

Financial Procedure Number 11

General Conditions of Purchase

Leeds Trinity University
General Conditions of Purchase

Definitions

1. "We", "Us" and "Our" means Leeds Trinity University.

"You" and "Your" means the person, firm or company to whom the Purchase Order is addressed and any employees, sub-contractors or agents of said person, firm or company.

"Goods" means the materials, articles, works and services described in the Contract.

"Package" means any type of package including bags, cases, carboys, cylinders, drums, pallets, tank wagons and other containers.

"Authorised Officer" means Our employee authorised, either generally or specifically, by Us to sign Our Purchase Order, confirmation of which may be obtained from the Director of Finance or the Finance Manager.

"Authorised" means signed by one of Our Authorised Officers.

"Purchase Order" means Our Authorised Purchase Order having these General Conditions of Purchase on its reverse or attached to it or referring to these General Conditions of Purchase on its face.

"Order Amendment" means Our Authorised Order Amendment or series of Order Amendments, each Order Amendment having precedence over any earlier Order Amendment.

"Contract" has the meaning given in Condition 2 below.

"Price" has the meaning given in Condition 3 below.

"Sale of Goods Act 1979" shall mean the Sale of Goods Act 1979 as amended by the Sale and Supply of Goods Act 1994.

"Supply of Goods and Services Act 1982" shall mean the Supply of Goods and Services Act 1982 as amended by the Sale and Supply of Goods Act 1994.

The Contract

2. You agree to sell and We agree to purchase the Goods in accordance with the Contract. The Contract shall comprise (in order of precedence): any Order Amendments, the Purchase Order, these General Conditions of Purchase, any other document (or part document) referred to on the Purchase Order. The Contract shall not include any of Your conditions of sale, notwithstanding reference to them in any document. However, should this Contract be held by a court of competent jurisdiction to include Your terms and conditions of sale then in the event of any conflict or apparent conflict these General Conditions of Purchase shall always prevail over Your terms and conditions of sale. Delivery of Goods in response to a Purchase Order or Order Amendment shall be taken to imply that You have accepted the terms and conditions of this Contract.

Price

3. You will sell Us the Goods for the firm and fixed Price stated in the Contract. If no Price is stated in the Contract then the Price shall be a fair price, taking into account prevailing market conditions.
4. The Price shall include storage, packing, insurance, delivery, installation and commissioning (as applicable) but shall exclude VAT.

Variations

5. We shall have the right, before delivery, to send You an Order Amendment adding to, deleting or modifying the Goods. If the Order Amendment will cause a change to the Price or delivery date then You must suspend performance of the Contract and notify Us without delay, calculating the new Price and delivery date at the same level of cost and profitability as the original Price. You must allow Us at least 10 working days to consider any new Price and delivery date. The Order Amendment shall take effect when but only if Our Authorised Officer accepts in writing the new Price and delivery date within the time You stipulate. If Our Authorised Officer fails to confirm the Order Amendment within the time You stipulate then performance of the Contract shall immediately resume as though the said Order Amendment had not been issued (except that We may still exercise Our right of cancellation in accordance with section 6 below).

Our Right of Cancellation

6. In addition to Our other rights of cancellation under this Contract, We may cancel the Purchase Order and any Order Amendment thereto at

any time by sending You a notice of termination. You will comply with any instructions that We may issue with regard to the Goods. If You submit a termination claim then We will pay to You the cost of any commitments, liabilities or expenditure which in Our reasonable opinion were a consequence of this Contract at the time of termination. The total of all payments made or due to You under this Contract, including any termination payment, shall not exceed the Price. If You fail to submit a termination claim within 3 months of the date of Our notice of termination then We shall have no further liability under the Contract.

Quality and Description

7. The Goods shall:
 - i) conform in every respect with the provisions of the Contract;
 - ii) be capable of all standards of performance specified in the Contract;
 - iii) be fit for any purpose made known to You expressly or by implication and in this respect We rely on Your skill and judgement;
 - iv) be new (unless otherwise specified on the Purchase Order) and be of sound materials and skilled and careful workmanship;
 - v) correspond with their description or any samples, patterns, drawings, plans and specifications referred to in the Contract;
 - vi) be of satisfactory quality;
 - vii) comply with any current legislation.
8. Unless specifically required under the Contract, there shall be no asbestos content in the Goods.

Work on Our Premises

9. If the Contract involves any works or services which You perform on Our premises then the following conditions shall apply:
 - a) You shall ensure that You and Your employees, Your sub-contractors and their employees and any other person associated with You will adhere in every respect to the obligations imposed on You by current safety legislation.

- b) You shall ensure that You and Your employees, Your sub-contractors and their employees and any other person associated with You will comply with any regulations that We may notify to You in writing.

Progress and Inspection

- 10. You shall at Your expense provide any programmes of manufacture and delivery that We may reasonably require. You shall notify Us without delay in writing if Your progress falls behind or may fall behind any of these programmes.
- 11. We shall have the right to check progress at Your works or the works of sub-contractors at all reasonable times, to inspect and to reject Goods that do not comply with the Contract. Your sub- contracts shall reserve such right for Us.
- 12. Any inspection, or approval shall not relieve You from Your obligations under this Contract.

Package

- 13. Unless otherwise stated in the Contract, all Packages shall be non-returnable. If the Contract states that Package is returnable, You must give us full disposal instructions before the time of delivery. The Package must be clearly marked to show to whom it belongs. You must pay the cost of all carriage and handling for the return of Package. We shall not be liable for any Package lost or damaged in transit.

Safety

- 14. You shall observe all legal requirements of the United Kingdom, European Union and relevant international agreements in relation to health, safety and environment, and in particular to the marking of hazardous Goods, the provision of data sheets for hazardous materials, and all provisions relating to food.

Delivery

- 15. The Goods shall be properly packed, secured and despatched at Your expense to arrive in good condition at the time or times and the place or places specified in the Contract

16. If You or Your carrier deliver any Goods at the wrong time or to the wrong place then We may deduct from the Price any resulting costs of storage or transport.

Late Delivery

17. If the Goods or any part of them are not delivered by the time or times specified in the Contract then We may by written notice cancel any undelivered balance of the Goods. We may also return for full credit and at Your expense any Goods that in Our opinion cannot be utilised owing to this cancellation. In the case of services, We may have the work performed by alternative means and any additional costs reasonably so incurred shall be at Your expense. This shall not affect any other rights that We have.

Property and Risk

18. You shall bear all risks of loss or damage to the Goods until they have been delivered and shall insure accordingly.
19. Ownership of the Goods shall pass to Us:
- a) when the Goods have been delivered but without prejudice to our right of rejection under this Contract, and
 - b) if We make any advance or stage payment, at the time such payment is made, in which case You must as soon as possible mark the Goods as Our property.

Acceptance

20. We shall have the right to reject the Goods in whole or in part whether or not paid for in full or in part within a reasonable time of delivery if they do not conform with the requirements of this Contract. It is agreed that We may exercise the right of rejection notwithstanding any provision contained in section 11 or section 15A or section 30(subsections 2A and 2B) or section 35 of the Sale of Goods Act 1979. We shall give You a reasonable opportunity to replace the Goods with new Goods that conform with this Contract, after which time We shall be entitled to cancel the Purchase Order and purchase the nearest equivalent goods elsewhere. In the event of cancellation under this condition You shall promptly repay any moneys paid under the Contract without any retention or offset whatsoever. Cancellation of the Purchase Order under this condition shall not affect any other rights We may have. You must collect all rejected Goods within a reasonable

time of rejection or We shall return them to You at Your risk and expense.

Payment

21.

- a) Your invoice must be addressed to:

The Finance Manager
Finance Department
Leeds Trinity University
Brownberrie Lane
Leeds
LS18 5HD
- b) Your invoice must quote Our Purchase Order number in full.
- c) Unless stated otherwise in the Contract We shall pay You within 30 days of receipt of a correctly rendered invoice.
- d) We shall consider and verify in a timely fashion any invoices submitted to Us for payment by You.
- e) We shall not be held responsible for delays in payment caused by Your error or Your failure to comply with Our invoicing instruction should that be cause for Your invoice to become disputed or invalid

If, in execution of this contract You enter into a sub-contract, You shall include in that sub-contract:

- f) Provisions having the same effect as this clause 21 c) and 21 d) of this contract
- g) A provision requiring the counterparty to that sub-contract to include in any sub-contract which it awards provisions having the same effect as this clause 21 c) and 21 d) of this contract
- h) In this clause 21 f) and 21 g), "sub-contract" means a contract between two or more suppliers, at any stage of remoteness from Us in a subcontracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this contract.

Your Warranty

22. It is expressly agreed between us that:
- a) You shall promptly make good at Your expense any defect in the Goods that We discover under proper usage during the first of 12 months of actual use or 18 months from the date of acceptance by Us whichever period shall expire first. Such defects may arise from Your faulty design Your erroneous instructions as to use or inadequate or faulty materials or poor workmanship or any other breach of Your obligations whether in this Contract or at law.
 - b) Repairs or replacements will themselves be covered by the above warranty but for a period of 12 months from acceptance by Us.
 - c) You will ensure that compatible spares are available to facilitate repairs (where applicable) for a period of at least 10 years from the date of delivery of the Goods unless a lesser period is specifically agreed.

Indemnity and Insurance

23. You shall indemnify Us against all loss, actions, costs, claims, demands, expenses and liabilities whatsoever (if any) which We may incur either at common law or by statute in respect of personal injury to or death of any person or in respect of any loss or destruction of or damage to property (other than as a result of any default or neglect of Ourselves or of any person for whom We are responsible) which shall have occurred in connection with any work executed by You under this Contract or shall be alleged to be attributable to some defect in the Goods.
24. This Purchase Order is given on the condition that (without prejudice to the generality of Condition 23) You will indemnify us against all loss, costs, claims, demands, expenses and liabilities whatsoever (if any) which We may incur either at common law or by statute (other than as a result of any default or neglect of Ourselves or of any person for whom We are responsible) in respect of personal injury to or death of any of Your or Our employees, agents, sub-contractors or other representatives while on Our premises whether or not such persons are (at the time such personal injury or deaths are caused) acting in the course of their employment.

25. You will indemnify Us against any and all loss, costs, expenses and liabilities caused to Us whether directly or as a result of the action, claim or demand of any third party by reason of any breach by You of these conditions or of any terms or obligations on Your part implied by the Sale of Goods Act 1979, by the Supply of Goods and Services Act 1982 or by any other statute or statutory provision relevant to the Contract or to Goods or work covered thereby. This indemnity shall not be prejudiced or waived by any exercise of Our rights under Condition 14.
26. You shall hold satisfactory insurance cover with a reputable insurer to fulfil Your insurance obligations for the duration of this Contract including public liability insurance cover of at least £2M (two million pounds Sterling). You shall effect insurance against all those risks arising from Your indemnity in Condition 23. Satisfactory evidence of such insurance and payment of current premiums shall be shown to Us upon request.

Recovery of Sums Due

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

Matters beyond Control

28. If either party is delayed or prevented from performing its obligations under this Contract by circumstances beyond the reasonable control of either party, (including without limitation any form of Government intervention, strikes and lock-outs relevant to the Purchase Order or breakdown of plant) such performance shall be suspended, and if it cannot be completed within a reasonable time after the due date as specified in the Purchase Order then the Contract may be cancelled by either party. We shall pay to You such sum as may be fair and reasonable in all the circumstances of the case in respect of work performed by You under the Purchase Order prior to cancellation but only in respect of work that We have received full benefit as originally contemplated in the Contract. This provision can only have effect if it is called into operation by the party wishing to rely on it giving written notice to the other to that effect.

Articles on Loan and Use of Information

29. All tools, materials, drawings, specifications and other equipment and data ("the Articles") loaned by Us to You in connection with the

Contract shall remain always Our property and be surrendered to Us upon demand in good and serviceable condition (fair wear and tear allowed) and are to be used by You solely for the purpose of completing the Contract. You agree that no copy of any of the articles will be made without the consent in writing of Our Authorised Officer. Until You return all the articles to Us they shall be at Your risk and insured by You at Your own expense against the risk of loss, theft or damage. Any loss of or damage to such articles shall be made good by You at Your expense. All scrap arising from the supply of such articles must be disposed of at Our discretion and all proceeds of sales of such scrap must promptly be paid to Us in full.

30. Any information derived from Our property or otherwise communicated to You in connection with the Contract shall be kept secret and confidential and shall not without the consent in writing of Our Authorised Officer, be published or disclosed to any third party, or made use of by You except for the purpose of implementing the Contract.

Ownership of Results

31. If the Contract involves design and/or development work:
 - a) All rights in the results of work arising out of or deriving from this Contract, including inventions, designs, copyright and knowledge shall be Our property and We shall have the sole right to determine whether any letters patent, registered design, trademark and other protection shall be sought.
 - b) You shall promptly communicate to Us all such results and shall if requested and at Our expense do all acts and things necessary to enable Us or Our nominee to obtain letters patent, registered designs and other protection for such results in all territories and to assign the same to Us or Our nominee.
 - c) You shall ensure that all technical information (including computer programs and programming information) arising out of or deriving from this Contract is held in strict confidence except for any such information which becomes public knowledge other than by breach of this Contract.

Infringement of Patents

32. With the exception of Goods made to Our design or instructions, You warrant that neither the Goods nor Our use of them will infringe any patent registered design trade mark copyright or other protected right

and undertake to indemnify Us against all actions claims demands costs charges and expenses arising from or incurred by reason of any infringement or alleged infringement of any such right.

Non-Observance of Conditions

33. If You breach or fail to observe any provision of this Contract We may give You written notice of such breach or non-observance and You shall have 28 days from receipt of the notice in which to rectify the breach or non-observance. Should You fail to rectify the breach or non-observance, then We shall have the right to give You written notice terminating the Contract with immediate effect.

Your Insolvency

34. If You become insolvent or bankrupt or (being a company) make an arrangement with Your creditors or have an administrative receiver or administrator appointed or commence to be wound up (other than for the purposes of amalgamation or reconstruction) We may without replacing or reducing any other of Our rights terminate the Contract with immediate effect by written notice to You or any person in whom the Contract may have become vested.

Assignment and Sub-letting

35. The Contract shall not be assigned by You nor sub-let as a whole. You shall not sub-let any part of the Contract without Our written consent, but We shall not refuse such consent unreasonably. The restriction contained in this condition shall not apply to sub-contracts for materials for minor details or for any part of which the makers are named in the Contract. You shall be responsible for all work done and Goods supplied by all sub- contractors.

Anti-Corruption

36. The Supplier shall at all times:
- a) comply with, warrant and indemnify the University in relation to 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"), Fraud Act 2006, IR35 (1999), and Criminal Finance Act 2017;

- b) comply with the University's anti-corruption policies, as the University or the relevant industry body may update them from time to time ("Relevant Policies");
- c) have and shall 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 ("Relevant Requirements"), Fraud Act 2006, IR35 (1999), and Criminal Finance Act 2017, to ensure compliance with the Relevant Requirements and the Relevant Policies (including but not limited to by any person performing any aspect of the Contract) and will enforce them where appropriate;
- d) promptly notify the University if any request or demand for financial or other advantage of any kind is received by the Supplier in connection with the performance of the Contract or if any foreign public official is appointed as an officer or employer of or acquires an interest in the Supplier;
- e) not give, provide, or offer to Our staff and agents any loan, fee, reward, gift or any emolument or advantage whatsoever. In the event of any breach of this Condition, We shall, without prejudice to any other rights We may possess, be at liberty forthwith to terminate this and any other Contract and to recover from You any loss or damage resulting from such termination..

Waiver

37. A failure at any time to enforce any provision of the Contract shall in no way affect the right at a later date to require complete performance of the Contract; nor shall the waiver of the breach of any provision be taken or held to be a waiver of any subsequent breach of the provision or be a waiver of the provision itself.

Notice

38. All notices and communications required to be sent by You or Us in this Contract shall be made in writing and sent by first class mail and if sent to You sent to Your registered or head office and if sent to us sent to The Director of Finance, Leeds Trinity University, Brownberrie Lane, Horsforth, Leeds, LS18 5HD and shall be deemed to have reached the party to whom it is addressed on the next business day following the date of posting.

Amendment

39. No addition alteration or substitution of these conditions will bind Us or form part of the Contract unless and until accepted in writing by Our Authorised Officer.

Law

40. This Contract shall be subject to English Law and the jurisdiction of the English Courts.

Data Protection

41. The parties do not expect that the Supplier will process any Personal Data of Leeds Trinity University as a Processor. Where the Supplier does Process any Personal Data of Leeds Trinity University as a Processor, the parties will vary this Agreement and replace this Clause with Leeds Trinity University's standard Data Controller to Processor clause as laid out in 41.1 to 41.26 inclusive:
- 41.1 The parties acknowledge that Leeds Trinity University is the Data Controller and the Supplier is the Processor.
- 41.2 The Supplier shall Process Personal Data only to the extent, and in such a manner, as is necessary for the purposes specified in the Specification and in accordance with Leeds Trinity University's written instructions from time to time and shall not Process Personal Data for any other purpose. If the Supplier is required by Law to Process Personal Data otherwise than in accordance with this Clause, immediately inform Leeds Trinity University of the legal requirement before Processing Personal Data (unless prohibited from doing so by Law).
- 41.3 The Supplier shall provide all reasonable assistance to Leeds Trinity University in the preparation of any data protection impact assessment, (as defined in the General Data Protection Regulation (GDPR) (EU) 2016/679 , prior to commencing any Processing. Such assistance may, at the discretion of Leeds Trinity University, include:
- (a) a systematic description of the envisaged Processing operations and the purpose of the Processing;
 - (b) an assessment of the necessity and proportionality of the Processing operations in relation to the Specification;

- (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
 - (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 41.4 The Supplier will not Process Personal Data or disclose Personal Data to any party who carries on business, outside the EEA except with Leeds Trinity University's prior written consent and where such consent is given, take such actions and enter into such agreements as Leeds Trinity University may require to ensure that such transfer or disclosure complies with Law.
- 41.5 The Supplier will keep a record of any Processing of Personal Data it carries out under the Contract.
- 41.6 The Supplier shall not disclose Personal Data to any person except under this Agreement or with your written consent.
- 41.7 The Supplier shall ensure that access to Personal Data is limited to:
- (a) Those employees who need access to Personal Data to meet the Supplier's obligations under this Contract; and
 - (b) In the case of any access by any employee, such part or parts of Personal Data as is strictly necessary for performance of that employee's duties.
- 41.8 The Supplier shall ensure that employees that require access to Personal Data:
- (a) Are informed of the confidential nature of Personal Data;
 - (b) Have undertaken training in Law relating to handling Personal Data; and
 - (c) Are aware both of the Supplier's duties and their personal duties and obligations under Law and this Contract.
- 41.9 The Supplier shall ensure that all persons authorised to Process Personal Data are under an appropriate contractual or other legal obligation of confidentiality in respect of Personal Data.

- 41.10 The Supplier shall not disclose Personal Data to any Data Subject or to a third party other than at the request of Leeds Trinity University or as provided for in this Contract.
- 41.11 The Supplier shall, taking into account the nature of the Processing, implement appropriate technical and organisational measures against unauthorised or unlawful Processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data that have been reviewed and approved by Leeds Trinity University as appropriate having taken account of the:
- (a) nature of the Personal Data to be protected;
 - (b) harm that might result from a Data Breach;
 - (c) state of technological development; and
 - (d) cost of implementing any measures.

Appropriate technical and organisational measures include pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, taking reasonable steps to ensure the reliability of its employees with access to Personal Data and regularly assessing and evaluating the effectiveness of such measures adopted.

- 41.12 The Supplier shall, upon becoming aware, immediately and in any event within 24 hours notify Leeds Trinity University of any Data Breach and shall work together with Leeds Trinity University to provide Leeds Trinity University with full co-operation and assistance, including to investigate the Data Breach (including by (i) assisting with any investigation launched by Leeds Trinity University; (ii) facilitating interviews with the Supplier's employees and others involved in the matter; and (iii) making available all relevant records reasonably required by Leeds Trinity University to investigate the Data Breach or otherwise comply with Law or the requests of any competent regulatory authority in relation to the Data Breach or its investigation).
- 41.13 The Supplier shall not engage another Processor to Process Personal Data except with Leeds Trinity University's prior specific written authorisation and, where such authorisation is given, enter into a contract with the Processor that imposes the same contractual obligations set out in this Clause on that Processor, and remain liable for any Processor that it engages in accordance with the terms of this Clause.

- 41.14 The Supplier shall assist and fully co-operate with Leeds Trinity University to enable it to comply with its obligations as a Data Controller under and in accordance with Law including in relation to the security of Processing, data subject right requests, reporting personal Data Breaches to the supervisory authority and conducting data privacy impact assessments. The Supplier shall notify Leeds Trinity University within 24 hours if it receives a request from a Data Subject to exercise its rights under Law or any communication from a Data Subject, the Information Commissioner or any other regulatory authority in connection with Personal Data Processed under this Contract.
- 41.15 The Supplier shall promptly comply with any request from Leeds Trinity University requiring the Supplier to amend, transfer or delete Personal Data. At Leeds Trinity University's request, the Supplier shall provide to Leeds Trinity University a copy of all Personal Data held by it in the format and on the media reasonably specified by Leeds Trinity University.
- 41.16 The Supplier shall at any time on the request of Leeds Trinity University, return all Confidential Information and/or data (including any Personal Data that the Supplier Processes for and on behalf of Leeds Trinity University) to that Member Institution and/or permanently delete the same from its systems, including any back-up copies.
- 41.17 The Supplier shall at Leeds Trinity University's option, delete or return to Leeds Trinity University all Personal Data on termination of the Agreement and delete any existing copies of Personal Data except to the extent that Leeds Trinity University is required to retain Personal Data by Law.
- 41.18 The Supplier shall make available to Leeds Trinity University all information necessary to demonstrate our compliance with the obligations under this Clause and allow for and contribute to audits, including inspections, conducted by Leeds Trinity University or another auditor mandated by Leeds Trinity University.
- 41.19 The Supplier shall immediately inform Leeds Trinity University if, in its opinion, an instruction from Leeds Trinity University infringes Law.
- 41.20 The Supplier shall, in connection with this Agreement, comply in all respects with Law relating to data protection and have

established procedures to ensure continued compliance with Law. The Supplier shall comply with its obligations as a Processor under and in accordance with Law.

- 41.21 The Supplier shall only collect any Personal Data in a form which is fully compliant with Law which will contain a data protection notice informing the data subject of the identity of the Data Controller, the identity of any data protection representative it may have appointed, the purposes or purpose for which their Personal Data will be Processed and any other information which is necessary having regard to the specific circumstances in which the data is, or is to be, Processed to enable Processing in respect of the Data Subject to be fair and compliant under Law.
- 41.22 Leeds Trinity University may, at any time on not less than 30 working days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme.
- 41.23 The parties agree to take account of any guidance issued by the Information Commissioner's Office. Leeds Trinity University may on not less than 30 working days' notice to the Supplier amend this Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office.
- 41.24 The Supplier shall Process Personal Data in performing the Services as notified by Leeds Trinity University only for as long as required and for no longer than the term of this Contract.
- 41.25 The Supplier warrants that it shall:
- (a) Process the Personal Data in compliance with Law; and
 - (b) Take appropriate technical and organisational measures against Data Breach.
- 41.26 The Supplier agrees to indemnify and keep indemnified and defend at its own expense Leeds Trinity University against all costs, claims, damages or expenses incurred by Leeds Trinity University or for which Leeds Trinity University may become liable due to any failure by the Supplier or its employees or agents to comply with any of its obligations under this Clause.