

Standard Terms and Conditions for the Purchase of Services by OGAT

1. DEFINITIONS

1.1 In these conditions:-

- 1.1.1 “Commencement Date” means the date provided in clause 2.1 of these Conditions;
- 1.1.2 “Conditions” means these terms and conditions;
- 1.1.3 “Contract” means these Conditions together with the Purchase Order;
- 1.1.4 “Intellectual Property Rights” means patents, rights to inventions, copyright and related rights, trade marks and service marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;
- 1.1.5 “Mandatory Policies” means OGAT’s business policies and codes set out at the end of these Conditions, the content of which are made available to the Supplier by accessing the appropriate hyperlink;
- 1.1.6 “OGAT” means Outwood Grange Academies Trust;
- 1.1.7 “Purchase Order” means OGAT’s order for the supply of Services, as set out in OGAT’s Purchase Order form;
- 1.1.8 “Services” means the service(s) to be provided under the Contract;
- 1.1.9 “Party” means each of OGAT or the Supplier and “Parties” means both of them; and
- 1.1.10 “Supplier” means the company or entity from whom OGAT purchases the Service(s).

2. INTERPRETATION

- 2.1 A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.
- 2.2 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2.3 A reference to **writing** or **written** includes email.

3. **BASIS OF CONTRACT**

3.1 The Purchase Order constitutes an offer by OGAT to purchase the Services in accordance with these Conditions which are deemed accepted upon any act by the Supplier consistent with fulfilling the Purchase Order, at which point and on which date the Contract shall come into existence.

3.2 These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

3.3 No variation of these conditions shall be effective unless agreed in writing and signed by both OGAT and the Supplier (or their authorised representatives).

4. **SUPPLY OF SERVICES**

4.1 The Supplier shall from the Commencement Date provide the Services:

4.1.1 in co-operation with OGAT and in compliance with any instructions given by OGAT from time to time;

4.1.2 with the best skill, care and diligence and in accordance with best practice in the Supplier's industry, profession or trade;

4.1.3 by using personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number as well as providing all equipment, tools and vehicles necessary to ensure that the Supplier fulfils its obligations under these Conditions;

4.1.4 in conformance to all descriptions, standards and specifications provided by OGAT from time to time and that delivery of the Services shall be fit for any purpose OGAT expressly or impliedly makes known to the Supplier;

4.1.5 using the best quality goods, materials, standards and techniques and, to the extent that the Services include any product of workmanship, installation and/or design and ensure such work product shall be free from defects arising therefrom;

4.1.6 in accordance with all licences and consents and shall maintain in force such licences and consents for the duration under which Services are provided to OGAT;

4.1.7 in accordance with all applicable laws, regulations, regulatory policies, guidelines or industry codes which may apply from time to time in providing the Services;

4.1.8 in accordance with the Mandatory Policies; and

4.1.9 in a professional and courteous manner.

- 4.2 The Supplier shall comply with the Supply of Goods and Services Act 1982.
- 4.3 If during performance of the Services the Supplier becomes aware of any quality, performance and/or safety related report, notice, alert or other communication which has or may have an impact on the safety, performance, function or carrying out of the Services the Supplier shall promptly inform OGAT of the same and provide a copy of the same. OGAT shall have absolute discretion to decide what subsequent action it takes in response to any matter brought to its attention under this clause 4.3.
- 4.4 The Supplier shall provide the Services in accordance with any timescales, dates and instructions set out in the Purchase Order or as otherwise agreed with OGAT in writing.
- 4.5 The Supplier shall not commence provision of any Services prior to being provided with a Purchase Order. The Supplier shall clearly set out on each invoice (as applicable) the number corresponding to the Purchase Order for the Services. OGAT shall have no obligation to pay any invoice which does not set out the correct corresponding Purchase Order number.
- 4.6 The Supplier may not assign or sub-contract the Contract in whole or in part to any third party without OGAT's prior written agreement. Should the Supplier breach the terms of this provision, it shall remain liable to OGAT as if it had performed the Services and as provided in these Conditions.

5. **INSPECTION**

- 5.1 OGAT (or its authorised representative(s)) shall have the right to inspect the provision of the Services at regular intervals and for the duration under which the Supplier provides the Services.
- 5.2 OGAT hereby reserves the right to withhold payment for any Services which are not to the reasonable standard and specification requested under these Conditions.

6. **TERMINATION**

- 6.1 Without limiting or affecting any other right or remedy available to it, , OGAT may terminate the Contract in whole or in part by written notice to the Supplier with immediate effect if the Supplier:
- 6.1.1 is in material breach of any obligation under the Contract which is not capable of remedy;
 - 6.1.2 repeatedly breaches any of the terms and conditions of the Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms and conditions of the Contract;
 - 6.1.3 is in material breach of any obligation which is capable of remedy, and that breach is not remedied within 30 days of the Supplier receiving written notice specifying the breach and requiring it to be remedied (see also section "dispute resolution" below);

- 6.1.4 undergoes a change of control;
- 6.1.5 the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
- 6.1.6 the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
- 6.1.7 fails to comply with the Mandatory Policies or its legal obligations in the fields of environmental, social or labour law.

7. CANCELLATION

- 7.1 Without limiting or affecting any other right OGAT may have, OGAT shall by providing written notice to the Supplier have the right to cancel the Services, or any part of them, provided that such provision of Services has not yet commenced.
- 7.2 Without limiting or affecting any other right OGAT may have, if OGAT cancels the Services under clause 7.1 and the Supplier has either commenced provision of the Services or has irrevocably committed financial resources which are not capable or being recovered, OGAT shall pay such charges or that part of the charges for those Services received at the date upon which notice to cancel was provided to the Supplier. The Supplier shall have a duty to mitigate fully any losses which may be incurred as a consequence of such cancellation. For the avoidance of doubt, OGAT shall not be liable for any consequential loss or loss of anticipated profits associated with invoking this clause 7.2.

8. FORCE MAJEURE

- 8.1 Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control. If the period of delay or non-performance continues for 3 months, the party not affected may terminate the Contract by giving 30 days' written notice to the affected party. For the avoidance of doubt, an event arising under clause 4.3 of these Conditions shall amount to an act of force majeure.

9. DATA PROTECTION AND REQUESTS FOR INFORMATION

- 9.1 The Supplier shall adhere to all Data Protection legislation including General Data Protection Regulation 2018 and the Data Protection Act 2018 and enter into a data sharing agreement where required.
- 9.2 The Supplier shall be responsible for ensuring that appropriate safeguards are in place to protect OGAT's data (in particular that of its staff and students if applicable) and ensure that it is kept safe. The Supplier shall not disclose any data to a third party

without first having sought the written permission from OGAT. All legal liability in respect of the Supplier's handling of OGAT's data rests with the Supplier.

- 9.3 Where relevant, the Supplier shall provide any information/data requested by OGAT in relation to its provision of Service, no less than 30 days after request. This includes but is not limited to any information which may be required for re-tendering the contract.
- 9.4 The Supplier shall provide any information requested by OGAT and required under regulation 13 of The Transfer of Undertakings (Protection of Employment) Regulations 2006. The Supplier shall be liable to OGAT for, and shall indemnify and keep OGAT indemnified against any loss, damages, costs, expenses (including without limitation legal costs and expenses), claims or proceedings that arise or result from any breach of this obligation.
- 9.5 If there are any incidents that in any way relate to or involve OGAT's use of the Service provided by the Supplier, the Supplier shall cooperate fully with OGAT in relation to OGAT's application of the policies on reporting and responding to all incidents, including serious incidents requiring investigation, and shall respond promptly to any reasonable and proportionate queries, questions and/or requests for information that OGAT may have in this context in relation to the Service provided.

10. **CONFIDENTIALITY**

- 10.1 Each Party shall during provision of the Services:
 - 10.1.1 treat all information it receives as confidential, safeguard it accordingly and not disclose it to any other person without the prior written permission of the disclosing party; and
 - 10.1.2 not use or exploit the disclosing party's confidential information in any way except for the purposes of performing the Services.
- 10.2 Notwithstanding clause 10.1, each Party may disclose confidential information which it receives from the other Party:
 - 10.2.1 where disclosure is required by applicable law or by a court of competent jurisdiction;
 - 10.2.2 to its auditors or for the purposes of regulatory requirements;
 - 10.2.3 on a confidential basis, to its professional advisers;
 - 10.2.4 to the police, where a Party has reasonable grounds to believe that the other party is or has been involved in an activity that may constitute a criminal offence;
 - 10.2.5 to the Serious Fraud Office where a Party has reasonable grounds to believe that the other Party is involved in activity that may constitute a criminal offence under the Bribery Act 2010;
 - 10.2.6 where the Supplier receives information from OGAT: to personnel engaged by it to perform the Services on a strict need to know basis to

enable performance of the Supplier's obligations under these Conditions and provided that the Supplier procure that any person to whom it discloses confidential information pursuant to this clause 10 shall observe the Supplier's confidentiality obligations under this clause 10.2;

10.2.7 where OGAT receives information from the Supplier: on a confidential basis to officers, employees, agents, consultants and contractors (including third party contractors or sub-contractors) of OGAT; or

10.2.8 to the extent that OGAT (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions.

11. FREEDOM OF INFORMATION

11.1 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the Freedom of Information Act 2000 the Supplier hereby gives its consent for OGAT to publish the Contract in its entirety to the general public (but with any information that is exempt from disclosure in accordance with the FOIA redacted) including any changes to the Contract agreed from time to time. OGAT may consult with the Supplier to inform its decision regarding any redactions but shall have the final decision in its absolute discretion whether any of the content of the Contract is exempt from disclosure in accordance with the provisions of the FOIA.

12. INTELLECTUAL PROPERTY

12.1 All Intellectual Property Rights in or arising out of or in connection with the Services shall be owned by OGAT.

12.2 To the extent that ownership of Intellectual Property Rights does not vest in OGAT under clause 12.1, the Supplier grants OGAT, or shall procure the direct grant to OGAT of, a fully paid-up, worldwide, non-exclusive, royalty-free perpetual and irrevocable license to copy and modify any tangible or intangible work product provided pursuant to the Services for the purpose of receiving and using the Services.

12.3 All Intellectual Property Rights of OGAT are the exclusive property of OGAT and nothing in these Conditions or the Contract grants or shall grant any right or licence, express or implied, in or to such Intellectual Property Rights to the Supplier.

13. INSURANCE

13.1 During the term of the Contract and for a period of 7 years thereafter, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract and shall, on OGAT's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

14. SUPPLIER'S WARRANTIES

14.1 The Supplier warrants:

- 14.1.1 that it will comply with all laws, guidance, and policies (including the Mandatory Policies) in providing the Services;
- 14.1.2 it will promptly notify OGAT of any health and safety hazard which has arisen, or the Supplier is aware may arise, in providing the Services and take all necessary steps to ensure the health and safety of any person likely to be affected by any such health and safety hazard;
- 14.1.3 that it will fully and promptly respond to all requests for information and/or requests for answers to questions regarding this Contract, the Goods, any complaints and any disputes at the frequency, in the timeframes and in the format as may reasonably be requested by OGAT from time to time;
- 14.1.4 that all information included within the Supplier's responses to any documents issued by OGAT as part of the procurement relating to the award of this Contract and all accompanying materials is accurate;
- 14.1.5 there are no pending or threatened actions or proceedings before any court or administrative agency which would materially adversely affect the financial condition, business or operations of the Supplier;
- 14.1.6 there are no material agreements existing to which the Supplier is a party which prevent the Supplier from entering into or complying with this Contract;
- 14.1.7 that it has the ability, expertise and capacity to fulfil its obligations under this Contract;
- 14.1.8 that, in the case of a transfer of Services, it will provide such assistance and information to OGAT as it may reasonably request to facilitate a smooth and efficient handover of the transferring employees to any Supplier (including attendance at any meetings with transferring employees, trade unions and employee representatives); and
- 14.1.9 The Supplier further warrants that it understands that OGAT is entering into this Contract on the specific warranties detailed in clause 14.1 above.

15. INDEMNITY

- 15.1 The Supplier shall indemnify OGAT against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by OGAT arising out of or in connection with:

15.1.1 any claim brought against OGAT for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with, the receipt, use or supply of the Services (excluding any materials owned or controlled by OGAT); and

15.1.2 any claim made against OGAT by a third party arising out of, or in connection with, the supply of the Services.

15.2 Clause 15.1 shall survive termination of the Contract.

16. **PRICE AND PAYMENT**

16.1 The price for the Services is set out in the Purchase Order.

16.2 Unless otherwise stated in the Purchase Order the contract price;

16.2.1 shall remain fixed for the duration under which the Service are provided; and

16.2.2 is subject to clause 16.3, the entire price payable by OGAT to the Supplier in respect of their fulfilment of this Contract (including but not limited to, import taxes, charges, packaging, loading and delivery, royalties, license fees or similar expenses).

16.3 The Contract price is exclusive of VAT, which, if properly chargeable, OGAT shall only pay at the prevailing rate subject to receipt from the Supplier of a valid and accurate VAT invoice. Such VAT invoices shall show the VAT calculations as a separate line item.

16.4 Unless otherwise stated in the Purchase Order, full payment for the Services will be on completion and subject to inspection of the Services to OGAT's reasonable satisfaction as provided under clauses 16.5 and 16.6 of these Conditions.

16.5 OGAT shall pay undisputed and correctly raised invoices within 30 days of receipt of the same.

16.6 The Supplier's invoice for Services shall clearly set out where payment is to be made (which shall be by BACS and includes the Supplier's bank account number, sort-code, email address of where to send the remittance advice note and contact telephone number).

17. **TERM**

17.1 The Contract term shall commence on the Commencement Date and, unless terminated earlier in accordance with clause 6 (Termination) or clause 7 (Cancellation) shall continue for the term provided in the Purchase Order or until the purpose for which the Services are being provided have been satisfied.

18. **CONSEQUENCES OF TERMINATION**

18.1 Upon expiration, cancellation or termination of the Contract, the Supplier shall:

18.1.1 provide all reasonable assistance to OGAT and any incoming supplier of Services including provision of information reasonably requested in order to transition the supply of Services; and

18.1.2 return or provide all requested documents, information and data to OGAT as soon as reasonably practicable and if requested by OGAT to do so provide certification as to its compliance with this clause 18.

19. **DISPUTE RESOLUTION**

19.1 In the case of a dispute, the Parties may escalate the dispute to an appropriate senior representative of each Party.

19.2 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Contract.

19.3 OGAT shall write to the Supplier to notify them that the Contract (and, where applicable, payment) is in dispute and provide details of the issues to be addressed.

19.4 The supplier will provide a response and address all issues including, where relevant, providing a timeline of when any failures will be corrected/fixed, within 30 days of receipt of the letter referred to in clause 19.3.

19.5 In resolving the dispute, consideration will be given as to whether mediation would be appropriate to agreement by the Parties.

19.6 If the parties fail to reach an agreement within one month of OGAT providing written notification of the dispute as per clause 19.3 above, either party may exercise any remedy it has under applicable law.

20. **GOVERNING LAW AND JURISDICTION**

20.1 This Contract and any dispute or claim (including not-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and interpreted in accordance with the laws of England and Wales.

20.2 Each Party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Contract or its subject matter or formation.

MANDATORY POLICIES

The Mandatory Policies are:

- Modern Slavery Statement
- Data Protection and FOI policy