loss of or damage to property (whether real or personal),

15.6 any injury to any person, including injury resulting in death.

15.7 any financial or economic loss

except insofar as such loss, damage or injury shall have been caused by negligence on the part of the Company, its servants or agents.

The Contractor warrants that he has complied with all his obligations as manufacturer or supplier under the Health and Safety at Work Act, 1974, or under any Regulations or Orders.

16. INSURANCE

- 16.1 The Contractor shall insure against its full liability under Condition 15. Such insurance by the Contractor shall be a condition precedent of the Contract.
- 16.2 The Contractor shall insure and keep insured for the period of the Contract and procure that any of its subcontractors shall likewise insure to the extent required under Condition 15 to £1,000,000 on any one claim and unlimited liability in respect of a period of insurance or public liability policy.
- 16.3 The Contractor upon request shall produce to the Company or cause any subcontractor to produce documentary evidence that the insurance is properly maintained.
- 16.4 If the Contractor defaults in insuring, the Company may itself effect insurance and charge the cost together with an administrative charge of 5% to the Contractor.

17. TRANSFER AND SUB-CONTRACTING

Neither party shall assign the whole or any part of the Contract. The Contractor shall not sub-contract the production or supply of any Goods without the previous consent in writing of the Company.

18. PATENTS, ETC

The Contract Price shall include all royalties, licence fees or similar expenses in respect of the making, use or exercise by the Contractor of any invention or design for the purpose of performing the Contract.

19. CONFIDENTIALITY

The Contractor shall treat this order and all designs, drawings, specifications and information supplied therewith as confidential and shall not disclose the same to any third party without the Company's written consent or infringe any copyright, patent, trade mark, trade name or registered design vested in the Company. All materials, drawings, patterns, gauges, samples, specifications and other technical data prepared by the Company in connection with the Contract shall be the Company's property and the Company may reproduce and use the said items freely for any purpose whatsoever.

20. INDUCEMENT TO PURCHASE

- 20.1 The Contractor shall not offer to the Company or its representatives as a variation of the conditions of the Contract or as an agreement collateral to it any advantage other than a cash discount against the Contract Price.
- 20.2 If the Contractor shall have offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of the Contract or any other contract with the Company or for showing or forbearing to show favour or disfavour to any person in relation to the Contract or any other contract with the Company or if the like acts shall have been done by any person employed by it or acting on its behalf (whether with or without the

knowledge of the Contractor) or if in relation to the Contract or any other contract with the Company, the Contractor or any person employed by it or acting on its behalf shall have done any act which had the recipient been in the employment of a public body would have been an offence under the Prevention of Corruption Acts 1889 to 1916 or shall have given any fee or reward to any officer of the Company which shall have been exacted or accepted by such officer under colour of his office or employment and is otherwise than such officer's proper remuneration, the Company shall be entitled to terminate the Contract and to recover from the Contractor the amount of any loss resulting from such termination.

21. INSOLVENCY

The Company may at any time by notice in writing summarily terminate the Contract without compensation to the Contractor in any of the following events:

- 21.1 if the Contractor, being an individual, or, where the Contractor is a firm, any partner in that firm shall at any time become bankrupt, or shall have a receiving order, administration order or interim order made against him, or shall make any composition or scheme of arrangement with or for the benefit of his creditors, or shall make any conveyance or assignment for the benefit of his creditors, or shall purport to do so, or if in Scotland he shall become insolvent or not our bankrupt, or any application shall be made for sequestration of his estate, or a trust deed shall be granted by him for the benefit of his creditors; or
- 21.2 if the Contractor being a company shall pass a resolution, or the Court shall make an order, that the company shall be wound up (except for the purpose of amalgamation or reconstruction) or if an administrative receiver on behalf of a creditor shall be appointed, or if the Court shall make an administration order, or if circumstances shall arise which entitle the Court or a creditor to appoint an administrative receiver or which entitle the Court to make a winding-up order or administration order:

provided always that such termination shall not prejudice or affect any right of action or remedy which shall have accrued or shall accrue thereafter to the Company.

22. CANCELLATION

Any Order raised by the Company may be cancelled at any time by the Company giving the Contractor notice in writing. A fair and reasonable price shall be paid for all work in progress/goods received at time of the cancellation which is subsequently received by the Company. The Company shall not be liable for any loss to the Contractor including consequential loss.

23. PUBLICITY

The Contractor shall not advertise or publicly announce that it is supplying goods or undertaking work for the Company, or use the Company's name or logo without the prior consent of the Company.

24. NOTICE

Any notice required to be given in writing under the Contract shall be given where possible by facsimile and otherwise by first class post addressed to the registered office of the party for which it is intended or to such other address as may be notified in writing in accordance herewith for the purposes and shall be deemed to have been received in the case of a telex or facsimile upon transmission and in the case of a letter forty-eight hours after posting. In proving service by letter it shall be sufficient to show that the envelope containing the notice was properly addressed and stamped and duly posted.

25. WAIVER

No failure or delay on the part of the Company to exercise any of its rights under the Contract shall operate as a waiver thereof nor shall any single or partial exercise of any such right preclude any other or further exercise thereof. Any waiver by the Company of any breach by the Contractor of any of its obligations under the Contract shall not affect the rights of the Company in the event of any further or additional breach or breaches.

26. VALIDITY

If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.

27. DISPUTE

Any dispute arising under or in connection with the Contract or the supply of the Goods shall be referred to arbitration by a single arbitrator appointed by agreement or (in default) nominated upon the application of either party by the President for the time being of the Law Society in accordance with the Arbitration Acts 1950 - 1979. The arbitrator's decision shall be final and binding on both parties. Costs shall be in the award of the arbitrator.

28. RACIAL DISCRIMINATION

The Contractor shall not unlawfully discriminate within the meaning and scope of the provisions of the Race Relations Act 1976 and the Race Equality (Amendment) Act 2000 or any statutory modification or re-enactment thereof relating to discrimination in employment. The Contractor shall take all reasonable steps to secure the observance of these provisions by all servants, employees or agents of the Contractor and all sub-contractors employed in the execution of the Contract.

29. DISABILITY

The Contractor shall not unlawfully discriminate within the meaning and scope of the provisions of the Disability Act 2005 or any statutory modification or re-enactment thereof relating to discrimination in employment. The Contractor shall take all reasonable steps to secure the observance of these provisions by all servants, employees or agents of the Contractor and all sub-contractors employed in the execution of the Contract.

30 EQUALITY

The Contractor shall not unlawfully discriminate within the meaning and scope of the provisions of the Equality Act 2006 or any statutory modification or re-enactment thereof relating to discrimination in employment. The Contractor shall take all reasonable steps to secure the observance of these provisions by all servants, employees or agents of the Contractor and all sub-contractors employed in the execution of the Contract.

31. BRIBERY ACT 2010

31.1. The Contractor shall:

- 31.1.1. Comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 ('Relevant Requirements');
- 31.1.2. Not engage in any activity, practice or conduct which would constitute an offence under sections 1,2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
- 31.1.3. Have and shall maintain in place throughout the term of this agreement its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements and will enforce them where appropriate;
- 31.1.4. Immediately notify Staffordshire University if a foreign public official becomes an officer or employee of the Contractor or acquires a direct or indirect interest in the Contractor (and the Contractor warrants that it has no foreign public officials as officers, employees or direct or indirect owners at the date of this agreement);
- 31.1.5. Ensure that all persons associated with the Contractor or other persons who are performing services in connection with this agreement comply with this Clause; and
- 31.1.6. Within 2 months of the date of this agreement, and annually thereafter, certify to Staffordshire University in writing signed by an officer of the Contractor, compliance with this Clause by the Contractor and all persons associated with it and all other persons for whom the Contractor is responsible under the above Clause. The Contractor shall provide such supporting evidence of compliance as Staffordshire University may reasonably request.

31.2 For the purpose of this Clause, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively. For the purposes of this Clause a person associated with the Contractor includes but is not limited to any subcontractor of the Contractor.

- 31.3 In the event of any breach of this **Clause** by the Contractor or by anyone employed by it or acting on its behalf (whether with or without the knowledge of the Contractor);
- 31.3.1 The Contractor shall immediately give Staffordshire University full details of any such breach and shall co-operate fully with Staffordshire University in disclosing information and documents which Staffordshire University may request; and/or
- 31.3.2 Staffordshire University shall (without prejudice to any of its rights or remedies under this agreement or otherwise) be entitled by notice in writing to terminate this agreements immediately; and
- 31.3.3 The contractor shall be liable for and shall indemnify and keep Staffordshire University indemnified in respect of any and all loss resulting from such termination.
- 31.4 In any dispute, difference or question arising in respect of the following, the decision of Staffordshire University shall be final and conclusive.
- 31.4.1 The interpretation of this **Clause**; or
- 31.4.2 The right of Staffordshire University to terminate this agreement; or
- 31.4.3 The amount or value of any gift, consideration or commission.

32. **LAW**

The Contract shall be considered as a contract made in England and subject to English Law.