

CONDITIONS OF PURCHASE FOR GOODS

The Supplier's acknowledgement of the Purchase Order shall constitute acceptance of these Conditions and shall create the Contract between the Supplier and the School. No terms or conditions submitted at any time by the Supplier shall form any part of the Contract. In the event of a conflict between any of these Conditions and any specific term or condition (whether in the main Contract or otherwise) referred to in the Purchase Order, the latter shall prevail.

1. DEFINITIONS

1.1 In these Conditions:

"Contract" means the contract between the School and the Supplier consisting of the Purchase Order, these Conditions, and any other documents (or parts thereof) specified in the Purchase Order;

"Delivery Date" means the date on which the Goods are to be delivered to the School, as specified in the Purchase Order

"Goods" means any such goods supplied to the School by the Supplier pursuant to or in connection with the Purchase Order;

"Price" means the price of the Goods as specified in the Purchase Order;

"Purchase Order" means the document setting out the School's requirements for the Contract;

"School" means the School named in the Purchase Order;

"Supplier" means the person, firm or company who is the supplier of the Goods named in the Purchase Order.

1.2 The headings in these Conditions are for convenience only and shall not affect its construction or interpretation.

2. VARIATION

2.1 These Conditions may only be varied with the written agreement of the School.

2.2 The School reserves the right by reasonable notice to the Supplier to vary the Goods detailed in the Purchase Order and any alteration to the Price or delivery date arising by reason of such modification shall be agreed between the parties and evidenced in writing.

2.3 The Contract shall become binding and these Conditions shall be deemed to have been accepted by the Supplier on the acceptance of the Purchase Order by the Supplier (either verbally or in writing) or on delivery of the Goods, whichever is the earlier.

3. GOODS

3.1 The Supplier warrants and represents to the School that the Goods shall:

3.1.1 conform in all respects with any particulars or specification specified in the Purchase Order including any variations;

3.1.2 conform in all respects with the requirements of any statutes, orders, regulations or bye-laws from time to time in force;

3.1.3 be of satisfactory quality and free from defects in materials and workmanship; and

3.1.4 be fit and sufficient for the purpose for which such goods are ordinarily used and for any particular purpose made known to the Supplier by the School and the School relies on the skill and judgement of the Supplier in the supply of the Goods and the execution of the Purchase Order.

4. PRICE

4.1 The Supplier shall not increase the Price unless it is validly accepted by the School and agreed in writing before the execution of the Purchase Order.

4.2 Unless expressly agreed otherwise between the parties in writing, the Price shall be inclusive of all delivery and insurance costs, VAT and any other applicable sales taxes, duties or levies.

4.3 Unless otherwise agreed in writing by the School, the Supplier shall render a separate invoice in respect of each consignment of the Goods delivered under the Purchase Order. The School undertakes to pay correctly submitted invoices within 30 days of receipt from the day of physical or electronic arrival at the nominated address of the School. Invoices shall not be rendered by the Supplier until completion of delivery of all the Goods which are the subject of the Purchase Order or of the consignment (as appropriate).

4.4 A valid invoice is one that is: - delivered in timing in accordance with the contract; - that is for the correct sum; - in respect of goods / services supplied or delivered to the required quality (or are expected to be at the required quality); - which quote the relevant purchase order / contract reference (where used) - which has been delivered to the nominated address.

4.5 The School specifically reserves the right to withhold or deduct by way of set-off or otherwise from any monies due or to become due to the Supplier any monies due to the School from the Supplier.

4.6 The School shall not be liable for any orders or amendments to orders other than those issued or confirmed on the official Purchase Order and shall not be responsible for the payment of the Price for Goods supplied in excess of those required by the Purchase Order.

4.7 No payment of or on account of the Price shall constitute any admission by the School as to proper performance by the Supplier of its obligations under the Contract.

5. DELIVERY

5.1 The Goods shall be delivered to the place named on, and in accordance with, the Purchase Order. Delivery shall be completed when the Goods have been unloaded at the point of delivery specified in the Purchase Order and delivery has been accepted by the School or its authorised representative. Any access to premises and any labour and equipment that may be provided by the School in connection with delivery shall be provided without acceptance by the School of any liability whatsoever or howsoever arising and the Supplier shall indemnify and keep indemnified the School and the Crown in respect of any actions, suits, claims, demands, losses, charges, costs and expenses (including legal expenses and disbursements) which the School or the Crown may suffer or incur as a result of or in connection with any damage or injury (including death) occurring in the course of delivery or installation to the extent that any such damage or injury is attributable to any act, omission or negligence of the Supplier or any of its sub-contractors.

5.2 Where any access to the premises is necessary in connection with delivery or installation, the Supplier and its sub-contractors shall at all times comply with the reasonable requirements of the School's Head of Security or other authorised representative.

5.3 The time of delivery shall be of the essence for the purposes of the Contract and failure to deliver by the Delivery Date shall enable the School (at its option) to release itself from any obligation to accept and pay for the Goods and/or to cancel all or part of the Goods under the Purchase Order, in either case without prejudice to its other rights and remedies.

5.4 The Supplier's failure to effect delivery on the Delivery Date specified shall entitle the School to purchase substitute Goods and to hold the Supplier accountable for any and all loss and/or additional costs incurred as a result of such failure.

5.5 Failure by the School to exercise its options under Conditions 5.3 and/or 5.4 in respect of any part of a Purchase Order shall not be deemed to constitute a waiver with respect to any subsequent part of that Purchase Order.

5.6 If Goods are delivered before the Delivery Date, the School shall be entitled to its sole discretion to refuse to take delivery or to charge for insurance and storage of the Goods until the Delivery Date.

5.7 Unless otherwise stated in the Purchase Order, the Supplier is responsible for obtaining and the cost of all the export and import licences for the Goods, and in the case of the Goods supplied from outside the UK, the Supplier shall ensure that accurate information is provided to the School as to the country of origin and the Supplier shall be liable for additional duties or taxes should the country of origin prove to be different to the one stated.

6. OWNERSHIP AND RISK

Ownership and risk in the Goods shall without prejudice to any of the rights or remedies of the School (including the School's rights and remedies under Condition 8 below) shall pass to the School on delivery.

7. DAMAGE IN TRANSIT

7.1 On despatch of any consignment of the Goods, the Supplier shall send to the School at the address for delivery of the Goods, an advice note specifying the means of transport, the place and date of despatch, the number of packages and their weight and volume.

7.2 The Supplier shall, free of charge and as quickly as possible, either repair or replace (as the School shall elect in its sole discretion) such of the Goods as may either be damaged in transit or having been placed in transit fail to be delivered to the School provided that:

7.2.1 in the case of damage to such Goods in transit the School shall within thirty (30) days of delivery give notice to the Supplier that the Goods have been damaged; and

7.2.2 in the case of non-delivery the School shall (provided that the School has been advised of the despatch of the Goods) within ten (10) days of the notified date of delivery give notice to the Supplier that the Goods have not been delivered.

8. INSPECTION, REJECTION AND GUARANTEE

8.1 Nothing contained in these Conditions shall in any way detract from the Supplier's obligations under common law or statute or any express warranty or condition contained in the Purchase Order.

8.2 The Supplier shall permit the School or its authorised representatives to make any inspections or tests it may reasonably require in relation to the Goods and the Supplier shall afford all reasonable facilities and assistance free of charge at the School's premises. The Supplier shall make good any defects or deficiencies in the event of any failure (in the sole opinion of the School) to comply with the terms of the Purchase Order or the Contract. No failure to make a complaint at the time of such inspection or tests and no approval given during or after such tests or inspections shall constitute a waiver by the School of any rights or remedies in respect of the Goods.

8.3 The School may by written notice to the Supplier reject any of the Goods which fail to meet the requirements in the Contract. Such notice shall be given within a reasonable time after delivery to the School of the relevant Goods. If the School rejects any of the Goods pursuant to this Condition 8.3, the Supplier shall at the School's sole option (without prejudice to its other rights and remedies) either:

8.3.1 repair the defective Goods as quickly as possible or (as the School shall elect in its sole discretion) replace the defective Goods with Goods which comply in all respects with the requirements under the Contract; or

8.3.2 refund to the School the Price in respect of the defective Goods.

8.4 The Supplier shall guarantee the Goods for a period of twelve (12) months from installation or eighteen (18) months from delivery, whichever shall be the shorter (subject to any alternative guarantee arrangements agreed in writing between the School and the Supplier). If the School shall, within such guarantee period or within thirty (30) days thereafter, give notice in writing to the Supplier of any defect in any of the Goods that have arisen during the guarantee period under proper and normal use, the Supplier shall (without prejudice to any of the

School's other rights and remedies) as quickly as possible remedy such defects (whether by repair or replacement as the School shall elect in its sole discretion) without cost to the School.

- 8.5 Any Goods rejected or returned by the School pursuant to this Condition 8 shall be returned to the Supplier at the Supplier's risk and expense.

9. LABELLING AND PACKAGING

- 9.1 The Goods shall be packed and marked in a proper manner and in accordance with the School's instructions and any statutory requirements and any requirements of the carriers. In particular the Goods shall be marked with the Order Number, the net, gross and the weights, details of the contents shall be clearly marked on each container and all containers of hazardous goods (and all relating documents) shall bear prominent and adequate warnings. The Supplier shall indemnify and keep indemnified the School and/or the Crown (as appropriate) against all actions, suits, claims, demands, losses, charges, costs and expenses (including legal expenses and disbursements) which the School or the Crown (as appropriate) may suffer or incur as a result of or in connection with any breach of this Condition 9.1.

- 9.2 All packaging materials will be considered non-returnable and will be destroyed unless the Supplier's advice note states that such materials will be charged for unless returned. The School accepts no liability in respect of the non-arrival at the Supplier's premises of empty packages returned by the School.

10. INTELLECTUAL PROPERTY

- 10.1 Except to the extent that the Goods are supplied in accordance with designs provided by the School, it shall be a condition of the Purchase Order that none of the Goods will infringe any patent, trade mark, design right (whether registered or not), copyright or any other right in the nature of intellectual property of any third party and the Supplier shall indemnify and keep indemnified the School against all actions, suits, claims, demands, losses, charges, costs and expenses (including legal expenses and disbursements) which the School or the Crown (as appropriate) may suffer or incur as a result of or in connection with any breach of this Condition 10.1.

- 10.2 All materials, equipment, software, inventions, specifications, instructions, plans or any form of intellectual property right in any of the foregoing ("Intellectual Property"):

10.1.1 furnished to or made available to the Supplier by the School pursuant to the Purchase Order are hereby assigned to and shall remain vested solely in the School; and

10.1.2 the Supplier shall not (except to the extent necessary for the implementation of the Purchase Order) without prior written consent of the School, use or disclose any such Intellectual Property or any information (whether or not relevant to the Contract) which the Supplier may obtain pursuant to the Contract and in particular (but without prejudice to the generality of the foregoing) the Supplier shall not refer to the School or the Contract in any advertisement without the School's prior written agreement.

11. HEALTH AND SAFETY

- 11.1 The Supplier represents and warrants to the School that the Supplier has satisfied itself that:

11.1.1 all necessary tests and examinations have been made or will be made prior to delivery of the Goods to ensure that the Goods are designed, manufactured, supplied and installed so as to be safe and without risk to the health or safety of persons using the same; and

11.1.2 that it has made available to the School adequate information about the use for which the Goods have been designed and have been tested and about any conditions necessary to ensure that when put to use the Goods will be safe and without risk to health.

- 11.2 In any event, the Supplier will comply with the duties imposed on it by the Health & Safety at Work etc Act 1974 or any amendment thereto and of all other statutory provisions, rules and regulations so far as they are applicable. The Supplier shall indemnify and keep indemnified the School against any and all actions, suits, claims, demands, losses, charges, costs and expenses (including legal expenses and disbursements) which the School may suffer or incur as a result of or in connection with any breach of this Condition 11.

12. INDEMNITY AND INSURANCE

- 12.1 Without prejudice to any rights or remedies of the School (including the School's rights and remedies under Condition 8 above) the Supplier shall indemnify and keep indemnified the School against any and all actions, suits, claims, demands, losses, charges, costs and expenses (including legal expenses and disbursements) which the School may suffer or incur as a result of or in connection with any damage to property or in respect of any injury (including death) to any person which may result directly or indirectly from any defect in the Goods or the negligence, acts or omissions of the Supplier or any of its employees, agents or sub-contractors.

- 12.2 The Supplier shall take out and maintain with a reputable insurance company a policy or policies of insurance that are normal for contracts of this nature and covering all the matters which are the subject of indemnities under these Conditions.

- 12.3 The Supplier shall at the request of the School produce the relevant policy or policies together with receipts or other evidence of payment of the latest premium.

- 12.4 The Supplier shall be liable under the provisions of the Contract (including Condition 12.1) whether or not it complies with the insurance provisions in this Condition 12.

- 12.5 Nothing in these Conditions or the Contract shall exclude or limit the liability of either party for death or personal injury caused by its negligence or for fraudulent misrepresentation.

13. CONFIDENTIALITY

- 13.1 The Supplier shall and shall procure that its staff shall keep secret and do not disclose any information of a confidential nature obtained by reason of the Contract

except information which is in the public domain otherwise than as required to be by reason of a breach of this Condition 13 or disclosed by law.

- 13.2 The provisions of this Condition 13 shall apply during the continuance of the Contract and after its termination howsoever arising without limitation in time.

- 13.3 The parties acknowledge that, except for any information which is declared by the School to fall within one or more of the exceptions in Clause 12.10, the content of this Contract is not Confidential Information. Notwithstanding any other term of this Contract, the Contractor hereby gives his consent for the School to publish the Contract in its entirety, including from time to time agreed changes to the Contract, to the general public.

- 13.4 The School may, at its sole discretion, redact information from the Contract prior to publishing for one or more of the following reasons:

- (a) national security;
- (b) personal data;
- (c) information protected by intellectual property law;
- (d) information which is not in the public interest to disclose
- (e) third party confidential information;
- (f) IT security; or
- (g) prevention of fraud.

- 13.5 The School may consult with the Contractor to inform its decision regarding any redactions but the School shall have the final decision in its absolute discretion.

- 13.6 The Contractor shall assist and cooperate with the School to enable the School to publish this Contract.

14. TERMINATION

- 14.1 In the event of a material breach of the Contract by either party, the non-breaching party may terminate the Contract with immediate effect by notice in writing.

- 14.2 The School may terminate the Contract with immediate effect by notice in writing to the Supplier if at any time:-

14.2.1 the Supplier passes a resolution that it be wound-up or that an application be made for an administration order or the Supplier applies to enter into a voluntary arrangement with its creditors;

14.2.2 a receiver, liquidator, administrator, supervisor or administrative receiver be appointed in respect of the Supplier's property, assets or any part thereof;

14.2.3 the court orders that the Supplier be wound-up or a receiver of all or any part of the Supplier's assets be appointed;

14.2.4 the Supplier is unable to pay its debts in accordance with Section 123 of the Insolvency Act 1986;

14.2.5 the Supplier (being an individual or partnership) is declared or adjudicated bankrupt or enters into any arrangement or composition with its creditors.

- 14.4 Nothing in this Condition 14 shall affect the coming into, or continuance in force of any provision of the Contract which is expressly or by implication intended to come into force or continue in force upon termination of the Contract.

15. ASSIGNMENT AND SUB-CONTRACTING

- 15.1 The Supplier shall not without the prior written consent of the School assign or transfer the benefit or burden of the Contract.

- 15.2 No sub-contracting by the Supplier shall in any way relieve the Supplier of any of its responsibilities under the Contract.

- 15.3 Where the School enters a sub-contract with a supplier or contractor for the purpose of performing the Contract, it shall cause a clause to be included in such sub-contract which requires payment to be made to the supplier or contractor within a specified period not exceeding thirty (30) days from receipt of a valid invoice as defined by the sub-contract requirement.

16. NOTICES

Any notices to be given under the Contract shall be delivered personally or sent by post to the Headteacher (in the case of the School) or to the address set out in the Purchase Order (in the case of the Supplier). Any such notice shall be deemed to be served, if delivered personally, at the time of delivery, if sent by post, 48 hours after posting.

17. THIRD PARTY RIGHTS

The Contract is not intended to create any rights of any kind whatsoever enforceable by any person who is not a party to the Contract, including any rights enforceable under the Contracts (Rights of Third Parties) Act 1999.

18. SEVERABILITY

If any provision under this Contract is or becomes unenforceable, such provision shall not take effect and shall be deemed to be severed from the remainder of the Contract to the extent that the remainder of the Contract and the unaffected part of the provision shall continue to be fully enforceable.

19. WAIVER

No delay or omission by the School in exercising any of its rights under the Contract shall constitute a waiver of that right and any partial exercise of any such right shall not prevent any future exercise of the right.

20. LAW AND JURISDICTION

The Contract and any dispute arising under or in any way connected with the subject matter of the Contract (whether of a contractual or tortious nature or otherwise) shall be governed by and interpreted in accordance with English Law and the parties submit to the jurisdiction of the English courts only except that the School may seek injunctive relief outside such jurisdiction.

CONDITIONS OF CONTRACT FOR SERVICES

The Contractor's acknowledgement of the Purchase Order shall constitute acceptance of these Conditions and shall create the Contract between the Contractor and the School. No terms or conditions submitted at any time by the Contractor shall form any part of the Contract. In the event of a conflict between any of these Conditions and any specific term or condition (whether in the main Contract or otherwise) referred to in the Purchase Order, the latter shall prevail.

1. DEFINITIONS

1.1 In these Conditions:

- 'Charges'** means the Charges for the services as agreed between the parties;
- 'Contract'** means the contract between the School and the Contractor consisting of the Purchase Order, these Conditions, and any other documents (or parts thereof) specified in the Purchase Order;
- 'Contractor'** means the person, firm or company who is to provide the Service under the Contract, as detailed in the Purchase Order;
- 'FOIA'** the Freedom of Information Act 2000 and any subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government Department in relation to such legislation;
- 'Premises'** means the location where the Services are to be performed, as specified in the Purchase Order;
- 'Property'** means the property, other than real property, issued or made available to the Contractor by the School in connection with the Contract.
- 'Purchase Order'** means the document setting out the School's requirements for the Contract;
- 'Request for Information'** a request for information or an apparent request under the Code of Practice on Access to Government Information, FOIA or the Environmental Information Regulations;
- 'School'** means the School named in the Purchase Order;
- 'Services'** means the services to be provided as specified in the Purchase Order and shall, where the context requires, include any and all materials, articles and goods to be supplied under the Contract; and
- 'Staff'** means the Contractor and its employees, agents, representatives and sub-contractors.
- 'Working Day'** any day other than a Saturday, Sunday or public holiday in England and Wales.

1.2 The headings in these Conditions are for convenience only and shall not affect its construction or interpretation.

2. VARIATION OF THE SERVICES

2.1 These Conditions may only be varied with the written agreement of the School.

2.2 The performance of Services by the Contractor pursuant to the Purchase Order shall constitute acceptance of these Conditions where acceptance has not previously been communicated.

2.3 The School reserves the right by notice to the Contractor to vary the Services and any alteration to the Charges or the completion date arising by reason of such modification shall be agreed between the parties and evidenced in writing.

3. INSPECTION OF PREMISES AND NATURE OF SERVICES

3.1 The Contractor is deemed to have inspected the Premises before tendering so as to have understood the nature and extent of the Services to be carried out and satisfied itself in relation to all matters connected with the Services and Premises.

3.2 The School shall, at the request of the Contractor, grant such access to the Premises as it may deem to be reasonable for the purpose of the Services.

3.3 The Contractor shall not in any way be relieved from any of its obligations under the Contract on the ground that information is incorrect or insufficient and the Contractor shall make its own assessment as to the accuracy and adequacy of the information provided in relation to the Contract.

4. CONTRACTOR'S STATUS

In carrying out the Services the Contractor shall act as an independent Contractor, and as principal and not as the agent of the School. Nothing in the Contract shall create the relationship of employer and employee, principal and agent or a partnership.

5. CONTRACTOR'S PERSONNEL

5.1 The Contractor shall take all reasonable steps to satisfy itself that its employees or sub-contractors (or their employees) are suitable in all respects to perform the Services.

5.2 The Contractor shall immediately notify the School if they have any concerns regarding the propriety of any of its sub-contractors in respect of work/services rendered in connection with this Contract.

5.3 The Contractor, its employees and sub-contractors (or their employees), whilst on the School's premises, shall comply with such rules, regulations and requirements (including those relating to security arrangements) as may be in force from time to time.

5.4 The Contractor shall ensure the security of all the Property whilst in its possession, during the supply of the Services, in accordance with the School's reasonable security requirements as required from time to time.

6. MANNER OF CARRYING OUT THE SERVICES

6.1 The Contractor shall make no delivery of materials, plant or other equipment to nor commence any work on the Premises without obtaining the prior consent of the School.

6.2 Access to the Premises shall not be exclusive to the Contractor but only such as shall enable it to carry out the Services concurrently with the execution of work by others. The Contractor shall co-operate with such others as the School may reasonably require.

6.3 The School shall have the power at any time during the progress of the Services to order in writing:

- 6.3.1 the removal from the Premises of any materials which in the opinion of the School are either hazardous, noxious or not in accordance with the Contract; and/or
- 6.3.2 substitution of proper and suitable materials; and/or

6.3.3 the removal and proper re-execution, notwithstanding any previous test of any work of interim payment for such work which, in respect of material or workmanship, is not in the sole opinion of the School in accordance with the Contract.

7. TIME OF PERFORMANCE

7.1 The Contractor shall begin performing the Services on the date stated in the Purchase Order and shall complete or continue to perform the Services for the period stated in the Purchase Order. Time for performance of the Services shall be of the essence for the purposes of the Contract. The School may by written notice require the Contractor to execute the Services in such order as the School may decide. In the absence of such notice the Contractor shall submit such detailed programmes of work and progress reports as the School may from time to time require.

7.2 Failure by the Contractor to adhere to any provision as to time contained in the Purchase Order shall entitle the School at its option to terminate the Services (in whole or in part) under the Contract. The School shall be entitled to exercise its option at any time notwithstanding that it has waived any delay, unless a written extension of time has been given to the Contractor by the School and the time of any extension has not elapsed. Failure by the School to exercise its option to terminate in respect of any part of the Contract shall not be deemed to constitute a waiver with respect to any subsequent part.

8. WARRANTIES

8.1 The Contractor warrants and represents to the School that the Contractor and its Staff:

8.1.1 are properly trained, qualified, and adequately skilled and competent to the levels necessary to undertake the Services; and

8.1.2 shall undertake the Services in a workmanlike manner using reasonable skill, care and expertise to be expected on a competent Contractor using good industry practice.

8.2 The School will be relying upon the Contractor's skill, expertise and experience in the performance of the Services and also upon the accuracy of all representations or statements made and any advice given by the Contractor in connection with the performance of the Services.

8.3 The Contractor shall ensure that any goods procured for the purposes of the Services shall be of satisfactory quality, fit for their purpose and be free from defects in materials and workmanship.

9. PAYMENT

9.1 The School undertakes to pay valid invoices within 30 days of receipt from the day of physical or electronic arrival at the nominated address of the School.

9.2 A valid invoice is one that is:

- delivered in timing in accordance with the contract;
- that is for the correct sum;
- in respect of goods / services supplied or delivered to the required quality (or are expected to be at the required quality);
- which quote the relevant purchase order / contract reference (where used)
- which has been delivered to the nominated address.

9.3 Value Added Tax, where applicable, shall be shown separately on all invoices as a strictly net extra charge.

9.4 The School specifically reserves the right to withhold or deduct by way of set-off or otherwise due or to become due to the Contractor any monies due to the School from the Contractor, arising under the Contract or any other agreement between the School and the Contractor.

9.5 The School shall not be liable for any Charges relating to changes to the Services or additional Services other than those issued or confirmed on the Purchase Order or by agreed written variations signed by the duly authorised representatives of either party.

9.6 No payment of or on account of the Charges shall constitute any admission by the School as to proper performance by the Contractor of its obligations.

9.7 The Contractor shall be exclusively responsible for the discharge of any income tax in relation to its Staff or such similar liability arising out of remuneration of the performance of the Services under the Contract.

10. FREE ISSUE MATERIALS

Where the School for the purpose of the Contract issues materials free of charge to the Contractor such materials shall be and remain the property of the School. The Contractor shall maintain all such materials in good order and condition and shall use such materials solely in connection with the Contract. The Contractor shall notify the School of any surplus materials remaining after completion of the Services and shall dispose of them as the School may direct. Waste of such materials arising from defective workmanship or negligence of the Contractor or its Staff shall be made good at the Contractor's expense. Without prejudice to any other of the rights of the School, the Contractor shall deliver up such materials whether processed or not to the School on demand.

11. AUDIT

The Contractor shall keep and maintain, until six years after the Contract has been completed, records to the satisfaction of the School of all expenditure which are reimbursable by the School and of the hours worked and costs incurred in connection with any of the Contractor's Staff paid for by the School on a time charge basis. The Contractor shall on request afford the School or its representatives such access to those records as may be required by the School in connection with the Contract.

12. COPYRIGHT

Copyright in all reports and other documents and materials arising out of the performance by the Contractor of their duties under this Contract are to be assigned to and shall vest in the School absolutely. This condition shall apply during the continuance of this Contract and after its termination howsoever arising.

13. INDEMNITY AND INSURANCE

13.1 The Contractor shall indemnify and keep indemnified the School against any and all actions, claims, demands, costs and expenses (including legal expenses and disbursements) incurred by or made against the School in respect of any loss or damage or personal injury (including death) which arises out of or in connection with the Contract except to the extent that such loss, damage or injury is caused by the negligence or wilful default of the School.

13.2 The Contractor shall have in force and shall require any sub-contractor to have in force with an insurer of good repute:

13.2.1 employer's liability insurance in accordance with any legal requirements for the time being in force;

13.2.2 public liability insurance for such sum and range of cover as the Contractor deems to be appropriate but covering at least all matters which are the subject of indemnities or compensation obligations under these Conditions in the sum of not less than £500,000 for any one incident and unlimited in total, unless otherwise agreed by the School in writing; and

13.2.3 such other adequate and suitable insurance as required under contracts of the nature of the Contract.

13.3 The policy or policies of insurance referred to in Condition 13.2 shall be shown to the School whenever it requests, together with satisfactory evidence of payment of premiums.

13.4 Nothing in the Contract shall exclude or limit the liability of either party for death or personal injury caused by its negligence or for fraudulent misrepresentation.

14. CONFIDENTIALITY & DATA PROTECTION

- 14.1 The Contractor shall and shall procure that its staff keep secret and do not disclose any information of a confidential nature obtained by reason of the Contract except information which is in the public domain otherwise than as required to be by reason of a breach of this Condition 14 or disclosed by law.
- 14.2 The provision of this Condition 14 shall apply during the continuance of the Contract and after its termination howsoever arising without limitation in time.
- 14.3 The Contractor shall comply with any and all requirements under the Data Protection Act 1998 and any subordinate legislation ("DPA") as amended from time to time as though it were the Data Controller (as defined under the DPA) and shall not disclose or allow access to any Personal Data (as defined under the DPA) provided or acquired during the term of the Contract.
- 14.4 The Contractor shall use, disclose or allow access to any data produced as a result of the Contract in accordance with the School's strict instructions and only to the extent that is specifically necessary for the purposes of the Contract.
- 14.5 The Contractor shall store or process such Personal Data provided as a result of the Contract only at site specifically agreed by the parties in writing in advance and shall take appropriate technical and organisational measures against the unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data.

15. TERMINATION

- 15.1 The Contract may be terminated by the School giving to the Contractor at least 30 days notice in writing.
- 15.2 In the event of any breach of the Contract by either party, the non-breaching party may serve a notice on the party in breach requiring the breach to be remedied within a period specified in the notice which shall be reasonable in all the circumstances. If the breach has not been remedied by the expiry of the specified period, the non-breaching party may terminate the Contract with immediate effect by notice in writing.
- 15.3 In the event of a material breach of the Contract by either party, the non-breaching party may terminate the Contract with immediate effect by notice in writing.
- 15.4 The School may terminate the Contract with immediate effect by notice in writing to the Contractor if at any time:-
- 15.4.1 the Contractor passes a resolution that it be wound-up or that an application be made for an administration order or the Contractor applies to enter into a voluntary arrangement with its creditors;
 - 15.4.2 a receiver, liquidator, administrator, supervisor or administrative receiver be appointed in respect of the Contractor's property, assets or any part thereof;
 - 15.4.3 the court orders that the Contractor be wound-up or a receiver of all or any part of the Contractor's assets be appointed;
 - 15.4.4 the Contractor is unable to pay its debts in accordance with Section 123 of the Insolvency Act 1986;
 - 15.4.5 the Contractor (being an individual or partnership) is declared or adjudicated bankrupt or enters into any arrangement or composition with its creditors;
 - 15.4.5 there is a change in the legal or beneficial ownership of 50% or more of the Contractor's share capital issued at the date of the Contract or there is a change in the control of the Contractor. For the purpose of this Sub-Condition 15.4.5 "control" means the power of a person to secure that the affairs of the Contractor are conducted in accordance with the wishes of that person by means of the holding of shares or the possession of voting power;
 - 15.4.6 the Contractor is convicted (or being a company, any officers or representatives of the Contractor are convicted) of a criminal offence related to the business or professional conduct;
 - 15.4.7 the Contractor commits (or being a company, any officers or representatives of the Contractor commit) an act of grave misconduct in the course of the business;
 - 15.4.7 the Contractor fails (or being a company, any officers or representatives of the Contractor fail) to disclose any serious misrepresentation in supplying information required by the School in or pursuant to the Contract.
- 15.5 Nothing in this Condition 15 shall affect the coming into, or continuance in force of any provision of the Contract which is expressly or by implication intended to come into force or continue in force upon termination of the Contract.
- 15.6 On termination of the Contract for any reason whatsoever, the Contractor shall:
- 15.6.1 cease to have any right to use any intellectual property rights owned by the School;
 - 15.6.2 return any and all documents or information (in a tangible or intangible form) belonging to the School and shall destroy all copies of such documentation or information relating to or supplied by the School to the Contractor for the purposes of the Contract and being in the Contractor's possession, power or control.

16. ASSIGNMENT AND SUB-CONTRACTING

- 16.1 The Contractor shall not assign, transfer or sub-contract any portion of the Contract without the prior written consent of the School. Sub-contracting any part of the Contract shall not relieve the Contractor of any of its obligations duly attributable under the Contract.
- 16.2 Where the School has consented to the placing of sub-contracts, copies of each sub-contract shall be sent by the Contractor to the School immediately when it is issued. Any authority given by the School for the Contractor to sub-contract the Contract (or any part of it) shall not impose any duty on the School to enquire as to the competency of any authorised sub-contractor but that the Contractor shall ensure that any authorised sub-contractor is competent and that the work is properly done.

17. NOTICES

Any notices to be given under the Contract shall be delivered personally or sent by post to the Headteacher (in the case of the School) or to the address set out in the Purchase Order (in the case of the Contractor). Any such notice shall be deemed to be served, if delivered personally, at the time of delivery, if sent by post, 48 hours after posting.

18. THIRD PARTY RIGHTS

The Contract is not intended to create any rights of any kind whatsoever enforceable by any person who is not a party to the Contract (including any rights enforceable under the Contracts (Rights of Third Parties) Act 1999).

19. SEVERABILITY

If any provision under the Contract is or becomes unenforceable, void or invalid, such provision shall not take effect and shall be deemed to be severed from the remainder of the Contract to the extent that the remainder of the Contract and the unaffected part of the provision shall continue to be fully enforceable.

20. WAIVER

No delay or omission by the School in exercising any of its rights under the Contract shall constitute a waiver of that right and any partial exercise of any such right shall not prevent any future exercise of the right.

21. DISCRIMINATION

- 21.1 The Contractor shall not unlawfully discriminate within the meaning and scope of any law, enactment, order, or regulation relating to discrimination (whether in race, gender, religion, disability, sexual orientation or otherwise) in employment.
- 21.2 The Contractor shall take all reasonable steps to secure the observance of Clause 22.1 by all servants, employees or agents of the Contractor and all suppliers and sub-contractors employed in the execution of the Contract.

22. FREEDOM OF INFORMATION

- 23.1 The Contractor acknowledges that the School is subject to the requirements of the Code of Practice on Government Information, FOIA and the Environmental Information Regulations and shall assist and cooperate with the School to enable the School to comply with its Information disclosure obligations.
- 23.2 The Contractor shall and shall procure that its Sub-contractors shall:
- 23.2.1 transfer to the School all Requests for Information that it receives as soon as practicable and in any event within two Working Days of receiving a Request for Information;
 - 23.2.2 provide the School with a copy of all Information in its possession, or power in the form that the School requires within five Working Days (or such other period as the School may specify) of the School's request; and
 - 23.2.3 provide all necessary assistance as reasonably requested by the School to enable the School to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations.
- 23.3 The School shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Agreement or any other agreement whether any Information is exempt from disclosure in accordance with the provisions of the Code of Practice on Government Information, FOIA or the Environmental Information Regulations.
- 23.4 In no event shall the Contractor respond directly to a Request for Information unless expressly authorised to do so by the School.
- 23.5 The Contractor acknowledges that (notwithstanding the provisions of Clause 23) the School may, acting in accordance with the School of Constitutional Affairs' Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of Information Act 2000 ("the Code"), be obliged under the FOIA, or the Environmental Information Regulations to disclose information concerning the Contractor or the Project:
- 23.5.1 in certain circumstances without consulting the Contractor; or
 - 23.5.2 following consultation with the Contractor and having taken their views into account;
 - 23.5.3 provided always that where 23.5.1 applies the School shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Contractor advanced notice, or failing that, to draw the disclosure to the Contractor's attention after any such disclosure.
- 23.6 The Contractor shall ensure that all Information is retained for disclosure and shall permit the School to inspect such records as requested from time to time.

24. LAW AND JURISDICTION

The Contract and any dispute arising under or in any way connected with the subject matter of the Contract (whether of a contractual or tortious nature or otherwise) shall be governed by and interpreted in accordance with English Law and the parties submit to the jurisdiction of the English courts only except that the School may seek injunctive relief outside such jurisdiction.