

UCAS STANDARD TERMS AND CONDITIONS
FOR THE SUPPLY OF GOODS AND SERVICES

1. Definitions

- 1.1** “The company” means UCAS and UCAS Media
- 1.2** “The supplier” means the person or company to whom this order is addressed.
- 1.3** “Confidential Information” means any information which has been designated as confidential by either Party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information which relates to the business, affairs, properties, assets, trading practices, Services, developments, trade secrets, Intellectual Property Rights, know-how, personnel, customers and suppliers of either Party[all personal data and sensitive personal data within the meaning of the Data Protection Act 1998].
- 1.4** “Intellectual Property” means patents, registered designs, trade marks and service marks (whether registered or not), domain names, copyright, database right, moral right, design right and all similar property rights including those subsisting (in any part of the world) in inventions, designs, drawings, computer programs, confidential information, business names, goodwill and in applications for protection of the above rights.
- 1.5** Unless the context otherwise requires:
- 1.5.1** reference to a gender will include references to the masculine, feminine neuter genders.
- 1.5.2** reference to any enactment shall be deemed to include reference to such enactment as reenacted, amended, extended or replaced from time to time.

2. Conditions

- 2.1** These conditions shall form the basis of the contract between the company and the supplier, notwithstanding anything to the contrary in the supplier's standard conditions or in any tender, quotation, advice note, invoice, acknowledgement, letter or any other document issued or sent by the supplier, these conditions shall apply except insofar as expressly agreed in writing by the company. No servant or agent of the company has power to vary these conditions orally. If the supplier shall not previously have accepted these conditions, then delivery by him shall constitute such acceptance. These general conditions shall be subject to such further special conditions as may be prescribed in writing by the company. In the event of any conflict, or apparent conflict, between the special conditions and the general conditions, the special conditions shall prevail.
- 2.2** No provision of the contract is intended to or will confer any benefit pursuant to the Contract (Rights of Third Parties) Act 1999 or be enforceable by any person who is not a party to this contract.

3. Prices

- 3.1** All rates and prices are firm and fixed and the price of goods is deemed to include the costs of all services and materials necessary for the satisfactory supply of the goods, the cost of packing and carriage, and all tax, and duties relating to the manufacture, transportation, export, import, sale or delivery of the goods but excludes VAT (or any similar tax). No variation of price or stipulation for prices at the time of delivery shall be permitted.
- 3.2** VAT (or any similar tax), where applicable, shall be identified as a separate item of account failing which the price shall be deemed to include VAT (or any similar tax).

4. Payment

The supplier shall be entitled to Invoice the company upon satisfactory receipt or performance of goods or services. Payment will be made within 30 days from date of Invoice.

5. Packing

5.1 All goods must be properly packaged to survive transit to UCAS and to resist pilferage, distortion, corrosion or contamination.

5.2 All goods shall be clearly and legibly labeled and addressed.

6. Progress

6.1 The Supplier shall at the Supplier's expense provide any programme of manufacture and delivery that the Company may reasonably require.

6.2 The Supplier shall notify the company without delay if the Supplier's progress falls behind the agreed date on the Purchase Order or other agreed programme dates.

6.3 The Company has the right to inspect the goods and check the progress of the Supplier and may reject any of the goods or parts thereof which are not in accordance with the Agreement.

7. Change Control

7.1 For the purposes of this contract a 'change request' is:

7.1.1 A request to amend this contract or any document attached to it

7.1.2 Any proposal which causes or is likely to cause the other party to incur costs outside of those agreed upon in the Agreement.

7.2 A change request may be initiated by either party.

- 7.3** A change request shall become a 'Change Order' when the requirements of the change control procedure have been settled upon and the Change Request is signed by both parties.
- 7.4** Neither party shall be obliged to agree to a Change Request initiated by the other.
- 7.5** The costs of implementing the Change order will be borne as mentioned in the Change Order.

8. Delivery

- 8.1** The supplier will deliver and unload the goods to the point of delivery stated on the official order.
- 8.2** Delivery will be made on the agreed working time between the hours of 08:00 and 16:00 on a working day unless prior approval has been given to deliver outside these hours. Delivery will be carriage free.
- 8.3** The supplier recognises that late delivery may cause the company consequential loss, such as inability on the part of the company to meet other contractual commitments, and agrees to pay damages in compensation for such loss.
- 8.4** No goods or services shall be supplied without an official UCAS order originating from the UCAS purchasing unit.

9. Time of the Essence

Time will be of the essence in this contract as regards any time, date or period mentioned in this contract or subsequently substituted as a time, date or period by agreement in writing between the Parties.

10. Documentation

- 10.1** Invoices and Statements must be sent to the Finance Department at UCAS.
- 10.2** Advice and Dispatch Notes must be sent to Stores Department at UCAS.
- 10.3** All invoices and statements must show the company name, company registration number, invoice number, date of invoice, purchase order number, description and price of goods and services, terms of payment, bank details, the VAT rate, the amount of VAT charged (to be shown separately) and the suppliers VAT registration number, where applicable.

11. Guarantee

- 11.1** It shall be a condition of the contract that the goods and services comply in all respects with the contract/order description and with any statement or undertakings made by the Supplier, or his servants or agents, prior to the giving of the order.
- 11.2** The Supplier warrants that all goods and services supplied by him shall be of first class quality and fit for any purpose held out by the supplier or made known to the supplier at the time the order was placed.
- 11.3** The Supplier recognises that the Company has placed the order relying upon the skill and expertise of the Supplier and any statements and representations made by him and therefore he is under the obligation to replace or rectify defective goods or services in accordance with clause 12.

12. Right of Rejection

- 12.1** Where goods or services do not conform to the contract whether by means of quality or quantity or being unfit for the purpose for which they are required, the Company reserves the right to reject such goods or services without prejudice to any other right the Company may have against Supplier. The making of payment shall not prejudice the Company's right of rejection.

- 12.2** The Company may reject goods found defective on delivery or which prove to be defective within 12 months of delivery. The Supplier shall, with all possible speed rectify defective or damaged goods and where necessary replace rejected goods with replacement goods which conform to the contract within 7 days of notification to the Supplier of such defect.
- 12.3** The Supplier shall be responsible for all costs incurred by reason of repair, replacement or rectification of rejected goods or services.
- 12.4** All the obligations in these conditions shall further apply to any such replaced or rectified goods or services.

13. Passing of Property and Risk

- 13.1** Subject to clause 13.3, the property in the goods shall pass to the Company on delivery but without prejudice to any right of rejection.
- 13.2** Risk in the goods shall remain with the Seller until they are received by the Company at the point specified for delivery in the contract.
- 13.3** Where payment for goods is made prior to delivery then property in the goods shall pass to the company once payment has been made and the goods have been appropriated to the contract.
- 13.4** The Supplier shall be responsible for transport and unloading costs and insuring of goods to their full value against all risks of damage or loss prior to completion of delivery.
- 13.5** The Company accepts no responsibility for goods delivered in excess of

14. Confidentiality

- 14.1** Both parties (and its staff, agents or sub-contractors) to the contract undertake, except as provided below, to treat as confidential and keep secret all information marked 'confidential' or which may reasonably be supposed to be confidential with the same degree of care that it employs with regard to its own confidential information of a like nature and in any event in accordance with best current commercial security practices.

Such Confidential Information shall not be disclosed by the receiving party to others for any purpose without the prior written consent of the disclosing party.

14.2 The provisions in clause 14.1 shall not extend to any confidential information which:

14.2.1 is in or becomes a part of the public domain (otherwise than by breach of this contract)

14.2.2 was in the lawful possession of the Receiving Party prior to the disclosure under this contract and was not unlawfully obtained directly and indirectly, or

14.2.3 is required to be disclosed by law.

14.3 All documents and drawings containing such information and any copies thereof shall upon the termination of the contract be returned to the Company.

14.4 Nothing in this condition shall prevent either party to the contract from using any techniques, ideas or know-how gained during the performance of the contract in the in the furtherance of its business, to the extent that this does not result in a disclosure or use of Confidential Information or an infringement of Intellectual Property Rights or in any way constitute a breach of this contract.

15. Data Protection

15.1 The Supplier is reminded that any collection or processing of data shall be in accordance with the Data Protection Act, 1998. To the extent that the contract requires the processing of personal data, a separate schedule shall be drawn up:

15.1.1 Identifying any personal data likely to be processed in the course of the contract,

15.1.2 Limiting the purposes for which the personal data may be used,

15.1.3 Specifying how instructions for the processing of the data will be authorized and transmitted, and

15.1.4 setting out security arrangements for the handling of personal data by the Supplier and its transmission between Supplier and the Company.

15.2 Both parties shall take reasonable steps to ensure the reliability of its own employees who have access to the personal data.

16. Intellectual Property Rights

16.1 Where the manufacture of goods or provision of services include the creation or development of Intellectual Property Rights by the Supplier for the Company, Company shall own all such Intellectual Property Rights. The Supplier hereby unconditionally, irrevocably and in perpetuity waives all moral and author's rights and rights of a similar nature which the Supplier may have and assigns to the Company all its property, right, title and interest in such Intellectual Property Rights, including all statutory and common law rights, and, at the request of the Company, undertakes to do all things and execute all such further documents, forms and authorisations as may be required by the Company to assign and/or vest full property, right, title and interest in such Intellectual Property Rights in the Company absolutely.

16.2 The Supplier warrants that the manufacture of the goods or the provision of know-how to the Company under the Agreement does not infringe the IPRs of any third party and that the Supplier shall ensure that it has the right to provide such know-how and is not disclosing the same in breach of confidence.

17. Termination

17.1 If the supplier shall be in material breach or non-observance of any of his obligations under the contract, the Company shall be entitled to give the Supplier notice in writing to forthwith remedy such breach or non-observance.

17.2 If the Supplier shall fail to comply with such notice within 30 calendar days of its receipt the Company shall be entitled forthwith to give the Supplier written notice terminating the contract with immediate effect

17.3 The Company shall be entitled to terminate this order at any time in respect of all or part of the goods at any time prior to the delivery of goods in which event the Company's sole liability to the Supplier shall be to pay the Supplier a reasonable price for work already completed.

17.4 If the supplier shall become bankrupt or insolvent, or have a receiving order made against him, or compound with his creditors, or, being a corporation, commence to be wound up, not being a member's voluntary winding up for the purpose reconstruction or amalgamation, or carry on its business under a receiver for the benefit of its creditors or any of them, the company shall be at liberty either:

17.4.1 to terminate the contract forthwith by notice in writing to the supplier, or to the receiver or liquidator, or to any person in whom the contract may become vested;

or,

17.4.2 to give such receiver, liquidator or other person the option of carrying out the contract subject to his providing a guarantee for the due and faithful performance of the contract.

18. Indemnity

The supplier shall keep the company fully and effectively indemnified against all liability, loss, damages, costs and expenses (including legal expenses) awarded against or incurred or paid as a result of or in connection with:-

18.1 Any claims for infringement of any Intellectual Property Rights by reason of the use or sale of the goods supplied or services provided and against all costs and damages which the company may incur in any action for such infringement or for which the company may become liable in such action.

18.2 Any royalties payable by the Supplier.

18.3 Any claim in contract or tort or otherwise; for any direct or indirect damages, expenses or costs relating to damage or property; or injury or loss to any person, firm or company; or for any loss of profit or production arising out of, or occasioned by, any error in design or drawings; or any defects in or failure of the goods or part thereof provided; or work performed by the Supplier or occasioned by reason of any act or omission by the seller or any sub contractor of his.

19. Limitation of Liability

19.1 Nothing in these conditions shall exclude or restrict the liability of either party to the other for fraud or fraudulent misrepresentation, death or personal injury caused by negligence, or any breach of any obligations implied by Section 12 of the Sale of Goods Act, 1979 or Section 2 of the Supply of Goods and Services Act, 1982.

19.2 Subject to clause 19.1:

19.2.1 The liability of either party for defaults resulting in direct loss of or damage to the property of the other; whether arising under contract, tort (including negligence), misrepresentation or otherwise, in connection with the performance of or contemplated performance of this contract shall in no event exceed five hundred thousand pounds (£500,000); and

19.2.2 Subject to clause 8.3 in no event shall either party be liable to the other for any indirect or consequential loss or whether for loss of profits, loss of business, revenue, depletion of goodwill or anticipated savings, howsoever caused, whether or not such losses were foreseeable at the time of entering into this contract. For the purposes of this clause, the term 'loss' includes a partial loss or reduction in value as well as a complete or total loss.

20. Recovery of Sums due

Whenever under the contract any sums of money shall be recoverable from or payable by the Supplier, they may be deducted from any sums then due, or which at any later time may become due to the Supplier under this contract or under any other contract the Supplier may have with the Company.

21. Visits

The company shall be entitled to make reasonable visits to any or all the Supplier's premises for the purpose of inspecting work in progress and shall give not less than 48 hours notice in writing of such visits.

22. Waivers

No delay, neglect or forbearance on the part of either party in enforcing against the other party any term or condition of this Contract shall either be or deemed to be a waiver or in any way prejudice any right of that party under this contract. No right, power or remedy in this contract conferred upon or reserved for either party is exclusive of any other right, power or remedy available to that party.

23. Sub Contracting

This contract can not be sub-contracted or assigned to another Supplier without the prior approval of the Company.

24. Force Majeure

24.1 If the delivery by the supplier is delayed or prevented because of circumstances beyond the control of the supplier the contract shall be suspended.

24.2 If the goods cannot be delivered within a reasonable time after the due date, the contract may be terminated by either party by giving a notice in writing to the other party.

25. Gifts

The Supplier shall not offer, give or agree to give to any employee agent or representative of the company any inducement, gift, consideration or other reward to secure the attainment or execution of the contract or any other contract.

26. Law

26.1 This contract and all matters arising from it and any arbitration proceedings shall be governed by and construed in accordance with English law.

26.2 All disputes between the parties shall be resolved by arbitration by an arbitrator to be agreed by the parties, or, in default of agreement, to be appointed by the President of the Chartered Institute of Arbitrators.

26.3 If any of the provisions in the above conditions is held to be unlawful, void or unenforceable, in whole or in part, by any competent authority, the provision shall, to the extent required, be severed from the contract and rendered ineffective as far as possible without modifying the remaining provisions of this Contract, and shall not in any way affect in any other circumstances of or the validity or enforcement of this Contract.