



**Exceed Academies Trust**  
**Standard Terms and Conditions for the purchase of goods and services**  
**June 2018**

**1. Interpretation**

1.1. In these conditions:

“Buyer” – means Exceed Academies Trust, Dawnay Road Bradford, BD5 9LQ

“Purchase Order” – means the Buyer’s purchase order which includes a statement of work describing the goods/services to be provided by the supplier and which provides a maximum value payable by the Buyer to the supplier.

“Goods” – means the Goods or Services described in the Purchase Order

“Supplier” – means the person so described in the Order who is the supplier of Goods and/or Services

“Agreement” – means these Terms and Conditions together with the terms of any applicable Purchase Order

“Specification” – includes any plans, drawings, data or other information relating to the Goods or Services

“Writing” – includes electronic mail.

**2. Basis of purchase**

2.1 Supplier agrees that these conditions shall apply to the contract to the exclusion of any other terms. Any document sent by the Supplier to the Buyer which contains printed terms and conditions is sent and received on the understanding that they appear on the document only because they are printed and have no contractual effect whatsoever

2.2 No variation to the Order or these conditions shall be binding unless agreed in writing between the authorised representatives of the Buyer and the Supplier

2.3 No order should be accepted by the Supplier without a valid Purchase Order number.

2.4 These Terms and Conditions can be found on the Exceed Academies Trust website.

**3. Specifications**

3.1 The quantity, quality and description of the Goods and the Services shall, subject as provided in these conditions, be as specified in the Order and/or in any applicable Specification supplied by the Buyer to the Supplier or agreed in writing by the Buyer

3.2 The Supplier shall comply with all applicable regulations or other legal requirements concerning the manufacture, packaging, packing and delivery of the Goods and the performance of the Services

3.3 The Supplier shall not unreasonably refuse any request by the Buyer to inspect and test the Goods during manufacture, processing or storage at the premises of the Supplier or any third party prior to despatch, and the Supplier shall provide the Buyer with all facilities reasonably required for inspection and testing

3.4 If as a result of inspection or testing the Buyer is not satisfied that the Goods will comply in all respects with the contract, and the Buyer so informs the Supplier within 28 days of inspection or testing, the Supplier shall take such steps as are necessary to ensure compliance

3.5 The Goods shall be marked in accordance with the Buyer’s instructions and any applicable regulations or requirements of the carrier, and properly packed and secured so as to reach their destination in an undamaged condition

**4 Price of the goods and services**

4.1 The price of the Goods and the Services shall be as stated in the Order and, unless otherwise so stated, shall be:

4.1.1 exclusive of any applicable value added tax which shall be payable by the Buyer subject to receipt of a VAT invoice); and

4.1.2 inclusive of all charges for packaging, packing, shipping, carriage, insurance and delivery of the Goods to the delivery address and any duties or levies other than VAT

4.2 No increase in the price may be made (whether on account of increased material, labour or transport costs, fluctuation in rates of exchange or otherwise) without the prior consent of the Buyer in writing

4.3 The Buyer shall be entitled to any discount for prompt payment, bulk purchase or volume of purchase customarily granted by the Supplier

**5 Terms of payment**

5.1 The Supplier shall be entitled to invoice the Buyer on or at any time after delivery of the Goods or performance of the Services (subject to any requirement stipulated by the Buyer in the Order), or as the case may be, and each invoice shall quote the number of the Order

5.2 Unless otherwise stated in the Order, the Buyer shall pay the price of the Goods and the Services within 30 days of receipt by the Buyer of a proper invoice or, if later, after acceptance of the Goods or Services in question by the Buyer.

- 5.3 All invoices must be sent to the address as stated in 1.1. If an invoice is sent to the incorrect address, ie to an academy within the Trust, the Trust reserves the right to amend payment terms and this may delay payment to the supplier.
- 5.4 The Buyer shall be entitled to set off against the price any sums owed to the Buyer by the Supplier.
- 5.5 At times of school holidays there may be a short delay in payment of invoices but the Buyer will endeavour to keep this to a minimum where possible.

## **6 Delivery**

- 6.1 The Goods shall be delivered to, and the Services shall be performed at, the delivery address stated on the Order on the date or within the period stated in the Order (or agreed between the parties), in either case during the Buyer's usual business hours
- 6.2 The time of delivery of the Goods and of performance of the Services is of the essence of the contract
- 6.3 A packing note quoting the number of the Order must accompany each delivery or consignment of the Goods and must be displayed prominently
- 6.4 If the Goods are to be delivered, or the Services are to be performed, by instalments, the contract will be treated as a single contract and not severable
- 6.5 The Buyer shall be entitled to reject any Goods delivered which are not in accordance with the Order or Specification, and shall not be deemed to have accepted any goods until the time to inspect them following delivery or, if later, within a reasonable time after any latent defect in the Goods has become apparent
- 6.6 The Buyer shall not be obliged to return to the Supplier any packaging or packing materials for the Goods, whether or not any Goods are accepted by the Buyer

## **7 Risk and title**

- 7.1 Risk of damage to or loss of the Goods shall pass to the Buyer upon delivery to the Buyer in accordance with the Order
- 7.2 The title in the Goods shall pass to the Buyer upon delivery, unless payment for the Goods is made prior to delivery, when it shall pass to the Buyer once payment has been made

## **8 Warranties and liability**

- 8.1 The Supplier warrants to the Buyer that the Goods:
- 8.1.1 will be of satisfactory quality and fit for any purpose held out by the Supplier or made known to the Supplier in writing at the time the Order is placed
  - 8.1.2 will be free from defects, patent or latent in material and workmanship
  - 8.1.3 will correspond with any relevant Specification or sample
  - 8.1.4 will comply with all statutory requirements and regulations relating to the sale of the Goods
- 8.2 The Supplier warrants to the Buyer that the Services will be performed by appropriately qualified and trained personnel using due care and diligence and exercising reasonable skill and care
- 8.3 Without prejudice to any other remedy, if any Goods or Services are not supplied or performed in accordance with the Order or Specification, then the Buyer shall be entitled
- 8.3.1 to require the Supplier to repair the Goods or to supply replacement Goods or Services in accordance with the contract within 7 days; or
  - 8.3.2 at the Buyer's sole option, and whether or not the Buyer has previously required the Supplier to repair the Goods or to supply any replacement Goods or Services, to treat the contract as discharged by the Supplier's breach and require the repayment of any part of the price which has been paid
- 8.4 The Supplier shall indemnify the Buyer in full against all liability, loss, damages, costs and expenses (including legal expenses) awarded against or incurred or paid by the Buyer as a result of or in connection with:
- 8.4.1 breach of any warranty given by the Supplier in relation to the Goods or the Services
  - 8.4.2 any claim that the Goods infringe, or their importation, use or resale, infringes, the patent, copyright, design right, trade mark or other intellectual property rights of any other person, except to the extent that the claim arises from compliance with any Specification supplied by the Buyer
  - 8.4.3 any act or omission of the Supplier or its employees, agents or sub-contractors in supplying, delivering and installing the Goods and/or Services

## **9 Inspection**

- 9.1 The seller shall be responsible for the inspection and testing of Goods and shall ensure that they comply with the contract prior to delivery to the buyer.
- 9.2 The buyer shall have the right to inspect the goods upon delivery and have the rights to reject any Goods or Services which do not comply with the contract and are without limitation, not of stipulated quality or quantity or measurement, unfit for purpose for which they are required or non-compliant with the description or specification or sample, and Buyer may return such rejected goods to the Supplier at the Suppliers cost.

## **10 Loss or Damage in transit**

- 10.1 The supplier shall promptly make good free of charge to the Buyer any loss in transit of the Goods or any damage to or defect in the goods upon receiving notice to that effect from the Buyer.

10.2 The Buyer's signature on any delivery note of the Supplier is evidence of the number of packages being received only and not evidence of the correct quantity of goods received or that the goods are in a good condition or of the correct quality.

## **11 Termination**

11.1 The Buyer shall be entitled to cancel the Order in respect of all or part only of the Goods and/or the Services by giving notice to the Supplier at any time prior to delivery or performance, in which event the Buyer's sole liability shall be to pay to the Supplier the price for the Goods or Services in respect of which the Buyer has exercised its right of cancellation, less the Supplier's net saving of cost arising from cancellation

11.2 The Buyer may terminate this contract by giving notice in writing to the Supplier to take immediate effect where the Supplier is in breach of one of his obligations under this contract and he fails to remedy it within a reasonable time

11.3 The Buyer shall be entitled to terminate the contract with immediate effect without liability to the Supplier by giving notice to the Supplier at any time if:

11.3.1 The Supplier commits material or persistent breach of this Agreement

11.3.2 the Supplier makes any voluntary arrangement with its creditors or being an individual or firm becomes bankrupt or being a company becomes subject to an administration order or goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction); or

11.3.3 an encumbrancer takes possession or a receiver is appointed, of any of the property or assets of the Supplier; or

11.3.4 the Buyer reasonably apprehends that any of the events mentioned above is about to occur in relation to the Supplier and notifies the Supplier accordingly

## **12 Suppliers Responsibilities**

12.1 The Supplier shall take out and maintain with a reputable company a policy or policies of insurance that are normal for contracts of this nature and covering all the matters which are subject of indemnities under these conditions. On request the Supplier should produce copies of the policy or evidence of latest payment.

12.2 The Supplier will comply with the duties imposed on it by Health and Safety at Work Act and any amendment thereto and of all other statutory provisions, rules and regulations so far as they are applicable.

12.3 The supplier shall indemnify and keep indemnified the Buyer against any and all actions, suits, claims, demands, losses, charges, costs and expenses (including legal expenses and disbursements) which the Buyer may suffer or incur as a result of or in connection with any breach of these conditions.

12.4 The Supplier will not have the authority to act as an agent for the Buyer or to contract in the Buyer's behalf.

## **13 Intellectual Property Rights**

All intellectual Property Rights produced from or arising as a result of the performance of this Agreement shall, so far as not already vested, become the absolutely property of the Buyer, and the Supplier shall do all that is reasonably necessary to ensure that such rights vest in the Buyer by the execution of appropriate instruments or the making of agreements with third parties.

## **14 Force Majeure**

The Buyer shall be liable for any delay or failure to perform any of its obligations under this Agreement if the delay or failure results from events or circumstances beyond its reasonable control including but not limited to acts of God, strikes, lock outs, accidents, floods and the Buyer shall be entitled to a reasonable extension of its obligations.

## **15 Notices**

Any notice to be given by either party to the other may be served by email, personal service or by post to the address of the other party given in the Purchase Order, or such other address as such party may from time to time have communicated to the other in writing. Any notice sent by email will be deemed to have been served on the day it was sent, if delivered personally deemed to have been served at the time at which the letter was delivered or if sent by post shall be deemed to have been delivered in the ordinary course of post.

## **16 Third Party Rights**

Nothing in this Agreement is intended to, nor shall it confer any rights on a third party.

## **17 Severability**

If any provision under this Agreement is or becomes unenforceable such provision shall not take effect and shall be deemed to be severed from the remainder of the Agreement, to the extent that the remainder of the Agreement and the unaffected part of the provision shall continue to be fully enforceable.

## **18 Waiver**

No failure by the Buyer to ensure any of these Terms and Conditions shall constitute a waiver of its rights here under.

**19 Law and jurisdiction**

19.1 This Agreement shall be governed by and construed in accordance with the law of England and the parties hereby submit to the exclusive jurisdiction of the English courts.

19.2 Exceed Academies Trust takes its responsibility of GDPR seriously and details of how we protect our Suppliers data can be found on our website. We expect all our Suppliers to be GDPR compliant.