

## STANDARD TERMS AND CONDITIONS FOR THE PURCHASE OF GOODS AND SERVICES

### 1. DEFINITIONS

**'Confidential Information'** has the meaning given in Condition 6.1.

**'Contract'** means the contract between the Customer and Supplier incorporating these Conditions, any Special Conditions and the Purchase Order.

**'Customer'** means The Pirbright Institute, a company registered in England with registration number 559784, whose registered office address is at Ash Road, Pirbright, Woking, Surrey, GU24 0NF.

**'Goods'** means the goods specified in the Contract to be supplied to the Customer by the Supplier.

**'Deliverables'** means any deliverables (such as documents, reports, software, products or materials) to be provided by the Supplier to the Customer in connection with the Services.

**'Delivery'** has the meaning given in Condition 4.4.

**'Intellectual Property Rights'** means all patents, rights to inventions, copyright and related rights, trademarks, service marks, trade business, and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights whether now existing or coming into existence at some future date in any part of the world, in each case whether registered or unregistered including all applications (and rights to apply) for and renewals or extensions of such rights, and any accrued rights of action in respect of any of the above.

**'Price'** means the price or charges for the Goods or Services set out in the Purchase Order.

**'Purchase Order'** means the Customer's purchase order for the supply or provision of Goods and/or Services incorporating these Conditions.

**'Services'** means the services specified in the Contract to be provided by the Supplier to the Customer.

**'Special Conditions'** means such additional terms and conditions as the parties may expressly agree in relation to the Goods or Services to be provided under the Contract (for example in a project plan or in the applicable Specification), but excluding for the avoidance of doubt any standard terms of the Supplier.

**'Specification'** means any specifications for the Goods and/or Services contained and/or referred to in the Contract.

**'Supplier'** means the person, firm or company to whom the Purchase Order is addressed.

**'Working Day'** means any day that is not: a Saturday or Sunday; a public holiday in England; or 27,28,29,30 or 31 December.

References in these Conditions to any legislation includes that legislation and all subordinate legislation, in each case as amended by any later enactment, order, regulation or instrument.

## **2. FORMATION OF CONTRACT**

- 2.1 The Purchase Order constitutes an offer by the Customer to purchase Goods and/or Services from the Supplier in accordance with these Conditions. The Purchase Order shall be deemed to be accepted, and the Contract formed, on the earlier of the Supplier issuing written acceptance of the Purchase Order or the Supplier taking any action to fulfil the Purchase Order.
- 2.2 The Contract shall be on these Conditions and the Special Conditions to the exclusion of all other terms and conditions. No variation to these Conditions or to the Contract shall have any effect unless expressly agreed in writing by the parties' authorised representatives.
- 2.3 In the event of any conflict between the documents comprised in the Contract, the order of precedence (from lowest precedence to highest) shall be as follows: these Conditions; the Purchase Order; the Special Conditions.

## **3. PRICE AND PAYMENT**

- 3.1 In relation to Goods, the Price shall be inclusive of the costs of packaging, insurance and carriage of the Goods, and all other costs and duties. No extra charges shall be effective unless expressly agreed in writing by the Customer.
- 3.2 In relation to Services, the Price shall be the full and exclusive remuneration of the Supplier in respect of the performance of the Services. Unless otherwise expressly agreed in writing by the Customer, the Prices shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services. If the Price assumes payment on a time-and-materials basis, the Supplier must accompany its invoices with time sheets evidencing the time incurred.
- 3.3 The Price is exclusive of value added tax, which shall be payable against the Supplier's validly-rendered VAT invoice.
- 3.4 Invoices must state the Purchase Order or Contract number for reference and be sent to the address notified to the Supplier on the Purchase Order. No invoice may be submitted until after delivery of the Goods or performance of the Services. Prices shall be invoiced in the currency stated on the Purchase Order.
- 3.5 The Customer will pay each invoice which is properly due and submitted by the Supplier within thirty (30) days after acceptance of the Goods/Services.
- 3.6 The Customer may set off any amount owing to it by the Supplier against any amount payable by the Customer to the Supplier under the Contract.

## **4. TIMINGS, DELIVERY, TITLE AND RISK**

- 4.1 The Supplier will supply the Goods or Deliverables and perform the Services (as applicable) in accordance with any timetable, or before any date, specified in the Purchase Order.
- 4.2 Time for delivery of the Goods and performance of the Services will be of the essence. If the Supplier fails to deliver any Goods or to perform any Service when due, the Customer may (without limiting any other right or remedy it may have):
  - 4.2.1 terminate the Contract in whole or in part without liability to the Supplier;
  - 4.2.2 refuse to accept any subsequent delivery of Goods or performance of Services that the Supplier attempts to make; and

- 4.2.3 recover from the Supplier any expenditure reasonably incurred in obtaining replacement Goods or Services from another supplier.
- 4.3 The Supplier will deliver all Goods, carriage paid, during normal business hours on a Working Day to the address specified in the Purchase Order and will off-load the Goods. The Supplier will ensure that each delivery of Goods is accompanied by a delivery note setting out:
- 4.3.1 the Purchase Order number and date;
  - 4.3.2 the type and quantity of the Goods as stated on the Purchase Order.
  - 4.3.3 the number of packages; and
  - 4.3.4 In the case of delivery by instalments, the Goods remaining to be delivered.
- 4.4 “**Delivery**” will be deemed to occur when the Supplier has off-loaded the Goods, and sign-off of the delivery note has been obtained. Risk in and ownership of the Goods will pass to the Customer upon Delivery.
- 4.5 If the Customer has agreed to accept delivery of Goods by instalments (as stated in the Purchase Order), the Contract will be construed as a single contract in respect of each instalment, provided that the failure by the Supplier to deliver any one instalment on time or a defect in any instalment will entitle the Customer to its applicable remedies under these Conditions in relation to the entirety of the Contract.
- 4.6 If the Supplier delivers Goods in excess of the quantities ordered, the Customer will not be bound to pay for the excess and any excess will remain at the Supplier’s risk and will be returnable to the Supplier at the Supplier’s expense.
- 4.7 The Supplier will obtain, at its own expense, any export licences or other authorisations necessary for the export of the Goods and their transit through any country or territory, will deal with all customs formalities necessary for their export and transit, and will bear the costs of complying with those formalities, and all duties, taxes and other charges payable on export.

## **5. INTELLECTUAL PROPERTY RIGHTS, CUSTOMER PROPERTY**

- 5.1 Same as otherwise provided in the Special Conditions, the Supplier hereby assigns and agrees to assign to the Customer, in each case with full title guarantee and free from all third party rights, all Intellectual Property Rights in all products of the Services, including the Deliverables. Where those products incorporate any Intellectual Property Rights owned by or licensed to the Supplier, which the parties have agreed in the Special Conditions will not be assigned under this Condition, the Supplier hereby grants to the Customer a worldwide, irrevocable, royalty-free, transferable licence, with the right to grant sub-licences, under those Intellectual Property Rights to the extent necessary to adapt, copy, use and distributed those products and Deliverables for any purpose.
- 5.2 The Supplier shall obtain waivers of all moral rights in the products of the Services, including the Deliverables, to which any individual is now or may be at any future time entitled under Chapter IV of Part 1 of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction.
- 5.3 The Supplier will, promptly at the Customer request do (or procure to be done) all such further acts and things and the execution or all such other documents as the Customer may from time to time require for the purpose of securing for the Customer the full benefit of the Contract, including all right, title and interest in and to the Intellectual Property Rights assigned to the Customer in accordance with this Condition 5.

5.4 All information (including the Customer's Confidential Information), software, equipment, materials and documents provided by or on behalf of the Customer to the Supplier ('**Customer Property**') will, at all times, be and remain the exclusive property of the Customer, but will be held by the Supplier at its own risk and maintained and kept in good condition by the Supplier until returned to the Customer. The Supplier will not dispose of or use any Customer Property for any purpose other than the purpose of fulfilling its obligations under the Contract (or as otherwise instructed by the Customer in writing).

## **6. CONFIDENTIALITY AND PUBLICITY**

6.1 Subject to Condition 6.2, the Supplier will keep confidential and not disclose to any third party nor use for any purpose, other than the purpose of fulfilling its obligations under the Contract, any confidential information concerning the business, affairs, customers, clients or suppliers of the Customer ("**Confidential Information**").

6.2 The Supplier may disclose the Confidential Information:

6.2.1 to its employees, representatives or advisers who need to know such information for the purposes of carrying out the Supplier's obligations under the Contract (and the Supplier shall ensure that such persons comply with Condition 6.1); and

6.2.2 as may be required by law, court order or any governmental or regulatory authority, provided that it has previously informed the Customer of the requirement to make the disclosure and the information required to be disclosed and that the disclosure is limited to the extent and for the purpose required.

6.3 The Supplier will fully co-operate and provide all assistance requested and/or required by the Customer in order to enable the Customer to respond to any request for information under the Freedom of Information Act 2000 within the timescales provided and set out in that Act.

6.4 Neither party will use the other's name or logo in any press release or product advertising, or for any other promotional purpose, without first obtaining the other's written consent.

## **7. INDEMNITY AND INSURANCE**

7.1 The Supplier will keep the Customer indemnified in full against all costs, expenses, damages and losses (whether direct or indirect), including any interest, fines, legal and other professional fees and expenses awarded against or incurred or paid by the Customer as a result of or in connection with:

7.1.1 any claim made against the Customer by a third party for death, personal injury or damage to property arising in connection with defects in the manufacture, workmanship, design or performance (as applicable) of the Goods or Services, or otherwise by reason of the Supplier's negligence or any act or omission on the part of the Supplier's employees, sub-contractors, or agents;

7.1.2 any claim made against the Customer by a third party arising out of, or in connection with, the supply of the Goods or Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Supplier, its employees, agents or subcontractors; and

7.1.3 any claim made against the Customer 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 receipt, use or supply of the Services or Deliverables (except to the extent such infringement is caused by the use or inclusion of Customer Property);

- 7.1.4 any damage to the Customer's property caused by the Supplier or its employees, sub-contractors or agents (including any materials, tools or patterns sent to the Supplier for any purpose) or by any defect in the manufacture, workmanship or design of the Goods;  
or
- 7.1.5 any transfer of any employees of the Supplier or any third party to the Customer pursuant to the Transfer of Undertakings (Protection of Employment) Regulations 2006 in connection with the Contract.
- 7.2 During the term of the Contract and for a period of six (6) years thereafter, the Supplier will maintain in force, with a reputable insurance copy, professional indemnity insurance, product liability insurance and public liability insurance sufficient to meet its potential liabilities under the Contract and will, at the Customer's request, produce both the insurance certificates giving details of cover and the receipt for the current year's premium.

## **8. CHANGE CONTROL**

- 8.1 The Customer may request, or the Supplier may propose, changes to the Contract from time to time. If a change is requested by the Customer or proposed by the Supplier, the Supplier shall state in writing the effect such change shall have on the performance of the Contract (including without limitation the Price, the Specifications and the timings for delivery for the Goods and/or the provision of the Services) and what adjustment, if any, will be required to the Price. The Customer may then decide whether to proceed with such change and if the Customer decides to proceed the parties shall execute a written change order in such format as the parties shall determine, which, once agreed, shall vary the Contract in accordance with Condition 2.2.

## **9. STAFF AND KEY PERSONNEL**

- 9.1 If the Customer reasonably believes that any of the Supplier's employees, agents or contractors ("**Staff**") are unsuitable to undertake work in respect of the Contract, it may, by giving written notice to the Supplier:
- 9.1.1 refuse admission to the relevant person(s) to the Customer's premises;
- 9.1.2 direct the Supplier to end the involvement in the provision of the Services of the relevant person(s); and/or
- 9.1.3 require that the Supplier replace such Staff with another suitably qualified person and procure that any security pass issued by the Customer to the person removed is surrendered, and the Supplier shall comply with any such notice.
- 9.2 The Supplier shall:
- 9.2.1 ensure that all Staff are vetted in accordance with any vetting procedures specified in the Contract;
- 9.2.2 if requested, provide the Customer with a list of the names and addresses (and any other relevant information) of all persons who may require admission to the Customer's premises in connection with the Contract; and
- 9.2.3 procure that all Staff comply with any: i) applicable health and safety, security, environmental and other legislation which may be in force from time to time; and ii) any Customer or third party policy, regulation, code of practice or instruction relating to health and safety, security, the environment or access to and use of any laboratory, facility or equipment which is brought to their attention or given to them in connection with such access.

- 9.3 Any Staff who are identified by name in the Specifications (“**Key Personnel**”) shall not be released from supplying the Services without the consent of the Customer, except by reason of long-term sickness, maternity leave, paternity leave, and termination of employment or other extenuating circumstances.
- 9.4 Any replacements to the Key Personnel shall be subject to the prior written consent of the Customer (not to be unreasonably withheld). Such replacements shall be of at least equal status or of equivalent experience and skills to the Key Personnel being replaced and be suitable for the responsibilities of that person in relation to the Services.

## **10. WARRANTIES AND REMEDIES**

- 10.1 The Supplier warrants to the Customer that upon Delivery and for a period of twelve (12) months afterwards (the “**Warranty Period**”) the Goods shall:
- 10.1.1 correspond with their description and any applicable Specification;
  - 10.1.2 be of satisfactory quality and fit for any purpose held out by the Supplier or made known to the Supplier by the Customer (and in this respect the Customer relies on the Supplier's skill and judgment);
  - 10.1.3 be free from defects in design, materials and workmanship;
  - 10.1.4 comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods;
  - 10.1.5 be accompanied by sufficient instructions and documentation to inform the Customer of:
    - (i) hazardous materials or radioactive substances comprised in the Goods; (ii) the shelf life, cycle life or usage lifespan of the Goods; and (iii) the measures necessary to maintain, use, store, transport and dispose of the Goods;
  - 10.1.6 be new (and in the case of Goods which are perishable or have a limited shelf life or usage lifespan, at the beginning of such shelf life or lifespan) unless otherwise stated in the Order; and
  - 10.1.7 be accompanied by test records and certificates of conformity as requested in the Customer's Order or as otherwise applicable.
- 10.2 In providing the Services, the Supplier warrants that it shall:
- 10.2.1 co-operate with the Customer in all matters relating to the Services, and comply with all instructions of the Customer;
  - 10.2.2 perform the Services with due care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade; and
  - 10.2.3 ensure that the Services and any Deliverables will conform with all applicable Specifications, and that the Deliverables shall be fit for any purpose made known to the Supplier by the Customer.
- 10.3 The Customer will not be deemed to have accepted any Goods until fourteen (14) Working Days after Delivery. The Customer will not be deemed to have accepted any Services or Deliverables until fourteen (14) Working Days after they have been provided. Prior to acceptance, the Customer may reject any Goods, Services or Deliverables which have not been provided in accordance with this Contract. The Customer may also reject any Goods as though they had not been accepted for fourteen (14) Working Days after any latent defect in the Goods has become apparent. If the Customer rejects any Goods, Services or Deliverables it shall be entitled, without limiting its other rights and remedies, to:

- 10.3.1 terminate the Contract in whole or in part without liability to the Supplier;
  - 10.3.2 refuse to accept any subsequent delivery of Goods or performance of Services that the Supplier attempts to make; and
  - 10.3.3 recover from the Supplier any expenditure reasonably incurred in obtaining replacement Goods or Services from another supplier.
- 10.4 If any Goods delivered to the Customer do not comply with the undertakings set out in Condition 10.1 and have not been accepted by the Customer, then, without limiting any other right or remedy that the Customer may have, the Customer may return those Goods to the Supplier at the Supplier's expense, and the Supplier shall promptly at the option and direction of the Customer repair, replace or refund the purchase price of those Goods.
- 10.5 These Conditions shall extend to any substituted or remedial Services and/or repaired or replacement Goods supplied by the Supplier.

## **11. TERMINATION**

- 11.1 The Customer may terminate the Contract by written notice to the Supplier with immediate effect if:
- 11.1.1 the Supplier is in material breach of any obligation under the Contract; or
  - 11.1.2 the Supplier undergoes a change of control ("control" having the meaning given in section 416 of the Income and Corporation Taxes Act 1988) (and the Supplier shall notify the Customer immediately when any such change of control occurs); or
  - 11.1.3 the Supplier enters into liquidation or has a receiver or an administrator appointed over its undertaking, becomes apparently insolvent or commits an act of bankruptcy, makes an arrangement with its creditors or appears unable to pay a debt within the meaning of section 268 of the Insolvency Act 1986 or any similar event occurs with equivalent effect in any jurisdiction.
- 11.2 On termination of the Contract or any part of it for any reason:
- 11.2.1 the Supplier shall immediately deliver to the Customer all Deliverables, whether or not then complete, and return all Customer Property (in each case as applicable);
  - 11.2.2 the accrued rights and remedies of the parties as at termination shall not be affected; and
  - 11.2.3 Conditions 1, 5, 6, 7, 10, 11.2, 13 and 16 shall continue in full force and effect.

## **12. ASSIGNMENT AND SUB-CONTRACTING**

- 12.1 The Supplier shall not be entitled to assign the Contract or any part of it without the Customer's prior written consent.
- 12.2 The Supplier may not sub-contract the performance of its obligations under the Contract to any person without the Customer's prior written consent. The Supplier shall be responsible for the acts and omissions of its sub-contractors as though those acts and omissions were its own.
- 12.3 Where the Supplier enters into a sub-contract for the purpose of performing its obligations under the Contract, it shall ensure that a provision is included in such sub-contract which requires payment to be made of all sums due by the Supplier to the sub-contractor within a specified period not exceeding 30 days from the receipt of a valid invoice.
- 12.4 Where the Customer has consented to the placing of sub-contracts, the Supplier shall, at the request of the Customer, send copies of each sub-contract, to the Customer as soon as is reasonably practicable.

### 13. OPERATING MANUALS

13.1 The Supplier shall supply to the Customer all operating manuals and other documentation necessary for the satisfactory operation of the Goods. If, after Delivery, the operating manuals and documentation need updating or replacing the Supplier shall be responsible for notifying the Customer of the availability of such updates or replacements, and shall supply them free of charge in the media format in which they are available at the appropriate time.

### 14. ANTI-BRIBERY

14.1 The Supplier undertakes to:

14.1.1 comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 ("**Relevant Requirements**");

14.1.2 maintain in place throughout the term of the Contract its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements and will enforce them where appropriate;

14.1.3 promptly report to the Customer any request or demand for any undue financial or other advantage of any kind it receives in connection with the performance of the Contract;

14.1.4 immediately notify the Customer (in writing) if a foreign public official becomes an officer or employee of its organisation or acquires a direct or indirect interest in it (and it warrants that it has no foreign public officials as officers, employees or direct or indirect owners at the date of the Contract); and

14.1.5 ensure that any person associated with it who is performing services or providing goods in connection with the Contract does so only on the basis of a written contract which imposes on and secures from that person terms equivalent to those imposed on the Supplier in this Condition 14 ("**Relevant Terms**"). The Supplier shall be responsible for the observance and performance by these persons of the Relevant Terms, and shall be directly liable to the Customer for any breach by these persons of any of the Relevant Terms.

14.2 For the purposes of this Condition 14, the meaning of "adequate procedures" and "foreign public official" and whether a person is "associated" with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) and section 8 of that Act respectively. For the purposes of this Schedule E, a person associated with the Supplier includes but is not limited to any sub-contractor of the Supplier.

14.3 Any breach by the Supplier of its obligations under this Condition 14 will be deemed a breach of the Contract that is not capable of relief and will entitle the Customer to terminate the Contract with immediate effect under Condition 11.1.

### 15. DATA PROTECTION

15.1 In this Condition, "**Data Controller**", "**Data Subject**", "**Personal Data**" and "**Processing**" all have the meanings given for those terms in the Data Protection Act 1998 (the "**Act**"). The Condition applies to the extent that the Supplier Processes any Personal Data on the Customer's behalf in performing its obligations under the Contract.

15.2 The Supplier shall process the Personal Data only to the extent, and in such a manner, as is necessary for the purposes of performing its obligations under the Contract and in accordance

with the Customer's instructions from time to time and shall not process the Personal Data for any other purpose. The Supplier will keep a record of any processing of personal data it carries out on behalf of the Customer.

- 15.3 The Supplier shall promptly comply with any request from the Customer requiring the Supplier to amend, transfer or delete the Personal Data.
- 15.4 If the Supplier receives any complaint, Data Subject access request, notice or communication which relates directly or indirectly to the processing of the Personal Data or to either party's compliance with the Act and the data protection principles set out therein, it shall immediately notify the Customer and it shall provide the Customer with full co-operation and assistance in relation to any such complaint, notice or communication.
- 15.5 At the Customer's request, the Supplier shall provide to the Customer a copy of all Personal Data held by it in the format and on the media reasonably specified by the Customer.
- 15.6 The Supplier shall not transfer the Personal Data outside the European Economic Area without the prior written consent of the Customer.
- 15.7 The Supplier warrants that:
- 15.7.1 it will process the Personal Data in compliance with all applicable laws, enactments, regulations, orders, standards and other similar instruments; and
  - 15.7.2 it will take appropriate technical and organisational measures against the unauthorised or unlawful processing of personal data and against the accidental loss or destruction of, or damage to, personal data to ensure the Customer's compliance with the seventh data protection principle.
- 15.8 The Supplier shall notify the Customer immediately if it becomes aware of any unauthorised or unlawful processing, loss of, damage to or destruction of the Personal Data.

## **16. GENERAL**

- 16.1 Neither party shall have any liability under or be deemed to be in breach of the Contract for any delays or failures in performance of the Contract which result from circumstances beyond the reasonable control of the party affected. Each party shall promptly notify the other party in writing when such circumstances cause a delay or failure in performance and when they cease to do so. If such circumstances continue for a continuous period of more than two months, either party may terminate the Contract by written notice to the other party.
- 16.2 Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose.
- 16.3 If any provision (or part provision) of the Contract is found by any court of competent jurisdiction to be wholly or partly illegal, invalid, or otherwise unenforceable it shall be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.
- 16.4 No waiver shall be effective unless express and in writing. Any waiver by the Customer of any breach of any provision of the Contract by the Supplier shall not be deemed a waiver of any other breach.
- 16.5 No term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.

- 16.6 The Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of England and Wales, and the parties submit to the exclusive jurisdiction of the English courts.
- 16.7 All communications between the parties about the Contract shall be in writing and delivered by hand or sent by pre-paid first class post or sent by fax to the registered office of the receiving party, or emailed to any email address provided by that party for that purpose, or delivered to such other address or by such other means as shall be notified by the receiving party to the other.
- 16.8 Communications addressed to the Customer shall be marked for the attention of the Managing Director or for the attention of any person who has been identified to the Supplier by the Customer for the purposes of receiving communications about the Contract.