

## **Terms of Business**

All invoices, quoting the order number, should be addressed and sent to the Payments Office, Cork Institute of Technology (even if they relate to outside Campuses).

It is CIT'S policy, as a State Funded Body, to pay all invoices when goods / services are rendered to our satisfaction.

The Institute operates a 30 day credit period.

CIT is subject to public sector rules including Circulars 43/2006 and 44/2006 regarding tax clearance procedures.

CIT is subject to Professional Services With-holding tax as per Revenue guide IT61.

CIT is subject to Revenue Guidelines relating to RCT.

## **Standard Terms and Conditions**

These terms and conditions shall override any terms and conditions of the Supplier including terms and conditions which the supplier may purport to apply under any delivery docket or invoice. No other condition may apply unless these are accepted and confirmed by the Purchasing Office, CIT in writing.

### **1. DEFINITIONS**

1.1 The term "Purchaser" shall mean Cork Institute of Technology;

1.2 The term "Supplier" shall mean the organisation, company, person or other legal entity to whom the Purchase Order is issued;

1.3 The word "Goods" shall mean any goods or services to be provided to the Purchaser by the Supplier (or any of the Supplier's sub-contractors) pursuant to or in connection with a Purchase Order;

1.4 The terms "Purchase Order" or "Order" shall mean the order for Goods placed with the Supplier by the Purchaser and these associated terms and conditions.

1.5 The word "Service" shall include all service work specified in this Purchase Order;

1.6 "The Contract" shall mean the contract between Purchaser and Supplier consisting of this Purchase Order and any other document specified by the Purchaser in the Order.



## **2. CONFORMITY, QUALITY & FITNESS FOR PURPOSE**

2.1 Supplier warrants that Goods shall be new and of merchantable quality for the purpose, free of defect, free from encumbrance and in accordance with the Purchaser's written specification or the Supplier's sample as provided to the Purchaser;

2.2 No Goods shall be supplied with asbestos content;

2.3 The Goods shall conform in all respect with the requirements of any statutes, orders, regulations, standards or bye-laws from time to time in force.

## **3. DELIVERY**

3.1 Delivery shall take place correctly and promptly to the Purchaser's premises unless otherwise notified and agreed. Delivery time shall be of the essence and failure to deliver on agreed date gives the Purchaser the right with prejudice to cancel the order;

3.2 The Purchaser reserves the right to refuse early delivery;

3.3 A delivery note must accompany every delivery regardless of delivery method;

3.4 Delivery times are Monday to Friday 9.15 to 12.45 and 14.15 to 16.45;

3.5 Supplier must obtain a legible authorised signature as proof of delivery;

3.6 Equipment requiring off loading by forklift shall be arranged and paid for by the Supplier.

3.7 The Supplier is responsible for Goods in transit.

## **4. PAYMENT**

4.1 Invoices quoting the relevant Purchase Order number should be addressed to the Accounts Payable Office, Cork Institute of Technology;

4.2 Invoices not quoting a Purchase Order number will be returned to the Supplier

4.3 The Institute operates a 30 day credit period;

4.4 The Purchaser is obliged by the Revenue Commissioners to deduct professional services withholding tax from relevant payments made for professional services;

4.5 The Purchaser reserves the right to withhold payment to suppliers if a current Tax clearance certificate has not been submitted. This is only in respect of the threshold in force at the time of payment. This applies to all EU Countries.

4.6 Supplier is required to use the correct Intrastat codes on invoices.

## **5 FORCE MAJEURE**

5.1 Force Majeure - no delay or failure in performance by either party should constitute a fault hereunder or give rise to any claim to damages loss or anticipated profits if such delay is caused by Force Majeure. If such Force Majeure causes a delay of sixty (60) days or more and such delay may reasonably be anticipated to continue, then either party may terminate this Contract forthwith. A “Force Majeure” event in this context means: Acts of God, flood, earthquake, windstorm or other natural disaster; epidemic or pandemic; war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, breaking off of diplomatic relations or similar actions; terrorist attack, civil war, civil commotion or riots; nuclear, chemical or biological contamination or sonic boom; any law or government order, rule, regulation or direction, or any action taken by a government or public authority, including but not limited to imposing an embargo, export or import restriction, quota or other restriction or prohibition, or failing to grant a necessary license or consent; fire, explosion (other than in each case one caused by a breach of contract by, or assistance of, the party seeking to rely on this clause or companies in the same group as such party) or accidental damage; loss at sea; extreme adverse weather conditions; interruption or failure of utility service, including but not limited to electric power, gas or water; any labour dispute, including but not limited to strikes, industrial action or lockouts [(other than in each case by the party seeking to rely on this clause, or companies in the same group as such party); collapse of building structures, failure of plant machinery, machinery, computers or vehicles.

## **6. WARRANTY**

6.1 The Supplier represents and warrants to the Purchaser that the Supplier has satisfied himself/herself 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 and safety of such persons using same and that he 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;

6.2 The Supplier warrants that it has the requisite title in the Goods to pass onto the Purchaser, that it has legal authority to enter into the Contract and that it holds all the necessary permits or licences required for the supply of the Goods;

6.3 Unless the Goods are supplied to the design or specification of the Purchaser, the Supplier accepts design responsibility and warrants the Goods are free from defect.

## **7. INDEMNITY**

7.1 Without prejudice to any rights or remedies of the Purchaser, the Supplier shall at all times hold harmless and keep indemnified the Purchaser, its employees and agents from and against any and all claims, proceedings, judgements, costs (including legal fees) and losses wherever made, or incurred in respect of losses, damage to property and/or injury, or death of persons arising directly or indirectly out of any actual or alleged defect in design, materials and/or workmanship concerning the Goods, or the

failure to provide adequate, complete and proper warnings and instructions in respect of the Goods, or resulting from any acts or omissions of the Supplier;

7.2 The undertaking shall apply whether the claim proceeding or judgement is grounded on breach of warranty, negligence or strict liability;

7.3 Supplier agrees upon request by the Purchaser to take over for the Supplier's own account the defence of any such claim or proceeding;

7.4 Supplier providing Goods on the Purchaser's premises shall accept full responsibility for all damage to persons or property caused by its errors, actions, and inactions (including those of its employees, agents, servants and sub-contractors) and must have the benefit of adequate insurance therefore, and provide evidence thereof to the Purchaser on request.

## **8. CARRIAGE AND PACKAGING**

8.1 Carriage to be paid by Supplier to Purchaser's delivery address, unless otherwise agreed and stated on the Order;

8.2 The Goods shall be securely packed and marked in a proper manner and in accordance with the Purchaser's instructions and any statutory requirements;

8.3 All packaging shall be considered as non-returnable and the cost as having been included in Supplier's price, unless otherwise agreed and stated on the Order. Packaging associated with the purchase of personal computers and printers will be removed by the Supplier at no additional cost to the buyer.

## **9. INSPECTION REJECTION AND GUARANTEE**

9.1 The Supplier shall permit the Purchaser or his authorised representative to make any inspections or tests he may reasonably require of the Goods and the Supplier shall afford all reasonable facilities and assistance free of charge at the Supplier's premises. No failure to make complaint at the time of such inspection or tests and no approval given during or after such tests shall constitute a waiver by the Purchaser of any rights or remedies in respect of the Goods;

9.2 The Purchaser may by written notice to the Supplier reject any of the Goods which fail to meet the requirement specified herein or which are defective in any way. Rejected materials will be the responsibility of the Supplier as soon as the rejection is notified to the Supplier. The Purchaser reserves the right to dispose of any rejected material after a period of 4 weeks following notification of rejection;

9.3 Any goods returned to the Supplier shall be returned at the Suppliers risk and expense.

## **10. PROPERTY AND RISK**

10.1 Property and risk in the Goods shall, without prejudice to any of the rights or remedies of the Purchaser, pass to the Purchaser at the time of delivery.

## **11. INSURANCE, HEALTH & SAFETY**

11.1 In order to undertake work on any premises of the Purchaser a Supplier is required to have the necessary insurance cover as agreed with the Purchaser;

11.2 Suppliers will be required to submit a copy of their health & safety statement prior to working on the Purchaser's premises.

## **12. INTELLECTUAL PROPERTY**

12.1 The Purchaser will own all rights, title and interest in any and all intellectual property rights created in the performance or otherwise arising from the performance of the Contract with the Supplier, and the Supplier will execute any assignments or other documents needed for the Purchaser to perfect such rights, provided that, for research collaboration pursuant to subcontracts under sponsored research agreements administered by the Purchaser's Office of Sponsored Programs, intellectual property rights will be governed by the terms of the grant or contract to the Purchaser to the extent such grant or contract requires intellectual property terms to apply to subcontractors.

## **13. CONFIDENTIALITY**

13.1 The Supplier shall keep confidential and not disclose and shall procure that its employees keep confidential and do not disclose any information of a confidential nature obtained by him/her by reason of a Purchase Order except information which is in the public domain otherwise than by reason of a breach of this provision;

13.2 The provisions of paragraph 13 shall apply during the continuance of this Order and after its termination howsoever arising.

## **14. TRANSFER AND SUB-CONTRACTING**

14.1 The Supplier shall not sub-contract this Purchase Order without prior approval in writing from the Purchaser.

The Purchaser shall be entitled to terminate this Purchase Order in the event that the Supplier fails to deliver the Goods within the time stated on the Purchase Order;

14.2 No sub-contracting shall in any way relieve the Supplier of any of its responsibilities under this Purchase order;

14.3 Any such transfer shall be null and void.

## **15. PRICE**

15.1 The price specified on the order shall remain fixed and no increase will be accepted by the Purchaser unless otherwise agreed in writing before the execution of the Order. All direct charges such as but not limited to packaging, freight, insurance & import duties shall be included in the price.

## **16. LAW**

16.1 The Contract shall be governed by the laws of the Republic of Ireland in every particular including information and interpretation and shall have been made in the Republic of Ireland. The courts of the Republic of Ireland shall have exclusive jurisdiction in relation to any dispute arising under the Contract.

## **17. GENERAL**

17.1 Supplier's acknowledgement referring to Purchaser's Order or commencement of any work related to the Goods shall be deemed acceptance of these terms and conditions;

17.2 Subject to any amendment, these term and conditions shall be the entire understanding of the parties and no representation whatsoever whether oral or written shall have any binding effect;

17.3 The headings to these terms and conditions shall not affect their interpretation. If any part of any these terms and conditions shall be held to be unenforceable to any extent the remainder shall nevertheless remain in full force and effect;

17.4 Where the Supplier provides Goods on the Purchaser's premises the Service shall be performed in accordance with the Purchaser's site rules and regulations.

17.5 Any notice given pursuant to this Order must be in writing and may be sent by hand, or by post to the address shown on the Order and shall be deemed to have been served on the day when it would be received by the addressee in normal business hours;

17.6 No variation or modification expressed to be an amendment to this Contract shall have any effect unless made in writing and signed by a duly authorised representative of the Purchaser and the Supplier;

17.7 The failure of the Purchaser to enforce any of the terms and conditions shall not be construed as a waiver of its rights hereunder of any of these terms.