

SOAS University of London Standard Terms & Conditions of Contract

1. Definitions

- 1.1. "we", "us" and "our" means SOAS University of London.
- 1.2. "you" and "your" means the person, firm or company making the Supply.
- 1.3. "Attachment" means a document which sets out the particular features of the Contract.
- 1.4. "Authorised Officer" means our employee authorised to issue and deal with the Contract.
- 1.5. "Authorised" means signed by an Authorised Officer.
- 1.6. "Confidential Information" means all information (written or oral) not in the public domain concerning the business and affairs of either party which is obtained in connection with the Contract.
- 1.7. "Contract" has the meaning given in Condition 2.
- 1.8. "Form of Agreement" means a form of agreement signed by the parties.
- 1.9. "Goods" "Services" "Works" means the goods services and/or works described in the Contract.
- 1.10. "Intellectual Property Rights" mean patents, trademarks, service marks, registered designs, copyrights, database rights, design rights, confidential information and any other right recognised in any jurisdiction.
- 1.11. "Loss" means any loss, costs, damages or expenses howsoever arising.
- 1.12. "Package" means any type of package used to make delivery including without limitation bags, cases, carboys, cylinders, drums, pallets, tank wagons and other containers.
- 1.13. "Price" means the price stated in the Contract.
- 1.14. "Purchase Order" means an Authorised purchase order.
- 1.15. "Supply" means the Goods, Services and/or Works.

2. The Contract

- 2.1. The Contract shall comprise (in order of precedence): any Form of Agreement, any Attachment, any Purchase Order, these Standard Terms and any other document identified as forming part of the Contract.

3. Price

- 3.1. The Price is fixed and comprehensive. Unless otherwise agreed there are no additional charges, including without limitation for design, storage, packing, insurance, delivery to the delivery address, duty, taxes, carriage, installation and commissioning. VAT is payable in addition.

4. Variations

- 4.1. If we wish to vary the Supply we will ask you to provide a quotation within 14 days (or such longer period as we agree is reasonable). No variation shall be implemented unless the Authorised Officer notifies acceptance of the quotation in writing.

5. Our right of cancellation

- 5.1. We may cancel the Contract at any time by sending you a notice of termination. If you submit a written termination claim within the following three months we will pay all sums which in our reasonable opinion are properly due and owing up to the date of termination in full and final settlement. We shall not be liable for any loss of profits or any indirect or consequential loss arising from our cancellation. The total of all payments made or due to you under the Contract, including any termination payment, shall not exceed the Price.

6. Quality and description

- 6.1. The Supply shall conform in every respect with:
 - 6.1.1. with the provisions of the Contract (including without limitation any standards of performance specified in the Contract);
 - 6.1.2. the requirements of any relevant UK or EC statute, order, regulation, directives, standard, code of practice or bye-law or international agreement from time to time in force which is relevant to the Supply;
 - 6.1.3. any recommendation or representation you have made; and
 - 6.1.4. professional standards which might reasonably be expected.
- 6.2. Goods shall:
 - 6.2.1. unless otherwise agreed be fit for any purpose made known to you expressly or by implication and in this respect we rely on your skill and judgement;
 - 6.2.2. be new (unless otherwise specified in the Contract), of sound materials and made with skilled and careful workmanship;
 - 6.2.3. correspond to their description and any samples, patterns, drawings, plans and specifications referred to in the Contract; and
 - 6.2.4. be of satisfactory quality.

7. Access to our premises etc.

- 7.1. Where access to our premises is required, you shall comply with our reasonable requirements. Access shall be at your risk. At the completion of the Supply you shall leave our premises in a clean condition, ready for occupation, having reported to the Authorised Officer and repaired any damage.

8. Progress and inspection

- 8.1. You shall provide any programmes of work, manufacture and delivery we may reasonably require. You shall notify us immediately if your progress falls behind or may fall behind any of these programmes.
- 8.2. We shall have the right to check progress at your works and those of any sub-contractor at all reasonable times. Any inspection or approval shall not relieve you from your obligations under the Contract.
- 8.3. The Authorised Officer must be notified and consent obtained to any extension of time. Unless otherwise agreed, time shall be of the essence.

9. Packaging

- 9.1. Unless otherwise agreed, all Packages shall be non-returnable. If a Package is returnable, you must give us full return instructions before the time of delivery, the Package must be clearly marked to show to whom it belongs and, unless otherwise agreed, you must pay the costs for the return of Package. We shall not be liable for any Package lost or damaged in transit.

10. Safety

- 10.1. You shall
 - 10.1.1. have full regard to safety of persons and comply with the Health and Safety at Work Act 1974 and its subordinate regulatory framework, and of any other Acts pertaining to the health and safety of persons and where supplying food observe all requirements in relation to food safety;
 - 10.1.2. conduct all necessary tests prior to delivery to ensure that the Supply will be safe and without risk to the health or safety of persons;
 - 10.1.3. provide adequate safety information data sheets and content identification, particularly of hazardous materials; and

10.1.4. throughout the progress of any Works, keep the site in an orderly state and provide and maintain all lights, guards, fencing and warning signs for the protection of the Works and the safety and convenience of the public and others.

11. Delivery of Goods

11.1. Goods shall be properly packed and despatched to arrive in good condition at the specified department address and nowhere else.

12. Late or damaged delivery of Goods

12.1. If any of Goods are not delivered on time or arrive damaged then we may by written notice do any of the following: cancel any undelivered balance of the Goods; return for full credit and at your expense any goods that in our opinion cannot be used; require you as quickly as possible to repair or replace the Goods.

13. Property and risk

13.1. You shall bear all risks of loss or damage to Goods until delivery and insure accordingly.

13.2. Without prejudice to our right of rejection, ownership of Goods shall pass to us if we make any advance payment (thereupon you must mark the Goods as our property) or otherwise on delivery of the Goods

14. Rejection

14.1. We have the right to reject a Supply in whole or in part, whether or not paid for, within a reasonable time if it is not completely in accordance with the Contract (even if the variation is only slight or minor). You will be allowed a short period to correct the Supply. (Alternatively we may agree a reasonable deduction from the Price.) This will be one month or such shorter period as we may reasonably determine given the nature of the Supply. After this we shall be entitled to reject the Supply. In the case of late Works or Services, we may have them performed by alternative means and charge you any additional cost. You must collect all rejected goods within a reasonable time of rejection or we shall return them to you at your risk and expense.

15. Payment

15.1. Your invoice must be sent to the specified department and must quote the full Contract reference or Purchase Order number. We shall not be held responsible for delays in payment caused by your failure to supply accurate invoices or comply with our invoicing instructions.

15.2. Where you submit an invoice to us in accordance with paragraph 15.1, we will consider and verify that invoice in a timely fashion

15.3. We shall pay you any sums due under such an invoice no later than a period of 30 days from the date on which we have determined that the invoice is valid and undisputed

15.4. Where we fail to comply with paragraph 15.2 and there is an undue delay in considering and verifying the invoice, the invoice shall be regarded as valid and undisputed for the purposes of paragraph 15.3 after a reasonable time has passed.

15.5. Where you enter into a Sub-Contract, you shall include in that Sub-Contract:

15.5.1. Provisions having the same effect as clauses 15.2 – 15.3 of this Agreement; and

15.5.2. A provision requiring the counterparty to that Sub-Contract to include in any Sub-Contract which it awards provisions having the same effect as clauses 15.2 – 15.4 of this Agreement.

15.6. In clause 15.5, "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 Agreement.

16. Your warranty

16.1. Unless otherwise agreed

16.1.1. you will correct defects arising during the warranty period which shall be 12 months from first use or 18 months from acceptance, whichever period expires first; repairs or replacements will subject to a warranty period of 12 months; and

16.1.2. spares will continue to be available for at least 10 years from delivery of Goods.

17. Liability and insurance

17.1. Subject to Condition 17.2

17.1.1. Neither party shall be liable for any Loss of an indirect or consequential nature including without limitation any loss of profit, revenue or anticipated savings.

17.1.2. In respect of all other Losses each party's liability shall be limited as follows:

Loss of a type	Limit
Covered by your insurance required under the Contract	The insurance level required by the Contract
Not covered by your insurance	125% of the Price

17.2. Nothing in the Contract shall exclude or limit liability for death or personal injury caused by negligence, bribery, fraud or fraudulent misrepresentation, third party claims or Intellectual Property Rights infringement.

17.3. You shall maintain satisfactory insurance to cover the risks contemplated by the Contract. Unless we require higher levels: public liability insurance of at least £1 million (£5 million for catering contracts) shall be obtained; and where the Supply includes a supply of professional or intellectually based services you shall maintain professional indemnity insurance during the Contract period and for 6 years afterwards of at least £500,000. Satisfactory evidence of such insurance and payment of current premiums shall be shown to us upon request. All policies shall contain an indemnity to principals clause.

18. Recovery of sums due

18.1. 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 the Contract or under any other contract you may have with us.

19. Matters beyond control

19.1. Neither of us shall be liable for any delay or failure to perform if this is caused by circumstances which were not reasonably foreseeable at the date of the Contract and are beyond the reasonable control of the defaulting party. If the Supply cannot be completed within a reasonable time after the date as specified in the Contract, then the innocent party may cancel the Contract. We shall pay to you such sum as we determine is fair and reasonable in respect of work performed by you under the Contract and value we receive prior to cancellation.

20. Articles on loan and use of information and name

20.1. All Intellectual Property Rights in anything we make available to you or which you obtain from us in connection with the Contract shall remain vested solely in us, shall be kept confidential and surrendered to us upon demand in good and serviceable condition (fair wear and tear allowed) and shall be used solely for the purpose of completing the Contract. All such items shall be at your risk and insured by you. You agree that no copy will be made or item removed from our premises without the consent in writing of the Authorised Officer.

20.2. You shall not use the name, any adaptation of the name, any logo, trademark or other device of SOAS University of London (including without limitation in any advertising, promotional or sales materials) without prior written consent obtained from us in each case.

20.3. You shall maintain procedures to ensure security of any data accessed in performing the Supply and, where applicable, shall process data only as instructed and observe (and not render the University non-compliant with) the provisions of the Data Protection Act 1998.

21. Ownership of Intellectual Property

21.1. Where the Authorised Officer has so required prior to the date of the Contract, you hereby assign to us all existing and future Intellectual Property Rights in any Services. In this event you shall be entitled, subject to Condition 31, to use any generic knowledge, skills and expertise which may have general applications for other clients.

21.2. Where you retain the Intellectual Property Rights, you hereby grant us an irrevocable, non-exclusive, royalty-free licence to use all aspects of the Supply for all purposes.

22. Infringement

22.1. Except to the extent that infringement arises from our design or instructions or from our data or information, you warrant that the Supply will not infringe the Intellectual Property Rights of any third party.

23. Termination

23.1. A party shall be entitled at any time to terminate the Contract forthwith by giving notice in writing to the other if any of the following apply:

23.1.1. The other party has been in material default or breach of any one or more of its obligations under the Contract and has not within 21 days' notice of such default or breach rectified such default or breach to the innocent party's reasonable satisfaction.

23.1.2. The other party has been served with a notice pursuant to Condition 23.1(a) on no less than three previous occasions.

23.1.3. The other party ceases to carry on business, is unable to pay its debts when they fall due, is declared bankrupt, or an order is made or a resolution passed for its winding up or for the appointment of an administrator, receiver, liquidator or manager.

Termination shall not affect the accrued rights of either party. Conditions 17, 20, 21, 31 and 32 shall survive termination or expiry of the Contract.

24. Purchase outside the contract

24.1. We shall have the right to employ a person other than you to make supplies of the type contemplated by the Contract if we shall in our absolute discretion think fit to do so.

25. Assignment and sub-contracting

25.1. The Contract shall not be assigned by you nor sub-contracted as a whole. You shall not sub-contract 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 aspect where the sub-contractor is named in the Contract. You shall be responsible for all work done and goods supplied by all sub-contractors.

26. Bribery and Fraud

26.1. We may terminate the Contract forthwith, on giving notice in writing expiring at any time, if any person associated with You offers, promises or gives a financial or other advantage to bring about improper performance in relation to the award or execution of the Agreement ("bribery") or attempts to defraud or succeeds in defrauding the University in any other way. You shall ensure that all transactions done in contemplation or performance of the Contract are fully and promptly recorded.

27. Waiver

27.1. 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.

28. Notice

28.1. Notices shall be deemed served on delivery, within 5 working days of first class posting in the UK (working days if posted outside the UK) or upon confirmed successful fax transmission before 5pm on a working day. Notices to us must be served on our Authorised Officer.

29. Amendment and third parties

29.1. Variations to these Conditions shall be binding only if in writing and signed by our Authorised Officer. It is not intended that any third party should have the right to enforce any term of the Contract pursuant to the Contracts (Rights of Third Parties) Act 1999.

30. Discrimination

30.1. You shall not unlawfully discriminate (directly or indirectly) within the meaning and scope of any law, enactment, order or regulation relating to discrimination in the provision of services to the public or in employment (whether in race, gender, religion, disability, sexual orientation, age or otherwise) or any statutory modification or re-enactment thereof. You shall to the extent relevant to delivery of the Supply comply with our equal opportunities policies, which may be consulted on our website. You shall take all necessary steps to secure the observance of these provisions by all your servants, employees or agents and all sub-contractors employed in the execution of the Contract and promptly provide such information as we may reasonably require. You shall notify us immediately in writing as soon as you become aware of any investigation or proceedings brought against you under the relevant legislation. You shall co-operate with any investigation by us or a body empowered to carry out such investigations in relation to alleged or suspected discrimination.

31. Confidentiality

31.1. We each undertake to the other to keep all Confidential Information confidential, except if consent has been given or to the extent that:

31.1.1. disclosure or use is necessary by the relevant party for the proper and effective performance of its obligations under the Contract (including disclosure by either party to its insurers and professional advisers); or

31.1.2. disclosure is required by law to any government, governmental department, agency, regulatory or fiscal body or authority.

You shall use all reasonable endeavours to ensure that your employees, agents and sub-consultants comply with this Condition as if parties to the Contract.

32. Law

32.1. The Contract shall be subject to and construed in accordance with English Law. You hereby irrevocably submit to the exclusive jurisdiction of the English courts.