

These Terms and Conditions may only be varied with the written agreement of the Trust. No terms or conditions used or put forward at any time by the Supplier shall form any part of the Contract.

1. DEFINITIONS

'Authorised' means signed by one of the Authorised Officers.

'Authorised Officer' means any person appointed by the Trust to act on its behalf to order Goods and sign Purchase Orders.

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

'Conditions of Purchase' means these terms and Conditions of purchase (as may be amended by the Trust from time to time).

'CRB' means Criminal Records Bureau.

'Goods' means the materials, articles, works and/or services set out in (or incorporated by reference into) the Trust's Purchase Order.

'Order Amendment' means the Trust's authorised written order amendment or series of order amendments, each order amendment having precedence over any earlier order amendment

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

'Price' means the sum, exclusive of VAT, payable to the Supplier by the Trust for the Goods as set out in the Purchase Order and as calculated in accordance with the provisions of the Contract

'Purchase Order' means the Trust's authorised purchase order to supply the Goods incorporating these Conditions of Purchase.

'School' means any premises used for the education of children of or below the age of eighteen (18).

'Supplier' means the person, firm or company who is supplying the Goods.

'Trust' means The Learning Trust (and any successor body or organisation).

'Working Days' means Monday to Friday and excludes bank or statutory holidays.

'VAT' means "value added tax" or any replacement tax from time to time.

2. CONTRACT

2.1 The Supplier agrees to sell and the Trust agrees to purchase the Goods in accordance with the Contract. The Contract shall comprise (in order of precedence):

(a) any Order Amendments;

(b) the Purchase Order;

(c) these Conditions of Purchase; and

(d) any other document (or part document) referred to in (or incorporated into) the Purchase Order.

2.2 These conditions are the only conditions upon which the Trust is prepared to deal with the Supplier and they shall govern the Contract to the entire exclusion of all other terms or conditions.

2.3 Each Purchase Order by the Trust for Goods from the Supplier shall be deemed to be an offer by the Trust to purchase Goods subject to these conditions and no Purchase Order shall be accepted until the Supplier either expressly by giving notice of acceptance or impliedly by fulfilling the Purchase Order in whole or in part accepts the offer.

2.4. No terms or conditions endorsed upon, delivered with or contained in the Supplier's quotation, acknowledgement or acceptance of order, specification or similar document will form part of the Contract and the Supplier waives any right which it otherwise might have to rely on such terms and conditions.

2.5 Delivery of the Goods in response to a Purchase Order or Order of Amendment shall be taken to imply that the Supplier has accepted the terms and conditions of this Contract.

2.6 In specific cases for the supply of more complex goods or services the Trust shall have the right to require the Supplier to enter into a more detailed specialist contract ("Specialist Contract") instead of these Conditions of Purchase and will notify the Supplier accordingly at an early stage in any negotiation for Goods, and the Supplier agrees that any Purchase Order (and Contract) for such Goods shall be subject to the terms of the agreed Specialist Contract (save that if Goods are supplied to the Trust and a Specialist Contract is not agreed and signed by the parties (for whatever reason) then to the extent that the parties have not been able to agree the terms of these Conditions of Purchase shall apply to any such supply).

3. PRICE

3.1 The Supplier will sell to the Trust the Goods for the Price. The Price includes storage, packing, insurance, delivery, installation, testing (as appropriate) and commissioning but shall exclude VAT.

3.2 Unless otherwise agreed in writing by the Trust, the Supplier will render a separate invoice in respect of each consignment delivered under this order. VAT, where applicable, shall be shown separately on all invoices as a strictly net extra charge.

4. VARIATIONS

4.1 The Trust shall have the right, before delivery, to send the Supplier an Order Amendment adding to, deleting or modifying the Goods. If the Order Amendment will cause a change to the Price or delivery date then the Supplier

must suspend performance of the Contract and notify the Trust without delay, calculating the new price and delivery date at the same level of cost and profitability as the Price. The Supplier must allow the Trust at least 10 working days to consider any new price and delivery date. The Order Amendment shall take effect then but only if the Authorised Officer accepts in writing the new price and delivery date within the time the Supplier stipulates. If an Authorised Officer fails to confirm the Order Amendment within the time the Supplier stipulates then performance of the Contract shall immediately resume as though the said Order Amendment had not been issued (except that the Trust may still exercise its right of cancellation in accordance with Condition 22.3.)

5. QUALITY AND DESCRIPTION

5.1 The Goods shall:

- (a) conform in every respect with the provisions of the Contract;
- (b) be capable of all standards of performance specified in the Contract;
- (c) be fit for any purpose made known to the Supplier expressly or by implication and in this respect the Trust rely on the Supplier's skill and judgement;
- (d) be new unless otherwise specified on the Purchase Order; and be of sound materials and skilled and careful workmanship;
- (e) correspond to their description or any samples, patterns, drawings, plans and specifications referred to in the Contract;
- (f) be of satisfactory quality;
- (g) comply with any current legislation; and
- (h) comply as a minimum requirement with the appropriate EC Standards, British Standards Specification and Code of Practice issued by the British Standards Institution or particular industry standards or any equivalent standard in force at the time of delivery.

5.2 The Trust's rights under these conditions are in addition to the statutory conditions implied in favour of the Trust by the Sale of Goods Act 1979 as amended by the Sale and Supply of Goods Act 1994.

5.3 At any time prior to delivery of the Goods to the Trust, the Trust shall have the right to inspect and test the Goods at all times.

5.4 If the result of such inspection or testing cause the Trust to be of the opinion that the Goods do not conform or are unlikely to conform with the Purchase Order or to any specification supplied or advised by the Trust to the Supplier, the Trust shall inform the Supplier and the Supplier shall immediately take such action as necessary to ensure conformity and in addition the Trust shall have the right to require and witness further testing and inspection.

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

5.6 Unless specifically required under the Contract, there shall be no asbestos content in the Goods.

5.7 If any of the Goods fail to comply with the provisions set out in Condition 5.1 the Trust shall be entitled to avail itself of any one or more remedies listed in Condition 12 and/or Condition 22.

6. WORK ON THE TRUST'S PREMISES OR AT A SCHOOL'S PREMISES

If the Contract involves any works or services which the Supplier perform on the Trust's premises or a School's premises then the following conditions shall apply:

- (a) The Supplier shall ensure that the Supplier and the Supplier's employees, the Supplier's sub-contractors and their employees and any other person associated with the Supplier will adhere in every respect to the obligations imposed on the Supplier by current health and safety legislation.
- (b) The Supplier shall ensure that the Supplier and the Supplier's employees, the Supplier's sub-contractors and their employees and any other person associated with the Supplier will comply with any regulations that the Trust (or a School) may notify to the Supplier either in writing or by bringing the Supplier's attention to such matters.
- (c) If the Contract involves any works or services on a School's premises then the Supplier will ensure that all staff working on-site are CRB vetted and a satisfactory clearance check has been received and supply the Trust with a copy thereof if so requested by the Trust.

7. PACKAGING

7.1 Unless otherwise stipulated in the Contract, the Goods shall be packaged in trade packages of the type normally used by the Supplier for commercial deliveries within the United Kingdom.

7.2 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 Trust full disposal 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 all carriage and handling for the return of packaging. The Trust shall not be liable for any packaging lost or damaged in transit.

8. DELIVERY

8.1 Delivery includes packaging, securing, despatching, delivering, installing and commissioning the Goods at the Supplier's expense. The Goods shall be properly packed, secured and despatched and arrive in good condition at the times and the place or the places specified in the Purchase Order and/or the Contract.

8.2 If the Supplier or the Supplier's carrier delivers any Goods at the wrong time or to the wrong place then the Trust may deduct from the price any resulting costs of storage or transport.

8.3 Any access to premises and any labour and equipment that may be provided by the Trust (or by a School) in connection with delivery shall be provided without acceptance by the Trust (or the School) of any liability whatsoever and the Supplier shall indemnify the Trust (and the School) in respect of any actions, suits, claims, demands, losses, charges, costs and expenses which the Trust may suffer or incur as a result of or in connection with any damage or injury (whether fatal or otherwise) occurring in the course of delivery or installation to the extent that any such damage or injury is attributable to any of the Supplier's actions or omissions, or to any act or omission of the Supplier's sub-contractors.

8.4 Where any access to the Trust's premises (or the School's premises) is necessary in connection with delivery or installation, the Supplier and/or the Supplier's sub-contractor shall at all times comply with the reasonable requirements of the Trust (and/or the School as appropriate).

8.5 Time for delivery of the Goods shall be of the essence.

8.6 The Supplier shall ensure that each delivery is accompanied by a delivery note which shows, inter alia, the number of packages and contents and in the case of part delivery, the outstanding balance remaining to be delivered and any other matter reasonably specified by the Authorised Officer.

8.7 Unless otherwise stipulated by the Authorised Officer, deliveries shall only be accepted on Working Days by the Trust in between the hours of 9 a.m. and 5 p.m. and the Authorised Officer or such person nominated by the Authorised Officer must sign the delivery note relating to the Goods delivered.

8.8 The Goods must not be left at the Trust's premises without notifying the Trust's Authorised Officer. The Trust will accept no liability whatsoever for any Goods left by the Supplier at the Trust's premises without an authorised signature signifying receipt and any such authorising signature shall not constitute the Trust's acceptance of the Goods as conforming to the Contract.

8.10. If the Goods are not delivered on the due date then, without prejudice to any other rights which it may have, the Trust reserves the right to:

- (a) cancel the Contract in whole or in part;
- (b) refuse to accept any subsequent delivery of the Goods that the Supplier attempts to make;
- (c) recover from the Supplier any expenditure reasonably incurred by the Trust in obtaining the Goods in substitution from another supplier; and
- (d) claim damages for any additional costs, loss or expenses incurred by the Trust which are in any way attributable to the Supplier's failure to deliver the Goods on the due date.

8.11 Where the Trust agrees in writing to accept delivery by instalments the Contract will be construed as a single contract in respect of each instalment. Nevertheless, failure by the Supplier to deliver any one instalment shall entitle the Trust at its option to treat the whole Contract as repudiated.

8.12 If the Goods are delivered to the Trust in excess of the quantity required in accordance with the terms of the Contract, the Trust shall not be bound to pay for any excess and any excess will be and remain at the Supplier's risk and will be returnable at the Supplier's expense.

9. PROPERTY AND RISK

9.1 The Supplier shall bear all risks of loss or damage to the Goods until they have been delivered (including off-loading, stacking and an authorised signature signifying receipt), installed and commissioned and shall insure accordingly.

9.2 Ownership of the Goods shall pass to the Trust:

- (a) when the Goods have been delivered but without prejudice to the Trust's right of rejection under this Contract; and
- (b) If the Trust make any advance or stage payment, at the time such payment is made, in which case the Supplier must as soon as possible mark the Goods as the Trust's property.

10. ACCEPTANCE

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

10.2 Cancellation of the Purchase Order under this condition shall not affect any other rights the Trust may have. The Supplier must collect all rejected Goods within a reasonable time of rejection or the Trust shall return them to the Supplier at the Supplier's own risk and expense.

11. PAYMENT

11.1 The Supplier will submit to the Trust at the address stipulated by the Authorised Officer a VAT invoice in respect of the Goods supplied. Any invoice incorrectly addressed shall be deemed not received by the Trust until actually received at the address stipulated by the Authorised Officer.

11.2 The Trust shall be entitled to add or deduct any sums certified by the Authorised Officer as being deductible by reason of any omission by the Supplier or defective performance by the Supplier or any variation in the Goods to be supplied by the Supplier.

11.3 The Trust agrees with the Supplier provided the Supplier has duly supplied, provided and delivered the Goods and duly performed and observed all the terms and conditions set out in the Contract, the Trust shall duly pay to the Supplier all such sums or sums of money as by the Contract are provided shall be paid to the Supplier within 30 days of receipt of the invoice referred to in this Condition.

11.4 The time for payment shall not be of the essence of the Contract.

11.5 The Supplier shall show the VAT on all invoices as a strictly net extra charge, and shall show the percentage rate at which the VAT has been charged.

11.6 The Trust shall pay and supply any VAT properly chargeable on the Supplier's supply of the Goods.

12. THE SUPPLIER'S WARRANTY

It is expressly agreed between the Supplier and the Trust that:

(a) The Supplier shall promptly make good at the Supplier's expense any defect in the Goods that the Trust discover under proper usage during the first 12 months of actual use or 18 months from the date of acceptance by the Trust whichever period shall expire first. Such defects may arise from the Supplier's faulty design, the Supplier's erroneous instructions as to use, inadequate or faulty materials or poor workmanship or any other breach of the Supplier's obligations whether in this contract or at law.

(b) Repairs or replacements will themselves be covered by the above warranty but for a period of 12 months from acceptance by the Trust.

(c) The Supplier will ensure that compatible spares are available to facilitate repairs (where applicable) for a period of at least 5 years from the date of delivery of the Goods.

13. INDEMNITY AND INSURANCE

13.1 The Supplier shall keep the Trust indemnified in full against all direct, indirect or consequential liability, loss, damages, injury, costs and expenses (including legal and other professional fees and expenses) awarded against or incurred or paid by the Trust as a result of or in connection with (a) defective workmanship, quality or materials; (b) an infringement or alleged infringement of Intellectual Property Rights caused by the use, manufacture or supply of the Goods; and

(c) any claim made against the Trust in respect of any liability, loss, damage, injury, costs or expenses sustained by the Trust's employees or agents or by any customer or any third party to the extent that such liability, loss, damage, injury, cost or expense was caused by, relates to or arising from the Supplier's negligence.

13.2 The Supplier shall hold satisfactory insurance cover with a reputable insurer to fulfil the Supplier's insurance obligations for the duration of this Contract including public liability cover of at least £5 million (five million pounds Sterling). The Supplier shall effect insurance against all those risks arising from the Supplier's indemnity in Condition 13.1. Satisfactory evidence of such insurance and payment of current premiums shall be shown to the Trust upon request.

14. RECOVERY OF SUMS DUE

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

15. MATTERS BEYOND CONTROL

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

16. ARTICLES ON LOAN AND USE OF INFORMATION

All tools, materials, drawings, specifications and other equipment ("the Articles") loaned by the Trust to the Supplier in connection with the Contract shall always remain the Trust's property and be surrendered to the Trust upon demand in good and serviceable condition (fair wear and tear allowed) and are to be used by the Supplier solely for the purpose of completing the Contract. The Supplier agrees that no copy of any of the Articles will be made without

the consent in writing of the Authorised Officer. Until the Supplier returns all the Articles to the Trust they shall be at the Supplier's risk and insured by the Supplier at the Supplier's own expense against the risk of loss, theft or damage. Any loss of or damage to such Articles shall be made good by the Supplier at the Supplier's expense. All scrap arising from the supply of such Articles must be disposed of at the Trust's discretion and all proceeds of sales of such scrap must promptly be paid to the Trust in full.

17. CONFIDENTIALITY

The Supplier shall not without the written consent of the Trust at any time make use of for its own purposes, or dispose to any person (except as may be required by law) this Contract or any information contained in it or in any material provided to the Supplier by the Trust pursuant to or in connection with this Contract or prepared by the Supplier pursuant to this Contract, all of such information shall be deemed to be confidential.

18. OWNERSHIP OF RESULTS

If the Contract and or the Goods involves any design and/or development work and/or the creation of any copyright or intellectual property:

(a) All rights in the results of work arising out of or deriving from this Contract, including inventions, designs, copyright and know-how and knowledge, shall be the Trust's property ("Design Rights"), and the Supplier shall be deemed (as at the date of creation of such Design Rights) to assign all such Design Rights absolutely to the Trust in perpetuity in all media and for all purposes, and the Trust shall have the sole right to determine whether any letters of patent, registered design, trademark and other protection shall be sought.

(b) The Supplier shall promptly communicate to the Trust all such results and shall if requested and at the Trust's expense do all acts and things necessary to enable the Trust or its nominee to obtain letters of patent, registered designs and other protection for such results in all territories and to assign the same to the Trust or its nominee.

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

19. INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS

19.1 The Supplier shall not in or about the execution of the Contract manufacture, supply, deliver, or use or cause to be permitted to be manufactured, supplied, delivered or used any Goods, machine, instrument, process, article, matter or thing, the manufacture, sale, supply, delivery, or use of which would be an infringement of any patent or other proprietary or protected rights, and in the case of any breach (whether wilful or inadvertent) by the Supplier of this provision the Supplier shall indemnify the Trust and its officers, servants and agents from all claims, proceedings, damages, costs, charges, expenses, loss and liability which they or any of them may sustain, incur or be put to by reason or in consequence, directly or indirectly, of such breach, and against the payment of any royalties, damages or other monies which the Trust may have to make to any person or body entitled to intellectual property or patent rights in respect of the use of any machine, instrument, process, article, matter or things, or any part or any machine, instrument, process, article, matter or thing, constructed, manufactured, supplied or delivered by the Supplier under this Contract.

19.2 In the event of any injunction or similar relief being obtained against the use of any Goods, materials or equipment supplied by the Supplier to the Trust, the Supplier shall immediately replace the same with other suitable and compatible Goods, materials and/or equipment to the satisfaction of the Trust at no additional cost to the Trust.

20. NON-OBSERVANCE OF CONDITIONS

If the Supplier breaches or fails to observe any provision of this Contract the Trust may give the Supplier written notice of such breach or non-observance and the Supplier shall have 14 days from receipt of the notice in which to rectify the breach or non-observance. Should the Supplier fail to rectify the breach or non-observance, then the Trust shall have the right to give the Supplier written notice terminating the Contract with immediate effect.

21. HEALTH AND SAFETY

The Supplier shall represent and warrant to the Trust that the Supplier have satisfied itself that 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 and constructed so as to be safe and without risk to the health or safety of persons using the same, and that the Supplier has made available to the Trust 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. The Supplier shall observe all legal requirements of the United Kingdom, European Union and relevant international agreements in relation to health, safety and environment, and in particular to the marking of hazardous goods, the provision of data sheets for hazardous materials and all provisions relating to food.

22. TERMINATION

22.1 The Trust shall have the right at any time by giving notice in writing to the Supplier to terminate the Contract immediately if:

- (a) the Supplier commits any material breach of any of the terms and conditions of the Contract;
- (b) any distress, execution or other process is levied upon any of the assets of the Supplier;
- (c) the Supplier enters into any compromise or arrangement with its creditors, commits any act of bankruptcy or if an order is made or an effectual resolution is passed for its winding up (except for the purpose of amalgamation or reconstruction as a solvent company) or if a petition is presented to the Court, or if a Receiver and/or Manager, Receiver, Administrative Receiver or Administration is appointed in respect of the whole or any part of the Supplier's undertaking or assets;
- (d) the Supplier ceases or threatens to cease to carry on its business;
- (e) the financial position of the Supplier deteriorates to such an extent that the Trust believes in good faith that the capability of the Supplier adequately to fulfil its obligations under the Contract has been placed in jeopardy;
- (f) the Supplier has failed to deliver the Goods by the date specified in the Contract or by the Authorised Officer; or
- (g) there shall be any change in control of the Supplier or where the Supplier is a subsidiary company its ultimate holding company.

22.2 On termination under Condition 22.1 in addition to such consequences as set out in the other provisions of the Contract:

- (a) the Supplier shall be deemed to be in breach of the Contract;
- (b) the Supplier shall, unless requested otherwise by the Authorised Officer, immediately cease to provide the Goods;
- (c) the Supplier shall be liable immediately to compensate the Trust for any loss or damage it has sustained in consequence of any antecedent breaches of Contract by the Supplier.

22.3 The Trust may cancel the Purchase Order and any Order Amendment at any time by sending a notice of termination. The Supplier will comply with any instruction that the Trust may issue with regard to the Goods.

22.4 On termination under Condition 22.2 if the Supplier submits a termination claim then the Trust will pay to the Supplier the cost of any commitments, liabilities or expenditure which in the reasonable opinion of the Trust were a consequence of this Contract at the time of termination. The total of all payments made or due to the Supplier under this Contract, including any termination payment shall not exceed the Price. If the Supplier fails to submit a termination claim within 30 days of the date of the notice of termination served by the Trust then the Trust will have no further liability to the Supplier under the Contract.

23. REMEDIES

Without prejudice to any other right or remedy which the Trust may have, if any Goods are not supplied in accordance with or the Supplier fails to comply with, any of the terms of this Contract the Trust shall be entitled to avail itself of any one or more of the following remedies at its discretion, whether or not any part of the Goods have been accepted by the Trust:

- (a) to rescind the Purchase Order;
- (b) to reject the Goods (in whole or in part) and return them to the Supplier at the risk and cost of the Supplier on the basis that a full refund of the Goods so returned shall be paid immediately by the Supplier;
- (c) at the Trust's option to give the Supplier the opportunity at the Supplier's expense either to remedy any defect in the Goods or to supply replacement Goods and carry out any other necessary work to ensure that the terms of the Contract are fulfilled;
- (d) to refuse to accept any further deliveries of the Goods but without any liability to the Trust;
- (e) to carry out at the Supplier's expense any work necessary to make the Goods comply with the Contract; and
- (f) to claim such damages as may have been sustained in consequence of the Supplier's breach or breaches of the Contract.

24. ASSIGNMENT AND SUB-LETTING

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

25. "BEST VALUE" AND CORRUPT GIFTS

25.1 The Organisation: (a) acknowledges that the Trust operates as if it were subject to the provisions of Part 1 of the Local Government Act 1999 and under an obligation to make arrangements to secure continuous improvement in the way its functions are exercised having regard to a combination of economy, efficiency and effectiveness ("the

Best Value duty”); and (b) shall co-operate fully and assist the Trust, so far as reasonably required, to ensure the “Best Value duty” is achieved in relation to the supply of the Goods.

25.2 In connection with this or any other contract between the Trust and the Supplier the Supplier shall not give, provide, or offer to the Trust’s staff and agents any loan, fee, reward, gift or any emolument or advantage whatsoever. In the event of any breach of this Condition, the Trust shall, without prejudice to any other rights the Trust may possess, be at liberty forthwith to terminate this and any other contract and to recover from the Supplier any loss or damage resulting from such termination.

26. 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 the provision or be a waiver of the provision itself.

27. NOTICE

All notices and communications required to be sent by the Supplier or the Trust in this Contract shall be made in writing and sent by first class mail and if sent to the Supplier to the Supplier’s registered or head office, and if sent to the Trust sent to the Authorised Officer and shall be deemed to have reached the party to whom it is addressed on the next business day following the date of posting.

28. ENFORCEABILITY

If any part of these terms and conditions is held to be unenforceable or invalid for any reason the remainder shall remain in full force and effect.

29. AMENDMENT

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

30. GENERAL

30.1 In these Conditions of Purchase: (a) words importing a gender include every gender and references to the singular include the plural and vice versa; (b) the words "other", "including" and "in particular" do not limit the generality of any preceding words and any words which follow them shall not be construed as being limited in scope to the same class as the preceding words where a wider construction is possible; (c) the headings are inserted for convenience only and shall not affect the interpretation of these Conditions.

30.2 References: (a) to a statute or statutory provision include reference to any subordinate legislation (as defined by section 21(1) Interpretation Act 1978) made from time to time under that statute or provision (whether before or after the date of these Conditions of Purchase); and (b) to a statute (as so interpreted) or European Directive or government guidance shall be construed as including a reference to that statute, Directive or guidance issued by a UK Government Department as in force at the date of these Conditions of Purchase and as from time to time modified or consolidated, superseded, re-enacted or replaced (whether with or without modification) after the date of these Conditions, and (c) references to legislative requirements means statutes as interpreted in accordance with this Condition, Directives and guidance; (d) to a “party” means a party to these Conditions and to “parties” means both parties to the Contract; (e) to the Trust includes any person or body or organisation to which all or part of its functions have been lawfully transferred; (f) to persons includes reference to bodies corporate, unincorporated associations and partnerships; and (g) to Conditions are to conditions in these Conditions of Purchase.

33. THIRD PARTY RIGHTS

The parties to this Contract do not intend that any term of this Contract will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it other than the School and/or the London Borough of Hackney.

32. LAW

This Contract shall be subject to English law and the jurisdiction of the English courts.

THE LEARNING TRUST

Draft dated 31 10 07

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