



**COVENTRY UNIVERSITY (the “Buyer”)
CONDITIONS FOR SUPPLY OF GOODS**

1. INTERPRETATION

1.1 In these Conditions:

“Contract” means the contract between the Buyer and Seller consisting of the Purchase Order, these conditions and any other documents (or parts thereof) specified in the Purchase Order. Should there be any inconsistency between the documents comprising the contract, they shall have precedence in the order herein listed.

“Goods” means the goods works and materials (including any instalment of the goods or any part of them) described in the Purchase Order;

“Purchase Order” means the Buyer’s purchase Purchase Order in respect of Goods;

“Supplier” means the person so described in the Purchase Order;

“Specification” includes any plans, drawings, data or other information relating to the Goods.

2. CONTRACT

- 2.1 The Contract comprises an offer by the Buyer to purchase the Goods subject to the provisions of the Purchase Order and to these Conditions and the Supplier's acceptance thereof by word or conduct.
- 2.2 No variation to the Contract shall be binding unless agreed in writing between the authorised representative of the Buyer and the Supplier.
- 2.3 These Conditions shall apply to the Contract to the exclusion of all other terms and conditions on which any quotation has been given to the Buyer or subject to which the Purchase Order is accepted or purported to be accepted by the Supplier.
- 2.4 If the Purchase Order provides that Goods are purchased on any trade term defined in the current edition of Incoterms the use of the same shall import the obligations there provided upon the Buyer and Supplier respectively as buyer and seller.
- 2.5 The Supplier may only accept verbal instructions when the Buyer has given express directions that the Supplier may do so. For Goods supplied against verbal instruction, all risks shall remain with the Suppliers until such Goods are accepted by the Buyer and the Supplier will be responsible for all costs incurred should those Goods not be accepted by the Buyer for whatever reason.

3. PRICE OF GOODS

- 3.1 The price of the Goods shall be fixed and as stated in the Purchase Order and, unless otherwise so stated, shall be:
- 3.1.1. exclusive of any applicable value added tax which shall be payable by the Buyer (subject to receipt of a VAT invoice) at the rate prevailing at the relevant point; and
- 3.1.2. inclusive of all charges for packaging, packing, shipping, carriage, insurance and delivery of the Goods to the address for delivery as shown on the Purchase Order and any duties, imposts or levies other than value added tax.

3.2 No increase in the price may be made [after the Purchase Order is accepted] (whether on account of increased material, labour or transport costs, fluctuation in rates of exchange or otherwise) without the prior consent of the Buyer in writing.

3.3 Only invoices bearing the Buyers Purchase Order number, will be accepted by the Buyer.

4. PAYMENT

4.1 Payment will be made in sterling 30 days after receipt of the relevant invoice in respect of Goods

4.1. Invoices received after the first of the month, following the date of delivery and/or completion may be deferred to the following month's accounts.

5. SET-OFF

5.1. The Buyer shall be entitled to set off against the price any sums owed to the Buyer by the Supplier.

6. VARIATION

6.1. The Supplier shall not alter any of the Goods, except as directed in writing by the Buyer.

6.2. The Buyer shall have the right, from time to time during the execution of the Contract, by notice in writing to direct the Supplier to add to or omit, or otherwise vary, the Goods, and the Supplier shall carry out such variations and be bound by the same conditions, so far applicable, as though the said variations were stated in the Contract.

6.3. Where the Supplier receives any such direction from the Buyer which would occasion an amendment to the Contract price the Supplier shall, with all possible speed, advise the Buyer in writing to that effect giving the amount of any such amendment, ascertained and determined at the same level or pricing as that contained in the Supplier's tender.

6.4. If, in the opinion of the Supplier, any such direction is likely to prevent the Supplier from fulfilling any of his obligations under the Contract it shall so notify the Buyer and the Buyer shall decide with all possible speed whether

or not the same shall be carried out and shall confirm its instructions in writing and modify the said obligations to such an extent as may be justified. Until the Buyer so confirms its instructions they shall be deemed not to have been given.

7. DELIVERY

- 7.1. Where the time of delivery of the Goods is specified it shall be of the essence of the Contract, and where no such time is specified, the Buyer may by 28 days notice to the Supplier make time of the essence as at the date fixed by such notice.
- 7.2. The Goods shall be delivered to the address stated by the Buyer in the Purchase Order on the date or within the period stated in the Purchase Order, in either case during the Buyer's usual business hours.
- 7.3. If the Goods are incorrectly delivered, the Supplier shall be responsible for any additional expense incurred in delivering them to the correct destination.
- 7.4. The Buyer shall be entitled to reject any Goods delivered supplied which are not in accordance with the Specification and the Contract, and shall not be deemed to have accepted any Goods until the Buyer has had a reasonable time to inspect them following delivery or, if later, within a reasonable time after any latent defect in the Goods has become apparent.

8. EXCESS

- 8.1. Any Goods supplied in excess of Purchase Orders are subject to rejection and, in such an event, will be returned at the Suppliers' risk and expense.

9. PROCEDURES

- 9.1. The Purchase Order number must be quoted on all relevant correspondence, advice notes and invoices. Goods must not be delivered pursuant to verbal instructions.
- 9.2. All packages of Goods must be numbered and the numbers shown on the relevant invoices and the delivery notes.

10. RISK AND PROPERTY

- 10.1. Risk of damage to or loss of the Goods shall pass to the Buyer upon delivery to the point specified in the Purchase Order.
- 10.2. The property in the Goods shall pass to the Buyer upon delivery, unless payment in full for the Goods is made prior to delivery, when title shall pass to the Buyer once payment has been made or the Goods have been appropriated to the Contract.

11. TOOLS AND DRAWINGS

- 11.1. All tools, equipment, patterns, drawings, specifications and documentation supplied by the Buyer to the Supplier shall remain the property of the Buyer together with all intellectual property rights of whatever nature therein and all such items shall be used solely for the purpose of the Contract and returned to the Buyer forthwith on request or upon completion of the Contract whichever is earlier. In the event that the Supplier fails so to return such tools, equipment, patterns, drawings, specifications and documentation the Buyer is hereby irrevocably authorised without any requirement as to notice to enter upon the premises of the Supplier for the purpose only of recovering the said tools, equipment, patterns, drawings, specifications and descriptive matter.
- 11.2. Risk in such tools, equipment, patterns, drawings, specifications and documentation shall pass to the Supplier upon delivery of the same to the Supplier or collection by the Supplier and shall remain with the Supplier until the same are returned to the Buyer's premises or collected by the Buyer as the case may be. The Supplier shall indemnify the Buyer in full against any and all loss and/or damage of such tools, equipment, patterns, drawings, specifications and documentation and shall insure the same whilst at its risk.

12. FREE-ISSUE MATERIALS

- 12.1. Where the Buyer for the purposes of the Contract issues materials 'free of charge' to the Supplier such materials shall be and remain the property of the Buyer.
- 12.2. The Supplier 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.

- 12.3. The Supplier shall use such materials solely in connection with the Contract
- 12.4. Any surplus materials shall be disposed of at the Buyer's direction. Waste of such materials arising from bad workmanship or negligence of the Supplier shall be made good at the Supplier expense.
- 12.5. Without prejudice to any other of the rights of the Buyer, the Supplier shall deliver up such materials whether further processed or not to the Buyer on demand.

13. INSPECTION AND TESTING

- 13.1. All Goods shall be subject to any tests required in the Buyer's Purchase Order, and the Buyer shall be entitled to be present at all such tests.
- 13.2. The Buyer shall be entitled to inspect the Goods at any reasonable time at the Supplier's premises, but such inspection shall not constitute acceptance or approval of the Goods. If upon inspection any Goods are defective or not in accordance with the Contract, the Buyer shall inform the Supplier in writing and the Supplier shall at its own expense make good the defect and/or ensure the Goods comply in all respect with the Contract.

14. WARRANTIES AND LIABILITY

- 14.1. The Supplier warrants to the Buyer that the Goods:
 - 14.1.1. will be of highest quality and fit for their normal purpose and any other purpose held out by or known to the Supplier in writing at the time the Purchase 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, quantities, stipulations or samples provided in the Contract; and
 - 14.1.4. will comply with all statutory requirements and regulations relating to the sale of the Goods.
- 14.2. Without prejudice to any other remedy, if any Goods are not supplied in accordance with the Contract, or if any defect shall materialise within a period of 12 months from the putting of Goods into Service or 18 months

after delivery, whichever is the shorter, then the Buyer shall be entitled at the Buyer's option:

- 14.2.1. to require the Supplier to repair the Goods and/or to supply replacement Goods in accordance with the Contract within the time stated in writing by the Buyer; or
 - 14.2.2. to treat the Contract as discharged by the Supplier's breach (which includes any failure of the Goods to meet the Contract requirements following repair and/or replacement) and require the repayment of any part of the price which has been paid.
- 14.3. In addition to its obligation pursuant to sub-condition 2 the Supplier shall indemnify the Buyer in full against all liability, loss including loss of profit and increased production costs, damages, fines, costs and expenses (including legal expenses) awarded against or incurred or paid by the Buyer as a result of or in connection with:
- 14.3.1. breach of any warranty given by the Supplier in relation to the Goods;
 - 14.3.2. any claim that the Goods infringe, or their importation, use of resale, infringes the patent, copyright, database right, registered design, design right, trade mark or other intellectual property rights of any other person, except to the extent that the claim arises from compliance with any specification or drawing supplied by the Buyer;
 - 14.3.3. any liability under the Consumer Protection Act 1987 in respect of the Goods; and
 - 14.3.4. any act or omission of the Supplier its employees, agents or sub-contractors in supplying, delivering and/or installing the Goods.
- 14.4. In case of any infringement by the Goods or use of the Goods by the Buyer of the intellectual property rights of any third party the Supplier shall at its cost procure for the Buyer a licence to use Goods or shall provide to the Buyer alternative Goods which are non-infringing and which are reasonably acceptable to the Buyer.

15. HAZARDOUS GOODS

- 15.1. Hazardous Goods must be marked by the Supplier with all relevant International Danger Symbols and display the name of the material in English.
- 15.2. Transport and other documents must include a declaration of the hazard and name of the material in English.
- 15.3. Goods must be accompanied by emergency information in English in the form of written instructions, labels or markings.
- 15.4. The Supplier shall observe all UK and International Agreements relating to the packing, labelling, and carriage of Hazardous Goods.
- 15.5. All information held by, or reasonably available to, the Supplier regarding any potential hazards known or believed to exist in the transport, handling or use of the Goods supplied shall be promptly communicated to the Buyer.

16. INSURANCE

- 16.1. The Supplier shall insure and keep insured the Goods for the period of the Contract against all risk of loss or damage on any one claim and with unlimited liability on the public liability policy. The Supplier shall produce the relevant policies and evidence of payment of premium from time to time upon request from the Buyer and shall require the insurance company to place an endorsement on the policy noting the Buyer's interest.

17. FORCE MAJEURE

- 17.1. The Buyer may by notice in writing to the Supplier cancel any Purchase Order or delay delivery of the Goods where owing to a cause beyond the Buyer's control it no longer requires such Goods without liability to the Supplier [save that the Buyer shall pay the Supplier for all raw materials used and/or Goods delivered prior to receipt of such notice].

18. CONFIDENTIALITY

- 18.1. The Supplier shall keep confidential and shall not use nor disclose any secret or confidential information of the Buyer (other than in performance of the Contract) **PROVIDED** that the obligations of this condition shall not

extend to any information which is in or enters the public domain other than as a result of breach by the Supplier of its obligations hereunder, or which was known to the Supplier prior to its disclosure hereunder or which was disclosed to the Supplier by a third party independently entitled to disclose.

19. WORK ON SITE

- 19.1. Where the Supplier requires access to the Buyer's premises for the purposes of installation of the Goods the Buyer shall provide reasonable access and all services necessary to permit the Supplier to fulfil its obligations under the Contract at mutually convenient times.
- 19.2. The Supplier will commit no act nor omission at the Buyer's premises which would render the Buyer liable to any person and the Supplier shall observe all regulations and provisions in force relating to the safety of persons using the Buyer's premises.

20. TERMINATION

- 20.1. The Buyer shall be entitled to cancel the Purchase Order in respect of all or part only of the Goods by giving notice to the Supplier at any time prior to delivery , in which event the Buyer's sole liability shall be to pay to the Supplier the price for the Goods in respect of which the Buyer has exercised its right of cancellation, less the Supplier's net saving of cost arising from cancellation.
- 20.2. The Buyer shall be entitled to terminate the Contract without liability to the Supplier by giving notice to the Supplier at any time if:
- 20.2.1. the Supplier commits a material breach of any provision of this Contract which it does not remedy (where remedy is possible) within a period of 30 days of receipt of a written notice from the Buyer specifying the breach and requiring remedy;
 - 20.2.2. the Supplier makes a voluntary arrangement with its creditors (within the meaning of the Insolvency Act 1986) or is the subject of a bankruptcy order or (being a company) becomes subject to an administration order or goes into liquidation (other than for the purposes of amalgamation or reconstruction);

- 20.2.3. an encumbrancer takes possession of or a receiver is appointed over of any of the property and/or assets of the Supplier;
- 20.2.4. the Supplier ceases, or threatens to cease, to carry on business;
or
- 20.2.5. the Buyer reasonably apprehends that any of the events mentioned above is about to occur in relation to the Supplier and notifies the Supplier accordingly.

21. GENERAL

- 21.1. The Purchase Order and the Contract is personal to the Supplier and the Supplier shall not assign or transfer or purport to assign or transfer to any other person any of its rights under the Contract.
- 21.2. Where the Supplier sub-contracts performance of any of its obligations it may only do so with the prior written consent of the Buyer and subject to acceptance by the Supplier of full liability in respect of any act or omission of the sub-contractor and in respect of insurance of the Goods when under the control of the sub-contractor.
- 21.3. Any notice required to be given in writing under the Contract shall be given, where possible, by telex or 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.
- 21.4. No failure or delay on the part of the Buyer 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 Buyer of any breach by the Supplier of any of its obligations under the Contract shall not affect the rights of the Buyer in the event of any further or additional breach or breaches.

- 21.5. Headings are for ease of reference only and shall not affect the interpretation of the Contract.
- 21.6. This Contract shall not create or evidence, nor be deemed to create or evidence any agency, partnership or relationship of employer and employee between the Supplier and the Buyer.
- 21.7. This Contract sets out the entire agreement between the parties with respect to the subject matter hereof, supercedes all previous agreements and understandings between the parties with respect thereto and may not be modified except by an instrument in writing duly signed by the authorised representatives of the parties.
- 21.8. If any provision of this Contract is found to be invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions of this Contract, which shall remain in full force and effect.
- 21.9. These Conditions and any contract in which they are incorporated shall be governed and construed in accordance with English law.

22. THIRD PARTY RIGHTS

- 22.1. For the avoidance of doubt [save as expressly provided herein] nothing in this Agreement shall confer on any third party any benefit or the right to enforce any provision of this Agreement.

23. EQUAL OPPORTUNITIES

- 23.1 The Buyer is an equal opportunity employer and service provider committed to actively opposing discrimination and promoting equality. The Buyer has an equally strong commitment to providing equality of opportunity to both staff and students.
- 23.2 The Buyer requires all suppliers of goods and services to the Buyer to demonstrate equal commitment and to conform to provisions of current equality legislation. This currently covers:-
- 23.2.1 Age
 - 23.2.2 Disability
 - 23.2.3 Gender

23.2.4 Race (including nationality)

23.2.5 Religion or belief

23.2.6 Sexual Orientation

24. VARIATION OF SERVICES

24.1. No amendment or variation to this Contract shall take effect unless it is in writing and signed by the authorised representative of each of the Parties.

24.2. Except unless expressly agreed the existing Contract shall remain in full force and effect.

25. DATA PROTECTION

25.1. The parties Supplier shall perform their obligations in accordance carry out the Service under this agreement in compliance with the requirements and the Data Protection Act 1998 or as instructed in advance by the Buyer

25.2. For the purpose of the said Act the Buyer is the data Controller and the Supplier is the Data Processor.

26. FREEDOM OF INFORMATION ACT 2000

26.1 The Supplier acknowledges that the Buyer has legal responsibilities to make information available under the Freedom of Information Act 2000 ("the Act).

26.2 The Supplier shall give reasonable assistance to the Buyer to comply with the Act.

26.3 In particular the Supplier shall supply of such information and records (together with reasonable assistance to locate the same) which are needed by the Buyer to comply with its obligations under the Act.

26.4 Notwithstanding provisions of Clause 20 the Buyer shall have the discretion to disclose any information which is the subject to this agreement to any person who makes a request under the Act and which in the opinion of the Supplier it has to disclose to discharge its responsibilities under the Act.