

TERMS AND CONDITIONS OF CONTRACT FOR THE PROVISION OF GOODS AND SERVICES

NEWHAM COLLEGE OF FURTHER EDUCATION LONDON

1. INTERPRETATION

1.1 In these Terms and Conditions:

“Address”	means the delivery address stated on the Purchase Order Or other address as the Purchaser may notify in writing from time to time.
“Confidential Information”	in relation to each party, means all information in respect of the business and financing of that party including any ideas, business methods, finances, prices, businesses, financial, marketing, development or manpower plans, customer lists or details, computer systems and software, know-how or other matters connected with the services marketed, provided or obtained by that party and information concerning either party’s relationship with actual or potential members or customers or any other third party and the needs and requirements of such persons
“Contract”	Means the conditions of contract for the provision of goods and services to Newham College London agreed by the Supplier
“Costs”	Where changes in legislation throughout the term of the contract, result in increased costs for the supplier, the supplier shall be entirely responsible for these costs and shall not pass these on to the member
“Goods”	Means products or materials specified on the Purchase Order to be supplied according to the Contract.
“Intellectual Property Rights”	means all intellectual and industrial property rights including patents, know-how, registered trademarks, registered designs, utility models, applications for and rights to apply for any of the foregoing, unregistered design rights, unregistered trademarks, rights to prevent passing off for unfair competition and copyright, database rights, topography rights, domain names and any other rights in any invention, discovery or process, in each case in the United Kingdom and all other countries in the world and together with all renewals and extensions
“KPI”	means the key performance indicators where applicable

“Law”	means any applicable law, statute, bye-law, regulation, order, regulatory policy, guidance or industry code, rule of court or directives or requirements of any regulatory body, delegated or subordinate legislation or notice of any regulatory body
“Price”	means the price of the Goods as specified on the Purchase Order
“Purchaser”	means Newham College of Further Education London
“Services”	means the services or work to be provided as detailed within the Specification to be supplied according to the Contract
“Supplier”	means the person, partnership or Company who undertakes to provide goods and Services to Newham College of Further Education as stated in the Contract.
“TUPE”	means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (Amended 2014)

1.2 SCOPE OF GOODS AND SERVICES

1.3 The Supplier shall provide goods and services to Newham College of Further Education London as set out in the Contract and as stated on the Purchase Order.

2. COMMENCEMENT AND DURATION

2.1 Where instructed to provide the goods / services the Supplier shall provide these from the date stipulated by Newham College of Further Education London to the Supplier in writing.

2.2 This agreement shall commence on the date stated in the Contract and shall expire on the date as stated in the Contract.

2.3 Newham College of Further Education London shall have the option to extend this agreement for a further period as set out in the Contract.

3. PUBLICITY

3.1 The Supplier shall not without the prior written consent of Newham College of Further Education London advertise or publicly announce that it is undertaking work for Newham College of Further Education London or shall it divulge any information pertaining to the award of contracts.

3.2 All media and external communications (such as press releases), relating to the goods or services supplied or potentially supplied in accordance with this agreement must be approved by Newham College of Further Education London in writing prior to release, and Newham College reserves the right in its absolute discretion to provide material for inclusion in such communications.

4. CONFIDENTIALITY, FREEDOM OF INFORMATION AND DATA PROTECTION

- 4.1 The Supplier undertakes that it shall not at any time during this agreement and for a period of three years after termination disclose to any person any Confidential Information disclosed to it by Newham College of Further Education London, without the purchaser's prior written consent as permitted by **Clause 4.1**
- 4.2 The supplier shall take all necessary precautions to ensure that all confidential information obtained from the purchaser under or in connection with the Contract:
- 4.2.1 Is given only to such staff and professional advisors or consultants engaged to advise in connection with the Contract as is strictly necessary for performance of the Contract.
- 4.2.2 Is treated as confidential and not disclosed (without prior approval or used by any staff or such professional advisors or consultants otherwise than for the purposes of The Contract.
- 4.2.3 as may be required by law, court order or any governmental or regulatory authority. In particular, the Supplier acknowledges that Newham College of Further Education London, may be subject to the Freedom of Information Act 2000 and the Environmental Information Regulations 2004 which may require such bodies to disclose details of this agreement, contract awards or procurement process carried out.
- 4.3 The Suppliers obligations under this clause continue throughout the agreement and for a period of seven (7) years thereafter or such other period as Newham College London may require or as may be required in accordance to the law or regulation.

5. GOODS

- 5.1 The supplier shall ensure that the Goods shall:
- 5.1.1 correspond with their description, drawings, or specification specified on the Purchase Order including any variations;
- 5.1.2 be capable of all standards of performance specified in the contract by the purchaser.
- 5.1.3 be free from defects in design, material and workmanship and remain so for 12 months after delivery.
- 5.1.4 be of satisfactory quality and fit for the purpose for which such goods are ordinarily used and for any particular purpose made known to the Supplier by the Purchaser.
- 5.1.5 Newham College London shall have the right to inspect and test the Goods at any time before delivery.

6. LIABILITY

- 6.1 Nothing in the agreement limits or excludes the liability of either party:
- 6.1.1 for death or personal injury resulting from that parties negligence; or
- 6.1.2 for any damage or liability incurred by either party as a result of fraud or fraudulent misrepresentation by the other.
- 6.2 Neither party shall be liable for:
- 6.2.1 loss of profits; or
- 6.2.2 loss of business; or
- 6.3.3 loss of contract.

- 6.3 The Supplier will indemnify and keep Newham College London indemnified fully in respect of and in connection with:
- 6.3.1 all loss and/or expense which results from defective materials in the Goods or services, or in the workmanship or design supplied by the supplier to Newham College of Further Education London or any Institution; and
 - 6.3.2 all loss and/or expense, and all actions, claims, demands, costs and expenses incurred by or made against Newham College London which arises from defective materials, the provision of the supplies or services and/or advice given or anything done or omitted to be done under, or in connection with this agreement by the Supplier including losses/expenses incurred due to the supplier's negligence.

7. PRICE AND PAYMENT

- 7.1 The supplier will sell the goods for the firm and fixed price stated in the contract and shall not increase the price unless it is accepted by the purchaser and agreed in writing before the execution of the purchase order.
- 7.2 The price shall include storage, packaging, all delivery and insurance costs (as applicable) but shall exclude VAT. No other fees, charges or levies will be payable by Newham College of Further Education London.
- 7.3 A valid invoice is one that is for the correct sum, delivered in accordance with the contract, in respect of goods / services supplied to the required quality and referencing the correct purchase order which was delivered to the nominated address.
- 7.4 The supplier shall render a separate invoice in respect of each consignment of the Goods delivered under the purchase order. The purchaser undertakes to pay correctly submitted invoices within 30 days of receipt from the day of physical or electronic arrival at the nominated address of the purchaser.
- 7.5 No payment of or on account of the price shall constitute any admission by the purchaser as to proper performance by the supplier of its obligations under the contract.
- 7.6 The supplier's Invoice must be addressed to the Finance Department at Newham College of Further Education Eastham Campus High Street south London E6 6ER and must quote the full purchase order number and must specify the Currency of payment. The supplier must send electronic Invoices to Newham College at the following email address: purchaseledger@newham.ac.uk
- 7.7 The purchaser will not be held responsible for delays in payment caused by the supplier's failure to comply with the purchaser's invoicing Instructions.
- 7.8 Applications by the Supplier to increase prices must be submitted in writing to Newham College of Further Education London and include evidence satisfactory to Newham College of Further Education London justifying the variation.
- 7.9 Newham College of Further Education London reserves the right to reject any application made that it considers to be unreasonable.
- 7.10 The Supplier shall promptly notify Newham College London of any relevant reduction in the costs of provisions that may affect the Charges. Such reductions will result in an immediate and corresponding reduction in the Charges.

7.11 The Contract shall become binding and these Conditions shall be deemed to have been accepted by the supplier on acceptance of the purchase order (either verbally or inwriting) or on delivery of the Goods, whichever is the earlier.

8. TERMINATION

8.1 Either party may terminate this agreement at any time by giving notice to the other party stating that it is terminating the agreement in accordance with **Clause 8** and that the agreement will terminate on the date falling 90 days after the date of receipt of the notice.

8.2 Without excluding liability for fraud or fraudulent misrepresentation, Newham College of Further Education London shall not be obliged to pay any cancellation charge or other compensation to the Supplier (including, without limitation, loss of business, loss of goodwill or loss of profits) by reason of the termination of this agreement by Newham College London.

8.3 Any termination of this agreement, howsoever occasioned, shall not affect any accrued rights or liabilities of either party nor shall it affect the coming into force or the continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.

8.4 Upon termination of this agreement (howsoever caused) the Supplier shall, at no further cost to Newham College London by a mutually agreed date return to Newham College of Further Education London any materials incorporating any Confidential Information of Newham College of Further Education London or destroy or erase any Confidential Information of, or relating to such bodies contained in any materials prepared by or on behalf of the Supplier or recorded in any memory device and return all data, property materials and account for any damaged or lost property, and/or materials.

9. ASSIGNMENT AND SUB-CONTRACTING

9.1 Newham College of Further Education London shall be fully entitled to assign or transfer the benefit of the whole or any part of this agreement at any time without the consent of the Supplier other than where such assignment or transfer would create a conflict of interest with the Supplier.

9.2 The Supplier shall not assign, transfer or sub-contract any of its rights, duties or interest in this agreement without the prior written consent of Newham College of Further Education London.

9.3 The Supplier shall not be entitled to sub-contract any of its obligations under this agreement, although part of the goods may be sub-contracted with the prior written permission of Newham College of Further Education London. Such consent, if given, shall not relieve the Supplier from any liability or obligation under the agreement and the supplier shall be responsible for the acts, defaults and neglects of any sub-contractor, his agents and servants as fully as if they were the acts, defaults or neglects of the Supplier, his agents and servants.

10. ANTI-BRIBERY AND ANTI-CORRUPTION

10.1 The Supplier shall:

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

10.1.2 not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;

10.1.3 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 and will enforce them where appropriate.

10.2 In the event of any breach of this **Clause 10** by the Supplier or by anyone employed by it or acting on its behalf (whether with or without the knowledge of the Supplier):

10.2.1 the Supplier shall immediately give Newham College London full details of any such breach and shall co-operate fully with Newham College London in disclosing information and documents which Newham College London may request; and/or

10.2.2 Newham College London shall (without prejudice to any of its rights or remedies under this agreement or otherwise) be entitled by notice in writing to terminate this agreement immediately; and

10.2.3 the Supplier shall be liable for and shall indemnify and keep Newham College of Further Education London indemnified in respect of any and all loss resulting from such termination.

11. **MODERN SLAVERY**

11.1 **Modern Slavery Policy** means the Supplier's anti-slavery and human trafficking policy as updated by the Supplier and notified to Newham College of Further Education London from time to time.

11.2 The Supplier undertakes, warrants and represents that:

- (a) neither the Supplier nor any of its officers, employees, agents or subcontractors has:
 - (i) committed an offence under the Modern Slavery Act 2015 (a "MSA Offence"); or
 - (ii) been notified that it is subject to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015; or
 - (iii) is aware of any circumstances within its supply chain that could give rise to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015;
- (b) it shall comply with the Modern Slavery Act 2015 and if required by law, abide by their Modern Slavery Policy
- (c) its responses to the Customer's modern slavery and human trafficking due diligence questionnaire are complete and accurate; and
- (d) it shall notify the Customer immediately in writing if it becomes aware or has reason to believe that it, or any of its officers, employees, agents or subcontractors have, breached or potentially breached any of Supplier's obligations under this Clause

11.3 Such notice shall set out full details of the circumstances concerning the breach or potential breach of Supplier's obligations.

11.4 Any breach of this Clause by the Supplier shall be deemed a material breach of the agreement and shall entitle the Customer to terminate the agreement.

11.5 If the Customer agrees that the Supplier may subcontract its obligations, the Supplier shall ensure it has the ability to audit on an annual basis, its sub-contractor to ensure compliance.

11.6 The Supplier shall during the term of this Agreement and for the period of 6 years thereafter maintain such records relating to the goods provided to the Customer under this agreement as may be necessary to trace the supply chain of such goods and to enable the Customer to determine the Supplier's compliance with the Modern Slavery Policy.

11.7 The Supplier shall keep a record of all training offered and completed by its officers, employees, agents, subcontractors and other members of its supply chain to ensure compliance with the Modern Slavery Policy and shall make a copy of such records available to the Customer on request.

11.8 The Supplier shall indemnify, defend and hold harmless the Customer and its directors, officers and employees in full and on demand from and against any and all liabilities, claims, fines, demands, damages, losses or expenses (including legal and other professional adviser's fees and disbursements), interest and penalties incurred by them howsoever arising whether wholly or in part resulting from a breach by the Supplier of the Modern Slavery Policy.

12. RELATIONSHIP OF PARTIES

12.1 The Supplier is not an employee, agent, partner or representative of Newham College of Further Education London or any Institution, and will not represent or otherwise hold itself out as such to any third party and has no authority to bind Newham College London or any Institution to, or make Newham College London or any Institution liable in respect of, any agreement, act or statement.

13. TUPE

13.1 The Supplier shall indemnify and keep indemnified Newham College of Further Education London against any loss incurred by Newham College London connected with or arising from any claim or proceedings by any trade union, elected employee representative or staff association made against Newham College London in respect of any or all of the Supplier's staff or employees or any other employee of the Supplier and which arises from or is connected with any failure by the Supplier to comply with its legal obligations in relation thereto whether under Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 or TUPE.

13.2 The Supplier shall indemnify and keep indemnified Newham College of Further Education London against any loss incurred by Newham College London connected with or arising from the contract of employment or any policy applicable to, or any collective agreement in respect of any of the Supplier's staff or any other person at any time employed by (or engaged as a consultant by) the Supplier made against Newham College London at any time for breach of such contract, policy or redundancy, pay, sex, race or disability discrimination, equal pay, unlawful deductions, loss of earnings, industrial or personal injury or otherwise relating to their employment by the Supplier and which results from any act, fault or omission of the Supplier while such Supplier's staff were or such other person was employed by the Supplier, save to the extent that the liability arises from any wrongful act by Newham College London or its employees.

13.3 The Supplier shall indemnify and keep indemnified Newham College of Further Education London against any loss incurred from any change or proposed change to the terms and conditions of employment of any or all of the Supplier's staff or any other employee of the Supplier where such change is or is proposed to be effected following the transfer of any such person pursuant to the agreement and in respect of any loss incurred by Newham College London arising from the employment or proposed employment of any such person otherwise than on terms the same as those enjoyed by any such person immediately prior to such transfer.

14. SERVICE IMPROVEMENT AND TECHNOLOGY REFRESH

14.1 The Supplier shall, at its own cost, submit a report to Newham College of Further Education London within 30 days of the end of each year of the term of this agreement which shall identify the emergence of new and evolving relevant technologies and processes which could improve the provision of the goods or services. Such report shall be provided in sufficient detail to enable Newham College of Further Education London to evaluate properly the benefits of the new technology or process.

14.2 If Newham College of Further Education London wishes to incorporate any improvement identified by the Supplier the parties shall discuss the implementation of the associated change provided always that if the Supplier's costs in providing the goods and services as a result of any business change implemented by Newham College of Further Education London, an agreed % of the cost savings shall be passed on to Newham College of Further Education London.

15. NOTICES

15.1 any notice required to be served under this agreement shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified in accordance with the provisions in the contract.

16. CONFLICTS OF INTEREST

16.1 Any employee, subcontractor or agent of the Supplier shall not, except with the prior written approval of Newham College of Further Education London, be directly or indirectly engaged, concerned or have any financial interest in any capacity with Newham College of Further Education London, an Institution or Participating Consortium and their employees.

17. APPLICABLE LAW

17.1 Unless the Supplier and Newham College London otherwise agree in writing, any proceedings relating to any dispute or claim, arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims) shall be brought in the courts of England.

18. SUPPLIER EMPLOYEES

18.1 The Supplier shall take all reasonable steps to ensure that any employees, servants or agents of the Supplier and any sub-contractors, their employees, servants or agents, employed in the execution of the Contract are entitled to obtain employment in the United Kingdom and are not claiming any benefit payable to persons registered as unemployed.

19. PRICE AND PAYMENT

19.1 The supplier will sell the goods for the firm and fixed price stated in the contract and shall not increase the price unless it is accepted by the Purchaser and agreed in writing before the execution of the Purchase Order.

19.2 The Price shall include storage, packaging, all delivery and insurance costs (as applicable but shall exclude VAT).

19.3 The supplier shall render a separate invoice in respect of each consignment of the Goods delivered under the purchase order. The purchaser undertakes to pay correctly submitted invoices within 30 days of receipt from the day of physical or electronic arrival of the nominated address of the purchaser.

19.4 A valid invoice is one that is for the correct sum, in respect of goods / services supplied or delivered to the required quality (or are expected to be at the required quality) in accordance

with the contract, referencing the correct purchase order which was delivered to the nominated address.

- 19.5 The purchaser specifically reserves the right to withhold or deduct by way of set-off or otherwise from any monies due or to become due to the supplier any monies due to the purchaser from the supplier.
- 19.6 The purchaser shall not be liable for any orders or amendments to orders other than those issued or confirmed on the official purchase order and shall not be responsible for the payment of the price for Goods supplied in excess of those required by the purchase order.
- 19.7 No payment of or on account of the price shall constitute any admission by the Purchaser as to proper performance by the Supplier of its obligations under the contract.
- 19.8 The Supplier's invoice must be addressed to the Finance Department at Newham College of Further Education London Eastham Campus, High street South, London E6 6ER and must specify the Currency of payment. The Supplier must send Electronic Invoices to Newham College at the following email address: purchaseledger@newham.ac.uk
- 19.9 The Purchaser will not be held responsible for delays in payment caused by the supplier's failure to comply with the purchaser's invoicing instructions.

20. DELIVERY

The Supplier shall ensure that:

- a. The Goods are properly packed, secured and dispatched at their expense to arrive in good condition at the time or times and the place or places specified in the contract.
- b. Each delivery of Goods is accompanied by a delivery note which shows the date of the purchase order, the order number (if any), the type and quantity of Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered.
- c. If the Supplier or their 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.

The Supplier shall deliver the Goods:

- a. On the date specified in the Contract or if no such date within 28 days of the Purchase Order
 - b. To the Purchaser's premises as or such other location as is specified in the purchase order, or as instructed by the Purchaser prior to delivery.
 - c. Between the hours of 08:00hrs – 17:00hrs Monday to Friday, unless the purchaser instructs the supplier otherwise.
- 20.1 The Supplier shall not deliver the Goods in instalments without prior written consent from the purchaser, however where it is agreed by the Purchaser that the Goods shall be delivered by Instalments, the purchaser shall be entitled to pay for the Goods separately.
 - 20.2 The supplier's failure to effect delivery on the Delivery Date specified shall entitle the purchaser To purchase substitute Goods and to hold the supplier accountable for any and all loss and / or additional costs incurred as a result of such failure.
 - 20.3 If Goods are delivered before the delivery date, the Purchaser shall be entitled to refuse to take delivery or to charge for insurance and storage of Goods until the delivery date.

If the supplier delivers:

- a. Less than 95% of the quantity of Goods ordered, the purchaser has the right to reject the Goods.
- b. More than 105% of the quantity of Goods ordered the purchaser may either reject all of the Goods or excess quantity of Goods.

And for the avoidance of doubt, the supplier shall meet the costs and expenses of the return of any rejected Goods.

21. **TITLE AND RISK**

- 21.1 Title and risk in the Goods shall pass to the purchaser on completion of delivery until then, the Supplier shall bear all risk in respect of loss or damage to the Goods.
- 21.2 If the Purchaser makes any advance payment to the Supplier in respect of the Goods, the Supplier shall at the time such payment is made or as soon as possible mark the Goods as Purchaser's property.

22. **SUPPLIER'S WARRANTY**

- 22.1 The Supplier warrants that on acceptance of the Goods by the Purchaser and for a period of 12 months following delivery that the Goods shall:
 - a. Conform in all material respects with their description and any applicable specification.
 - b. Be free from defects in design, material and workmanship
 - c. Be of satisfactory quality (within the meaning of the sale of Goods Act) and
 - d. Be fit for any purpose that the supplier has held them out to be fit for or which we have made known to the supplier.
 - e. Be capable of all standards of performance specified in the contract.
 - f. Comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage and handling of the Goods.
- 22.2 If during the warranty period the Purchaser gives notice to the supplier that some or all of the Goods do not comply with the warranty set above, the supplier shall at own expense repair or Replace the defective Goods or promptly refund the price of the defective Goods to the purchaser in full.
- 22.3 The supplier shall also ensure that compatible spares and any relevant parts are made available To the purchaser to facilitate any necessary repairs to the Goods for a period of no less than 10 Years from the date of delivery of the Goods.

23. **INSURANCE**

- 23.1 During the duration of the Contract and for a period of 24 months thereafter, the Supplier shall maintain in force with a reputable insurance company professional indemnity insurance, product liability insurance and public liability insurance to cover such heads of liability as may arise under or in connection with the Contract and shall, upon the purchaser's request produce both the insurance certificate and the receipt for the current year's premium in respect of each insurance.
- 23.2 The Supplier must take out and maintain insurance adequate to cover the risks set out in the Contract and for a period of 6 years thereafter and in any event shall take out and maintain:

- (a) Product Liability Insurance coverage of not less than five million pounds sterling (£5,000,000) for anyone, or series of claims that may arise; and
- (b) Public Liability Insurance coverage of not less than five million pounds sterling (£5,000,000) for anyone, or series of claims that may arise.
- (c) Employer Liability Insurance coverage of not less than five million pounds sterling (£5,000,000) for anyone, or a series of claims that may arise.

23.3 The Supplier will take out and maintain such insurances as set with a reputable insurance company and shall at Newham College of Further Education London's request provide evidence of the insurance policy or policies and of payment of the premiums.

24. **CONFIDENTIALITY**

24.1 The supplier shall treat all confidential information belonging to the purchaser as confidential and safeguard it accordingly and shall not disclose any such confidential information to any other person without the purchaser's prior written consent, except to such persons and to such extent as may be necessary for the performance of the contract or except where disclosure is otherwise expressly permitted by the provisions of this Contract.

24.2 The supplier shall take all necessary precautions to ensure that all Confidential Information obtained from the purchaser under or in connection with the Contract:

- Is given only to such staff and professional advisors or consultants engaged to advise in connection with the Contract as is strictly necessary for performance of the Contract.
- is treated as confidential and not disclosed (without prior approval or used by any staff or such professional advisors or consultants otherwise than for the purposes of the Contract.

24.3 The supplier shall not use any Confidential information they receive from the purchaser otherwise than for the purposes of the Contract.

25. **FORCE MAJEURE**

25.1 Neither Party shall be liable to the other or be deemed to be in breach of Contract by reason of any delay or failure in performing its obligations under the Contract to the extent that such delay or failure is caused by an event or circumstance that is beyond the reasonable control of that Party and which by its nature could not have been foreseen by such party or, if it could have been foreseen, was unavoidable, provided that each Party shall use all reasonable endeavours to cure any such events or circumstances and resume performance of the Contract.

26. **DAMAGE IN TRANSIT**

26.1 On despatch of any consignment of the Goods, the Supplier shall send to the Purchaser at the address for delivery of the Goods, an advice note specifying the means of transport, the place and date of despatch, the number of packages and their weight and volume.

26.2 The Supplier shall, free of charge and as quickly as possible, either repair or replace (as the Purchaser shall elect in its sole discretion) such of the Goods as may either be damaged in transit or having been placed in transit fail to be delivered to the Purchaser provided that:

- 26.2.1 in the case of damage to such Goods in transit the purchaser shall within thirty (30) days of delivery give notice to the Supplier that the Goods have been damaged; and

26.2.2 in the case of non-delivery the Purchaser shall (provided that the Purchaser has been advised of the despatch of the Goods) within ten (10) days of the notified date of delivery give notice to the Supplier that the Goods have not been delivered.

27. **PACKAGING**

27.1 The Goods shall be packed and marked in accordance with the Purchaser's instructions, statutory requirements and requirements of the carriers. Hazardous goods (and all relating documents) shall bear prominent and adequate warnings.

27.2 Unless otherwise stated in the Contract all Packaging shall be non-returnable. If the Contract states that Packaging is returnable the Supplier must give the purchaser full and clear instructions before the time of delivery. The Packaging must be clearly marked to show to whom it belongs. The Supplier must pay the cost of carriage and handling for the return of Packaging. The Purchaser shall not be liable for packaging lost or damaged in transit.

28. **INTELLECTUAL PROPERTY**

28.1 In respect of Goods that are transferred to the Purchaser under the Contract, the supplier warrants clear and unencumbered title to them and that at the date of delivery of the Goods, the supplier will have full and unrestricted rights to transfer them to the purchaser.

28.2 All materials, equipment, software, inventions, specifications, instructions, plans or any form of intellectual property right in any of the foregoing ("**Intellectual Property**"):

28.2.1 furnished to or made available to the Supplier by the Purchaser pursuant to the Purchase Order are hereby assigned to and shall remain vested solely in the Purchaser; and

28.2.2 the Supplier shall not (except to the extent necessary for the implementation of the Purchase Order) without prior written consent of the Purchaser, use or disclose any such Intellectual Property or any information (whether or not relevant to the Contract).

28.2.3 The Supplier shall ensure that all royalties, licence fees or similar expenses in respect of intellectual property rights in materials used in connection with the Contract have been paid and are included in the charges.

29. **HEALTH AND SAFETY**

The Supplier represents and warrants to the Purchaser that the Supplier has satisfied itself that:

29.1 all necessary tests and examinations have been made or will be made prior to delivery of the Goods to ensure that the Goods are designed, manufactured, supplied and installed so as to be safe and without risk to the health or safety of persons using the same; and

29.2 it has made available to the purchaser adequate information about the use for which the Goods have been designed and have been tested and about any conditions necessary to ensure that when put to use the Goods will be safe and without risk to health.

29.3 In any event, the Supplier will comply with the duties imposed on it by the Health & Safety at Work etc Act 1974 or any amendment thereto and of all other statutory provisions, rules and regulations so far as they are applicable. The Supplier shall indemnify and keep indemnified the Purchaser against any and all actions, suits, claims, demands, losses, charges, costs and expenses

(including legal expenses and disbursements) which the Purchaser may suffer or incur as a result of or in connection with any breach of this Condition (Health and Safety).

30. TERMINATION

- 30.1 The Purchaser may terminate the Contract at any time before the supply of goods and services, with immediate effect by giving the supplier written notice immediately after which the Supplier shall discontinue aa work on or in relation to the Contract.
- 30.2 the total amount of all payments made or due to the supplier under this Contract including any termination payment shall not exceed the Price and shall under no circumstances include the loss of anticipated profits or any direct loss or consequential loss.
- 30.3 If the supplier fails to submit a termination claim in writing within three months from the date of the purchaser's notice of termination then the purchaser shall have no further liability under the Contract.
- 30.4 The purchaser may terminate the Contract with immediate effect by giving the supplier written notice if the supplier commits a breach of any term of the Contract and (if such breach is remediable) fail to remedy that breach within a period of 10 business Days after being notified by the purchaser.
- 30.5 The purchaser may terminate the Contract with immediate effect by giving the supplier written notice if the supplier becomes subject to the following:
- a. supplier suspends or threatens to suspend, payment of supplier's debts or are unable
 - b. the supplier commences negotiations with a view to rescheduling any of your debts or proposal to enter into compromise or arrangement to with supplier's creditors
 - c. a petition is filed, notice is given, a resolution passed.
 - d. you are the subject of a bankruptcy petition order.
 - e. a creditor or encumbrance of supplier attaches or takes possession of, or a distress, execution sequestration or other such process is levied
 - f. an application is made to court, or an order is is made for the appointment of an administrator
 - g. floating charge holder over supplier's assets has become entitled to appoint or has appointed an administrator receiver.
 - h. a person becomes entitled to appoint a receiver over supplier's assets
 - i. any event occurs or proceeding is taken with Respect to the supplier in any jurisdiction to Which the supplier is subject that has an effect Equivalent or similar to any of the events Mentioned in this clause
 - j. the supplier suspend or threaten to suspend or cease or threaten to cease to carry on, all or

- sustainability the whole of supplier's business
- k. the supplier's financial position deteriorates to such an extent that in the opinion of the purchaser supplier capability to adequately fulfil supplier's obligations under the Contract has been placed in jeopardy or
 - l. (being an individual) the supplier dies or by reason of illness or incapacity (whether mental or physical), are incapable of managing the supplier's own affairs or becomes a patient under any mental health legislation.

31. **ANTI-BRIBERY**

The supplier shall comply with and procure that any person or organisation associated with the supplier who is supplying services in connection with the Contract shall 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 and shall not engage in any activity, practice or conduct which would constitute an offence under the Bribery Act 2010.

32. **NOTICES**

All notices and communications to be sent by the supplier or purchaser in this Contract shall be made in writing and sent by first class mail and if sent to the supplier shall be sent to the supplier's registered or head office and if sent to the purchaser send to the Invoice address stated on the purchase order and shall be deemed to have reached the party to whom it is addressed on the next Business Day following the date of posting.

33. **EQUAL OPPORTUNITIES**

- 33.1 The supplier agrees to comply with the purchaser's policies and procedures to prevent unlawful discrimination on the grounds of the protected characteristics outlined in part 2 of the equality Act 2010, namely age, disability, gender re assignment marital or civil partner status, pregnancy or maternity, race, colour, national origin, religion or belief sex or sexual orientation.
- 33.2 The supplier warrants that their practices and procedures comply with legislation to prevent unlawful discrimination and that their employees are fully trained on matters relating to the prevention of unlawful discrimination.
- 33.3 Without prejudice to its remedies set out above, the purchaser may terminate the Contract if notice has been given to the supplier of a substantial or persistent breach of this clause providing that a reasonable period has been given during which the breach may have been rectified and you have failed to remedy the breach within the stated period.

34. **FREEDOM OF INFORMATION**

- 34.1 The supplier acknowledges that the purchaser is subject to the requirements of the Code of practice on Government Information, Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR) and shall assist and cooperate with its Information disclosure obligations.

The supplier shall procure that their sub-contractors shall:

- Transfer any request for information to the purchaser as soon practicable after receipt and in any event within two Business Days or receiving a request for information.

- Provide the purchaser with a copy of all information in the supplier's possession or power in the form that we require within five Business Days (or such other period as we may be specified) of purchaser requesting that information and
- Provide all necessary assistance requested by the purchaser to enable the purchaser to respond to information within the time for compliance set out in FOIA for regulation of the Environmental Information Regulations.

35. CORRUPT GIFTS AND PAYMENTS

35.1 The Supplier shall not:

Offer or give, or agree to give to any employee or representative of Newham College of Further education London any gift or consideration of any kind as an inducement or reward for doing or refraining from doing or for having done or refrained from doing any act in relation to the obtaining or execution of this or any other contract with Newham College of further education London for showing or refraining from showing favour or disfavour to any person in relation to this or any such contract. The attention of the Service Provider is drawn to the criminal offences created by the Public Bodies Corrupt Practices Act 1889, the Prevention of Corruption Act 1906 and the Prevention of Corruption Act 1916.

36. SUPPLIER EMPLOYEES

36.1 The Supplier shall take all reasonable steps to ensure that any employees, servants or agents of the Supplier and any sub-contractors, their employees, servants or agents, employed in the execution of the Contract are entitled to obtain employment in the United Kingdom and are not claiming any benefit payable to persons registered as unemployed.

37. VARIATION

37.1 These Conditions may only be varied with the written agreement of the Purchaser.

37.2 The purchaser reserves the right by reasonable notice to the Supplier to vary the Goods detailed in the Purchase Order and any alteration to the Price or delivery date arising by reason of such modification shall be agreed between the parties and evidenced in writing.

37.3 The Contract shall become binding and these Conditions shall be deemed to have been accepted by the supplier on acceptance of the Purchase Order (either verbally or in writing) or on delivery of the Goods, whichever is the earlier.

38. WAIVER

38.1 A delay omission or 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 the provision itself.

39. SERVICES

39.1 The supplier shall ensure that they:

- meet any performance dates for the Services specified in the Purchase Order or notified to the supplier by the purchaser.
- Co-operate with the purchaser in all matter relating to the Services and comply with all instructions issued by the purchaser.
- Perform the Services with the best care, skill and diligence in accordance with practice in the supplier's industry, profession or trade;

- d. Use personnel who are suitably skilled and experienced to perform tasks assigned to them and in sufficient number to ensure that the supplier fulfil their obligations under this Contract;
- e. Ensure that the services will conform with all descriptions and specifications set out and that any documents, products and materials developed by the supplier in relation to the Services shall be fit for any purpose expressly or impliedly made known to the supplier by the purchaser.
- f. Provide all equipment, tools vehicles and such other items as are required to provide the Services.
- g. Use the best quality goods, materials, standards and techniques and ensure that all goods and materials supplied and used in the Services or transferred to the purchaser are free from defects in workmanship, installation and design;
- h. Obtain and at all times maintain all necessary licences and consents and comply with all applicable laws and regulations.
- i. Observe all health and safety rules and regulations and any other security requirements that apply at the purchaser's premises.
- j. Hold all materials, equipment and tools, drawings, specifications and data (purchaser's materials) supplied by the purchaser to the supplier in safe custody at the supplier's own risk and maintain purchaser's materials in good condition until such time as they are returned to the purchaser and do not dispose of or use purchaser's materials other than in accordance with the purchaser's written instructions or authorisation and
- k. Do not or omit to do anything which may cause the purchaser to lose any licence, authority, consent or permission upon which the purchaser depends for the purposes of conducting the purchaser's business and the supplier acknowledges that the purchaser may rely or act on the Services.

40. SEVERANCE

- 40.1 If a Court or any other competent authority finds that any provision (or part of any provision) of the Contract is unenforceable, that provision or part provision shall to the extent required be deemed deleted and the validity and enforceability of the other provisions of the Contract shall not be affected.

41. PURCHASER'S PREMISES

- 41.1 If the Contract requires the supplier to enter the purchaser's premises, the supplier shall ensure that their employees and any other person associated with the supplier will adhere in every respect to the obligations imposed on the supplier by current safety legislation, any relevant health and safety regulations and any applicable internal policies that we may notify to the supplier from time to time.

Please complete Part 2. Part 1 will be completed by Newham College of Further Education London if you are awarded a Contract

Part 1

Newham College of Further Education

SIGNATURE: _____

NAME: _____

POSITION: _____

DATE: _____

Part 2

Signed for the Supplier

SIGNATURE: _____

NAME: _____

POSITION: _____

DATE: _____