

## **APPENDIX 5 STANDARD TERMS AND CONDITIONS**

In these Terms and Conditions, the expression “IADT” shall mean the Dun Laoghaire Institute of Art, Design and Technology, “the contractor” shall mean the person, firm or corporate body whose tender shall be accepted by IADT and “the supplies” shall mean the supplies, goods or services described in the specification.

### **1. General terms**

- 1.1 The contractor undertakes to perform all work contracted by him/her on behalf of IADT to the highest professional standards at all times.
- 1.2 The contractor undertakes at all times, now and in the future to respect in full the confidentiality of all information, knowledge or documentation brought to his attention as a result of the contract and not to disclose any such confidential information to any third party.
- 1.3 The contractor shall accept sole responsibility for acquiring any permits or licences necessary for the performance of the contract.
- 1.4 IADT shall not be responsible under any circumstances for any loss or damage suffered by the contractor or his servants or agents in the performance of the contract on behalf of IADT, nor entertain any claim relating to such damage.
- 1.5 All intellectual property, copyright or patents arising from the performance of the contract by the contractor on behalf of IADT shall become and remain the property of IADT.
- 1.6 Copyright and any other rights of ownership in respect of all manuscripts or parts thereof created on behalf of IADT shall belong exclusively to IADT on a permanent basis.
- 1.7 The contractor shall inform IADT of existing copyright(s), if any, attaching to any documentation etc. to be used as part of the contract and to obtain all the necessary permits or licences for the ultimate holders of such rights and to indemnify IADT against any claims or litigation in respect of same.

### **2. Warranties**

- 2.1 The contractor warrants to IADT and it is a condition of the contract that the Supplies:

- 2.1.1 Will be of merchantable 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 and for use by IADT in the ordinary course of its business;
  - 2.1.2 Will be free from defects;
  - 2.1.3 Will correspond in all respects with the specifications and/or any sample or as otherwise agreed in writing;
  - 2.1.4 Will comply with all statutory requirements and regulations relating to the materials, design, manufacture, packaging, packing, distribution, sale and purchase of the supplies.
- 2.2 In the event that any supplies do not conform with any of the warranties in condition 2.1, and without prejudice to any other remedy that IADT may have, IADT shall be entitled at any time during the period of two years following the date of delivery and at its sole discretion to require the supplier, at the supplier's expense, to repair or replace within fourteen days or such other period as is specified by IADT any such supplies and to reimburse IADT with all costs incurred in recovering and returning such supplies.
- 2.3 If the contractor fails to repair or replace any supplies within fourteen days (or such other period as is specified by IADT) in accordance with condition 2.2 IADT shall have the right to purchase replacement supplies from another source and any money paid by IADT to the supplier in respect of the supplies together with any additional expenditure over and above the price reasonably incurred by IADT in obtaining replacement supplies shall be paid by the supplier to IADT.
- 2.4 The warranties and remedies provided for in condition 2 shall be in addition to those implied by or available at law or in equity and shall continue in force notwithstanding acceptance by IADT of all or part of the supplies in respect of such warranties and remedies.

### **3. Ordering and delivery of supplies**

- 3.1 The supplies may be supplied only following issue of a written official purchase order to the contractor.
- 3.2 The supplies shall be delivered to the satisfaction of e IADT in strict conformity with specification, except as may otherwise be agreed by IADT.
- 3.3 Delivery shall be to the place named on the official order.
- 3.4 Contractor to indemnify the purchaser against any damage or injury occasioned in the course of delivery to the extent that any such damage or injury is attributable to any act or omission of the contractor or any of his sub-contractors.

- 3.5 The contractor shall be in a position to deliver the supplies within a four week time limit from date of order or within an extended time period to the mutual agreement of the contractor and IADT. Contractors must include minimum delivery times applicable to each item offered for supply.

#### **4. The supplies**

- 4.1 To the reasonable satisfaction of the purchaser in conformance with the contract, the Supplies shall conform to all applicable legislation.
- 4.2 Supplies may be inspected by the purchaser's representative at the contractors' premises or after delivery. Any supplies found defective or inferior in quality or differing from specified requirements may be rejected. Supplies so rejected will not be considered as having been delivered under the contract and the contractor shall at his own expense replace them with the correct supplies in accordance with the contract.
- 4.3 The contractor shall not make any alteration in the supplies requested except such as may be authorised or directed in writing by IADT. Suggestions for change in specification or model to be supplied must be notified in writing to IADT and authorisation sought to make amendments.

#### **5. Damage in transit**

- 5.1 An advice note specifying the means of transport, place/date of dispatch, number of packages and their weight and volume.
- 5.2 If damaged in transit, then the contractor shall either replace or repair as required by the purchaser, such of the supplies as may be undelivered or damaged in transit.
- 5.3 Notice of damage by purchaser to be made within 30 days of delivery.
- 5.4 Notice of non-delivery within reasonable time of notification.

#### **6. Infringement of rights**

- 6.1 As a condition of the contract between the purchaser and the contractor, the supplies supplied may not infringe any patent, trademark, registered design, copyright or other right of any third party and the contractor shall indemnify the purchaser against all actions, claims, suits, demands, losses, costs or expenses incurred or likely to be incurred by the purchaser under this heading.

**7. Indemnity and insurance**

- 7.1 The contractor shall indemnify the purchaser against all claims including all legal costs and expenses incurred by the purchaser for loss arising as a result of damage to any property whatsoever where due to any negligence or default of the contractor or his agents or sub-contractors or as a result of injury or death of any person which may occur in the course of or arising from or in any way connected with the performance of this contract.
- 7.2 Where the contractor or any sub-contractor fails to insure any risk as required by the purchaser, in accordance with the contract, the purchaser may insure the risk in question and deduct the amount of the premiums from any monies due to the supplier.

**8. Copyright and other rights**

- 8.1 All specifications, products or documents supplied by IADT or produced by the contractor in connection with the contract together with all intellectual property rights, design rights or copyright connected therewith shall become and remain the property of IADT.

**9. Acceptance of goods and services**

- 9.1 Acceptance by IADT of all goods and services under the contract shall be subject to examination and inspection for compliance and conformity with specification. Goods and services which do not so conform shall neither be accepted by nor paid for by IADT.

**10. Notice of rejection**

- 10.1 IADT shall give notice within 10 days of delivery of rejection of goods or services which fail to comply with or conform to its specification or order whether in terms of quality, quantity or otherwise. Rejected goods will not be considered as having been developed under the contract.

**11. Law of contract**

- 11.1 The contract shall be subject and interpreted in accordance with Irish law and shall be subject to the jurisdiction of the courts of the Republic of Ireland, unless otherwise agreed in writing between the parties.

**12. Delivery time**

- 12.1 The goods and services shall be delivered at the times and dates agreed under the contract or as stated on IADT's official orders or in particular instances.

**13. Packing**

13.1 All goods shall be packed and secured in such a manner to reach their destination in good condition.

**14. Settlement**

14.1 IADT shall be at liberty in settling and valuing the amount due to the contractor to take into consideration any deficiency in the quality of the supplies or in the quality of the materials and labour employed in the manufacture thereof, and to make, on account of the said deficiency, such reduction in price or prices as it may consider reasonable.

**15. Insolvency**

15.1 IADT shall be at liberty, upon breach of any of the conditions of contract, or upon the contractor becoming bankrupt or insolvent, or making any assignment for the benefit of creditors forthwith, to rescind the contract altogether and to withhold from the contractor as absolutely forfeited all monies which the contractor might otherwise have claimed under the conditions of contract and to do all things that he shall consider proper for having the contract completed and also to recover from the contractor, or deduct from any monies of the contractor in his hands, the extra expense occasioned thereby.