

THE UNIVERSITY OF BOLTON
TERMS AND CONDITIONS
OF
PURCHASE FOR GOODS & SERVICES
(August 2011)

1. DEFINITIONS

1.1 In these Conditions the following expressions will have the following meanings unless inconsistent with the context:

“Business Day”	any day excluding Saturday and Sunday, official UOB closure days or a public or bank holiday in England;
“Conditions”	these terms and conditions and a reference to a Condition means a condition of these Conditions;
“Contract”	the contract between UOB and the Supplier consisting (in order of precedence), and subject to any variation under Condition 3, of the Purchase Order (and any Purchase Order Amendment), these Conditions, any other documents (or parts thereof) specified in the Purchase Order (and any Purchase Order Amendment);
“Equipment”	any equipment including (without limitation) tools, cabling, facilities provided by the Supplier (its subcontractors) or UOB and used directly and/or indirectly in the supply of Services;
“Goods”	any goods which the Supplier supplies to UOB (including any part of them) under a Contract;
“In–put Materials”	all documents, information and materials provided by UOB relating to the Services including (without limitation), computer programs, data and reports;
“Packaging”	any packaging including all bags, cases, carboys, cylinders, drums, pallets and other containers;
“Price”	the price as defined in Condition 4;
“Purchase Order”	any authorised Purchase Order of UOB to buy the Goods and/or Services or any combination thereof incorporating these Conditions;
“Purchase Order Amendment”	any authorised Purchase Order amendment form (or series of), each Purchase Order amendment form having precedence over any earlier Purchase Order amendment form;

“Services”	any services which UOB receives from the Supplier (including any part of them) under a Contract;
“Specifications”	the technical description, drawings, and any other information for the Goods and/or Services contained or referred to in either the Purchase Order or Purchase Order Amendment (as appropriate);
“Supplier”	the person, firm or company to whom the Purchase Order or Purchase Order Amendment is addressed;
“UOB”	the University of Bolton;
“VAT”	the value added tax chargeable under English law for the time being and any similar additional tax.

The headings in these Conditions are intended for reference only and do not affect their construction or interpretation.

2. FORMATION

- 2.1 These Conditions shall be deemed to be incorporated in the Contract and in the case of any inconsistency with any letter incorporating or referring to these Conditions or any acknowledgment of Purchase Order or Purchase Order Amendment or form of contract sent by the Supplier to UOB or any other communication between the Supplier and UOB whatever their respective dates, the provisions of these Conditions shall prevail unless expressly varied in writing and signed by UOB’s authorised signatory.
- 2.2 If any of these Conditions shall be held to be invalid or shall not apply to the Contract the other Conditions shall continue in full force and effect.
- 2.3 For the avoidance of doubt, if any Goods are sold to UOB on the basis of any other international trade terms, the meaning given to such terms in the International Chamber of Commerce INCOTERMS (as revised from time to time) shall apply, except where such terms are inconsistent with any of these Conditions and in the event of any inconsistency or discrepancy, the terms of these Conditions shall apply.
- 2.4 Each quotation for Goods and/or Services from the Supplier will be deemed to be an offer by the Supplier to sell the Goods and/or Services upon these Conditions. The Contract is only formed when:
- 2.4.1 an official Purchase Order authorised by UOB’s authorised signatory is issued; or
 - 2.4.2 delivery of the Goods and/or performance of the Services in response to a Purchase Order (or Purchase Order Amendment) shall be taken to imply acceptance by the Supplier of these Conditions.
- 2.5 The Suppliers standard terms and conditions (if any) attached to, enclosed with or referred to in any quotation, specification or other document shall not be incorporated into the Contract.

3. PURCHASE ORDER AMENDMENT

- 3.1 UOB shall have the right at any time prior to the delivery or performance of Goods and/or Services to issue a Purchase Order Amendment amending the particulars of the Goods (including, without limitation, the specification for or volumes of the Goods to be required) and/or Services to be delivered by the Supplier.
- 3.2 Where a Purchase Order Amendment will result in a change to the Price and/or delivery date for the Goods and/or Services, the Supplier shall notify UOB, providing details of the revised Price and/or delivery or performance date, whereupon the Purchase Order Amendment shall only become binding and supersede the terms of the existing Purchase Order upon the written acceptance by UOB of the revised Price and/or delivery or performance date.

4. PRICE AND PAYMENT

- 4.1 The Price for the Goods and/or Services will be the fixed price stated in the Contract. The Price to be paid to the Supplier will include all costs, both direct and indirect of supplying and delivering the Goods and/or Services but shall exclude VAT which should be shown separately.
- 4.2 No variation to the Price or extra charges shall be made or will be accepted without the prior written consent of UOB.
- 4.3 If the Goods and/or Services have been accepted by UOB in accordance with the Contract UOB shall pay the Supplier within 30 working days of receipt of a correctly rendered invoice addressed to Financial Services. All invoices shall include UOB's Purchase Order number. UOB shall not be responsible for any delays in payment caused by the Supplier failing to comply with UOB's invoicing instructions as specified in this Condition 4.3. Time for payment shall not be of the essence of the Contract.
- 4.4 UOB may delay and/or withhold payment (but without forfeiting any prompt payment discount, if any, in respect of such Goods and /or Services) if the Supplier includes on the invoices any sums in excess of the agreed Price.
- 4.5 Without prejudice to any other right or remedy, UOB reserves the right to set off any liability of the Supplier to UOB against any liability of UOB to the Supplier (in either case howsoever arising or whether any liability is present or future, liquidated or unliquidated and irrespective of the currency).
- 4.6 If any sum under the Contract is not paid the Supplier is not entitled to suspend deliveries or performance of the Goods or Services as a result of any sums being outstanding.

5. QUALITY AND DESCRIPTION

- 5.1 The Supplier warrants to UOB that the Goods and/or the Services:
- 5.1.1 conform in every respect with the provisions of the Contract;

- 5.1.2 comply with all applicable standards, regulations and current legislation in force in the United Kingdom at the time when the same are supplied;
- 5.1.3 are new (unless otherwise specified on the Purchase Order (or Purchase Order Amendment (if relevant) ;
- 5.1.4 equal in all respects to the Specifications and the samples or patterns provided by either party and accepted by the other; and
- 5.1.5 shall be of satisfactory quality, fit for any purpose made known to the Supplier expressly or by implication (and in this respect UOB may rely on the Suppliers skill and judgement), of goods, materials and workmanship free from defects.

5.2 UOB's rights under the provisions of the Contract are in addition to the statutory conditions implied in favour of UOB by the Sale of Goods Act 1979.

6. INSPECTION, TESTING AND SAMPLES

6.1 If so required by UOB the Supplier shall submit samples of the Goods for UOB's approval before the bulk of the relevant Contract is delivered or before the bulk of the Services are performed (as the case may be). Such samples should be marked for identification by the Supplier and will be retained by UOB until the Services are completed or the Goods have been delivered.

6.2 UOB shall be entitled to inspect and test the Goods during manufacture, processing or storage or check the progress of the Services. If UOB exercises this right, the Supplier shall provide or shall procure the provision of all such facilities as may reasonably be required by UOB.

6.3 If as a result of any inspection or test (pursuant to Condition 6.2) UOB's representative is of the reasonable opinion that the Goods and/or Services do not comply with the Contract or are unlikely on completion of manufacture or processing to comply UOB may inform the Supplier accordingly and the Supplier shall promptly take such steps as may be necessary to ensure such compliance.

6.4 Notwithstanding any inspection or testing, the Supplier shall remain fully responsible for the Goods and any such inspection or testing shall not diminish or otherwise affect the Supplier's obligations under the Contract.

7. DELIVERY

7.1 The Goods shall be properly packed, secured and despatched at the Supplier's expense to arrive in good condition at the time or times and the place or places specified in the Contract.

7.2 The Supplier will deliver and off-load the Goods at its own risk to the address and at the time marked in the Contract. Delivery to the incorrect location or at the wrong time shall be rejected. The Services will be provided at the location stated in the Contract. The Goods and/or Services will be delivered and/or performed during UOB's normal office hours (unless specified otherwise) on the date specified in the Purchase Order (or Purchase Order Amendment) or within 28 days of the date of the Contract.

- 7.3 Time for delivery and/or performance will be of the essence. If the Goods and/or Services are not delivered or performed on the due date then without prejudice to any other of its rights, UOB shall have the right to invoke any one or more remedies as listed in Condition 8.
- 7.4 At the time of delivery of Goods and/or Services the Supplier shall (at its cost) remove all Packaging save that is essential to maintain or assist in the installation of the Goods and/or Services. Unless otherwise agreed by UOB in writing, UOB shall have no obligation to pay or return Packaging whether or not re-usable. If the Contract states that Packaging is returnable, the Supplier must provide full disposal instructions prior to delivery and the Packaging must be marked clearly to show to whom it belongs. UOB shall not be liable for any Packaging lost or damaged in transit.
- 7.5 All Goods should be accompanied by a detailed advice note stating the Purchase Order number and giving full particulars of the Goods supplied (where Goods are sent directly to premises of UOB's customer the advice note sent with Goods should not show the Supplier's name and a copy of the advice note must be sent to UOB on the day upon which the Goods are delivered).
- 7.6 If for any reason UOB is unable to accept delivery of the Goods at the time when the Goods are due and ready for delivery, the Supplier shall (if storage facilities permit) store the Goods, safeguard them and take all reasonable steps to prevent their deterioration until their actual delivery and UOB shall be responsible for any reasonable and properly incurred costs of the Supplier associated with such storage pursuant to this Condition 7.6.
- 7.7 The Supplier may not deliver the Goods by separate instalments or perform the Services in stages unless prior agreed in writing by UOB's authorised signatory. If UOB does not agree, the Contract will be construed as a separate Contract in respect of each instalment or stage, and without prejudice to any other right or remedy, UOB shall have the right to:
- 7.7.1 treat all the Contracts for the total Purchase Order (as appropriate) as repudiated if the Supplier fails to deliver or perform any instalment at any stage; and
- 7.7.2 reject any or all of the instalments for the total Purchase Order (as appropriate) if UOB is entitled to reject any one instalment.
- 7.8 If the Goods are delivered to UOB in excess of the quantities ordered, UOB shall not be bound to pay for the excess and any excess shall be and shall remain at the Supplier's risk and shall be returnable at the Supplier's expense.
- 7.9 UOB shall not be deemed to have accepted the Goods until it has had 14 Business Days to inspect them following delivery.
- 7.10 For a period of up to 14 days after any latent defect in the Goods has become apparent to UOB, UOB shall have the right to reject the Goods as though they had not been accepted.

8. REMEDIES

- 8.1 Without prejudice to any other of its rights UOB may, by notice in writing, if the Supplier fails to comply with any of its/his obligations under the Contract:
- 8.1.1 cancel the Contract in whole or in part;
 - 8.1.2 reject any or all of the Goods and/or Services;
 - 8.1.3 require the Supplier to, at the Supplier's expense, either (at UOB's option) to remedy any defect in the Goods and/or Services and carry out such other work as is necessary to ensure that the Goods and/or Services are in all respects in accordance with the Contract. If the Supplier refuses to remedy the defect in the Goods and/or Services within 14 Business Days of receiving such a request, UOB may purchase replacement Goods and/or Services from another source and the Supplier shall reimburse UOB for all costs and expenses reasonably incurred in doing so;
 - 8.1.4 refuse to accept any further deliveries of the Goods and/or Services without any liability to the Supplier;
 - 8.1.5 claim such damages as may have been incurred by UOB in connection with the Supplier's breach or breaches of the Contract.
- 8.2 UOB will when giving notice of rejection (pursuant to Condition 8.1) specify the reason and the Supplier shall (at UOB's option) either remove any such Goods at its own risk and expense and replace such rejected Goods with goods which in all respects comply with the Contract and/or re-perform such Services in accordance with the Contract or, credit UOB with the invoice Price thereof and also reimburse UOB all freight and handling costs reasonably incurred by UOB and/or for which it may be liable in respect of any such Goods and/or Services.

9. RISK/OWNERSHIP

- 9.1 The Supplier shall bear all risk of loss or damage to the Goods until they have been delivered and shall insure accordingly.
- 9.2 Ownership of the Goods shall pass to UOB when delivery of the Goods has been completed (including off loading and stacking) but without prejudice to UOB's right of rejection under this Contract.

10. WORK ON UOB'S PREMISES

- 10.1 If the Contract involves any Services which the Supplier is to perform on UOB's premises then the Supplier, its employees, sub-contractors and their employees and any other person associated with the Supplier shall:
- 10.1.1 adhere in every respect to the obligations imposed on them by current legislation;
 - 10.1.2 comply with any regulations and/or codes of practice that UOB may notify to the Supplier in writing;
 - 10.1.3 co-operate with UOB in all matters relating to the Services;

- 10.1.4 use best industry practice employing appropriately skilled and competent individuals in the performance of the Services;
- 10.1.5 notify UOB as soon as it becomes aware of any health and safety hazards or issues that arise in relation to the Services.

11. SAFETY

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

12. UOB'S EQUIPMENT AND MATERIALS

- 12.1 All Specifications and In-put Materials supplied by UOB to the Supplier in connection with the Contract are confidential and, without UOB's prior written consent, shall not at any time be published or disclosed or made use of except for the purpose of implementing the Contract.
- 12.2 Any Equipment supplied to the Supplier or purchased by UOB from the Supplier for the performance of the Contract shall be maintained in good condition by the Supplier and the Supplier shall indemnify UOB against all loss thereof or damage thereto whilst the same are in the Supplier's possession or control. Any Materials and/or Equipment shall only be used for the purpose of manufacturing and supplying the Goods to or performing the Services for UOB and shall remain UOB's property at all times.
- 12.3 All Packaging supplied by UOB to the Supplier shall be maintained in good condition and shall remain UOB's property at all times. At UOB's request, the Supplier shall promptly return any Material, Equipment and/or Packaging to UOB.
- 12.4 Without prejudice to the Supplier's liability under this Condition 12, the Supplier shall maintain at all times and at its costs such insurance as UOB may stipulate in respect of any Materials or Equipment and, in any event, as shall be necessary to cover the said liability of the Supplier under the Contract and the Supplier shall produce to UOB on demand a current certificate of insurance from the insurers under such policies.

13. CONFIDENTIALITY

- 13.1 The Supplier shall keep in strict confidence all In-Put Material and all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Supplier by UOB or its agents and any other confidential information concerning UOB's business or its products which the Supplier may obtain and the Supplier shall restrict disclosure of such confidential material to such of its employees, agents or sub-contractors as need to know the same for the purpose of discharging the Supplier's obligations to UOB and shall ensure that such employees, agents or sub-contractors are subject to like obligations of confidentiality as bind the Supplier.

- 13.2 All In-Put Materials, UOB Equipment and all other materials, equipment, tools, dies, moulds, copyright, design rights or any other forms of intellectual property rights in all drawings, specifications and data supplied by UOB to the Supplier or not so supplied but used by the Supplier specifically under the Contract shall at all times be and remain the exclusive property of UOB but shall be held by the Supplier in safe custody at its own risk and maintained and kept in good condition by the Supplier until returned to UOB (or provided to UOB on written request from UOB) and shall not be disposed of other than in accordance with UOB's written instructions, nor shall such items be used otherwise than as authorised by UOB in writing.

14. INTELLECTUAL PROPERTY

- 14.1 Where the Goods and/or Services are designed, created or otherwise developed by or for the Supplier pursuant to the Contract, then all intellectual property rights therein or relating thereto throughout the world (including without limitation, patents, copyrights, design rights, registered designs, trademarks, service marks and know-how and the rights to apply for any of the foregoing) ("the Intellectual Property Rights") shall belong to UOB absolutely. The Supplier hereby assigns the Intellectual Property Rights to UOB with the intent that upon the making or creation thereof the Intellectual Property Rights shall automatically vest in UOB.
- 14.2 The Supplier shall at UOB's request (and notwithstanding the termination of the Contract) sign and execute and procure the signature and execution of all such documents and do all such acts as UOB may reasonably require:
- 14.2.1 to vest the legal title in, apply for, obtain and maintain in force in UOB's sole name (unless it otherwise directs) any Intellectual Property Rights;
 - 14.2.2 to resist any objection or opposition to obtaining, and any petitions or applications for revocation of, any of the Intellectual Property Rights; and
 - 14.2.3 to bring any proceedings for infringement of any of the Intellectual Property Rights.
- 14.3 The Supplier irrevocably undertakes that neither it nor any other person will assert against UOB or any third party any moral rights in or relating to the Intellectual Property Rights and warrants that all such moral rights are irrevocably waived and extinguished. For the purpose of this Condition 14 "moral rights" shall have the meaning ascribed thereto by the Copyright, Designs and Patents 1988 Act (or any statutory amendment or re-enactment thereof) and all rights similar or corresponding thereto subsisting in any other country of the world from time to time.

15. FREEDOM OF INFORMATION

- 15.1 The Supplier acknowledges that UOB is subject to the provisions of the Freedom of Information Act 2000 (as amended from time to time) and that UOB is therefore subject to legal duties which may require the disclosure of information in relation to the Contract. If the University holds information relating to the Contract on behalf of the Supplier, the Supplier agrees to assist and cooperate with UOB to enable it to comply with the Freedom of Information Act 2000.

16. DATA PROTECTION

- 16.1 Each party shall, at all times, comply with the Data Protection Act 1998 (the "DPA"). Each party (the "Assisting Party") shall, at the other party's request (the "Requesting Party"), provide such reasonable assistance as the Requesting Party may request in order for the Requesting Party to comply with its obligations under the DPA. Where the Assisting Party incurs material costs to comply with any request from the Requesting Party it shall be entitled to be reimbursed those costs by the Requesting Party.
- 16.2 This Condition 16 shall survive the termination of the Contract, however arising.

17. CANCELLATION AND TERMINATION

- 17.1 UOB shall be entitled to cancel any Purchase Order (or Purchase Order Amendment) in whole or in part by giving to the Supplier at any time prior to delivery or performance of the Goods and/or Services in which event UOB's sole liability shall be to pay to the Supplier fair and reasonable compensation for work-in-progress at the time of cancellation but for the avoidance of doubt such compensation shall not include loss of anticipated profits or any consequential loss.
- 17.2 UOB shall have the right at any time by giving notice in writing to the Supplier to terminate the Contract with immediate effect if:
- 17.2.1 the Supplier commits or is in continuing or material breach or non-observance of any of the terms of the Contract and the breach or non-observance is incapable of remedy;
 - 17.2.2 the Supplier is in continuing or material breach or non-observance of any of the terms of the Contract and, the breach or non-observance is capable of remedy, but the Supplier fails to remedy such breach or non-observance within 14 days service of a written notice from UOB, specifying the breach and requiring it to be remedied;
 - 17.2.3 any distress, execution or other legal process is levied upon any of the assets of the Supplier;
 - 17.2.4 the Supplier becomes bankrupt, insolvent, makes any composition with its creditors, has a receiver appointed under the Mental Health Act 1983 or dies;
 - 17.2.5 the Supplier ceases to trade or appears in the reasonable opinion of UOB likely or is threatening to cease to trade;
 - 17.2.6 the Supplier has a change in its management and/or control; or
 - 17.2.7 the equivalent of any of the above occurs to the Supplier in another jurisdiction to which the Supplier is subject or UOB reasonably anticipates that one of the above set of circumstances is about to occur.

17.3 Notwithstanding Condition 17.2, UOB may terminate the Contract at will upon 30 days notice in writing to the Supplier.

17.4 The termination of the Contract, howsoever arising, will be without prejudice to the rights and duties of either party prior to termination. Any provision of these Conditions which expressly or impliedly have effect after termination will continue to be enforceable notwithstanding termination.

18. FORCE MAJEURE

18.1 UOB reserves the right to defer the date of delivery or payment or to cancel the Contract or reduce the volume ordered if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of UOB including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials.

19. CORPORATE AND SOCIAL RESPONSIBILITY AND EQUALITY

19.1 Whilst performing the Contract the Supplier shall use (and shall ensure any third party supplier to the Supplier uses) its reasonable endeavours to conserve energy, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases (including carbon dioxide emissions), volatile organic compounds and other substances damaging to health and the environment.

19.2 The Supplier acknowledges that UOB is subject to equal opportunities legislation and undertakes that it shall not (and shall ensure any third party supplier to the Supplier shall not) unlawfully discriminate for any reason and shall take all reasonable steps to secure the Supplier's personnel (or that of any third party supplier) likewise do not unlawfully discriminate.

20. COMPLIANCE WITH LAWS

20.1 The Supplier shall:

20.1.1 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 ("the Relevant Requirements");

20.1.2 not engage in any activity, practice or conduct which would constitute an offence under the Bribery Act 2010;

20.1.3 comply with UOB's anti-bribery and anti-corruption policies located on UOB's website, in each case as UOB or the relevant industry body may update them from time to time ("the Relevant Policies").

20.1.4 have and shall maintain in place throughout the term of this agreement its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements, the Relevant Policies and Condition 20.1.2, and will enforce them where appropriate;

- 20.1.5 promptly report to UOB any request or demand for any undue financial or other advantage of any kind received by the Supplier in connection with the performance of this agreement;
- 20.1.6 immediately notify UOB (in writing) if a foreign public official becomes an officer or employee of the Supplier or acquires a direct or indirect interest in the Supplier (and the Supplier warrants that it has no foreign public officials as officers, employees or direct or indirect owners at the date of this agreement).
- 20.2 The Supplier shall ensure that any person associated with the Supplier who is performing services or providing goods in connection with this Contract does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Supplier in this Condition 20 (“the Relevant Terms”). The Supplier shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to UOB for any breach by such persons of any of the Relevant Terms.
- 20.3 Breach of this Condition 20 shall be deemed a material breach under this Contract.
- 20.4 For the purpose of this Condition 20, 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) of that Act and section 8 of that Act respectively. For the purposes of this Condition 20 a person associated with the Supplier includes but is not limited to any subcontractor of the Supplier.

21. DISPUTE RESOLUTION

- 21.1 The parties shall attempt in good faith to negotiate a settlement to any dispute arising between them out of or in connection with this Contract within 30 Business Days of the dispute arising.
- 21.2 If the dispute cannot be resolved, then the parties shall attempt to settle it by mediation in accordance with the Centre for Dispute Resolution (“CEDR”) Model Mediation Procedure from time-to-time in force.
- 21.3 To initiate the mediation, a party to the Contract must give notice in writing (the “ADR Notice”) to the other party requesting mediation in accordance with this Condition 21. The mediation is to take place not later than 30 Business Days after the ADR Notice. If there is any issue on the conduct of the mediation upon which the parties cannot agree within 14 Business Days of the ADR Notice, then CEDR shall, at the request of either party, decide the issue for the parties, having consulted with them. Unless otherwise agreed by the parties, the place of mediation shall be nominated by the mediator.
- 21.4 Unless otherwise agreed, all negotiations connected with the dispute and any settlement shall be conducted in confidence and without prejudice to the rights of the parties in any future proceedings.

- 21.5 If the parties reach agreement on the resolution of the dispute, the agreement shall be reduced to writing and shall be binding on the parties once it is signed by both UOB and Supplier.
- 21.6 If the parties fail to reach agreement within 60 Business Days of the initiation of the mediation, or such longer period as may be agreed by the parties, then any dispute or difference between them may be referred to the courts.

22 WARRANTY AND INDEMNITY

- 22.1 Without prejudice to any other remedies of UOB, the Supplier shall promptly (at UOB's option) repair or replace all Goods which are or become defective during the period of 12 months from the date of delivery where such defect occurs under proper usage and is due to faulty design, the Supplier's erroneous instructions as to use or erroneous data or inadequate or faulty materials or workmanship, or any breach of by the Supplier of any provision of the Contract. Repairs and replacements shall themselves be subject to the foregoing obligations for a period of 12 months from the date of delivery, re-installation or passing of tests (if any) whichever is appropriate after repair or replacement. If any Services are found to have been performed defectively within 12 months of the date of their performance the Supplier shall forthwith upon notice thereof re-perform the same.
- 22.2 The Supplier will indemnify, keep indemnified and hold harmless UOB from and against all costs (including the cost of enforcement), expenses, liabilities (including any tax liability) injuries, direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss), damages claims, demands, proceedings or legal costs (on a full indemnity basis) and judgements which UOB incurs or suffers as a consequence of a direct or indirect breach or negligent performance by the Supplier (its employees, agents or contractors) or failure to delay in performance of the terms of the Contract or of any infringement or alleged infringement of any patent, copyright, registered design, design right, trade mark, relating to the Goods and/or Services unless such infringement has occurred directly as a result of any Specification supplied by UOB.

23 GENERAL

- 23.1 The Contract is personal to the Supplier who may not assign, delegate, licence, hold on trust or sub-contract all or any of its rights or obligations hereunder without the prior written consent of UOB's authorised signatory and such consent shall be conditional upon the Supplier remaining liable at all times for its obligations arising under the Contract.
- 23.2 UOB may assign, delegate, licence, hold on trust or sub-contract all or any part of its rights or obligations under the Contract.
- 23.3 The Supplier (and any sub-contractor approved pursuant to Condition 23.1) shall implement an Equal Opportunities Policy.
- 23.4 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 provisions itself.

- 23.5 All notices/communications in connection with any Contract shall be in writing addressed to the other at its registered office, or principal place of business and in respect of notices sent to UOB addressed to the Purchasing Manager, Financial Services and delivered by hand, or first class post or special delivery post. The notice will be deemed to have been duly served, if delivered by hand, when left at the proper address for service or if made by pre-paid, first class post or special delivery post, 48 hours after being posted.
- 23.6 No variation to these Conditions shall bind UOB unless approved in writing by UOB's authorised signatory.
- 23.7 The parties to the Contract do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.
- 23.8 The Contract shall be subject to English Law and the exclusive jurisdiction of the English courts.