The Manchester Metropolitan University (Manchester Met)
All Saints Building
Oxford Road
Manchester
M15 6BH

Goods and Services supplied by Print City are subject to these Contract Conditions and the Additional Clauses in Schedule 1

CONTRACT CONDITIONS

1 Engagement

Our engagement under this Agreement starts on the Commencement Date and shall continue until the expiry of any Term or notice served under this Agreement.

2 Duties and responsibilities

2.1 We are engaged to perform the Services and will perform our obligations as outlined in the Contract Particulars or Schedule of Services. You also agree to perform any obligations upon you as set out in the Contract Particulars or Schedule of Services.

2.2 When our work (whether or not as part of a team) requires co-ordination with other persons working, we will make ourselves available during our normal business hours.

2.3 We further undertake that for the effective provision of the Services we will:

2.3.1 comply with your relevant practices and procedure as may be notified to us by You from time to time;

2.3.2 comply with relevant legislation, orders and codes of practice that are in operation from time to time; and

2.3.3 comply with any Health and Safety requirements that You may have and which You communicate to us.

3 Fees

3.1 The Fees must be paid in full unless subject to a bona fide dispute (which has been raised in accordance with this Agreement). You may not set off against the Fees any other liability or alleged liability of ours to you (irrespective of what that liability relates to).

3.2 We reserve the right to suspend the Services if You fail to pay the Fees within the Fee Term.

3.3 If any sum under the Agreement is not paid when due then that sum will bear interest from the due date until payment in full, before and after judgement, at 5% per annum over Barclays Bank PLC base rate from time to time.

4 Indemnity and Liability

4.1 We do not exclude or limit liability in respect of death or personal injury resulting from our negligence, or for fraud or fraudulent misrepresentation. We will be liable for direct losses only, and do not accept liability for any indirect or consequential losses (even if We were informed of their possibility), and nor do We accept liability for any loss of profit, anticipated savings, legal or professional fees.

4.2 Subject to clause 4.1, our aggregate liability to You arising in connection with the provision or contemplated provision of the Services under this Agreement by reason of breach of contract or of statutory duty or tort (including but not limited to negligence), or any failure to perform or delay in performing of our obligations under this Agreement shall be limited and in no circumstances shall exceed either the level of the Fees paid by You under this Agreement or the sum of £100,000 (One hundred thousand pounds) whichever is the lesser.

4.3 We will maintain at our own cost a policy or policies of insurance (and increase such cover appropriately from time to time) to cover any liability that We may incur in respect of any act or default for which We may become liable to You for under the terms of this Agreement.

4.4 When reasonably requested to do so by You we will provide to You forthwith upon written request documentary evidence such as a broker's certificate that We have maintained and paid all premiums in respect of our insurance policies.

4.5 We warrant to You that we are not aware of anything that has been done or omitted which could result in any of our insurance policies being or becoming void.

4.6 The parties each confirm that all the exclusions and limitations of liability set out in clause 4 are fair and reasonable having regard to the circumstances.

4.7 The provisions of this clause 4 shall continue after expiry or termination of this Agreement howsoever occasioned.

5 Facilities

If appropriate, You shall make available free of charge suitable office, laboratory or workshop space including access to a computer and such other facilities as may be necessary to enable us to properly provide the Services to You.

6 Expenses

You shall (on the presentation of invoices or other evidence of actual payment) reimburse us for all expenses and disbursements reasonably and properly incurred by us in the provision of the Services. We will whenever possible try to seek your prior approval before incurring any expenses or disbursement.

7 Good faith

We shall not use or otherwise turn to our advantage knowledge of or any connection with any of your staff and/or clients so as to take any advantage, unless it is solely for your benefit and with your consent.

8 Data Protection

8.1 For the purposes of this clause 8, the below terms are defined as follows:

(i) "Personal data" has the definition provided for in article 4 of the General Data Protection Regulation and means any personal data processed by us in delivery of the Services or under your instruction;

(ii) "Personal Data Breach" has the meaning given to it article 4 of the General Data Protection Regulation

(iii) Privacy Laws means (a) any law, statute, declaration, decree, directive, legislative enactment, order, ordinance, regulation, rule or other binding restriction (as amended, consolidated or re-enacted from time to time) which relates to the protection of individuals with regards to the Processing of Personal Data to which a Party is subject, including the Data Protection Act 1998 ("DPA") and EC Directive 95/46/EC (the "DP Directive") (up to and including 24 May 2018) and on and from 25 May 2018 the GDPR and all legislation enacted in the UK in respect of the protection of personal data; and (b) any code of practice or guidance published by the ICO (or equivalent regulatory body) from time to time;

(iv) "Privacy Notice" means a notice providing the information required under either articles 12 or 13 of the General Data Protection Regulation.

8.2 To the extent that the Services involve us processing Personal Data on your behalf or under your instruction, we agree to

(i) process the Personal Data in accordance with the Privacy Laws and for the purposes of delivering the Services and performing our obligations under the Agreement;

(ii) implement and maintain appropriate technological and organisational measures to protect the security of the Personal Data

(iii) notify and cooperate with you in the event of a Personal Data Breach and/or a request from an individual to exercise their rights under the Privacy Laws in relation to the Personal Data;

(iv) not transfer any Personal Data to a Restricted Country unless such transfer is made in compliance with the Privacy Laws; and

(v) ensure our staff are subject to a duty of confidentiality in regards to the Personal Data'

8.2 You agree, and authorise, that we may subcontract the Services under the Agreement to a third party. To the extent that our subcontractor will be processing the Personal Data, we agree to enter into a contract, with that subcontractor, which implements appropriate contractual terms to address the requirements of the Privacy Laws.

8.3 You acknowledge that there may be circumstances where we are required to disclose the Personal Data to a third party (e.g. under statute) and we agree to notify you in advance before making such a disclosure.

8.4 You agree to ensure that all relevant Privacy Notices have been provided to individuals to whom the Personal Data relates to ensure that the processing of Personal Data under the Agreement is compliant with the Privacy laws

9 Confidential information

9.1 Except as authorised or as required by duties under this Agreement, each party shall keep secret and shall not use or disclose, and shall use its reasonable endeavours to prevent the use or disclosure of, any confidential information of the other party, which includes but is not limited to information relating to its organisation, transactions, finances, technology, processes, specifications, methods, designs, formulae or other of its activities or affairs or those concerning its staff, students, governors and/or suppliers (Confidential Information).

9.2 Neither party shall make any press announcements or publicise this Agreement in any way without having obtained the other's prior written consent, save as may be required by law.

9.3 The obligations on a party set out in clause 8.1 will not apply to any Confidential Information which:

(a) either of the parties can demonstrate is in the public domain (other than as a result of a breach of this clause 8);

(b) is necessarily disclosed pursuant to a statutory obligation;

(c) is disclosed to the professional advisers, lawyers, auditors and bankers of each party and those professional advisers, lawyers, auditors and bankers are bound by a duty of confidentiality; or

(d) is disclosed with the prior express written consent of the other party.

9.4 The obligations of confidentiality contained in this Agreement shall continue in force for a period of three (3) years from the End Date.

9.5 You will note our obligations under the Data Protection Act 1998, Freedom of Information Act 2000, Human Rights Act 1998 and any codes of practice and best guidance notes issued by the government and appropriate enforcement agencies. You must comply with this legislation in so far as it places obligations on you as well as facilitating our compliance. You particularly note that we may be required to provide information relating to this Agreement or yourself to a person in order to comply with our obligations under the aforementioned legislation.

10 Termination

10.1 Without affecting other rights under this Agreement, either party can terminate this Agreement forthwith by written notice to the other if any of the following applies to the other:

10.1.1 it commits a material breach of this Agreement which is not capable of being remedied; or

10.1.2 it commits a material breach of this Agreement which is capable of being remedied, but fails to remedy the breach within 28 days of a written

notice giving particulars of the breach and requiring it to be remedied; or

10.1.3 it fails or cease to perform its duties under this Agreement to the reasonable satisfaction of the other party; or

10.1.4 it becomes insolvent, bankrupt, enters administration or ceases or threatens to cease to trade; or

10.1.5 it becomes unable or is prevented from carrying out its duties under this Agreement for any reason whatsoever for a period exceeding 8 (eight) weeks; or

10.1.6.it is in breach of the applicable laws, statutes, regulations and codes relating to the provision of the Services, including but not limited to the Bribery Act 2010; or

10.1.7 it has a change in the control or status which affects the ability to control its affairs, whether by virtue, statute or otherwise; or

10.1.8 it engages in behaviour or activities which does or could potentially cause damage to the reputation or goodwill of the other.

10.2 Termination of this Agreement shall not affect or prejudice such rights and remedies and each party shall be and remain liable to perform all outstanding liabilities under this Agreement notwithstanding that the other may have exercised one or more of the rights and remedies against it.

10.3 Upon termination of this Agreement we both agree to furnish to the other all existing documentation, Confidential Information, material and other information relating to the other that we may have obtained in connection with this Agreement. At this time both parties will cease to process any personal data supplied in connection with this Agreement.

11 Intellectual Property Rights

11.1 We accept no responsibility for any errors, omissions, or other defects in any drawings, designs, specifications or any other documents that are provided by You to us in connection with the provision of Services.

11.2 All pre-existing intellectual property owned by either party shall remain the property of that party.

11.3 The arising intellectual property rights in the Services (including without limitation, copyright, patents, design rights, registered designs, trade marks, service marks and know-how and the rights to apply for any of the foregoing) or of all drawings, reports, calculations and other documents that are created or developed by us, whether registered or unregistered, solely in connection with the provisions of the Services will become our property. We grant You a limited licence to use these intellectual property rights for the purposes of receipt of the Services only.

11.4 The provisions of this clause shall survive termination for whatever reason.

12 Bribery, Fraud and Corruption

12.1 In connection with this or any other agreement between the parties you shall not give, provide or offer to our staff and agents any loan, fee, reward, gift or any emolument or advantage whatsoever and shall comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption, including but not limited to the Bribery Act 2010. In the event of a breach of this clause we shall without prejudice to any other rights that We may have be at liberty forthwith to terminate this Agreement and any other agreement and to recover from You any loss or damage resulting from such termination.

12.2 You shall comply with our Bribery Act Compliance Statement (located at http://www.finance.mmu.ac.uk/uploads/5/Bribery_Act_Statement.pdf) as the same may be updated from time to time.

13 Applicable laws and health and safety

13.1 The parties shall comply with all applicable laws and statutory regulations or the regulations of any governmental, quasi-governmental, supra-national or other competent agency (including, without limitation, all health and safety) in force from time to time during the term of this Agreement and relating to the provision of the Services.

13.2 The parties shall in the provision of the Services comply with the provisions of the Equality Act 2010.

14 Relationship of the parties

This Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the parties other than the contractual relationship expressly provided for in this Agreement. We shall remain complete control over our personnel and operations. Neither party shall have, nor represent that it has, any authority to make any commitments on the other party's behalf.

15 Entire agreement and Variation

15.1 No representation, undertaking or promise shall be taken to have been given or implied from anything said or written in negotiations between the parties prior to this Agreement unless expressly stated in this Agreement and signed by an authorised signatory of both parties. This clause does not exclude any liability which any of the parties would otherwise have to any other party in respect of any statements made fraudulently.

15.2 No variation of this Agreement or oral promise or commitment related to it shall be valid unless made in writing and signed by an authorised signatory of each party.

16 Waiver

16.1 Failure of either party to insist upon strict performance of any provision of this Agreement, or failure of either party to exercise any right or remedy to which it is entitled hereunder, shall not constitute a waiver and shall not cause a diminution of the obligations established by this Agreement.

16.2 No waiver by a party of its rights under this Agreement shall be effective unless expressly stated to be a Waiver and communicated to the other party in writing.

17 Severance

If any provision of this Agreement is declared by any judicial or other competent authority to be unlawful, void or otherwise unenforceable or indication to that effect is received by either of the parties from any competent authority the parties shall amend that provision in such a reasonable manner as achieves the intention of the parties without illegality or at our discretion it may be severed from this Agreement.

18 Force Majeure

If either party is delayed in carrying out an obligation under this Agreement by reason of a circumstance beyond the party's reasonable control and it gives written notice to the other party within 10 days of the circumstance and the anticipated delay the time for performing the obligation will be extended for such period as is reasonable.

19 Discretion

Any decision exercise of discretion judgment or opinion or approval of any matter mentioned in this agreement or arising from it shall be binding on a party only if in writing and shall be at its sole discretion unless otherwise expressly provided in this Agreement.

20 Notice

Any notice to be given in this Agreement shall be in writing and shall be addressed to the address set out in this Agreement or to such other address as that party shall have previously notified to the sender.

Any notice to us shall be sent to:

Manchester Metropolitan University
Legal Department
All Saints
Manchester
M15 6BH

Any such notice under this Agreement shall be deemed to have arrived, unless the contrary is proved, and will be deemed to have been served if delivered at the time of delivery and if sent by first class post, 2 (two) working days after posting.

21 Assignment and Subcontracting

21.1 We may assign our rights under this Agreement, and have the right to subcontract performance of the Services or elements of the Services. You may not assign, transfer, charge or hold on trust your rights or obligations under this Agreement to any other person without our prior written consent (which shall not be unreasonably withheld or delayed) save in accordance with clause 20.2.

21.2 In the event that there is any successor or replacement body to all or part of the functions or affairs of either party then that party shall ensure that such successor or replacement body undertakes to the other party to be bound by and to observe and perform all the provisions of this Agreement, as if it were named herein as the original party.

22 Dispute Resolution

22.1 In the event of any difference or dispute arising between the parties concerning the interpretation or validity of this Agreement or the rights and liabilities of the parties hereunder then both parties will in the first instance attempt in good faith to discuss and negotiate a settlement of such dispute.

22.2 Each party will use all reasonable endeavours to reach a negotiated resolution through the above dispute resolution procedure. The specific format for such resolution will be left to the reasonable discretion of the parties but may include preparation and submission of statements of fact or of position.

22.3 If the dispute is not resolved at this meeting and only if both parties agree at such meeting or within 14 days of its conclusion they may request that the dispute be referred to an expert to be agreed between them.

23 The Contracts (Rights of Third Parties) Act 1999

Nothing in this Agreement confers or is intended to confer any right under the Contracts (Rights of Third Parties) Act 1999 which is enforceable by any person who is not a party to this Agreement and the rights of any third party under the said Act are hereby expressly excluded.

24 Formation and Interpretation Clause

24.1 This Agreement consists of the Contract Particulars and these Contract Conditions. In the case of any inconsistency with any other document, such as an acknowledgement, purchase order or contract terms sent by you to us or any other communication between us whatever may be their respective dates the provision of these Contract Conditions shall prevail unless expressly varied in writing and signed by our authorised signatory.

24.2 This Agreement shall be governed by and construed in accordance with English Law and each party irrevocably agrees (subject to clause 22) to submit to the exclusive jurisdiction of the English courts as regards any claim or matter arising under this Agreement. Any reference to legislation is to such legislation as amended and in force from time to time, including any legislation which re-enacts or consolidates it, with or without modification.

Schedule 1: Additional Clauses

1. General

1.1 Your order for the Services (whether through our website or otherwise) (an "Order") constitutes an offer by You to purchase the Services in accordance with the Contract Conditions and these Additional Clauses. The Order shall only be deemed to be accepted when We accept the Order at which point the Contract shall come into existence.

1.2 Any quotation given by Us shall not constitute an offer, and is only valid for 15 working days from its date of issue.

1.3 We may refuse any Order for any reason.

1.4 In entering into the Contract neither party relies on, and shall have no remedies for, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract and all terms implied by law are, to the fullest extent permitted by law, excluded from the agreement.

1.5 These Additional Clauses form part of the Contract. If there is any inconsistency between:
(i) these Additional Clauses and the Contract Conditions, these Additional Clauses shall prevail;
(ii) these Additional Clauses and the Contract Particulars, the Contract Particulars shall prevail.

2. Design and Print.

2.1 We will use reasonable care and skill in providing the Services and in handling and processing Source Models.

2.2 Due to shrinkage and the physical limitations of the print material We cannot guarantee that the dimensions of the Prototype are identical to the Source Model, however most parts will be within -/+ 0.3mm of the original dimensions except FDM models which will be within +/- 0.5mm of the original dimensions.

2.3 Due to limitations in the print materials and technology it may be impractical to print certain items, particularly those which are fragile or have a limited wall thickness. If We have informed You that there is a high risk of breakage of the Prototype We shall have no liability in respect thereof.

2.4. We undertake to remove Prototypes from the 3D printers with due care and attention. However, models are fragile at the point of extraction and minor breakages may occur, particularly of gypsum models. In the case of such minor breakages, We will either re-print the Prototype or provide a refund, but shall have no other liability in respect thereof.

2.5 Bleaching may occur where We need to reinforce a gypsum Prototype by gluing it with cyanoacrylate (superglue), or if the geometry of the Prototype is such that we cannot reasonably brush powder from it without other damage occurring. Bleaching is Your risk and We shall not have any liability in respect thereof.

3. Fitness for Purpose & Limitation of Liability

3.1 The Prototype is a 3D representation of the Source Model and is not chemically or structurally identical to, or manufactured in the same manner or for the same purposes as, the Source Model. Accordingly, MMU warrants that the Prototype is fit for use as a prototype only and if it is to be used for any other purpose MMU shall have no responsibility in respect thereof and You should submit it to an appropriate certifying body for testing and certification as fit for such purpose.

3.2 From delivery You are responsible for the Prototype and its use and application, including (without limitation) for keeping small parts out of reach of children and preventing the Prototype from being ingested. Some Prototypes may have been treated with substances not fit for consumption.

3.3 Where You deposit a physical Source Model with Us Our liability for the loss of or damage to any such Source Model shall be limited to the lower of the estimated market value or £50 per item. You are recommended to insure the physical Source Model while it is in our possession.

3.4 Where the Source Model is held on computer disks or any other electronic or digital erasable media, it shall be Your responsibility to maintain Your own master copy independently of the Source Model submitted to Us and We shall have no liability for the loss of or damage to any such Source Model.

3.5 The limit of liability referred to in clause 4.2 of the Contract Conditions is the level of the Fees paid by You under the Contract or the sum of £10,000 (ten thousand pounds) whichever is the lesser.

4. Intellectual Property Rights

4.1 You warrant that You own, or We are licensed to use, all intellectual property, moral and other rights in the Source Model and anything else supplied by You for Us to provide the Services, free from any third party intellectual property rights or claims.

4.2 You warrant that the Source Model is not hazardous or dangerous and is free of restrictions as to use.

4.3 You shall indemnify and hold Us harmless against all liabilities, costs, expenses, damages or losses (including without limitation any direct or indirect consequential losses, loss of profit, and loss of reputation), interest, penalties and legal and other expenses and professional costs (calculated on a full indemnity basis) suffered or incurred by Us arising out of or in connection with a breach of clauses 4.1 or 4.2.

4.4 The intellectual property rights arsing in the performance of the Services shall be owned as set out in the Contract Particulars, and if not specified in the Contract Particulars clause 11.3 of the Contract Conditions shall apply.

5. Delivery

5.1 Delivery to You will be on collection by You (or Your subcontractor) of the Prototype at MMU Print City or (subject to clause 6.3) on posting the Prototype by Royal Mail Guaranteed Next Day delivery (when we will provide you with tracking details).

5.2 Risk in the Prototype shall pass to You upon delivery as specified in clause 5.1 and We shall not be liable for any loss or damage occurring while the Prototype is in transit. All Prototypes posted or collected by courier are entirely at Your risk.

5.3 Unless otherwise agreed, Prototypes in gypsum must be collected by You from MMU Print City.

5.4 You shall inspect the Prototype on receipt and if there is any alleged defect, damage or other failure to comply with the Contract, You must:
(a) within five working days of delivery notify Us of the alleged default; and
(b) within seven working days of such notification return to Us the Prototype and all associated paperwork and packaging. If You fail to so notify Us or return the Prototype as aforesaid, You shall be deemed to have accepted the Prototype and the Prototype shall be conclusively presumed to be in accordance the Contract and free from any defect or damage which would be apparent on a reasonable examination of the Prototype.

5.5 Any end date stated in the Contract Particulars or any dates quoted for delivery are approximate only, and time of delivery or completion of the Services is not of the essence.

5.6 If within 20 working days of the day on which We notify You that the Prototype is ready for delivery You have not notified Us of the method of delivery under clause 6.1, We may dispose of part or all of the Prototype.

5.7 Unless expressly stated otherwise time is of the essence in relation to any time specified in this clause 5.

6. Retention of Legal Title

6.1 Title in the Prototype shall not pass to You until We have received payment in full (in cash or cleared funds) for the Services and all other sums that are, or that become, due to Us from You.

6.2 Whether or not title and/or any intellectual property rights in the Source Model or Prototype are owned by, or have passed to, You, We shall have the right to reprint additional Prototypes for display in MMU Print City and internal university exhibitions, unless prior to such reprinting You have requested Us in writing not to reprint the same.