

CONDITIONS OF PURCHASE (GOODS AND SERVICES) BY LONDON MUSEUM

1. Definitions

1.1 In these Conditions, the following definitions apply:

"Agreement" means the agreement formed between the Museum and the Supplier comprising the Purchase Order, these Conditions and any other documents expressly incorporated by reference or with the express written approval of the Museum;

"Background IPR" means all Intellectual Property Rights other than Foreground IPR, owned by either the Museum or the Supplier existing prior to this Agreement or generated other than in the course of providing the Services and which is used for the purpose of creating the Materials;

"Conditions" means the terms and conditions set out in this document;

"Data Protection Law" means the General Data Protection Regulation, (and any new UK Data Protection Act) and the Privacy and Electronic Communications Regulations 2003, and all other applicable laws, enactments, regulations, orders, standards and other similar instruments, each as may be amended or superseded from time to time;

"Delivery", if applicable, means the physical transfer of any Goods required under the Purchase Order;

"Foreground IPR" means all Intellectual Property Rights in the Materials, if any, created during the course of performing the Services;

"Goods", if applicable, means the materials, merchandise or other goods provided by the Supplier as set out in the Purchase Order;

"Intellectual Property Rights" means all patents, trademarks, trade names and domain names, service marks, rights to inventions, copyright and related rights, rights in goodwill, rights in designs, database rights, in each case whether registered or unregistered and including all applications (and rights to apply) for, and renewal or extensions of, such rights and similar or equivalent rights or forms of protection in any part of the world;

"Materials", if applicable, means the materials created, generated or developed by or on behalf of the Supplier in the course of performing the Services;

"Museum" means London Museum, the operating name of The Board of Governors of the Museum of London (a charity registered as "Museum of London" with charity no. 1139250), governed by the Museum of London Act 1965 and 1986, of 150 London Wall London EC2Y 5HN (registered charity number 1139250);

"Price" means the charge for the supply of Goods and/or the provision of Services as set out in the Purchase Order;

"Purchase Order" means the Museum's written instruction to the Supplier to supply the Goods and/or Services in accordance with these Conditions, set out overleaf;

"Services", if applicable, means the services which may be provided by the Supplier as set out in the Purchase Order;

"Supplier" means the person, firm or company named in the Purchase Order; and

"Third Party IPR" means Intellectual Property Rights, not owned by either the Museum or the Supplier which the Supplier is entitled to use to fulfil the terms of this Agreement.

1.2 In these Conditions unless the context otherwise requires: (i) words importing the singular include the plural and vice versa; (ii) any words following the terms "including", "include", "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; (iii) reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time; and (iv) provision headings do not affect the interpretation of these Conditions.

2. Commencement and Application

2.1 These Conditions apply to the exclusion of any other terms or conditions that the Supplier seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. No terms or conditions submitted at any time by the Supplier shall form any part of the Agreement.

2.2 The Purchase Order constitutes an offer by the Museum to purchase the Goods and/or Services subject to these Conditions.

2.3 The Purchase Order shall be deemed to be accepted on the earlier of the Supplier either giving written acceptance of the Purchase Order or the Supplier doing any act consistent with fulfilling the Purchase Order, at which point the Agreement shall come into existence.

3. The Goods

3.1 The Supplier shall ensure that the Goods supplied under the Agreement shall: (i) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and be fit for any purpose held out by the Supplier or made known to the Supplier by the Museum expressly or by implication; (ii) without prejudice to Condition 3.1(i), be of the quantity, quality and description as specified in the Purchase Order and any applicable specification or sample supplied to the Museum; and (iii) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and Delivery of the Goods.

3.2 The Museum shall have the right to inspect and test the Goods upon or within a reasonable period of time following Delivery.

3.3 If following such inspection or testing the Museum considers that the Goods do not conform or are unlikely to comply with any of the Supplier's undertakings at Condition 3.1, the Museum shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance.

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

4. Delivery, Risk and Title to Goods

4.1 The Goods shall be delivered, at the Supplier's cost, to the Museum's address as set out on the Purchase Order or such other place of Delivery as notified to the Supplier by the Museum in writing prior to the Delivery of the Goods ("**Delivery Location**").

4.2 The Supplier shall ensure that: (i) the Goods are properly packed and secured in such manners as to enable them to reach their destination in good condition; (ii) each Delivery is accompanied by a delivery note which shows the number and date of the Purchase Order, the number of packages and their contents and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and (iii) a signature acknowledging receipt of the Goods by an authorised member of the Museum's staff is obtained on Delivery.

4.3 The Supplier shall deliver the Goods: (i) on the date specified in the Purchase Order or, if no such date is specified, within 28 days of the date of the Purchase Order ("**Delivery Date**"); (ii) during the Museum's normal business hours, or as otherwise instructed by the Museum; and (iii) in accordance with any other delivery instructions specified in the Purchase Order. Delivery of the Goods shall be completed on the completion of unloading the Goods at the Delivery Location, except so far as that the Museum shall not be deemed to have accepted the Goods until it has had a reasonable time to inspect them following Delivery or, if later, within a reasonable time after any latent defect in the Goods has become apparent.

4.4 Risk in the Goods shall remain with the Supplier until Delivery to the Museum is complete, at which point the Goods shall be held at the Museum's risk.

4.5 Title to the Goods shall pass to the Museum upon the earlier of: (i)

Delivery; or (ii) the Museum's payment for the Goods.

4.6 If the Museum notifies the Supplier that the Goods are being rejected in accordance with these Conditions, the risk in and title to the Goods shall immediately revert back to the Supplier.

5. The Services

5.1 The Supplier warrants that it is entitled to enter into this Agreement and that it shall ensure that the Services are performed at all times: (i) in compliance with the Museum's reasonable instructions from time to time; (ii) truthfully, accurately, loyally and in good faith towards the Museum; (iii) with due diligence, skill, care, in a professional, timely and workmanlike manner and to the best of its abilities; and (iv) in accordance with all applicable laws, rules and regulations and the Museum's policies, procedures and codes of conduct.

5.2 The Supplier further warrants that the documents and materials produced by the Supplier in the performance of the Services shall be of satisfactory quality and fit for the purpose for which they are supplied.

5.3 The Supplier shall commence performance of the Services on the date stated in the Purchase Order and shall continue performance for the period stated in the Purchase Order or until the Supplier's obligations under this Agreement have been performed (subject to earlier termination of this Agreement).

6. Price and Payment

6.1 The Price shall be the price set out in the Purchase Order, exclusive of VAT (which shall be payable in addition) but inclusive of all other charges unless stated otherwise in the Purchase Order.

6.2 No extra charges shall be effective unless agreed to in writing and signed by the Museum.

6.3 Payment of the Price shall be made within thirty (30) days against a validly submitted invoice provided by the Supplier to the Museum in accordance with the provisions of the Purchase Order.

6.4 If any sum under this Agreement is not paid by the final date for payment then, without prejudice to the parties' other rights under this Agreement, that sum shall bear interest from the due date until payment is made in full at 2% per annum above the base rate of Barclay's Bank from time to time.

7. Tax Liabilities and Status

7.1 The Supplier warrants that the Supplier is an independent supplier for all the purposes of this Agreement and that it is responsible for all income tax, national insurance, social security or other payments and liabilities in connection with the fees paid to it under this Agreement.

7.2 If the Supplier is supplying Services and is an individual: (i) in the event that the Supplier is unable or unwilling to perform the Services personally the Supplier may arrange at the Supplier's own expense for a substitute to perform the Services on the Supplier's behalf, subject to the Museum's prior written agreement to such arrangement and the Supplier warranting that the substitute is suitable to perform the Services; (ii) the parties agree that the Supplier is self-employed, not an employee of the Museum, and that nothing in this Agreement is intended by the parties to render the Supplier an employee, worker or agent of the Museum and the Supplier will not hold himself/herself out and will procure that neither any substitute nor the Supplier's employees, agents and sub-contractors will hold themselves out as such; and (iii) the Supplier agrees that he/she is not entitled to benefit from or participate in any policies, schemes or other arrangements which exist for the benefit of employees of the Museum.

7.3 The Supplier undertakes to indemnify the Museum against any liability to income tax, costs, penalties, interest or other payments being the subject of formal demands on the Museum by relevant national authorities in respect of the Supplier's performance of the Services.

7.4 The Supplier shall not act in a manner which would breach applicable laws, regulations, codes and sanctions relating to tax evasion including the Criminal Finances Act 2017.

8. Intellectual Property

8.1 The Foreground IP created, generated or developed by or on behalf of the Supplier in the Materials in the provision of the Services shall be owned by the Museum and, accordingly, the Supplier hereby assigns to the Museum absolutely and with full title guarantee (by way of present and future assignment) any and all such Intellectual Property Rights subsisting within the Foreground IP.

8.2 Each party shall grant the other party a non-exclusive royalty free worldwide licence to use its Background IP for the purpose of creating the Materials.

8.3 The Supplier warrants that all Foreground IP and Background IP provided by it to the Museum is owned by the Supplier, or in the case of any Third Party IP is licensed to the Supplier for the Museum to use in the Materials, and that the Materials (and the Museum's use of the Materials) do not infringe the Intellectual Property Rights of any third party.

8.4 The Supplier agrees that on request by the Museum at the Museum's reasonable expense it shall execute and sign such documents and to do such things as may be required by the Museum to give effect to the assignment of rights under Condition 8.1 and ensure that the rights assigned to the Museum under this Condition 8 can be exercised, sub-licensed or otherwise used freely by the Museum in accordance with the terms of this Agreement.

8.5 The Supplier warrants that: (i) it has not, and shall not, grant or assign any rights of any nature in part or all of any Materials to any third party whatsoever in any part of the world; and (b) all Materials will be original to the Supplier and the Museum is or shall be the sole and unencumbered owner of all intellectual property in the Materials (and that nothing in the Materials (or any exploitation of the same by the Museum) will infringe any right whatsoever of any third party.

8.6 The Supplier irrevocably and unconditionally waives its right to paternity, its right to object to derogatory treatment and all other moral rights or any rights of a similar nature as it may have or acquire in the Materials in perpetuity, and warrants and undertakes to procure that all persons engaged in the creation or production or other use of the Materials have waived any and all moral rights on the same terms.

9. Termination

9.1 The Museum reserves the right at any time and for any reason to terminate the Agreement in whole or in part by giving the Supplier written notice whereupon all work under the Agreement shall be discontinued and the Museum shall pay to the Supplier fair and reasonable compensation for work-in-progress at the time of termination but such compensation shall not include loss of anticipated profits or any consequential loss and shall in no event exceed the Price.

9.2 Either party may terminate this Agreement forthwith by notice in writing if the other party: (i) commits a material or persistent breach of its obligations which if capable of remedy shall not have been remedied within fourteen (14) days of written notice to do so; or (ii) is unable to pay its debts as they fall due or is the subject of a bankruptcy petition or enters into compulsory or voluntary liquidation or compounds with or convenes a meeting of its creditors or has a receiver, manager, administrator or administrative receiver appointed of its assets (or equivalent) or ceases for any reason to carry on business.

10. Remedies

10.1 Without prejudice to any other right or remedy which the Museum may have, if any Goods and/or Services are not supplied in accordance with any of the terms of the Agreement the Museum shall be entitled to any one or more of the following remedies, whether or not any part of the Goods and/or Services have been accepted by the Museum: (i) to rescind the Agreement (namely, treat the Agreement as if it is not and has never been in force); (ii) to reject the Goods and/or Services (in whole or in part) on the basis that a full refund for the same shall immediately be paid by the Supplier; (iii) to require the Supplier at the Supplier's expense either to remedy any defect in the Goods and/or Services or to supply replacement

Goods and/or Services and carry out any other necessary work to ensure that the terms of the Agreement are fulfilled; (iv) to refuse to accept any further deliveries of the Goods or provision of Services but without any liability to the Supplier; and (v) to claim damages for any other costs, loss or expenses incurred by the Museum which are in any way attributable to the Supplier's failure to carry out its obligations under the Agreement.

10.2 These Conditions shall apply to any substituted or remedial Services and/or repaired or replacement Goods supplied by the Supplier.

11. Liability and Insurance

11.1 The liability of the Museum howsoever arising in connection with or related to this Agreement shall be limited to the total Price due to the Supplier at the time the claim is made.

11.2 Nothing in this Agreement shall serve to limit or exclude either party's liability for death or personal injury caused by their negligence.

11.3 The Supplier undertakes to maintain at its own cost an insurance policy with a reputable insurance company up to an amount sufficient to meet its liabilities in full under this Agreement.

11.4 The Supplier shall provide evidence of all such insurance cover to the Museum upon request.

12. General

12.1 **No partnership or agency etc:** Except as permitted by this Agreement, neither party shall in any way represent itself as being the other or an agent, partner, employee or representative of the other and shall not hold itself out as having any authority to incur any obligation of any nature whether express or implied on that other's behalf.

12.2 **Joint and Several Liability:** In the event that more than one person or party is named as the 'Supplier' in the Purchase Order, each person or party so named shall be jointly and severally liable for performing the Supplier's obligations under this Agreement.

12.3 **Confidentiality:** The Supplier shall keep in strict confidence all scientific or commercial know-how, marketing opportunities, projects, processes or initiatives which are of a confidential nature and have been disclosed to the Supplier by the Museum or its agents and any other confidential information concerning the Museum's business which the Supplier may obtain (together "**Confidential Information**") and the Supplier shall restrict disclosure of such Confidential Information to such of its employees, agents or sub-suppliers as need to know the same for the purpose of discharging the Supplier's obligations to the Museum and shall ensure that such employees, agents or sub-suppliers are subject to like obligations of confidentiality as bind the Supplier. The provisions of this Condition 12.3 shall survive termination of this Agreement, howsoever caused.

12.4 **Data Protection:** The Supplier shall (and shall ensure that all of its personnel and sub-contractors shall) comply with the requirements of Data Protection Law arising in respect of personal data (as defined under Data Protection Law) processed in relation to providing the Goods and/or Services or otherwise in connection with the Agreement. To the extent that the Supplier requires (or later becomes aware that it requires) access to any personal data controlled by the Museum as part of it providing the Goods and/or Services the Supplier shall notify the Museum and shall agree to the Museum's data processing terms, and any data processing terms applicable to its sub-contractors. The provisions of this Condition 12.4 shall survive termination of the Agreement, howsoever caused.

12.5 **Third Party Rights:** A person who is not a party to this Agreement shall not have any rights to enforce its terms.

12.6 **Law:** This Agreement shall be governed by and interpreted in accordance with English Law.

12.7 **Jurisdiction:** Each party agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation.

