

TERMS AND CONDITIONS OF PURCHASE

1. Interpretation

1.1 In this Contract:

- "the School" means Alcester Grammar School of Birmingham Road, Alcester, Warwickshire B49 5ED;
"the Contract" means the contract for the sale and purchase of the Goods and/or supply of the Services evidenced by the Order and these terms and conditions;
"Contract Terms" means the terms and conditions set out herein and those set out in the Order;
"Delivery Address" means the address stated on the Order; "Goods" means the goods (including any part thereof) (if any) described in the Order;
"Intellectual Property Rights" means (a) all patents, registered designs, design rights, copyrights, moral rights, topography rights, computer software (including, without limitation, source codes, object codes and documentation), trade marks, trade and business names, including the benefit of all registrations of and applications to register any of the aforesaid items, and all rights in the nature of any of the aforesaid items, anywhere in the world; (b) all trade secret, confidentiality and other proprietary rights, including all rights to knowhow and other technical information; (c) rights in the nature of unfair competition rights and rights to sue for passing off;
"Order" means the School's order form, including any specifications referenced therein;
"Price" means the price of the Goods and/or the Services as set out in the Order;
"Services" means the services (if any) described in the Order;
"the Supplier" means the person so described in the Order;
"Working Days" means Monday to Friday, excluding any day which is a public holiday in England.

1.2 Unless the context otherwise requires, each reference in this Contract to:

- 1.2.1 a statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time;
1.2.2 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.
1.2.3 any reference to the parties includes a reference to their respective successors in title and permitted assignees.

1.3 The headings in these terms and conditions are for convenience only and shall not affect their interpretation.

2. Basis of Purchase

- 2.1 The School orders the Goods and/or the Services from the Supplier on the Contract Terms.
2.2 The Contract Terms are the only terms on which the School is prepared to deal with the Supplier and apply to the exclusion of:

- 2.2.1 any documents or statements which might otherwise be capable of constituting a variation to the Order or counter offer by the Supplier including any terms and conditions on, delivered with or contained in the Supplier's quotation or acceptance of order or which otherwise would form part of the Contract; and
2.2.2 any act or statement by any person acting or purporting to act on behalf of the School; unless such terms and conditions, documents, acts or statements are expressly agreed to by the School in writing.

3. Delivery and Title

- 3.1 All Goods must be delivered and/or Services performed to or at the Delivery Address on the date(s) or within the period specified in the Order. If no delivery date(s) is specified in the Order, then the Goods shall be delivered and/or the Services performed within 5 Working Days of the date of the Order. Goods shall be deemed delivered when they have been offloaded at the Delivery Address by the Supplier.
3.2 The School shall be entitled to regulate the rate of delivery or performance of the Goods and the Services by notice in writing to the Supplier. If the Goods are to be delivered or the Services are to be performed by instalments, the Contract will be treated as a single contract and not severable.
3.3 Except by prior written agreement with the School, deliveries will only be accepted during the hours set out in the Order, on Working Days.
3.4 The School shall not be bound to accept any Goods or Services and the School shall not be deemed to have accepted any Goods or Services until the School has had a reasonable time to inspect them following delivery or performance. On acceptance, the Supplier may invoice the School in accordance with the provisions below. For the avoidance of doubt, early payment for the Goods and/or Services shall not in any way imply acceptance.
3.5 The School shall have the right to inspect and test the Goods and the performance of any Services at all times, including at any time prior to the delivery of the Goods or Services to the School.
3.6 If the results of such inspection or testing cause the School to be of the opinion that the Goods or Services do not conform or are unlikely to conform with the Order or to any specifications or samples supplied or advised by the School to the Supplier, the School shall inform the Supplier and the Supplier shall immediately take such action as is necessary to ensure conformity with the Order (or the School may elect to terminate the Contract with immediate effect and in such circumstances the Supplier shall refund any monies already paid and the School shall have no further liabilities under the Contract, to make payments or otherwise). The School shall have the right to require and witness further testing and inspection as it sees fit.
3.7 Notwithstanding any such inspection or testing, the Supplier shall remain fully responsible for the Goods or Services so inspected or tested and any such inspection or testing shall not diminish or otherwise affect the Supplier's obligations under the Contract.
3.8 No Goods produced or Services carried out in excess of the quantity specified in the Order will be accepted or paid for unless the School notifies the Supplier in writing of its intention to accept the same. Excess Goods delivered but rejected by the School will remain at the Supplier's own risk and expense and the School may at any time return the same to the Supplier at the Supplier's own risk and expense.
3.9 Unless the School agrees otherwise in writing all Goods shall be delivered carriage paid to the Delivery Address and until delivery to the Delivery Address shall be at the Supplier's risk.
3.10 Title to and risk in the Goods shall pass on acceptance by the School pursuant to clause 3.4 above.
3.11 Time of delivery of the Goods or performance of the Services shall be of the essence. If Goods or Services or any part thereof are not delivered or performed within the time or times specified in the Order, the School shall, without prejudice to its other rights, be entitled to the remedies in clause 8.4.

4. Price and Payment

- 4.1 All Goods and Services must be supplied at the Price stated on the Order. No increase in Price is allowed without the prior written agreement of the School. The School shall be entitled to any discount for prompt payment, bulk purchase or volume of purchase customarily granted by the Supplier, and as stated in the Order or delivery note.
4.2 All Goods shall be accompanied by a delivery note stating the order number and giving particular identification details of the Goods supplied.
4.3 Except where the Price has not been agreed at the date of dispatch (in which case an invoice must be sent as soon as the Price has been agreed) an invoice stating the School's purchase order number, the delivery note number and, where appropriate, the date and number of the Delivery Schedule must be sent to the School within three days after dispatch of the Goods.
4.4 Unless otherwise stated on the Order, payment will be made against invoices within 45 days following the end of the month of the invoice. If any Goods are not accepted in accordance with clause 3.4 and/or are rejected for any reason or where quantities of Goods actually received vary against quantity advised and invoiced, the Supplier must supply a balancing credit note immediately.
4.5 The Price shall be as stated in the Order and, unless otherwise so stated, shall be:
4.5.1 inclusive of any applicable VAT (which shall be payable subject to receipt of a VAT invoice);
4.5.2 inclusive of all expenses and charges for packaging, packing, shipping, carriage, insurance and delivery of the Goods to the address specified in the Order.
4.6 The School shall be entitled to set off against the Price any sums owed to the School by the Supplier on any account whatever.

5. Sub Contracting etc

- 5.1 This Contract shall not be assigned, held on trust or subcontracted by the Supplier either in whole or in part without the School's prior consent in writing.

6. Samples

- 6.1 If required by the School, the Supplier shall submit samples for approval and the Supplier shall not carry out further work until the School has given its approval in writing. The School may retain the samples until the work is done or the whole of the Goods delivered.
6.2 The Intellectual Property Rights in all samples, materials, equipment, specifications, data and other information supplied by the School to the Supplier or used by the Supplier specifically in the manufacture of the Goods or performance of the Services shall at all times be and remain the exclusive property of the School and shall not be disposed of other than in accordance with the School's written instructions, nor shall such items be used otherwise than as authorised by the School in writing, or for the benefit of any other customer of the Supplier.
6.3 Any person duly authorised by the School shall not be refused permission by the Supplier to enter any premises under the Supplier's control to inspect any material procured for the manufacture of the Goods or the process of manufacture carried out by the Supplier or the completed Goods before dispatch.
6.4 Any person duly authorised by the School shall be entitled to remove samples of materials and goods in the process of manufacture and completed Goods and, if any changes, adaptations, modifications or improvements are required by the School to bring the Goods up to specification the Supplier shall carry out the same immediately at no cost to the School.

7. Intellectual Property Rights

- 7.1 Except where material produced by the Supplier contains items subject to pre-existing Intellectual Property Rights owned by third parties ("Pre-existing IPR"), the Intellectual Property Rights in the Goods or Services paid for by the School will vest in the School. The Supplier hereby irrevocably assigns and transfers to the School with full title guarantee and by way of present and future assignment all

Intellectual Property Rights in the Goods or Services paid for by the School other than Pre-existing IPR, together with all accrued rights of action in respect of infringement of any such Intellectual Property Rights.

- 7.2 The Supplier will procure that its own agents and subcontractors assign all the Intellectual Property Rights in the material produced for the School to the School and shall use its best endeavours to obtain on the

School's behalf from third parties all necessary Intellectual Property Rights unless the School advises the Supplier that this is not necessary.

- 7.3 The Supplier will, at the request of the School, deliver all material incorporating Intellectual Property Rights relating to the Goods or Services to the School or elsewhere as directed by the School.
7.4 The Supplier shall further do all acts and execute such documents as may be required by the School to protect or enforce such Intellectual Property Rights in any part of the world.

8. Warranties and Liabilities

- 8.1 The Supplier warrants to the School that the Goods:
8.1.1 will be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for any purpose held out by the Supplier or made known to the Supplier at the time the Order is placed;
8.1.2 will be free from defects in design, material and workmanship;
8.1.3 will correspond with any relevant specification or sample; and
8.1.4 will comply with all applicable statutory requirements and regulations.
8.2 The Supplier warrants to the School that the Services:
8.2.1 will be performed by appropriately qualified, skilled and trained personnel, with due care and diligence and in accordance with best industry practice; and
8.2.2 will comply with all applicable statutory requirements and regulations.
8.3 The Supplier shall act at all times in accordance with applicable laws and regulations, including but not limited to the Bribery Act 2010.
8.4 Without prejudice to any other remedy, if any Goods or Services are not supplied or performed in accordance with the Contract, then the School shall be entitled without liability to the Supplier (whether or not the Goods or Services have been previously accepted by the School) to:
8.4.1 require the Supplier to repair the Goods or to supply replacement Goods or Services in accordance with the Contract within seven days or such other period as the School shall reasonably require; and/or
8.4.2 treat the Contract as discharged by the Supplier's breach and require the repayment of any part of the Price which has been paid; and/or
8.4.3 rescind all or part of the Order; and/or
8.4.4 reject the Goods (in whole or in part) and return them to the Seller at the Seller's cost and require the repayment of all or part of the Price which has been paid; and/or
8.4.5 refuse to accept any further deliveries of the Goods or further performance of the Services; carry out at the Supplier's expense any work necessary to make the Goods or Services comply with the Contract; and/or
8.4.7 claim such damages as may have been sustained in consequences of the Seller's breach or breaches of the Contract.

8.5 The Supplier shall indemnify the School in full against all liability, loss, damages, costs and expenses (including legal expenses) awarded against or incurred or paid by the School as a result of:

- 8.5.1 any claims that the Goods or the Services infringe or the importation, use or resale of any Goods, infringes the Intellectual Property Rights of any other person;
8.5.2 any claim made against the School to the extent the claim relates to or arises from the Goods or Services;
8.5.3 any breach of the Contract or negligence of the Supplier; or
8.5.4 any act or omission of the Supplier or its employees, agents or subcontractors in supplying, delivering and/or installing the Goods or performing the Services.

8.6 Save for liability in respect of death and personal injury arising from its negligence or fraud or fraudulent misrepresentation, which the School does not seek to limit or exclude, the School's total liability under the Contract shall not exceed the amounts payable by the School to the Supplier hereunder.

9. Force Majeure

- 9.1 Neither the Supplier nor the School shall be liable to the other or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform any of its obligations in relation to the Goods or Services, if the delay or failure is beyond that party's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond a party's reasonable control (i) act of God, explosion, flood, fire or accident; (ii) war or threat of war in selection civil disturbance or requisition; (iii) acts, restrictions, regulations, bye-laws or measures of any kind on the part of any governmental or local authority; (iv) import or export regulations or embargos; or (v) strikes, lock-outs or other industrial action other than in relation to its own workforce. Difficulties in obtaining raw materials, labour, fuel, parts or machinery shall not be considered a force majeure event.

9.2 The affected party shall use all reasonable endeavours to recommence the supply of Goods or performance of Services as soon as reasonably practical. If the affected party is prevented from performance of its obligations for a continuous period in excess of 30 days, then the other party may terminate the Contract in which case neither party shall have any liability to the other save for rights and liabilities accrued up to the date of termination.

10. Confidentiality and data security

- 10.1 The Supplier shall not, without the School's prior written consent, disclose the existence of the Order to any other party, whether through publicity releases, advertisements or otherwise.
10.2 The Supplier shall keep secret and confidential any and all information, technical and commercial know-how, drawing, artwork, specifications samples and technical documentation furnished by or on behalf of the School and/or relating to the School or its business or affairs which become known to the Supplier as a result of its performance of the Order.
10.3 To the extent that the Supplier receives any personal data belonging to the School during the course of fulfilling the Order, it shall only process such personal data strictly in accordance with the instructions of the School and it shall have in place appropriate technical and organisational measures to protect the security and integrity of such personal data in accordance with the requirements set out in the Seventh Data Protection Principle in Schedule 1 of the Data Protection Act 1998.
10.4 The Supplier shall comply with the School's IT security policy as supplied to it and amended from time to time.

11. Termination

- 11.1 The Contract or any part thereof may be terminated at any time by the School giving the Supplier notice in writing in which event the School's sole liability shall be to pay the Price for the Goods or Services in respect of which the School has exercised its rights for cancellation, less the Supplier's net saving of costs arising from cancellation (subject always to a duty on the Supplier to mitigate its losses).
11.2 The School shall be entitled to terminate the Contract without liability to the Supplier by giving notice to the Supplier at any time if:
11.2.1 the Supplier is in breach of any obligation under the Contract and, if such breach is capable of remedy, fails to remedy such breach with the period specified by the School;
11.2.2 the Supplier's conduct at any time is such that it may in the School's view damage the reputation or goodwill of the School;
11.2.3 the Supplier makes any voluntary arrangement with its creditors or, being an individual or firm, becomes bankrupt or, being a company, becomes subject to an administration order or goes into liquidation (other than for the purpose of amalgamation or reconstruction); or
11.2.4 an encumbrancer takes possession of, or a receiver is appointed over, any of the property or assets of the Supplier; or
11.2.5 the Supplier ceases, or threatens to cease, to carry on business; or
11.2.6 the School reasonably apprehends that any of the events mentioned above is about to occur in relation to the Supplier and notifies the Supplier accordingly.

12. Health and Safety; Child Protection

- 12.1 The Supplier undertakes with the School that where conditions exist under which there will or may be any risk to the health or safety of the School, its employees, pupils or other parties arising from the use of the Goods or Services, it will prior to the acceptance of the Order bring such conditions to the attention of the School in writing and will provide, free of cost, full information about such conditions and the safeguards which should be observed to ensure that the Goods or Services can be handled and used safely. Following receipt of such conditions and information the School shall either confirm the Order in writing or cancel the Order without liability to the Supplier.
12.2 The Supplier shall comply with such child protection requirements as may be specified in the Order.
13. General
13.1 Failure by the School to enforce the Contract shall not be construed as a waiver of its rights hereunder.
13.2 This Contract constitutes the entire agreement and understanding of the parties relating to its subject matter and supersedes any previous agreement or representations between the parties.
13.3 This Contract shall be construed and operate in accordance with English Law and the Supplier hereby submits to the exclusive jurisdiction of the English Courts.
13.4 If any of these terms are held by any competent authority to be invalid or unenforceable in whole or part the validity of the other terms and the remainder of the provision in question shall not be affected thereby.