

## CONTRACT CONDITIONS FOR THE SUPPLY OF GOODS AND/OR SERVICES TO SOLIHULL COLLEGE AND UNIVERSITY CENTRE

### 1. Introduction

1.1 In these Conditions, the following definitions apply:

Contract: these Conditions and the Order.

Goods: the goods (or any part of them) set out in the Order.

Order: any order placed by Solihull College and University Centre (the College) in writing under which the Supplier agrees to supply Goods and/or Services to the College.

Personnel: the employees, contractors, agents or otherwise of the Supplier that are engaged by the Supplier in the performance of the Contract.

Services: the services and/or works (or any part of them) set out in the Order.

Specification: any specification for the Goods and/or Services, including any related plans, drawings and instructions that are supplied to the Supplier by the College, or produced by the Supplier and agreed in writing by the College.

Supplier: the person or firm from whom the College purchases the Goods and/or Services, as specified in the Order.

The College means Solihull College and University Centre whose address is Blossomfield Road, Solihull, B91 1SB.

1.2 The Order constitutes an offer by the College to purchase the Goods and/or Services in accordance with the Contract.

1.3 The Order shall be deemed to be accepted on the earlier of: (a) the Supplier issuing a written acceptance of the Order; or (b) the Supplier doing any act consistent with fulfilling the Order, at which point the Contract shall be formed.

1.4 The Supplier shall not act on any Order from the College (or any variation to an existing Order) placed verbally. All Orders must be in writing to be valid.

### 2. The Goods

2.1 The Supplier warrants that the Goods shall:

(a) correspond with the relevant description and the Specification and be free from defects in design, material and workmanship;

(b) be of satisfactory quality and fit for any purpose held out by the Supplier or made known to the Supplier by the College;

(c) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods and any policies or procedures notified by the College to the Supplier; and

(d) not infringe the intellectual property rights of any other person.

2.2 Without prejudice to any other rights or remedies of the College if, within twelve (12) months of delivery of the Goods or, if longer, within any period specified in the Specification, it is discovered that the Goods do not comply with the requirements of the Contract then the College shall have the right at its discretion to require the Supplier, free of charge and within a reasonable period (as agreed between the parties), to either remedy any defect in the Goods or to supply replacement Goods which comply with the requirements of the Contract.

### 3. Delivery of Goods

3.1 The Supplier shall ensure that:

(a) the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition; and

(b) each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the Order number, the type and quantity of the Goods, special storage instructions (if any) and, if the College has agreed to delivery of the Goods by instalments, the outstanding balance of Goods remaining to be delivered.

3.2 The Supplier shall deliver the Goods:

(a) on the date specified in the Order, or, if no such date is specified, within 14 days of the date of the Order;

(b) to the location set out in the Order, or as instructed by the College prior to delivery (Delivery Location); and

(c) during the College's normal business hours, or as instructed by the College.

3.3 Delivery of the Goods shall be completed on the completion of unloading the Goods at the Delivery Location.

3.4 If delivery of the Goods is not made in accordance with clause 3.2(a), the College may, without prejudice to any other remedy, terminate the Contract and/or reject the Goods and the Supplier will promptly collect these Goods at its own risk and expense and repay the College any monies it has paid for the Goods. If the Supplier delivers more or less than the quantity of Goods ordered, and the College accepts the delivery, a pro rata adjustment shall be made to the invoice for the Goods.

3.5 Title in the Goods shall pass to the College on the earlier of (i) delivery or (ii) payment, and risk in the Goods shall pass to the College on completion of delivery.

### 4. The Services

4.1 The Supplier warrants that the Services shall:

(a) be performed with all due skill, care and diligence in accordance with good industry practice and wholly in accordance with the Contract (including any Specification), and any proposal submitted to and approved in writing by the College;

(b) be provided on or before the dates specified in the Order, or at such time(s) as the College may specify to the Supplier and shall meet any performance dates for the Services specified in the Order or notified to the Supplier by the College;

(c) be performed by appropriately qualified, trained and competent Personnel and shall be properly supervised;

(d) not infringe the intellectual property rights of any third party; and

(e) comply, and the Supplier in performing its obligations under the Contract shall comply, fully with all relevant legislation for the time being in force and any codes of practice or policies issued by the College to the Supplier from time to time.

4.2 The Supplier warrants that its Personnel will comply with all applicable staff, contractors' and other applicable regulations of the College whilst at the College's premises.

4.3 In the event of any breach of any of the warranties set out in clause 4.1, in addition to any other remedies available to the College under the Contract or otherwise, the Supplier agrees promptly to take whatever action is necessary to remedy such breach, at no additional cost or expense to the College, and without interruption to the College's ongoing business, time being of the essence.

4.4 The College may revise the scope of the Services in a manner which does not materially vary the nature of the Supplier's work or materially increase the burden on the Supplier.

### 5. Liability

5.1 The Supplier shall indemnify the College in full against all costs, expenses, damages and losses, including any interest, penalties, and legal and other professional fees and expenses awarded against or incurred by the College as a result of or in connection with:

(a) any breach of the Contract or any negligence or breach of statutory duty by the Supplier; and/or

(b) any claim made against the College for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the manufacture, supply or use of the Goods, or the provision of the Services, provided that this indemnity shall not apply to any indirect or consequential loss or damage (including loss of profits, anticipated savings, opportunity, reputation or goodwill), and the Supplier's maximum liability under this indemnity to the College for each Order shall be the higher of (i) £1,000,000 and (ii) the amount recoverable under the policies of insurance maintained by the Supplier.

### 6. Price and Payment

6.1 The College shall pay the price set out in the Order for the Goods and/or Services and in respect of the Goods such price shall (unless otherwise specified in the Order) be inclusive of the costs of packaging, insurance and delivery.

6.2 The Supplier shall provide an invoice in the agreed format on completion of delivery of the Goods or on completion of the Services. Such invoice shall, as a minimum, include the relevant College Order number. Each undisputed invoice shall be paid within thirty days of the date of receipt of the invoice by the College. Invoices are to be emailed to the College to the following address: [finance.info@solihull.ac.uk](mailto:finance.info@solihull.ac.uk) If the College disputes any invoice in good faith, it shall promptly notify the Supplier and the Supplier shall (i) issue a credit for the full amount of the original invoice, and (ii) issue a new invoice for any undisputed amount (and the College shall pay such invoice in accordance with this clause 6.2). If the dispute is resolved in the Supplier's favour, it may issue a further invoice for the remaining amount, which the College shall pay in accordance with this clause 6.2. If any undisputed amount is not

paid when due, the Supplier may charge interest at a rate of 2% per annum above the base rate from time to time of the Bank of England until paid.

6.3 The College may set-off any liability it has to the Supplier against any liability of the Supplier to the College.

6.4 The College will not reimburse any expenses incurred by the Supplier other than as set out in the Order or otherwise agreed in writing in advance by the College.

### 7. Intellectual Property

7.1 The parties agree that any intellectual property rights existing at the date of the Contract (Background Intellectual Property) in the Goods and/or used in providing the Services shall at all times remain in the ownership of the relevant party. The Supplier grants to the College an irrevocable, royalty-free, non-exclusive worldwide and perpetual licence to use its Background Intellectual Property to such extent as is necessary to enable the College (and any company within its group) to have the full benefit of the Goods and/or Services for the purpose intended (including the right to sub-licence such Background Intellectual Property to any third party engaged by the College where required). The Supplier warrants that it has obtained all necessary permissions for any third party intellectual property rights in the Goods and/or used in the provision of the Services. The Supplier acknowledges that any rights granted by the College to use or exploit any of the College's intellectual property rights will terminate immediately upon the expiry or termination of the Contract for any reason. All goodwill in respect of the College's intellectual property rights shall remain with the College at all times.

7.2 The Supplier assigns to the College all intellectual property rights in any materials, products or deliverables acquired or created by the Supplier or on the Supplier's behalf for the College, commissioned by the College or which are made to the College's specification and shall provide such assistance and execute any documents required to perfect the College's title in all such materials, products and deliverables. The Supplier shall ensure all the Supplier's employees, contractors and agents are bound by the undertakings within this clause.

### 8. Insurance

8.1 During the term of the Contract, the Supplier shall maintain in force, with a reputable insurance company, adequate levels of insurance to cover such heads of liability as may arise under or in connection with the Contract, and shall, on the College's request, produce evidence that relevant insurance is in place.

### 9. Confidential Information

9.1 Any confidential information supplied by the College to the Supplier (including the details of the Order), shall be kept confidential and shall only be used for the performance of its obligations under the Contract. Upon request, and in any event upon expiry or termination of the Contract, the Supplier shall promptly destroy, and provide evidence of such destruction, (or at the College's written request, promptly return to the College) any confidential information provided.

### 10. Termination

10.1 The Contract will terminate immediately without notice on the completion of the Order in accordance with the Contract.

10.2 The College may terminate the Contract in whole or in part at any time on giving the Supplier thirty (30) days' written notice.

10.3 The College may terminate the Contract with immediate effect by giving written notice to the Supplier if:

(a) the Supplier is in material breach of any of its obligations under the Contract and fails to remedy the breach (if capable of remedy) within 14 days of the date of a written notice by the College specifying the breach and requiring it to be remedied;

(b) the Supplier ceases, or threatens to cease to trade, becomes insolvent, is unable to pay its debts as they fall due, has a receiver, administrative receiver, administrator or manager appointed over the whole or any part of its assets or business, makes any composition or arrangement with its creditors or an order or resolution is made for its dissolution or liquidation (other than for the purpose of solvent amalgamation or reconstruction) or, if an individual, the Supplier dies or is the subject of a bankruptcy petition.

10.4 Upon receipt of any termination notice from the College, the Supplier shall discontinue the provision of the Goods and/or Services on the date and to the extent specified in the notice and the College shall only be liable to pay any charges incurred by the Supplier in the performance of its obligations under the Contract up to the date on which termination takes effect. For the avoidance of doubt, the College shall not be liable to pay any charges to the Supplier where the College has terminated the Contract for the default or insolvency of the Supplier in accordance with clause 10.3.

10.5 Termination of the Contract, however arising, shall not affect any rights or remedies that have accrued as at the date of termination. Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.

### 11. Anti-Bribery and Corruption

11.1 The College may terminate the Contract and recover all its loss if the Supplier, its employees or anyone acting on the Supplier's behalf do any of the following things:

11.1.1 offer, give or agree to give to anyone any inducement or reward in respect of the Contract or any other College contract (even if the Supplier does not know what has been done); or

11.1.2 commit an offence under the Bribery Act 2010; or

11.1.3 commit any fraud in connection with the Contract or any other College contract whether alone or in conjunction with any third party.

### 12. Modern Day Slavery

12.1 The College does not tolerate human rights abuse in any form, particularly those related to forced, bonded or compulsory labour, human trafficking and other kinds of slavery. Either party may terminate the Contract immediately in the event that the other is suspected of, or commits, an act of human rights abuse which constitutes an offence under the UK Modern Slavery Act 2015 which is guided by the UN Universal Declaration of Human Rights and the conventions of the International Labour Organisation.

### 13. General Terms

13.1 The Supplier shall have no right to assign, sub-contract or transfer any of its rights or obligations under the Contract without the prior written consent of the College. Where such consent is given it shall be conditional upon the Supplier's sub-contractor or assignee accepting the conditions agreed between the Supplier and the College and also upon the Supplier remaining responsible for all Goods supplied by the sub-contractor or assignee.

13.2 All notices served under the Contract shall be in writing and sent to the recipient party at its registered office address or where the recipient is not a company at the last known address. Notices sent to the College shall be marked for the attention of the Finance Director, with a copy to the Procurement Manager. Notices may be sent by email to [finance.info@solihull.ac.uk](mailto:finance.info@solihull.ac.uk), by first class, recorded delivery mail or delivered by hand. Notices sent by post shall be deemed to have been received two (2) working days after the date of posting. Notices delivered by email or by hand shall be deemed to have been received upon delivery.

13.3 If any court or competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall be deleted, and the remainder shall stand in full force and effect.

13.4 Any failure by the College to insist upon strict performance of the Contract shall not be deemed a waiver of the College's rights nor of any subsequent default by the Supplier under the Contract.

13.5 A person who is not a party to the Contract shall not have any rights under the Contracts (Rights of Third Parties) Act 1999.

13.6 Any variation to the Contract, including the introduction of any additional terms and conditions, shall only be binding when agreed in writing and signed by an authorised signatory of the College.

13.7 The Contract sets out the entire agreement between the parties and shall supersede any other arrangements, communications (verbal or written), or any other documents relating to its subject matter (including, but not limited to, purchase orders or other terms and conditions pertaining to the Goods and/or Services issued by, or referred to, by the Supplier).

13.8 The Contract shall be subject to English Law and the exclusive jurisdiction of the English courts