

ABERYSTWYTH UNIVERSITY

**STANDARD CONDITIONS OF CONTRACT FOR THE PURCHASE OF GOODS
AND/OR SERVICES**

1. **DEFINITIONS**

(i) In these Conditions:

‘Codes of Practice’ means the Department for Constitutional Affairs’ Code of Practice on the Discharge of Public Authorities’ Functions under Part 1 of the FOIA issued under s45 and/or s46 of the FOIA and/or such other code issued under the FOIA as may be relevant from time to time to the University’s discharge of its obligations under the FOIA;

‘Conditions’ means these standard terms & conditions of purchase and includes any special terms and conditions agreed in writing between the parties to this Contract, for example but not limited to, any specific terms and conditions applied by the University Estates Office;

‘Confidential Information’ means information (in whatever form or medium and whether disclosed orally or in writing, together with all reproductions in whatsoever form or medium and any part or parts of it), the disclosure of which without authority would constitute an actionable breach of confidence, or which has either been designated as confidential by either party in writing or which ought reasonably to be considered as confidential including without limitation commercially sensitive information, information which relates to the business, affairs, properties, assets, trading practices, goods, services, developments, trade secrets, intellectual property rights, know-how, personnel, customers and suppliers of either party and all personal data and sensitive personal data within the meaning of the DPA;

‘Contract’ means the contract for the sale and purchase of the Goods and/or the supply and acquisition of the Services;

‘DPA’ means the Data Protection Act 1998 and any subordinate legislation made under it from time to time;

‘EI Regulations’ means the Environmental Information Regulations 2004;

‘FOIA’ means the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time;

‘Goods’ means the products, materials, and articles, described in the Purchase Order and includes any Software;

‘Information’ has the meaning given under section 84 of the FOIA;

“Information Commissioner” and “Information Tribunal” have the meanings given under section 6 of the DPA;

‘Order Amendment’ means an amendment to the Purchase Order;

‘Price’ means financial consideration for the Goods and/or Services;

‘Purchase Order’ means our purchase order referring to these Conditions;

‘Request for Information’ shall have the meaning set out in FOIA and include any apparent request for information under the FOIA, and/or the Regulations and/or the Codes of Practice;

“Services” means the works and services described in the Purchase Order and includes any Software;

“Software” means all software comprised in or necessary for the use of Goods and/or Services as envisaged by the Purchase Order;

‘Specification’ includes any drawings, plans, data or other information relating to the Goods or Services;

‘We’, ‘us’ and ‘our’ refers to the Aberystwyth University;

‘You’ and ‘Your’ refers to the person, firm or company to whom the Purchase Order is addressed and includes their employees, sub-contractors and agents.

- (ii) The headings in these Conditions are for convenience only and shall not affect their interpretation.

2. **BASIS OF PURCHASE**

- (i) The Purchase Order constitutes an offer by us to purchase the Goods and/or acquire the Services subject to these Conditions.
- (ii) These Conditions shall apply to the Contract to the exclusion of any other terms or conditions or representations on which you may seek to rely. Any term or condition or representation on your order acknowledgements, delivery notes, invoices or any other of your standard documentation is excluded unless expressly agreed in writing by you and us.
- (iii) Subject to condition 2(ii) the Purchase Order will be deemed to be accepted unconditionally by you if no detailed counter-offer is received by us within 14 days of its date.
- (iv) Subject to condition 2(ii) delivery of Goods or provision of Services in response to the Purchase Order or Order Amendment shall be proof that these Conditions are incorporated into the Contract.
- (v) No variation to the Purchase Order or these Conditions shall be binding unless agreed in writing by you and us.

3. **SPECIFICATIONS**

- (i) The quantity, quality, performance and description of the Goods and the Services shall, save as otherwise provided in these Conditions, be as specified in the Purchase Order and/or in any applicable Specification supplied by us to you or agreed in writing by us.
- (ii) Any Specification supplied by us to you, or specifically produced by you for us, in connection with the Contract, together with all copyright, design rights or any other intellectual property rights in the Specification, shall be our exclusive property. You shall not disclose to any third party nor use any such Specification except as permitted by Condition 31.
- (iii) You shall comply with all applicable regulations and/or other legal requirements concerning the manufacture, packaging, packing, delivery and unloading of the Goods and/or the performance of the Services.

- (iv) You shall at your expense provide any programmes of manufacture and delivery that we may reasonably require. You shall notify us without delay in writing if your progress falls behind or may fall behind any of these programmes.
- (v) You shall not unreasonably refuse any request by us to inspect and test the Goods during manufacture, processing, or storage at your premises or those of any relevant third party prior to despatch, and you shall provide us with all facilities reasonably required for inspection and testing.
- (vi) If as a result of inspection or testing we are not satisfied that the Goods will comply in all respects with the Contract, and we inform you within 10 days of inspection or testing, you shall take such steps as are necessary to ensure their compliance with the Contract.
- (vii) Any inspection, or testing by us shall not relieve you from your obligations under this Contract.
- (viii) The Goods shall be new unless otherwise specified on the Purchase Order and be of sound materials and skilled and careful workmanship.

4. **VOLUMES & VALUES OF BUSINESS**

Any written or verbal estimates of potential volumes or values of business which may be achieved under this Contract, which are not expressly warranted as part of a Purchase Order, are provided only for guidance and are not binding although we shall use reasonable endeavours to provide relevant information about the estimate.

5. **PRICE**

- (i) You shall sell us the Goods or provide the Services for the firm Price stated in the Contract. If no Price is stated in the Contract, it shall be a competitive price, taking into account prevailing market conditions.
- (ii) The Price shall be inclusive of all charges for storing, packaging, shipping, carriage, insurance, delivery of the Goods to the delivery address, unloading, installation and commissioning (if applicable) and any duties, imposts or levies other than value added tax.
- (iii) No increase in the Price whether on account of increased material, labour or transport costs, fluctuation in exchange rates or otherwise may be made after our Purchase Order has been issued without our prior consent in writing.
- (iv) We shall be entitled to any discount for prompt payment or bulk purchase customarily granted by you.

6. **DELIVERY**

- (i) The Goods shall be delivered to, and the Services shall be performed at, the delivery address and on the date or within the period stated in the Purchase Order, in either case during our usual business hours.
- (ii) The Goods shall be marked in accordance with our instructions and properly packed, secured and despatched at your expense to arrive in good condition at the time and place specified in the Contract.
- (iii) If you or your carrier delivers any Goods at the wrong time or to the wrong place then we may deduct from the Price any resulting costs incurred by us for temporary insurance, storage or transport. We shall not be responsible for any loss or damage to incorrectly delivered Goods.

- (iv) We shall be entitled to reject any Goods which are not in accordance with the Contract, and shall not be deemed to have accepted any Goods until we have had a reasonable time to inspect them following delivery or, if later, within a reasonable time after any latent defect in the goods has become apparent. We shall give you a reasonable opportunity to replace the Goods with new Goods that conform with this Contract, after which time we shall be entitled to cancel the Purchase Order and purchase the nearest equivalent Goods elsewhere. In the event of cancellation under this Condition you shall promptly repay any monies paid under the Contract without any retention or offset whatsoever. Cancellation of the Purchase Order under this Condition shall not affect any other rights or remedies we may have. You must collect all rejected Goods within a reasonable time of rejection or we shall return them to you at your risk and expense
- (v) Goods supplied in excess of the Purchase Order may be rejected and returned at your risk and expense.
- (vi) Time shall be of the essence of the Contract if so agreed in writing or if we by written notice make it so which we shall be entitled to do if you are more than 7 days late in delivering the Goods and/or performing the Services.

7. **PACKAGING**

Unless otherwise stated in the Contract, we shall not be obliged to return to you any packaging or packing materials for the Goods. If any specific written agreement is made for packaging to be returned by us after delivery, you must give us full disposal instructions before the time of delivery, the packaging must be clearly marked to show to whom it belongs and you shall be responsible for all costs of return. We shall not be liable for any packaging lost or damaged in transit.

8. **PAYMENT**

- (i) You shall be entitled to invoice us for the Price on or at any time after correct delivery of the Goods or performance of the Services.
- (ii) Subject to these Conditions including without limitation 6, 9, 10, 13 and 23, we shall pay you 30 days after the date of the invoice for the Price is issued. Your invoice must be addressed to the department indicated on the Purchase Order and must quote the full purchase order number. VAT, where applicable, shall be shown separately on all invoices at the relevant rate at the tax point. We shall not be held responsible for delays in payment caused by your failure to comply with our invoicing instructions.
- (iii) We shall be entitled to set off against the Price any outstanding sums owed to us by you.
- (iv) Where you enters in to a sub-contract with your suppliers for the purpose of performing your obligations under the Contract, you shall ensure that a provision is included in such a sub-contract which requires payment be made of all sums due by you to the sub-contractor within a specified period not exceeding 30 days from the receipt of a valid invoice.

9. **LATE PERFORMANCE**

- (i) If the Goods or any part of them are not delivered or the Services performed by the time or times specified in the Contract we may by written notice forthwith cancel any undelivered balance of the Goods and have the outstanding Services performed by alternative means and any additional costs reasonably so incurred shall be charged to you. We may also return for full credit and at your expense any Goods that in our reasonable opinion cannot be used owing to this cancellation.

- (ii) Without prejudice to any other right or remedy where in our reasonable opinion any Goods delivered or Services performed are unusable as a result of your late performance we may terminate the Contract in whole or part and you will not be entitled to payment by way of compensation, other than due consideration for those Goods and Services which are usable by us and are in accordance with the Contract.

10. **TERMINATION OF CONTRACT**

- (i) We shall be entitled to cancel the Purchase Order in respect of all or part only of the Goods and/or the Services without penalty by giving you notice at any time prior to delivery or performance unless such Goods have been specially manufactured or Services part performed to our requirements in which event, our sole liability shall be to pay the price of the Goods and/or Services in respect of which we have exercised our right of cancellation, less your net saving of cost arising from cancellation.
- (ii) Without prejudice to any other right or remedy we shall be entitled to terminate a Purchase Order and/or the Contract forthwith by giving notice to you at any time if any one or more of the following occur:
 - (a) you make any voluntary arrangement with your creditors or (being an individual or firm) become bankrupt or (being a company) petition for or become subject to an administration order or liquidation (otherwise than for the purpose of solvent amalgamation or reconstruction,
 - (b) an encumbrancer takes possession, or a receiver is appointed, of any of your property or assets,
 - (c) you cease, or threaten to cease, to carry on business,
 - (d) we reasonably apprehend that any of the events mentioned above is about to occur in relation to you and notify you accordingly,
 - (e) you commit any breach of the Contract which is incapable of remedy or if capable of remedy which you fail to remedy following a notice from us specifying the breach and giving you a reasonable period (being not more than 28 days) in which to remedy the breach.
- (iii) If the Contract is in the form of a framework agreement, it shall be terminable at any time during the agreement period in writing by not less than the appropriate minimum notice period applicable under the framework being given by either party to the other.
- (iv) You agree upon cancellation or termination of the Contract to assist us to transfer the Contract to another person notified by us and in the case of termination pursuant to condition 10(ii) free from cost to us.
- (v) Where cancellation or termination of the Contract results in a TUPE transfer of employees to you from or from you to a third party you shall indemnify us against any costs resulting from such transfer.

11. **VARIATIONS**

We shall have the right, before delivery, to send you an Order Amendment adding to, deleting or modifying the Purchase Order. If the Order Amendment will cause a change to the Price or delivery date then you shall suspend performance of the Contract and notify us without undue delay of the new Price and delivery date. You shall allow us a reasonable period of time to consider any new Price and delivery date. The order amendment shall take effect only if we accept in writing the new Price and delivery date within the time you stipulate. If we decline the revised price or delivery date, we shall have the right either to confirm that the performance of the Contract shall immediately resume as though the said Order Amendment had not been issued, or to cancel the Purchase Order and the provisions of Condition 10 shall apply.

12. **PROPERTY AND RISK IN GOODS**

- (i) You shall bear all risks of loss or damage to the Goods and Services until the Goods have been correctly delivered and offloaded to or the Services performed at the designated place and you shall insure accordingly.
- (ii) Ownership in the Goods shall pass to us when they have been appropriated to the Contract and ownership in the Services upon completion of performance.

13. **WARRANTIES & LIABILITY**

- (i) You warrant that the Goods, and/or Services:
 - (a) shall be of satisfactory quality and fit for their normal purpose and any other purpose held out by you or made known to you in writing at or before the time the Purchase Order is placed;
 - (b) shall be free from defect in design, materials and workmanship other than defects caused by compliance with our Specification;
 - (c) shall correspond with any relevant Specification or sample;
 - (d) shall be covered by a minimum warranty period of 12 calendar months from delivery to us, or for a period of 12 calendar months from commissioning where the Contract provides that Goods are not to be installed, commissioned, tested and handed over immediately following delivery. Where an acceptance certificate is issued, the warranty period start date shall be the date stated on the acceptance certificate. You shall be responsible for making good expeditiously and at your own expense any defect in or damage to any of the Goods and/or the Services. Such remedial action shall be performed on our site unless otherwise agreed in writing.
 - (e) shall comply with any statute, statutory order, directive or regulation or relevant International, European or British Standard (or equivalent required by the Purchaser) and any voluntary codes of conduct relating to the Goods and/or Services and their sale in force at the time of delivery.
- (ii) You warrant that the Services shall be performed by properly trained, supervised and qualified personnel, with due care and diligence and to such a high standard of quality as it is reasonable for us to expect in all the circumstances.

- (iii) Without prejudice to any other right or remedy, if any Goods or Services are not supplied or do not perform in accordance with the Contract, we shall be entitled:
 - (a) to require you to repair the Goods or make good the Services and/or to supply replacement Goods or Services in accordance with the Contract within [14] days; or
 - (b) at our sole option, and whether or not we have previously required you to repair the Goods or to supply any replacement Goods or Services, to treat the Contract as discharged by your breach and require the repayment of any part of the Price which has been paid.
- (iv) Repairs or replacements shall be covered by the warranty in this Condition for a period of 12 months from acceptance by us of the repair or replacement.

14. **INDEMNITY AND INSURANCE**

- (i) Subject to condition 14(ii) you shall indemnify us against all liability, loss, damage, costs and expenses (including legal expenses) awarded against or incurred or paid by us as a result of any one or more of the following, namely:
 - (a) a breach of any warranty in relation to the Goods or the Services
 - (b) a breach of the Contract by you or your employees, agents or sub-contractors
 - (c) liability under the Consumer Protection Act 1987 in respect of Goods,
 - (d) any act or omission by you or your employees, agents, or sub-contractors in supplying, delivering, unloading and installing the Goods, and/or
 - (e) in connection with the performance of the Services
 - (f) any tortious act or omission of you or your employees agents or sub-contractors in relation to the Contract.
- (ii) Neither party (first party) shall be liable to the other for any economic loss or indirect loss suffered by that other which arises as a result of any breach of Contract and/or tortious act or omission by the first party its employees agents or sub-contractors arising in connection with the Contract.
- (iii) Nothing in this condition shall exclude any liability of a party at common law or by statute in respect of personal injury to or death or any person which is non-excludable or in respect of any loss or destruction of or damage to property belonging to the other party.
- (iv) You shall insure with a reputable insurer to cover your obligations to us for the duration of this Contract including without limitation having public and products liability cover of at least £5M (Five Million Pounds Sterling). Satisfactory evidence of such insurance and payment of current premiums shall be shown to us upon request.

15. **WORK ON OUR PREMISES**

If the Contract involves any Services at our premises, you shall ensure that you and your employees, agents, and sub-contractors comply in every respect with the obligations imposed on you by current safety legislation and comply with any reasonable requirement that we may notify to you in writing.

16. **HOURS OF WORK**

We may specify the period during which you shall carry out your operations at our premises and Services shall be performed in such a manner that the business of the University is interfered with as little as possible.

17. **OUR SAFETY POLICY**

If required by us in writing, you shall supply the following information at any time prior to the contract award decision, or during the Contract namely your Safety Policy, Safety Plans, Fire Safety, Risk Assessments, Accident Statistics for the last 5 years, valid insurance documents, any Improvement/Prohibition Notice received, and any prosecution or pending prosecution under Health & Safety legislation. You shall observe all relevant legal requirements of the United Kingdom, European Union and international agreements in relation to health, safety and the environment, and in particular in relation to the marking of hazardous Goods, the provision of data sheets for hazardous Goods, and any relevant provisions relating to food. Hazardous Goods must be clearly marked and display the name of the material in English. Transport and other documents must include a declaration of the hazard and name of the material in English and Goods must be accompanied by emergency information in English.

18. **ENVIRONMENTAL POLICY**

You shall upon request supply details of any existing, or proposed environmental policy relating to the raw materials used, production methods and finished products or services. We reserve the right at our sole discretion to apply sustainability and environmental factors in any Contract award decision.

19. **ARTICLES ON LOAN AND USE OF INFORMATION**

All tools, materials, drawings, Specifications and other equipment and data ('The Articles') loaned by us to you in connection with the Contract shall remain our property and be surrendered to us on demand in good and serviceable condition (fair wear and tear allowed) and are to be used by you solely for the purpose of completing the Contract. You agree that no copy of any of the Articles will be made without the consent in writing of our Authorised Officer. Until you return all the Articles to us they shall be at your risk and insured by you at your own expense against the risk of loss, theft or damage. Any loss of or damage to such Articles shall be made good by you at your expense including, in the case of loss of premises keys, or computerised door access cards, the costs of necessary to recover the original level of building security. Any scrap arising from the supply of such Articles must be disposed of as we require and any proceeds of sale of such scrap must promptly be paid to us in full.

20. **OWNERSHIP OF RESULTS**

If the Contract involves design and/or development work:

- (i) All rights in the results of work arising out of or deriving from this Contract, including inventions, designs, artwork, copyright and other intellectual property rights or know how, shall be our property and we shall have the sole right to determine whether any letters patent, registered design, trademark and other protection shall be sought in respect of the same.
- (ii) You shall promptly communicate to us all such results and shall if requested and at our expense do all acts and things and execute all deeds and documents necessary to enable us or our nominee to obtain letters patent, registered designs and other protection for such results in all territories and to assign the same to us or our nominee free from charge.

- (iii) You shall ensure that all technical information (including computer programs and programming information) arising out of or deriving from this Contract is held in strict confidence except for any such information which is or becomes public knowledge other than by breach of this Contract.

21. **INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS**

- (i) Save for Goods made in accordance with our Specification, you warrant that neither the Goods nor Services, nor our use or resale of them, will infringe any patent, registered design, trade mark, copyright or other intellectual property right of a third party (the rights) and undertake to indemnify us against all actions, claims, demands, costs, charges and expenses arising from or incurred by reason of any infringement or alleged infringement of any such rights.
- (ii) If at any time any allegation of infringement of any rights is made in respect of the Goods or Services or in your reasonable opinion is likely to be made, you may at your own expense modify or replace the Goods or Services, without detracting from overall performance. At the same time you will make good any loss of use by us of Goods or Services during such modification or replacement.

22. **ASSIGNMENT AND SUB-LETTING**

- (i) Our Purchase Order is personal to you and you shall not assign or transfer or purport to assign or transfer to any other person any rights or obligations under this Contract.
- (ii) You shall not sub-let or sub-contract any part of the Contract without our prior written consent, which we shall not withhold unreasonably. This restriction shall not apply to sub-contracts for materials for minor details or for any part of which the maker is named in the Contract. You shall be held liable for all Goods supplied and/or all Services carried out by your sub-contractors under this Contract.

23. **MATTERS BEYOND CONTROL**

If either party is delayed or prevented from performing its obligations under this Contract by circumstances beyond the reasonable control of that party (including without limitation any form of government intervention, strikes and lock-outs or breakdown of plant), performance shall be suspended and if it cannot be completed within a reasonable time after the due date as specified in the Purchase Order, or where there is no due date a reasonable time the Contract may be cancelled by the party not subject to the said circumstances. We shall pay to you such sum as may be fair and reasonable in all the circumstances of the case in respect of Goods supplied or Services performed by you under the Purchase Order prior to cancellation but only in respect of Goods and Services for which we have received full benefit as originally contemplated in the Contract and where in our reasonable opinion Goods and/or Services are unusable as a result of cancellation we shall be entitled to repayment for any unusable Goods and Services.

24. **CORRUPT GIFTS**

In connection with this or any other Contract between us you shall not give, provide, or offer to our employees or agents any loan, fee, reward, gift or any emolument or advantage whatsoever. In the event of any breach of this Condition, we shall, without prejudice to any other rights we may possess, be at liberty forthwith to terminate this and any other Contract and to recover from you any loss or damage resulting from such termination.

25. WELSH LANGUAGE SCHEME

- (i) You shall conform fully with the requirements of the University's Welsh Language Scheme, in compliance with the Welsh Language Act 1993 (c.38). If the provision of the Goods or Services includes a Welsh Language element, you should seek the assistance and advice of the University with all translation tasks so as to ensure a consistent and quality provision.
- (ii) Where this Contract is in both English and Welsh language versions in the event of any conflict between those language versions the English shall prevail.

26. RACE RELATIONS

- (i) You agree to comply with our policies and procedures to prevent unlawful discrimination on the grounds of sex, race, disability, sexual orientation, age, religion and belief.
- (ii) In accordance with our responsibilities under the race relations legislation to eliminate unlawful racial discrimination, promote equal opportunities and promote good relations between people of different racial groups, we require you and any of your sub-contractors to comply with this Condition.
- (iii) You warrant that your own practices and procedures comply with legislation to prevent unlawful discrimination and that your employees are fully trained on matters relating to the prevention of unlawful discrimination.
- (iv) You shall provide such information as required by us in relation to your compliance with anti-discrimination legislation and you shall co-operate with any investigation by us or a body empowered to carry out such investigations under the relevant legislation.
- (v) Where any investigation is conducted, or proceedings are brought relevant to this Condition which arise directly or indirectly out of any act or omission by you, your agents or sub contractors and where there is a finding against you in any such investigation or proceedings, you shall indemnify us with respect to all costs, charges and expenses (including legal and administrative expenses) incurred by us during or in connection with any such investigation or proceedings and further indemnify us for any compensation, damages, costs or other award we may be ordered or required to pay to a third party save for those arising as a result of our breach of this Condition.

27. WAIVER

A failure at any time to enforce any provision of the Contract shall in no way effect 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 that or any other provision or be a waiver of that or any other provision.

28. VALIDITY OF PROVISIONS

If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.

29. **NOTICE**

All notices and communications required to be sent to you by us in this Contract shall be made in writing and sent by facsimile, first class mail or email (electronic mail) to your registered or head office and if sent by you to us sent to our purchasing manager and shall be deemed to have reached the party to whom it is addressed on the next business day following the date of transmission or posting.

30. **AMENDMENT**

No addition, alteration or substitution of these Conditions will bind us or form part of the Contract unless and until accepted in writing by us.

31. **CONFIDENTIALITY**

(i) Each party:-

- (a) shall treat all Confidential Information belonging to the other party as confidential and safeguard it accordingly; and
- (b) shall not disclose to any person any Confidential Information belonging to the other party without the prior written consent of that other party, except to such persons and to such extent as may be necessary for the performance of this Contract but only where such persons are subject to or have executed a confidentiality undertaking in terms no less stringent than those set out in this condition 31 prior to disclosure of such Confidential Information to them or where disclosure is otherwise expressly permitted by the provisions of the Contract.

(ii) The provisions of Condition 31 (i) shall not apply to any Confidential Information received by one party from the other:-

- (a) which is in or becomes part of the public domain (otherwise than by breach of this Condition 31);
- (b) which was in the possession of the receiving party, without restriction as to its disclosure, before receiving it from the disclosing party;
- (c) which is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure;
- (d) is independently developed without access to the Confidential Information; or
- (e) which is required to be disclosed in accordance with a statutory, legal or regulatory obligation placed upon the party making the disclosure, including any Request for Information.

32. **FREEDOM OF INFORMATION**

- (i) You acknowledge that we are subject to the FOIA, the Codes of Practice and the EI Regulations
- (ii) We may, at our discretion, notify you that a Request for Information concerning this Contract has been submitted.

- (iii) You shall assist us at your expense to enable us to comply with the Information disclosure requirements concerning Information held by us and relating to you or this Contract and within the time for compliance set out in FOIA s10.
- (iv) Subject to any prior determination of the Information Commissioner and/or the Information Tribunal and/or the courts, (and we shall notify you of such determination) we shall be responsible to decide in our absolute discretion whether:-
 - (a) the Information relating to this Contract and/or the Confidential Information is exempt from disclosure under the FOIA and/or the Code of Practice and/or the EI Regulations;
 - (b) the Information and/or the Confidential Information is to be disclosed in response to a Request for Information.
- (v) You acknowledge that you are not a public authority under the FOIA and shall not respond directly to a Request for Information concerning information relating to us or to this Contract unless expressly authorised to do so by us
- (vi) You acknowledge that , acting in accordance with the Codes of Practice, we may be obliged under the Codes of Practice, the FOIA, and/or the EI Regulations to disclose Information:-
 - (a) without consulting you, or
 - (b) following consultation with you and having taken your views into account, but without any obligation on us to comply with those views.

33. WEEE & ROHS REGULATIONS

- (i) You shall indemnify us fully and shall keep us fully indemnified against all liability, loss, damages, injury, costs, claims and expenses (including legal expenses) suffered or incurred by us or in connection with the WEEE Regulations 2006 and the ROHS Regulations 2006.
- (ii) If you are a producer under the terms of the WEEE Regulations 2006, in the event that your business is transferred in whole or in part to another person or organisation, and we do not invoke our right to terminate the Contract in such circumstances, you shall ensure that responsibility for the collection, treatment, recovery and environmentally sound disposal of WEEE under the WEEE Regulations 2006 shall either remain with the scheme, if you are a member of a scheme, or shall transfer to the organisation to whom your business is transferred.
- (iii) You warrant that the materials, components, assemblies or equipment provided as part of the Goods does not contain more than the permitted level of any of the six restricted substances listed in Regulation 8 of the ROHS Regulations 2006.

34. LAW

This contract shall be governed by the laws of Wales and England and the parties hereby submit to the exclusive jurisdiction of the courts in Wales and England.