

The University of Hull's Terms and Conditions of Purchase (version 05.06.15)

1. **Definitions**

"Authorised Officer" means Our employee authorised, either generally or specifically, by Us to approve Our Purchase Order, confirmation of which may be obtained from the University's Purchasing Manager or Director of Finance.

"Authorised" means approved by one of Our Authorised Officers.

"Contract" has the meaning given in Condition 2(c) below.

"Goods" means the materials, articles, works (including the Works) and services described in the Contract.

"Nominee" means Your employees, Your sub-contractors and their employees and any other person associated with You or representing You.

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

"Package(s)" means any type of package or packaging including bags, cases, carboys, cylinders, drums, pallets, tank wagons and other containers.

"Premises" means those premises owned or occupied by the University of Hull.

"Price" has the meaning given in Condition 3 below.

"Purchase Order" means Our Authorised Purchase Order having these terms and conditions on its reverse or attached to it.

"We", "Us" and "Our" means The University of Hull.

"Works" means the Works or services described in the Purchase Order to be carried out on Our Premises.

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

(b) **Construction.** In this Contract, the following rules apply:

- a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- a reference to a party includes its personal representatives, successors or permitted assigns;
- a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- any phrase introduced by the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
- a reference to writing or written includes faxes and e-mails.

2. **The Contract**

(a) The Purchase Order (and Order Amendment (as applicable)) constitutes an offer by Us to purchase Goods from You in accordance with these terms and conditions. The Purchase Order shall be deemed to be accepted on the earlier of:

- You issuing written acceptance of the Purchase Order; or
- any act by You consistent with fulfilling the Purchase Order (including without limitation delivery of Goods or commencement of Works or services), at which point and on which date the Contract shall come into existence.

(b) These terms and conditions apply to the Contract to the exclusion of any other terms that You seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. However, should this Contract be held by a court of competent jurisdiction to include Your terms and conditions of sale then in the event of any conflict or apparent conflict these terms and conditions shall always prevail over Your terms and conditions of sale.

(c) 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 Order Amendments, the Purchase Order, these terms and conditions, any other document (or part document) referred to on the Purchase Order (the "**Contract**").

3. **Price**

You will sell Us the Goods for the firm and fixed price stated in the Contract (the "**Price**"). If no Price is stated in the Contract then the Price shall be a fair price, taking into account prevailing market conditions. The Price shall include storage, packing, packaging, insurance, delivery, carriage, installation and commissioning (as applicable) but shall exclude VAT.

4. **Variations**

We shall have the right, before delivery, to send You an Order Amendment adding to, deleting or modifying the Goods. If the Order Amendment will cause a change to the Price or delivery date then You must suspend performance of the Contract and notify Us without delay, calculating the new Price and delivery date at the same level of cost and profitability as the original Price. You must allow Us at least 10 working days to consider any new Price and delivery date. The Order Amendment shall take effect when Our Authorised Officer accepts in writing the new Price and delivery date within the time You stipulate. If Our Authorised Officer fails to confirm the Order Amendment within the time You stipulate then performance of the Contract shall immediately resume as though said Order Amendment had not been issued (except that We may still exercise Our right of cancellation in accordance with Condition 5).

5. **Our Right of Cancellation**

In addition to Our other rights of cancellation under this Contract or as may exist at law, We may cancel the Purchase Order and any Order Amendment thereto at any time prior to delivery or commencement of performance, by sending You a notice of termination. You will comply with any instructions that We may issue with regard to the Goods. If You submit a termination claim then We will pay to You the cost of any commitments, liabilities or expenditure which in Our reasonable opinion were a consequence of this Contract at the time of termination, less any recovery of moneys You may make by selling the Goods elsewhere. The total of all payments made or due to You under this Contract, including any termination payment, shall not exceed the Price. If You fail to submit a termination claim within 3 months of the date of Our notice of termination then We shall have no further liability under the Contract.

6. **Quality and Description**

(a) The Goods shall:

- conform in every respect with the provisions of the Contract and any specification submitted by or agreed by Us;
- be capable of all standards of performance specified in the Contract;
- be fit for any purpose made known to You expressly or by implication and in this respect. We rely on Your skill and judgement;
- be new (unless otherwise specified on the Purchase Order) and be of sound materials and skilled and careful workmanship;
- correspond with their description or any samples, patterns, drawings, plans and specifications referred to in the Contract;
- be of satisfactory quality;
- comply with any current legislation.

(b) Unless specifically required under the Contract, there shall be no asbestos content in the Goods and You shall obtain and at all times maintain all necessary licences and consents, and comply with all applicable laws and regulations in respect of the Goods.

(c) Where the Goods comprise services or require supplementary or ancillary services, You shall:

- co-operate with Us in all matters relating to such services, and comply with all Our related instructions;
- perform such services with the best care, skill and diligence in accordance with best practice in Your industry, profession or trade;
- use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that Your obligations are fulfilled in accordance with this Contract;
- ensure that such services and any deliverables will conform with all descriptions and specifications set out in the Contract or otherwise submitted by or agreed by Us;
- provide all equipment, tools and vehicles and such other items as are required to provide such services;
- use the best quality goods, materials, standards and techniques, and ensure such services are free from defects in workmanship, installation and design;
- obtain and at all times maintain all necessary licences and consents, and comply with all applicable laws and regulations;
- observe all health and safety rules and regulations and any other security requirements that apply at any of Our premises; and
- hold all materials, equipment and tools, drawings, specifications and data supplied by Us to You ("**Our Materials**") in safe custody at Your own risk, maintain Our Materials in good condition until returned to Us, and not dispose or use Our Materials other than in accordance with Our written instructions or authorisation.

(d) Time for supply of Goods (including services) and commencement and completion of Works shall be of the essence of this Contract.

7. **Works on Our Premises**

When conducting Works under this Contract the following conditions shall apply:

- You shall ensure that You and Your Nominees adhere in every respect to the obligations imposed on You by applicable laws.
- You shall ensure that You and Your Nominees will comply with Our Health and Safety Policy together with any additional policies that We may notify to You in writing from time to time and shall ensure that You follow good industry practice in conducting the Works.
- The Works shall conform in every respect with the provisions of the Contract.
- You shall be deemed to have satisfied Yourself as regards the nature and extent of the Works, the means of communication with and access to the sites where Works are being carried out, the supply of and conditions affecting labour, the suitability of Our Premises and the equipment necessary for the performance of the Works, subject to all such matters being discoverable by You.
- You shall have use of Our Premises without charge as a licensee and shall vacate the Premises on completion or, if earlier, on termination of the Contract.
- You shall not use Our Premises for any purpose or activity other than the provision of the Works unless given prior approval in writing.
- If You require modifications to Our Premises for conduct of the Works; such modifications shall be subject to prior approval in writing by an Authorised Officer and at Our option be carried out by Us at Your expense. We shall undertake approved modification work without undue delay. Ownership of such modifications shall rest with Us.
- You shall not deliver any equipment to Our Premises outside normal working hours without prior approval in writing.
- You shall maintain all equipment and its place of storage within the Our Premises in a safe, serviceable and clean condition.
- On the completion or earlier termination of the Contract, You shall remove all equipment and shall clear away from Our Premises all waste arising from the performance of the Works and shall leave Our Premises in a clean and tidy condition.
- Whilst on Our Premises, all Your Nominees shall comply with such rules, regulations and other requirements as may be in force in respect of the conduct of persons attending and working on Our Premises.
- Where progress reports are required to be submitted under the Contract, You shall render those reports at such time and

in such form as may be specified or as otherwise agreed between the parties.

- The submission and receipt of progress reports shall not prejudice the rights of either party under the Contract.
- If We give You notice that a specifically named person shall not be admitted to Our Premises, You shall ensure that that person shall not seek admission and shall not be admitted by You or your Nominees.
- If and when so directed in writing by Us, You shall, within seven days, provide:
 - a list showing the name and address of every person whom You wish to be admitted to Our Premises and, where required by Us, every other person who is or may be involved in any other way in the performance of the Contract, the capacity in which each person is or may be so involved and any other particulars required by Us; satisfactory evidence as to the identity of each such person; and
 - any other information about each such person, with any supporting evidence required by the Us including, without limitation, information regarding such persons' rights to work in the United Kingdom.
- Where Your Nominees are required to have a pass for admission to Our Premises or part thereof, We shall, subject to satisfactory completion of approval procedures, arrange for passes to be issued.
- If Your Nominees cannot produce a valid pass when required to do so by Our personnel, or where Your Nominees contravene any conditions on the basis of which a pass was issued, We may refuse admission to Our Premises or require Your Nominees to leave those Premises if already there.
- You shall promptly return any Passes pass on Our request or if the person for whom it was issued ceases to be involved in the performance of the Contract You shall promptly return all passes on completion or earlier termination of the Contract.
- You shall comply with all applicable laws and codes of practice relating equality, discrimination, equal opportunities and equal pay in respect of Your Nominees who conduct the Works.
- You shall ensure that Your Nominees conduct themselves at all times in a manner that will not be discriminatory to Our personnel, representatives, students or visitors.

8. **Progress and Inspection of Goods: Off Site Manufacture**

- You shall at Your expense provide any programmes of manufacture and delivery that We may reasonably notify to You and require. You shall inform Us without delay in writing if Your progress falls behind or may fall behind any of these programmes.
- We shall have the right to check progress at Our premises or the premises of sub-contractors at all reasonable times, to inspect and to reject Goods that do not comply with the Contract. Your sub-contracts shall reserve equivalent such rights for Us.
- Any inspection or approval shall not relieve You from Your obligations under this Contract.

9. **Progress and Inspection of Works on Our Premises**

- We shall be entitled to appoint and notify You in writing a named individual to act as supervisor ("**the Supervisor**") to watch and inspect the Works as they progress on Our Premises.
- The Supervisor shall have power to give instructions for:
 - any variation to the Works including any addition thereto or omission therefrom;
 - carrying out any test or investigation;
 - the suspension of any Works or any part of the Works;
 - any change in the intended sequence of the Works; and
 - the removal and/or re-execution of any Work or materials not in accordance with the Contract.

10. **Acceptance of Works, Retention and Defects Correction Period**

- If the Contract provides for a retention ("**the Retention**") there shall be retained out of each progress or lump sum payment due under the Contract the Retention sum so stated, to be retained for the defects correction period specified in the Contract ("**the Defects Correction Period**"). If any defects appear in the Works during the Defects Correction Period which are due to the use of materials or workmanship not in accordance with the Contract the Supervisor shall give written notice thereof and You shall make good the same at Your own cost.
- If any defects are not corrected within a reasonable time by You, We may, after giving 14 days written notice to You, correct (or appoint a third party to correct) the same and the cost shall be payable by You to Us on demand.
- Upon the expiry of the Defects Correction Period when all outstanding work notified to You by the Supervisor under this Condition has been made good the Supervisor shall upon Your written request certify the date upon which You completed Your obligations under the Contract to the Supervisor's satisfaction, and upon that date We shall pay the Retention sum to You.

11. **Practical Completion of Works**

- Practical completion of the whole of the Works shall occur when the Works reach a stage when notwithstanding any defect or outstanding items therein they are taken or are fit to be taken into use or possession by Us. The Supervisor shall upon Your request promptly certify in writing the date upon which the Works have reached practical completion or otherwise advise You in writing of any work necessary to achieve such completion.
- You shall rectify any defects and complete any outstanding items in the Works which will reach practical completion promptly thereafter and (if such is specified in the Contract) in any event before the end of the Defects Correction Period and in such manner and at a time as may be agreed or otherwise accepted by the Supervisor.

12. **Package**

Unless otherwise stated in the Contract, all Packages shall be non-returnable. If the Contract states that Package is returnable, You must give us full disposal instructions before the time of delivery. The Package must be clearly marked to show to whom it belongs. You must pay the cost of all carriage and handling for the return of Package. We shall not be liable for any Package lost or damaged in transit.

13. **Health & Safety**

- You shall observe all legal requirements in relation to health, safety and environment, and in particular to the marking of hazardous goods, the provision of data sheets for hazardous materials, and all provisions relating to food.
- You shall promptly notify Us of any health and safety hazards which may arise in connection with the performance of the Works or the supply of Goods (including services).
- We shall promptly notify You of any health and safety hazards which may exist or arise at Our Premises and which may affect You in the performance of the Contract.
- You shall inform all Your Nominees of all known health and safety hazards and shall instruct those persons in connection with any necessary safety measures.
- Whilst on Our Premises, You shall comply with any health and safety measures implemented by Us.
- You shall notify the Supervisor immediately in the event of any incident occurring in the performance of the Works or supply of Goods (including services) on Our Premises where that incident causes any personal injury or any damage to property which could give rise to personal injury.

14. **Delivery**

- The Goods shall be properly packed, secured and despatched at Your expense to arrive in good condition at the time or times and the place or places specified in the Contract.
- If You or Your carrier deliver any Goods at the wrong time or to the wrong place then We may deduct from the Price any resulting costs of storage or transport.

15. **Late Delivery**

If the Goods or the Works or any part of them are not delivered or performed 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 that in Our opinion cannot be utilised owing to this cancellation. In the case of Works, We may have the Work performed by alternative means and any additional costs reasonably so incurred shall be at Your expense. This shall not affect any other rights that We have.

16. **Property and Risk**

- You shall bear all risks of loss or damage to the Goods until they have been delivered and accepted, and shall insure accordingly.
- Ownership of the Goods shall pass to Us:
 - if the Goods have been delivered but without prejudice to our right of rejection under this Contract, and
 - if We make any advance or stage payment, at the time such payment is made, in which case You must as soon as possible mark the Goods as Our property.

17. **Acceptance of Goods**

We shall have the right to reject the Goods in whole or in part whether or not paid for in full or in part within a reasonable time of delivery if they do not conform with the requirements of this Contract. It is agreed that We may exercise the right of rejection notwithstanding any provision contained in the Sale of Goods Act 1979. We shall give You a reasonable opportunity to replace the Goods with new Goods that conform with this Contract after which time We shall be entitled to cancel the Purchase Order and purchase the nearest equivalent goods elsewhere. In the event of cancellation under this Condition You shall promptly repay any amounts paid under the Contract without any retention or offset whatsoever. Cancellation of the Purchase Order 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. **Payment**

- Unless stated otherwise in the Contract, in consideration of the supply of Goods by You, We shall pay the invoiced amounts within 30 days of receipt of a validly rendered invoice provided that the invoice is not disputed and that it has been issued in accordance with Our requirements as set out in this Contract.
- Your invoice must be addressed to the department indicated on the Purchase Order and must quote the full Purchase Order number. We shall not be held responsible for delays in payment caused by a failure to comply with Our invoicing instructions.
- If a party fails to make any payment due to the other party under the Contract by the due date for payment, then the defaulting party shall pay interest on the overdue amount at the rate of 3% per annum above the Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. The defaulting party shall pay the interest together with the overdue amount. This Condition shall not apply to payments that the defaulting party disputes in good faith.
- We may at any time, without limiting any of Our other rights or remedies, set off any liability of You to Us against any liability of Us to You, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract.

19. **Free Issue Materials**

Where for the purpose of the Purchase Order/Contract We issue materials 'free of charge' to You, such materials shall be and remain Our Property, and You 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. You shall use such materials solely in connection with the Purchase Order/Contract. Any surplus materials shall be disposed of at Our discretion. Waste of such materials arising from workmanship or negligence by You shall be made good at Your expense. Without prejudice to any other of Our rights, You shall deliver such materials whether further processed or not to Us on demand.

20. Your Warranty

It is expressly agreed between us that:

- You shall promptly make good at Your expense any defect in the Goods (including services) or the Works that We discover under proper usage during the first 12 months of actual use or 18 months from the date of acceptance by Us whichever period shall expire first. Such defects may arise from Your faulty design, Your erroneous instructions as to use or inadequate or faulty materials or poor workmanship or any other breach of Your obligations whether in this Contract or at law.
- Repairs or replacements will themselves be covered by the above warranty but for a period of 12 months from acceptance by Us.
- You will ensure that compatible spares are available to facilitate repairs (where applicable) for a period of at least 10 years from the date of delivery of the Goods.

21. Indemnity, Liability and Insurance

- You shall indemnify Us against all loss, actions, costs, claims, demands, expenses and liabilities whatsoever (if any) which We may incur either at common law or by statute in respect of personal injury to or death of any person or in respect of any loss or destruction of or damage to property (other than as a result of any default or neglect by Us) which shall have occurred in connection with any Works executed by You under this Contract or shall be alleged to be attributable to some defect in the Goods.
- This Contract is given on the condition that (without prejudice to the generality of Condition 20) You will indemnify us against all loss, costs, claims, demands, expenses and liabilities whatsoever (if any) which We may incur either at common law or by statute (other than as a result of any default or neglect by Us) in respect of personal injury to or death of any of Your Nominees or to Our employees, agents, sub-contractors or other representatives due to Your or Your Nominees acts or omissions while on Our premises whether or not such persons are (at the time such personal injury or deaths are caused) acting in the course of their employment.
- You will indemnify Us against any and all loss, costs, expenses and liabilities caused to Us whether directly or as a result of the action, claim or demand of any third party by reason of any breach by You of the Contract or of any terms or obligations on Your part implied by the Sale of Goods Act 1979, by the Supply of Goods and Services Act 1982 or by any other statute or statutory provision relevant to the Contract or to Goods or Works covered thereby. This indemnity shall not be prejudiced or waived by any exercise of Our rights under Condition 17.
- You shall hold adequate insurance cover with a reputable insurer to fulfil Your insurance obligations for the duration of this Contract including public liability insurance cover of at least £2 million (two million pounds sterling). You shall effect insurance against all those risks arising from Your indemnities in Condition 21. Satisfactory evidence of such insurance and payment of current premiums shall be shown to Us upon request.
- You shall hold Employers Liability insurance in respect of Your Nominees in accordance with any legal requirement for the time being in force.
- The terms of any insurance or the amount of cover shall not relieve You of any liabilities under the Contract. It shall be Your responsibility to determine the amount of insurance cover that will be adequate to enable You to satisfy any liability referred to in this Contract.
- Our liability for any breach of this Contract, or arising in any other way out of the subject-matter of this Contract, will not extend to any incidental or consequential damages or losses including (without limitation) loss of profits.
- In any event Our maximum liability under or otherwise in connection with this Contract or its subject-matter shall not exceed an amount equal to the Price.
- Nothing in the Contract limits or excludes either party's liability for:
 - death or personal injury caused by its negligence;
 - fraud or fraudulent misrepresentation; or
 - any other liability which cannot be limited or excluded by applicable law.

22. Matters beyond Control (Force Majeure)

If either party is delayed or prevented from performing its obligations under this Contract by circumstances beyond the reasonable control of either party, (including without limitation any form of Government intervention, strikes and lock-outs relevant to the Contract or breakdown of plant) such performance shall be suspended, and if it cannot be completed within a reasonable time after the due date as specified in the Purchase Order then the Contract may be cancelled by either party. Where We cancel We shall pay to You such sum as may be fair and reasonable in all the circumstances of the case in respect of Goods delivered or Works performed by You under the Contract prior to cancellation but only in respect of Goods or Works that We have received full benefit from as originally contemplated in the Contract. This provision can only have effect if it is called into operation by the party wishing to rely on it giving written notice to the other to that effect.

23. Articles on Loan and Use of Information

- 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 own expense against the risk of loss, theft or damage. 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 in full.
- Any information derived from Our property or otherwise communicated to You in connection with the Contract shall be kept secret and confidential and shall not without the consent in writing of Our Authorised Officer, be published or disclosed to any third party, or made use of by You except for the purpose of implementing the Contract.

24. Ownership of Results

- If the Contract involves design and/or development work:
 - All rights in the results of work arising out of or deriving from this Contract, including inventions, designs, copyright and knowledge shall be Our property and You hereby assign such rights to Us. We shall have the sole right to determine whether any patent, registered design, trademark and other protection shall be sought.
 - You shall promptly communicate to Us all such results and shall if requested and at Our expense do all acts and things necessary to enable Us or Our nominee to obtain letters patent, registered designs and other protection for such results in all territories and to assign the same to Us or Our nominee.
 - You shall ensure that all technical information (including computer programs and programming information) arising out of or deriving from this Contract is held in strict confidence except for any such information which becomes public knowledge other than by breach of this Contract.
- Intellectual property existing before the date of this Contract or developed entirely independently of this Contract remains the property of the party introducing it.
- You shall obtain the waiver of any rights Your Nominees may have under Chapter IV (moral rights) of Part I of the Copyright, Designs and Patents Act 1988 and any foreign corresponding rights in respect of all intellectual property rights.

25. Infringement of Intellectual Property

With the exception of Goods made to Our design or instructions, You warrant that neither the Goods nor Our use of them will infringe any patent registered design, trade mark, copyright or other intellectual property or protected right and You undertake to indemnify Us against all actions, claims, demands, costs, charges and expenses arising from or incurred by reason of any infringement or alleged infringement of any such right.

26. Termination

- If You breach or fail to observe any provision of this Contract We may give You written notice of such breach or non-observance and You shall have 28 days (unless otherwise agreed in writing) from receipt of the notice in which to rectify the breach or non-observance. Should You fail to rectify the breach or non-observance, then We shall have the right to give You written notice terminating the Contract with immediate effect.
- 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 purposes 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.

27. Consequences of Termination

On termination of the Contract for any reason, You shall immediately deliver to Us all deliverables whether or not then complete, and return all Our property materials, equipment and tools, drawings, specifications, information and data. If You fail to do so, then We may enter Your premises and take possession of them. Until they have been returned or delivered, You shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract.

28. Assignment and Sub-Contracting

- 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 for 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 or Works performed by all sub-contractors.
- Where We do consent to You sub-contracting any part of the Contract under Condition 28(a), You shall ensure that You pay Your sub-contractor on the same terms as We pay You under Condition 18(a) of this Contract and that such payment terms are reflected in Your sub-contract with that sub-contractor.

29. Anti-Bribery

- 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, 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.
- Both parties agree to comply with all applicable anti-corruption and anti-bribery laws (including without limitation the Bribery Act 2010) and any other applicable laws in connection with their performance under this Contract, (including without limitation laws relating to import and export control, hazardous materials transportation laws, anti-money laundering laws and tax laws).

30. Loss or Damage in Transit

- You shall repair to Our satisfaction or replace free of charge Goods damaged in transit and in the event of such damage, delivery shall not be deemed to have taken place until repaired or replacement Goods have been delivered.
- You shall replace Goods lost in transit provided that, if You have given Us at the address for delivery of the Goods notice of the date of despatch and have with the notice required Us to give You notice of non-delivery within a stated period and We have failed to do so, the Goods shall not withstanding their non-receipt within that period be deemed to have been delivered at the expiry of that period. In such last mentioned event You shall pursue for Our benefit such rights (if any) as You may have against the carrier.

31. University's Property

- All Our property shall remain Our property and shall be used in the performance of the Contract and for no other purpose unless it is otherwise authorised in writing.
- On receipt of Our property, You shall subject it to a visual inspection and such additional inspection and testing as may be necessary to check that it is not defective; within 14 days of receipt of any item of Our property, or such other period as may be approved, You shall notify the Us in writing of any defects discovered; within 14 days after receiving such notification, We shall inform You of the action to be taken.
- We shall be responsible for the repair or replacement of Our property unless the need for repair or replacement is caused or contributed to by Your failure to comply with Condition 31(e) or by Your negligence or default.
- You shall be responsible for Your own costs resulting from any failure of Our property, unless You can demonstrate that We had caused undue delay in its replacement or repair.
- You shall maintain all items of Our property in a good and serviceable condition, fair wear and tear excepted, and in accordance with the manufacturers' recommendations.
- You shall be liable for any loss of or damage to any of Our property unless and to the extent that You are able to demonstrate that such loss or damage was caused or contributed to by Our negligence or default.
- You shall not in any circumstances have a lien on Our property and shall take all steps necessary to ensure that Our title to such property and the exclusion of any lien are brought to the attention of any third party dealing with Our property.

32. Equipment

- You shall provide all the equipment necessary for the provision of the Works or the supply of Goods ("**Your Equipment**").
- You shall maintain all Your Equipment in good and serviceable condition.
- All Your Equipment shall be at Your risk and We shall have no liability for any loss of or damage to any Your Equipment unless and to the extent that You are able to demonstrate that such loss or damage was caused directly by Our negligence or default.
- You shall provide for the haulage or carriage of Your Equipment to Our Premises and its off-loading and removal if no longer required.
- We may at Our option purchase any item of Your Equipment from You at any time, if We consider that the item is likely to be required following expiry or termination of the Contract. The purchase price paid by Us shall be the fair market value.

33. Your Nominees

- All Your Nominees shall possess the qualifications and competence appropriate to the tasks for which they are appointed or employed.
- You shall provide, at all times, the number of Nominees required to fulfil Your obligations under the Contract.
- We are committed to quality of opportunity. You will fully respect Our equality and diversity policies and any related applicable law including the Equality Act 2010. You will not do anything to cause Us to be in breach of our commitments. You will fully co-operate with any equality initiatives of the University and ensure Your Nominees do the same.

34. Additional Provisions in respect of services and Works

You shall on Our request:

- Remove from Our Premises any materials which are not in accordance with the specification or Purchase Order and substitute proper and suitable materials.
- Remove and properly re-execute any Work, work or services which are not in accordance with the Contract, irrespective of any previous testing, acceptance or payment by Us. You shall at your own expense complete the re-executed Work, work or services correctly in accordance with the Contract within such reasonable time as We may specify.
- The signing by Us of time sheets or other similar documents shall not be construed as implying Your compliance with the Contract.
- You shall not normally be prevented from working reasonable overtime hours on Our Premises if you so desire, provided that You obtain prior written approval and it is at no additional cost to Us.

35. Security

- You shall take all measures necessary to comply with the provisions of any enactment relating to security which may be applicable to You in the performance of the Contract.
- You shall take all reasonable measures, by the display of notices or other appropriate means, to ensure that Your Nominees have notice that all provisions referred to in Condition 35(a) will apply to them and will continue to apply to them, if so applicable, after the expiry or earlier termination of the Contract.
- Whilst on Our Premises, Your Nominees shall comply with all written measures implemented by Us in respect of Your Nominees attending those Premises. We shall provide copies of Our written security procedures to You on request.
- Where required by Us in the interests of security We shall have the right to carry out any search of Your Nominees or of vehicles used by You or Your Nominees at Our Premises.
- You shall co-operate with any investigation relating to security which is carried out by Us or by any person who is responsible to Us for security matters and when required by Us:
 - shall use Your best endeavours to make any of Your Nominees identified by Us available to be interviewed by Us for the purposes of the investigation. Your Nominees shall have the right to be accompanied by Your representative and to be advised or represented by any other person whose attendance at the interview is acceptable to both parties; and
 - shall, subject to any legal restriction by their disclosure, provide all documents, records or other material of any kind which may reasonably be required by Us or by a person who is responsible to Us for security matters, for the purposes of the investigation, so long as the provision of that material does not prevent You from performing the Contract. We shall have the right to retain any such material for use in connection with the investigation and, so far as possible, shall provide You with a copy of any material retained.

36. Equality

You shall comply with all legislation and statutory codes of practice relating to equality of opportunity as are in force and as may be amended, extended, re-enacted or consolidated from time to time, including (but without limitation), the Equality Act 2010.

37. Confidentiality and Data Protection

- A party (receiving party) shall keep in strict confidence all technical or commercial know-how, intellectual property, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the receiving party by the other party (disclosing party), its employees, agents or subcontractors, and any other confidential information concerning the disclosing party's business, its products and services which the receiving party may obtain. The receiving party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction.
- Your attention is drawn to the need to protect personal data in accordance with the provisions and principles of the Data Protection Act 1998 and in particular to the need to ensure the reliability of Your Nominees having access to Our data. You shall ensure that You and Your Nominees comply with the Data Protection Act 1998 and that you keep confidential all personal or sensitive personal data (as defined in the Data Protection Act 1998) which you may have access to during the performance of the Contract.
- You will indemnify Us against all claims and proceedings and associated all liability, loss costs and expenses made or brought by any person against Us in respect of any loss, damage or distress caused to that person by the disclosure of any personal data or sensitive personal data by You or Your Nominees.
- For the avoidance of doubt this Condition 37 shall survive termination of the Contract.

38. General

Notices.

- Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, or sent by pre-paid first class post or other "next working day" delivery service, commercial courier, fax.
(b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred above; if sent by pre-paid first class post or another next day delivery service, at 9.00 am on the second working day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax, one working day after transmission.
- The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

Severance. If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

Waiver. A waiver of any right or remedy under the Contract or law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

Co-Ordination. You shall co-ordinate Your activities under this Contract with those of personnel and other contractors engaged by Us.

No partnership or agency. Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, nor constitute either party the agent of the other for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.

Third parties. A person who is not a party to the Contract shall not have any rights to enforce its terms.

Variation. Except as set out in these terms and conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by Us.

Governing law. The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the law of England and Wales.

Jurisdiction. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).