

The Chartered Institute of Marketing

Terms and Conditions of Purchase (Goods and Services)

1. **Definitions**

'Contract' means the contract for supply of Goods and/or Services comprising the commercial terms set out in the Order together with these Terms and Conditions of Purchase (Goods and Services) to the exclusion of all other terms, unless otherwise agreed in writing by CIM.
'CIM' means The Chartered Institute of Marketing, CIM Holdings Ltd or The CAM Foundation Ltd as stated on the Order.
'Goods' means all goods specified by the Order or any deliverables required or generated as part of the Services.
'Order' means a Purchase Order issued by CIM, with these Terms and Conditions attached or which specifies that they apply to it.
'Services' means all services of whatever nature to be provided by the Supplier to CIM as specified in the Order and/or any specification or written statement of services attached to the Order.
'Supplier' means the person, firm or company to whom the Order is issued.
2. **The Agreement**
 - 2.1 This Contract shall represent the entire Agreement between the parties and shall take precedence over any terms and conditions issued by the Supplier at any time. No additions or qualifications to this Contract shall be valid unless they have been signed by CIM's authorised signatories.
 - 2.2 These Terms and Conditions apply to all Purchase Orders issued by CIM, except where the supply of goods and/or services is expressly subject to the terms of a separate contract between the Supplier and CIM. Such contract shall take precedence in the event of a conflict with these Terms and Conditions.
 - 2.3 The Order including these Terms and Conditions shall be deemed to be in force when the earlier of the following occurs:
 - (a) the Supplier issues an acknowledgement whether orally or in writing to CIM accepting the Purchase Order, or
 - (b) Performance is commenced by the Supplier.
3. **Supply of Goods**
 - 3.1 The Supplier shall supply the Goods specified in this Order. Goods shall conform and shall continue to conform to the quantity, quality and specification stated in the Order and/or by CIM and any relevant British Standard (or agreed equivalent) and shall be fit for the purpose intended as indicated by the Order and/or by CIM.
 - 3.2 CIM shall be entitled, subject to reasonable notice being given, to inspect the Goods at the Supplier's premises prior to delivery.
 - 3.3 The Goods shall be delivered by the Supplier at its own expense in accordance with the Order to the address specified by CIM, between 9am and 5pm Monday - Friday, unless otherwise agreed by CIM. A delivery note must accompany the Goods.
 - 3.4 The Supplier shall pack and mark the Goods in a manner suitable for storage in a normal office environment, unless requested otherwise by CIM.
 - 3.5 Times stated in the Order for delivery of the Goods shall be of the essence.
 - 3.6 Title in the Goods shall vest unconditionally in CIM upon their delivery in accordance with this Clause 3. In the case of delivery by instalments then title shall pass on delivery of the first instalment.
 - 3.7 Any Goods found not to be in accordance with the Order may be rejected by CIM and returned to the Supplier at the Supplier's risk and expense. Upon rejection, title in the rejected Goods shall immediately revert to the Supplier. The Supplier shall promptly repay to CIM any monies paid by CIM in respect of the rejected Goods.
 - 3.8 If the Order is rejected, CIM may either choose to cancel the Order including cancellation of any further Goods due to be supplied under this Order or request that the Supplier deliver replacement Goods without undue delay.
 - 3.9 CIM shall not be obliged to safeguard or return to the Supplier any packaging or packing materials for the Goods, whether or not any of the Goods are accepted.
 - 3.10 CIM's rights under these Conditions are in addition to those implied in favour of CIM by the Sale of Goods Act 1979 (as may be revised from time to time).
4. **Supply of Services**
 - 4.1 The Supplier shall properly perform the Services in good faith and with the standard of skill, care and diligence which a competent and suitably qualified person performing such services could reasonably be expected to exercise and in accordance with all relevant statutory requirements and industry best practice. In delivering the Services the Supplier shall comply with and meet the requirements and instructions of CIM.
 - 4.2 Times stated in the Order for delivery of the Services shall be of the essence.
 - 4.3 Any Services found not to be in accordance with the Order may be rejected by CIM. The Supplier shall promptly repay to CIM any monies paid by CIM in respect of the rejected Services.
 - 4.4 If the Order is rejected, CIM may either choose to cancel the Order including cancellation of any further Services due to be supplied under this Order or request that the Supplier deliver replacement Services without undue delay.
5. **Indemnities**
 - 5.1 The Supplier shall indemnify CIM against all loss or damage occasioned by any act or omission of the Supplier, its servants or agents whilst on CIM's premises or by the failure of the Supplier to comply with its obligations under the Contract or occasioned by the use of the Goods or Services except where such loss and/or damage is caused solely by misuse of the Goods and/or Services by CIM.
 - 5.2 Except where the Goods and/or Services are produced to specifications provided by CIM, the Supplier will indemnify CIM against any claim or infringement of intellectual property rights (whether registered or not) arising from the use of the Goods or provision of the Services.
 - 5.3 The Supplier warrants that it has the unfettered right to supply the Goods and/or Services which to the best of its knowledge infringe no third parties' rights.
6. **Insurance**

The Supplier shall effect and maintain an adequate level of insurance cover in respect of all risks or liabilities that may be incurred by it in the performance of this Contract.
7. **Invoices and Payment**
 - 7.1 The price for the Goods and/or Services is as set out in the Order and shall be deemed to include all costs of packaging. There shall be no variation in price without CIM's written agreement.
 - 7.2 The Supplier shall submit an invoice on the date of or after the supply of the Goods or Services. The invoice shall show the amount of VAT payable and shall include the Order number. Unless an invoice is disputed, CIM shall pay the Supplier within 30 days of receipt of the invoice.
8. **Changes**

CIM may at any time make reasonable changes to any of the requirements of this Order. Within 30 days of the issue of any amendment, the Supplier shall notify CIM and provide supporting details of any change in price or the time for delivery due to the amendment. If no such notification is received by CIM within the stated period then CIM will assume that no changes in price or time for delivery shall take place.
9. **Assignment**
 - 9.1 The Supplier shall neither sub-contract nor assign any of its obligations hereunder without the prior written approval of CIM. Such approval shall not relieve the Supplier of any of its obligations hereunder.
 - 9.2 Where CIM gives its approval the Supplier shall be responsible for ensuring that its sub-contractors are bound by and shall observe the terms and conditions of the Contract.
10. **Confidentiality**
 - 10.1 The Contract and all related business and commercially sensitive information received by the Supplier in connection with the Order shall be confidential and shall not be disclosed by the Supplier to any third party for any purpose without the prior written consent of CIM (which shall not be unreasonably withheld).
11. **Intellectual Property**
 - 11.1 All intellectual property rights in all drawings, specifications, information and other materials supplied by CIM to the Supplier shall remain the property of CIM and the Supplier is hereby granted a licence to use the same but only for the purposes of providing the Goods and/or the Services.
- 11.2 The Supplier warrants that the performance of the Contract will not infringe the intellectual property rights of any person.
- 11.3 All intellectual property rights in any drawings, specifications or other information produced by or on behalf of the Supplier in relation to the Goods and/or the Services or that otherwise subsist in the Goods or are hereby assigned to and shall become the property of CIM and the Supplier agrees to take all steps necessary to confirm or perfect this assignment.
12. **Termination**
 - 12.1 CIM may terminate or suspend this Contract at any time in whole or in part by issuing a notice to the Supplier. The Supplier shall conform to the requirements of this notice.
 - 12.2 CIM may at any time without prejudice to any other remedy and without notice terminate this Contract if the Supplier is in breach of any of its obligations hereunder. In the event of such termination the Supplier shall not be entitled to submit a claim for any loss.
 - 12.3 CIM shall be entitled without prejudice to any other remedy to terminate the Contract if the Supplier fails to deliver the Goods and/or Services or any part of them on the date(s) specified in the Order.

In this instance:

 - (a) CIM may return at the Supplier's risk and expense any Goods previously delivered which cannot be used as a result of the subsequent failure to deliver; and/or
 - (b) CIM may recover from the Supplier all moneys paid by CIM and any additional costs reasonably incurred by CIM in procuring replacement Goods and/or Services from an alternative Supplier.
 - 12.5 Either party shall be entitled to terminate this Contract forthwith by notice in writing if the other party shall be adjudged insolvent or bankrupt or shall be unable to pay its debts as they fall due or shall make an assignment for the benefit of its creditors generally or have a receiver appointed for it or any of its property or assets or if it shall discontinue or abandon or dispose of the whole or a substantial part of its business or shall have a petition presented or a resolution passed for its winding up other than for the purposes of amalgamation or reconstruction, or a notice is issued convening a meeting for the purpose of passing any such resolution.
 - 12.6 If the Supplier has submitted notice under Clause 16 (Force Majeure) then CIM may, without prejudice to any other remedy, terminate the Contract three months from the notification at no liability for costs or expense incurred by the Supplier.
 - 12.7 Any termination or suspension pursuant to this Clause shall not affect the accrued rights of either party.
13. **Remedies**
 - 13.1 Without prejudice to any other right or remedy which CIM may have, if any Goods and/or Services are not supplied in accordance with, or the Supplier fails to comply with, any of the terms of the Contract CIM 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 and/or Services have been accepted by CIM:
 - i. to rescind the Order;
 - ii. to reject the Goods and/or Services (in whole or in part) and (in respect of Goods) return them to the Supplier at the risk and cost of the Supplier on the basis that a full refund of the price paid shall be given forthwith by the Supplier;
 - iii. to give the Supplier the opportunity at the Supplier's expense either to remedy any defect in the Goods and/or the Services or to supply replacement Goods and/or Services and carry out any other necessary work to ensure that the terms of the Contract are fulfilled;
 - iv. to refuse to accept any further deliveries of the Goods or provision of Services without any liability to the Supplier;
 - v. to carry out at the Supplier's expense any work to make the Goods and/or the Services comply with the Contract or to remedy the breach; and
 - vi. to claim such damages as may have been sustained in consequence of the Supplier's breach or breaches of the Contract.
14. **Bribery, Corrupt Gifts or Payments**

The Supplier shall not give or receive, or offer or agree to give or receive, to any employee or representative of CIM any gift or consideration of any kind as an inducement or reward for doing or refraining from doing any act in relation to the obtaining of the Contract or in discharging its obligations under the Contract that constitutes a breach of applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including the Bribery Act 2010 or any other applicable legislation.
15. **Health and Safety**

The Supplier warrants that it has satisfied itself that all necessary tests and examinations have been made or will be made prior to delivery of the Goods and/or Services to ensure that the Goods and/or Services are provided so as to be safe and without risk to the health and safety of persons using or exposed to the performance of the same and that it has made available to CIM adequate information about the use for which the Goods and/or performance of the Services have been designed and any conditions necessary to ensure that use and/or performance will be safe and without risk to health.
16. **Force Majeure**

Neither party shall be liable to the other for any delays in performance or failure to perform any of its obligations hereunder where such delay or failure arises due to reasons beyond its reasonable control. In every case the appropriate party shall immediately notify the other party in writing of the said event, and defining the expected effect thereof submit to the other party the necessary information to verify and substantiate such claim and its plan to circumvent the impact of the cause of the delay and resume performance as soon as is possible.
17. **Data Protection**

The Supplier shall act as a data processor of any personal data of which CIM is the data controller and undertakes to comply with CIM's written instructions in its use of any such personal data and with the provisions of the DPA in relation to any processing of the personal data, including by not processing or making personal data available to any third party or processing personal data in any manner after it has discharged its obligations under this Contract.
18. **General**
 - 18.1 Nothing in this Contract shall be construed as creating a partnership, a contract of employment or a relationship of principal and agent between CIM and the Supplier.
 - 18.2 Each right or remedy of CIM under the Contract is without prejudice to any other right or remedy of CIM whether under the Contract or not.
 - 18.3 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall, to the extent of the above, be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.
 - 18.4 Failure or delay by CIM in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.
 - 18.5 The parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.
 - 18.6 The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed exclusively by English law and the jurisdiction of the English Courts shall apply.
 - 18.7 All notices under the Contract shall be given in writing to the address stated in the Order (or otherwise notified by the applicable party to the other party in writing).
 - 18.8 Where the Supplier is comprised of two or more persons, partners or companies all liability under this Contract shall be assumed jointly and severally by each person, partner or company.
 - 18.9 The Supplier warrants that it has complied with all relevant legislation in performing its obligations under this Contract.
 - 18.10 The Supplier will comply with all reasonable instructions and/or policy or procedure documents of CIM relating to the Contract.
 - 18.11 No failure, delay, relaxation or indulgence on the part of either party in exercising or partially exercising any right hereunder shall operate as a waiver of such rights.