

The University of Limerick

Procurement Policy

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1 MISSION STATEMENT

- 1.1 The Office of Procurement and Supply Chain Management's mission is to consistently obtain goods and services at best value for money through the optimum combination of whole life cost and quality that meets the University of Limerick's requirements. This will enable the University to deliver to the highest level of excellence its education and research services. The Office of Procurement and Supply Chain Management is committed to listening, teaching, sharing, and developing skills and confidence in the field of procurement while encouraging consideration of sustainable solutions to our procurement needs.

Co-operating with Budget holders, staff, other universities and suppliers, the Office of Procurement and Supply Chain Management aims to become the centre of knowledge, expertise and excellence in the supply of goods and services.

2 INTRODUCTION

- 2.1 **Approval:** This document has been approved by the Executive Committee of the University, which is committed to the pursuit of excellence and recognises the importance of good purchasing practice in obtaining value for money and in ensuring that the funds of the University are best optimised.

2.2 Scope of the Procurement strategy

- The purchasing strategy covers the management and control of all non-pay expenditure.
- This document has been designed to reflect the University's organisational structure whereby management responsibility is devolved to Department Heads and Budget holders. In the interest of clarity the document refers throughout to departments and personnel who for the purposes of this document covers all areas and individuals who spend funds on behalf of the University.
- The document sets out the formal University of Limerick purchasing strategy the aim is to benefit all departments in the expenditure of non pay budgets and ensure best practice.

- 2.3 **Purchasing objective:** To ensure that all funds committed to purchase goods and services obtain optimum quality, service, and value for money including delivery, customer service, and overall supplier performance.

The objective will be fulfilled by:

- Informing and guiding all personnel and departments of the University's policies and procedures for the purchase of goods and services.
- Developing and implementing a "value for money" consciousness throughout the purchasing process.
- Developing and implementing the means by which departments may measure and improve their purchasing performance.

- Pursuing and developing co-operative relationships between the Office of Procurement and Supply Chain Management, University departments and other Irish universities procurement organisations.

3 UNIVERSITY PROCUREMENT STRATEGY

3.1 Authority to Purchase: The University's Executive Committee is responsible for all funds of the University irrespective of the source or however generated. The Executive Committee delegate's authority to purchase from these funds to the Department Heads.

3.2 Adherence to Irish Law and EU Directives: The University places great emphasis on accountability, efficiency, transparency and value for money this is in line with government policy in the public service. In accordance with this policy the government published guidelines on public procurement known as the "Green Book" outlines the national procedures to be followed by all persons involved in the award of contracts. It is University procurement strategy that all procurement activity shall adhere to the contents of the Green Book.

The following principles must be complied with:

- Competitive tendering must be used, unless exceptional circumstances apply.
- Tax clearance certificates are obligatory in all cases where orders or cumulative orders exceed 10,000 Euro annually.
- National guidelines apply, not only to formal, written contracts, but also to all procurement disposals.
- If the value of the contract exceeds the current financial threshold in the EU directive, the contract shall be open for competition across the EU and shall be advertised in the Official Journal of the European Union (OJEU). The threshold figure for the OJEU is based on total University expenditure on any one item, collective product grouping, (i.e. stationery, chemicals) or service. The EU threshold is exclusive of VAT and expenses, and does not only apply to individual departmental spending but includes the total collective purchases across the University.
- EU Public Procurement Directives shall be followed where a project is wholly or partly financed (50% or greater) by EU institutions.
- EU Public Procurement Directives have legal force and shall be followed. If you are in any doubt about how to proceed in any matter relating to the purchase or disposal of goods or services contact the Procurement and Supply Chain Manager.

Please note departments must be aware that the auditors of the University and the staff of the Comptroller and Auditor Generals branch have full, free and unrestricted access to all procurement records within the University. On receipt of any observations resulting from any such audit, the head of the department concerned shall be responsible for ensuring that replies are furnished to the relevant audit action.

- 3.3 Co-ordinate Purchasing Activity:** The University objective of obtaining value for money is best achieved by a co-ordinated approach to procurement activity both between departments and between universities.

4 PURCHASING PROCEDURE

- 4.1 Purchase orders:** Official purchase orders shall be issued for all goods and services except.

- Where a procurement competition has been completed under the UL procurement policy, approved by the procurement office and a valid contract for supply has been approved and signed.
- In the case of approved subscriptions/memberships of professional and corporate bodies.
- Where an authorised purchasing card can be utilised
- Where items can be ordered through the web with suppliers approved by the University for this purpose.

- 4.2 Verbal orders:** Where verbal orders are necessarily raised as a matter of urgency, at the time of placement of requirement the supplier shall also be given the official order number, the name of the person raising the order and, the name and address of the section to which the goods should be addressed. The official order must be issued within twenty-four hours and the order should be marked "confirmation of verbal/telephone order - do not duplicate".

- 4.3 User Groups:** The co-ordinated approach will be facilitated via the creation of a number of user groups, consisting of key staff involved in purchasing significant expenditures of a particular commodity. User groups will be involved in initiating and completing competitive tendering activities for a particular commodity, and this process will be co-ordinated through the Procurement and Supply Chain Manager.

- All staff involved in user groups and purchasing activities shall be offered appropriate training in procurement best practices.
- The importance of effective management information relating to purchasing cannot be over-emphasised. Staff and user groups should obtain the following information (which will be available from the new University financial management package):
 - ❑ list of expenditure by commodity group
 - ❑ list of expenditure by commodity group by department
 - ❑ list of expenditure by suppliers by commodity group
 - ❑ list of expenditure by suppliers by department

The will enable staff and user groups to obtain appropriate information, which will provide the basis for identification of targets by supplier or by commodity group. In addition the analysis by department will provide the basis for the identification of common purchases between departments and provide for the selection of the appropriate staff to participate in the user groups.

The University Procurement and Supply Chain Manager shall work with the user group to identify those instances where aggregation could result in cost savings. If appropriate, the relevant user group shall nominate a Project Leader to work with the University Procurement and Supply Chain Manager to implement a University wide contract in respect of that commodity or supplier.

4.4 Authorisation of orders: All purchase orders shall be authorised in accordance with the Finance Regulations.

4.5 Financial regulations: The Scheme of Delegation reflects the requirements detailed by Financial Regulations and must include the following parameters:

- All purchase orders above 2,000 Euro must be authorised by the Finance Department.
- All leases and hire-purchase agreements must be authorised by the Financial Controller.
- All purchases above 2,000 Euro must be authorised by the Head of Department, or his delegated manager as defined in the Scheme of Delegation.

For other purchases the Head of Department should formally approve a list of delegated authority bearing in mind both the operational requirements of the department and the need to safeguard good financial management.

4.6 Approved suppliers: Purchases must be made from, *Preferred* or *Approved* suppliers unless there are compelling reasons approved by the Head of Department, or his nominated manager. Staff must retain the approval on the record for inspection for six years. *Preferred and Approved* Suppliers are defined in the University's Supplier Management Strategy.

4.7 One off purchases: For one-off purchases from suppliers, which are unlikely to recur the staff, may make arrangements to order within the procedure agreed by the Procurement and Supply Chain Manager and set up for the purpose.

4.8 Fair competition: In order to ensure that all purchases are made at the most advantageous cost consistent with required quality, fair competition shall prevail, and purchasers shall further ensure that value for money is obtained by one of the following:

- For purchases above 200,000 Euro an EU tender is required. The Procurement and Supply Chain Manager must be consulted and full details of the tender process recorded centrally, on behalf of the University.
- For purchases of 25,000 Euro and below 200,000 Euro: By inviting formal tenders within the procedure laid down in Appendix B.
- For purchases below 25,000 Euro and above 5,000 Euro: By inviting written quotations within the procedure laid down in Appendix B.
- For other purchases under 5,000 Euro written quotations are not required.
- The thresholds are mandatory and represent minimum requirements. For particular purchases it may be appropriate to use stricter limits where this could lead to improved value for money. (For example, to seek tenders, rather than quotations, for high specification equipment costing less than 25,000 Euro.) Under no circumstances should requirements be split to bring purchases under a particular threshold.
- On rare occasions there may be only one supplier of a particular item and no alternative is available ("sole source"). Sometimes an item has to be purchased from a particular supplier, usually to ensure compatibility with existing goods or servicing arrangements ("single source"). In absolute emergencies there may not be time to seek competitive bids. If any of the forgoing occurs, staff should make a full, written justification for approval by the Head of Department for the decision not to seek competitive bids. Such approvals must be retained on the record for six years after the end of the financial year in which they occurred. The User and/or the Head of Department may find it advisable to consult with the Purchasing Department on such occasions.

4.9 EU Law: Universities are subject to requirements arising from EU Law with regard to Public Procurement and hence the EU Directives. Non-adherence to EU directives can result in serious legal and financial sanctions for the University.

There are three different types of contracts identified in the EU Directives:

Supply Contract – Purchase or hire of goods (including installation services where appropriate)

Services Contract – Provision of services, including maintenance

Works Contract – Building and civil engineering work, demolition, installation of plumbing, heating or electrical equipment and building completion work (e.g. plastering, papering and tiling)

All types of procurement fall within one of these three categories above and EU directives are in place for all three categories. Any contract placed by the University, if it exceeds the relevant financial threshold in the Directive, must be processed and awarded in accordance with the procedures of the Directive, unless it is covered by a clearly defined exception.

The EU Public Procurement Directives must be followed where a project is wholly or partly (more than 50%) financed by EU institutions.

4.9.1 EU Thresholds

The financial thresholds in the Directives are given in Euros. The European Commission, under the terms of the Directives, usually at two yearly intervals, revises the equivalent values in national currencies.

The Department of Finance informs all public authorities of changes to the thresholds as they occur.

The thresholds exclude VAT.

The thresholds apply to the total value or quantity of an individual contract and include:

1. Overall cost (including residual value).
2. The ‘adjusted’ value of previous 12 months.
3. The value estimated over the full term if greater than 12 months.

The thresholds for bodies governed by public law (Universities) in Euros are as follows:

Services	200,000 Euro
Supply	200,000 Euro
Works	5,000,000 Euro

The EU directives are based on the principle that, if the total value of a contract exceeds the financial threshold in the relevant EU directive, the contract must be open for competition across the European Union and must be advertised in the Official Journal of the European Union (OJEU).

4.9.2 EU Tendering Procedures - Overview

The EU directives have legal force in Ireland and compliance is essential. The EU Directives recognise four types of tendering procedures:

Tender Procedure	Description
OPEN	All interested suppliers are invited to express an interest and may submit a tender
RESTRICTED	Only suppliers invited by the contract authority may submit tenders
COMPETITIVE DIALOGUE	Designed to provide more flexibility in the tendering process for more complex contracts, for example public private partnerships (PPPs). Contracting authorities must advertise their requirements and enter dialogue with interested parties, (pre – qualified on the same basis as for restricted procedure, described above). Through the process of dialogue with a range of candidates, a

	contracting authority may identify arrangements or solutions which meet its requirements.
NEGOTIATED	The contract authority consults suppliers of their choice and negotiates the contract terms with one or more of them. Used in very limited circumstances and as a rule not permitted to be used routinely. <i>The Procurement & Supply Chain Manager can provide more detail regarding this procedure.</i>

The European Commission has a strong preference that the **open** tendering procedure is used in order to ensure the greatest possible competition, transparency and objectivity.

- 4.10 Public sector collaboration:** Whenever possible, purchasing contracts made available by public sector collaboration should be supported, provided always that a “value for money” can be demonstrated. These include arrangements made by the Irish University collaboration group, government department or agency contracts. Individual department purchasing arrangements should be made available for the use of all other departments.
- 4.11 Evaluation of offers:** Evaluation of offers shall take account of all relevant costs relating to operational needs, acquisition, servicing, performance and disposal.
- 4.12** Official orders and internal requisitions shall indicate clearly the nature and quality of the goods or services required, the University's credit period and any contract, conditions of use, quotation or agreed price relating thereto. Purchasing Card transactions shall be recorded as laid down in the appropriate procedure.
- 4.13 Conditions of Purchase:** Unless other arrangements are approved by the Procurement and Supply Chain Manager, all purchase orders shall be placed on the basis of the University standard Conditions of Purchase, which are detailed in Appendix A. Staff purchasing must advise suppliers that the University standard Conditions of Purchase will always take precedence. Purchasers are required to examine a supplier's Conditions of Sale carefully and where these are in conflict with the University Conditions of Purchase, advice must be sought from the University Procurement and Supply Chain Manager.
- 4.14** The Standard Conditions of Purchase stipulate that payment should not be made prior to the receipt of goods or services. Should payment exceeding €500 prior to receipt be requested by a supplier special conditions of contract, designed to safeguard the University's interests, must be approved by the Procurement and Supply Chain Manager.
- 4.15** Wherever possible purchasers should liaise with the University Office of Procurement and Supply Chain Management and other users to achieve standardisation of those products which among other things will produce benefits in negotiating the most competitive terms, achieve value for money and simplify arrangements for repairs/services. Fragmentation of ordering amongst a wide range of suppliers for similar goods/supplies will usually reduce the

scope for competitive tendering and for improving product quality and availability.

- 4.16** Quotation and Tender documents must be kept for at least six years after the end of the financial year in which the contract is finally completed. All action taken during the course of competitive tendering activities must be recorded and documented by the responsible person. It should be noted that the Statute of Limitations requires that documents relating to purchase orders and contracts must be retained for not less than six years.
- 4.17** Where goods or services are used by more than one department, but the supply is not organised via a University central stores, the key user(s) or the person with relevant expertise should be involved in any competitive tendering activities on behalf of the University in consultation with the University Procurement and Supply Chain Manager and other users. The University Procurement and Supply Chain Manager will keep a list of the major users and persons with relevant expertise.
- 4.18** Where goods and services are available from only a limited number of suppliers or from appointed agents where a manufacturer controls the price structure, competition should be encouraged by actively inviting potential competitors to enter the market, adjusting specifications where possible to assist this goal.
- 4.19** The Executive Committee of the University has delegated to the University Procurement and Supply Chain Manager the responsibility of ensuring that the procedures outlined in this document have been carried out throughout the University. All procedures will be monitored on an ongoing basis. The Procurement and Supply Chain Manager shall continuously review all purchasing procedures and will prepare a regular report for the Vice President, Administration.
- 4.20** Orders shall not be raised for part requirements in such a manner as to avoid the provisions of this procurement strategy.
- 4.21** All purchase orders must include a price or unit cost. If exact pricing is not possible then estimated costs must be indicated unless there are good reasons for not doing so (the reasons for which must be recorded and made available for inspection on request). The purchaser must record details of the source of the price quoted as a brief note.

4.22 Code of Ethics.

- Any personal interest which may impinge or might reasonably be deemed by others to impinge upon impartiality in any matter relevant to purchasing duties should be declared to the Procurement and Supply Chain Manager for recording and approval before conducting the business.
- The confidentiality of information received in the course of duty should be respected and specific details of suppliers' offers must not be divulged to competitors. Information given in the course of duty should be true and fair and never designed to mislead and should never be used for personal gain.
- While bearing in mind the advantages to the University of maintaining a continuing relationship with a supplier, any arrangement that might in the long term, prevent the effective operation of fair competition should be avoided.
- Gifts, other than items of very small intrinsic value such as business diaries, calendars, telephone pads etc, should not be accepted. Items for personal use should be declined. Modest hospitality is an accepted courtesy of a business relationship. However, the recipients should not allow a position to be reached whereby they might be or might be deemed by others to have been influenced in making a business decision as a consequence of accepting such hospitality. The frequency and scale of hospitality should not be significantly greater than the University would be likely to provide in return.
- When it is not easy to decide between what is and is not acceptable in terms of gifts or hospitality, the offer should be declined or advice sought from the Procurement and Supply Chain Manager.
- Personal inducements in any form from suppliers of goods and services to employees are forbidden. Any instances of such inducements being offered must be advised immediately to the Procurement and Supply Chain Manager.

5 DEPARTMENTAL STOCKS AND STORES

5.1 Departmental stocks held at or near the point of use are to be identified and kept to a practical minimum. Shelf life, stock level, rate of consumption and ordering lead-time should be monitored to reduce wastage and stock holding. Account should also be taken of the interest lost on investments in stocks.

5.2 Stores providing a service throughout the University. Stores should hold stock complying with the following criteria:

- **Bulk Purchased Supplies**
Items of sufficient demand in common use which offer a reduction in cost over direct supply taking account of all stock holding costs.
- **Instant Access**
Only those items whose immediate availability is considered important to maintain a University Service.

- 5.3** Stores are located in departments, which are normally the major users of the commodities held in the stores. Nevertheless department stores offering to supply the whole University must be able to deliver to requisitions within a reasonable period of receiving a requisition for the item in stock. Goods should be re-charged at a published price, which may include a margin to recover overheads. The allowance should be declared and agreed by the Office of Procurement and Supply Chain Management. Charges may include an element for labour.
- 5.4** All Stores offering a service to other departments must maintain stock records. Information on the items held and the issue price must be made available to all departments.
- 5.5** Each store shall provide an annual written report to the Procurement and Supply Chain Manager, which shall include information relating to:
- total value of annual issues
 - usage by departments
 - average stock holding
 - pricing structure
 - expenditure by commodity group
 - expenditure by supplier
 - performance targets for next financial year
 - assessment against performance targets

6 INVOICES

- 6.1** All suppliers must be instructed to submit invoices addressed to the Finance Department. Invoices will be passed for payment in accordance with the University Financial Procedures.

7 DIVISION OF RESPONSIBILITY

- 7.1** To ensure that responsibilities relating to purchases are divided at least two people shall be involved in authorising the three stages of purchasing goods and services. The three stages are the requisition, the purchase order and the goods receipt note. Authorising shall be undertaken either by signature or by electronic means within the University Purchasing System.

8 PURCHASE ORDERS

- 8.1** Only purchase orders generated by the purchasing system may be dispatched to suppliers. Purchase orders may be dispatched by post, fax or email.

9 TENDERS AND QUOTATIONS

- 9.1 The primary basis for providing evidence of value for money is to be able to show that what was offered by the selected supplier provided better value for money than offered from any other potential supplier. This can only be reasonably achieved by inviting competitive tenders (for high value or unique specification equipment) or quotations (for low value or standard "off the shelf" specifications). It is rarely the case that there is only one possible supplier.

10 COMPETITION

- 10.1 Without competition the University has less purchasing power. Competition may secure better value even where one supplier's equipment is strongly preferred on technical or compatibility grounds.

11 DEFINITIONS OF QUOTATIONS AND TENDERS

- 11.1 For the purposes of this procurement strategy a quotation is a procedure for seeking a price and delivery time for goods which are easily specified. A tender is the more formal and detailed exercise of obtaining sealed bids for goods where the value is high and/or the specification is detailed or complex and/or special terms and conditions may apply.

12 RECEIVING, OPENING AND RECORDING OF QUOTATIONS AND TENDERS

- 12.1 The procedures for dealing with quotations and tenders are available from the Procurement Department with guidelines for use (see Appendix B). National procedures for opening tenders are also outlined in the Green Book.

13 RELATIONSHIPS WITH SUPPLIERS

- 13.1 **General:** The selection of suppliers will be based on sound business principles which recognises, amongst others factors, the quality of the goods and services offered, relevant experience and reputation, financial stability and the ability to perform the contract in a timely manner.
- 13.2 **Sourcing:** As a general procurement strategy, the University does not seek to unduly restrict its sources of supply. Where economic, strategic or technological benefits may accrue, The Office of Procurement and Supply Chain Management will endeavour to approve at least two sources of supply.

In cases of strategically important goods and services where sources are limited and security of supply is critical, the Office of Procurement and Supply Chain Management will actively work to develop alternate sources and/or achieve 'most favoured customer' status.

- 13.3 **Nationality:** The Office of Procurement and Supply Chain Management will consider any source regardless of origin.
- 13.4 **Fairness:** All dealings with suppliers should be handled in a prompt and courteous manner. Every effort should be made to treat suppliers fairly and equally, and in bid situations to furnish all with the same adequate information. Reasonable efforts should be made to ensure that bid lists only comprise those suppliers who are financially sound and who have a realistic chance of winning the business.
- 13.5 **Confidentiality:** Bids and offers should be solicited on the basis that they will remain confidential both before and after the business is placed. Equally, suppliers are obliged to ensure that any privileged information regarding the operations of the University is kept strictly confidential and divulged only on a need-to-know basis. Suppliers and their employees, agents and sub-contractors, should sign a confidentiality agreement.

14 GUIDELINES ON WRITING SPECIFICATIONS

A specification can be defined as ‘a description of the physical or functional characteristics, or of the nature of a supply, service, or construction item; the requirements to be satisfied by a product, material, or process indicating, if appropriate, the procedures to determine whether the requirements are satisfied’. In essence a specification is a statement of the attributes of a product, process or service a user wishes to purchase and consequently which the supplier is expected to supply. As far as practicable, it is desirable that the requirements be expressed numerically in terms of appropriate units together with their limits.

Specifications have two basic functions:

- 1 **Communicate:** When prepared by the purchaser, specifications inform the supplier what is required. When prepared by the supplier they provide a prospective purchaser with a description of the attributes of a product.
- 2 **Compare:** Specifications also provide criteria against which the products and services supplied or available can be compared.

Types of specifications

There are basically 3 types of specifications:

- 1 **Functional Specifications:** A functional specification is a clear indication of the purpose, function, application and performance expected of the supplied material or service, whereby the supplier is allowed or encouraged to provide an appropriate product. These specifications describe the capabilities that the article where applicable, performance specifications are to be selected as they allow wider competition and enable suppliers to suggest new or improved ways of meeting the requirement. Tests or criteria are developed to measure a product’s ability to perform and to last, as required.

- 2 **Technical / Design Specifications;** This specification details the characteristics of the product to be purchased, it is so detailed that it describes how the product is to be manufactured, detailing the physical dimensions of the product and materials to be used etc. (Most often used for building contracting and roads)
- 3 **Combination:** These specifications include both design and functional features. Characteristics of both are used as prerequisites and as limiting factors in developing the specification.

A specification should be sufficiently detailed so that the product or service will fit the users requirements. It should not be so explicit that it prevents negotiation or discourages buyers or suppliers from using their expertise to propose alternative solutions that may offer better value for money.

Preparation of a specification should involve close communication between the user and procurement and if required assistance from technical experts. Involvement of potential suppliers may also be helpful in developing a specification. **If supplier input is required it must not result in adoption of a specification that favours one particular supplier.** This is a requirement, not only of the national Regulations, but also of the EU Treaty under Article 30.

When preparing a specification the following should be considered:

- Use functional and performance criteria where possible.
- Any technical specifications should be defined by reference to any European, International, National and quality assurance requirements, which are relevant.
- References, which have the effect of favouring or eliminating particular suppliers, contractors, products or services, should be avoided.
- It is **not** normally permitted to use brand names, sources of supply, trade marks, patent types, origins or other means of production when writing product specifications. The exception is when the goods and services cannot otherwise be described by reference to technical specifications, which are sufficiently precise and intelligible to all suppliers. **In these cases, the brand names etc. must be accompanied by the words "or equivalent".**

There are, however, instances where it is permissible to derogate from the prescribed hierarchy of specifications. Again, like other exceptions, these are clearly defined. For example, where there exists a statutory duty in relation to, say, health and safety; technical reasons of conformance; incompatibility or disproportionate technical differences or disproportionate costs; or innovative reasons.

15 PROCUREMENT STRATEGY CHANGES

All changes to the purchasing strategy shall be subject to the approval of the Procurement and Supply Chain Manager.

APPENDIX A

The University of Limerick standard conditions of purchase.

1. INTERPRETATION:

1.1 In these Conditions

"**Buyer**" means The University of Limerick

"**Conditions**" means the standard conditions of purchase set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Buyer and the Seller.

"**Order**" means the Buyer's purchase order to which these Conditions are annexed. "Services" means the services (if any) described in the Order.

"**Goods**" means the goods (including any instalment of the goods or any part of them) described in the Order.

"**Contract**" means the contract for the sale and purchase of the Goods and the supply and acquisition of the Services on the Conditions.

"**Delivery Address**" means the address stated on the Order.

"**Price**" means the price of the Goods and/or the charge for the Services.

"**Seller**" means the person so described in the Order.

"**Specification**" includes any plans, drawings, data or other information relating to the Goods or Services.

"**Writing**" includes telex, cable, facsimile transmission and comparable means of communication.

1.2 Any reference in these Conditions to a statute or a provision of statute shall be construed as a reference to that statute or provision as amended, re-enacted or extended at the relevant time.

1.3 The headings in these Conditions are for convenience only and shall not affect their interpretation.

2 BASIS OF PURCHASE

2.1 The Order constitutes an offer by the Buyer to purchase the Goods and/or acquire the Services subject to the Conditions.

2.2 These Conditions shall apply to the Contract to the exclusion of any other terms and conditions on which any quotation has been given to the Buyer or subject to which the Order is accepted or purported to be accepted by the Seller.

2.3 The University reserves the right to cancel the Order unless unconditionally accepted by the Seller in writing within 28 days of its date.

2.4 No variation to the Order or these Conditions shall be binding unless agreed in Writing between the authorised representatives of the Buyer and the Seller.

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 Seller or agreed in Writing by the Buyer and the Seller.
- 3.2** Any Specification supplied by the Buyer to the Seller or specifically by the Seller for the Buyer, in connection with the Contract together with the copyright, design rights or any other intellectual property rights in the Specification, shall be the exclusive property of the Buyer. The Seller shall not disclose to any third party or use any such Specification except to the extent that it is or becomes public knowledge through no fault of the Seller, or as required for the purpose of the Contract.
- 3.3** The Seller 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.
- 3.4** The Seller 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 Seller or any third party prior to despatch, the Seller shall provide the Buyer with all facilities reasonably required for inspection and testing.
- 3.5** 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 Seller within 7 days of inspection or testing, the Seller shall take such steps as are necessary to ensure compliance.
- 3.6** 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 in the ordinary course.

4. PRICE OF 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, imposts or levies other than value added tax.
- 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 Seller, whether or not shown on its own terms and conditions of sale.

5 TERMS OF PAYMENT

- 5.1** The Seller shall be entitled to invoice the Buyer on or at any time after delivery of the Goods or performance of the Services, as the case may be, and each invoice shall quote the number of the Order.
- 5.2** Payments for all goods and performance of services must be itemised on invoices by the Seller. Payments will only be made under the terms of the Prompt Payment of Accounts Act 1997.
- 5.3** The Buyer shall be entitled to set off against the Price any sums owed to the Buyer by the Seller.

6. DELIVERY

- 6.1** The Goods shall be delivered to and the Services shall be performed at the Delivery Address on the date or within the period stated in the Order, in either case during the Buyer's usual business hours.
- 6.2** Where the date of delivery of the Goods or of performances of the Services is to be specified after the placing of Order, the Seller shall give the Buyer reasonable notice of the specified date.
- 6.3** The time of delivery of the Goods and of performance of the Services is of the essence of the Contract.
- 6.4** A packing note quoting the number of the Order must accompany each delivery or consignment of the Goods and must be displayed prominently.
- 6.5** 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 several.
- 6.6** The Buyer shall be entitled to reject any Goods delivered which are not in accordance with the Contract, and shall not be deemed to have accepted any Goods until the Buyer 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.
- 6.7** The Seller shall supply the Buyer in good time with any instructions or other information required to enable the Buyer to accept delivery of the Goods and performance of the Services.
- 6.8** The Buyer shall not be obliged to return to the Seller any packaging or packing materials for the goods, whether or not any Goods are accepted by the Buyer.

7 RISK AND PROPERTY

- 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 Contract. **7.2** The property 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 and the Goods have been appropriated to the Contract.

8. WARRANTIES AND LIABILITY

- 8.1** The Seller warrants to the Buyer that the Goods
 - 8.1.1** Will be of satisfactory quality and fit for any purpose held out by the Seller or made known to the Seller in Writing at the time the Order is placed.
 - 8.1.2** Will be free from defects in design, 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 Seller warrants to the Buyer that their Services will be performed by appropriately qualified and trained personnel, with due care and diligence and to such high standard of quality as it is reasonable for the Buyer to expect in all the circumstances.

- 8.3** Without prejudice to any other remedy, if the Goods or Services are not supplied or performed in accordance with the Contract, then the Buyer shall be entitled.
- 8.3.1** To require the Seller to repair the Goods or to supply replacement Goods or Services in accordance with the Contract within 7 days.
- 8.3.2** At the Buyer's sole option, and whether or not the Buyer has previously required the Seller to repair the Goods or to supply any replacement Goods or Services, to treat the Contract as discharged by the Seller's breach and require the repayment of any part of the Price which has been paid.
- 8.4** The Seller shall indemnify the Buyer in full against all liability, loss, damages, costs, claims 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 Seller in relation to the Goods or Services.
- 8.4.2** Any claim that the Goods infringe, or their use or resale infringes the patent, copyright, design right or 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 liability under the Consumer Protection Act 1987 in respect of the Goods.
- 8.4.4** Any act or omission of the Seller or its employees, agents or sub-contractors in supplying, delivering and installing the Goods.
- 8.4.5** Any act or omission of any of the Seller's personnel in connection with the performance of the Services.
- 8.5** In respect of any injury, damage or loss caused to third parties or their property by the Goods there shall be no automatic right of indemnity due from the Buyer to the Seller. Any clause in the Seller's standard terms and conditions of sale purporting to establish a right of indemnity from the Buyer to the Seller in the event of any injury, damage or loss caused to third parties or their property shall not be incorporated into this Contract.

9. TERMINATION

- 9.1** 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 to the Seller at any time prior to delivery or performance in which event the Buyer's sole liability shall be to pay the Seller the Price for the Goods or Services in respect of which the Buyer has exercised its right of cancellation, less the Seller's net saving of cost arising from cancellation.
- 9.2** The Buyer shall be entitled to terminate the Contract without liability to the Seller by giving notice to the Seller at any time if
- 9.2.1** The Seller makes any voluntary arrangement with its creditors (within the meaning of the Insolvency Act 1986) or (being a company) becomes subject to an administration or goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction)
- 9.2.2** An encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Seller
- 9.2.3** The Seller ceases, or threatens to cease, to carry on business
- 9.2.4** The Buyer reasonably apprehends that any of the above events is about to occur in relation to the Seller and notifies the Seller accordingly.

10. GENERAL

- 10.1** The Order is personal to the Seller and the Seller shall not assign or transfer or purport to assign or transfer to any other person any of its rights or sub-contract any of its obligation under the Contract.
- 10.2** Any notice required or permitted to be given by either party to the other under these Conditions shall be in Writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.
- 10.3** No waiver by the Buyer of any breach of the Contract by the Seller shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 10.4** If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.

11. HEALTH AND SAFETY

- 11.1** The Seller shall comply with the requirements of Irish and international legislation and agreements relating to the supply, packaging, labelling and carriage of hazardous goods.
- 11.2** The Seller shall ensure that Goods comply with current health and safety legislation and the legislation implementing any relevant EC Directive. The Buyer may require the Seller to show that the Goods bear a CE mark and may ask for a copy of the EC Declaration of Conformity.

12. LAW

- 12.1** The construction, validity and performance of the Contract shall be governed by Irish Law. The Contract shall be deemed to have been made in Ireland and the parties to the Contract hereby submit to the exclusive jurisdiction of the Irish Courts.

APPENDIX B

QUOTATION AND TENDER PROCEDURES

Definition.

For the purposes of this Procurement strategy a '**quotation**' is the relatively straightforward exercise of seeking a price, and delivery time, for goods which are easily specified. A '**tender**' is the more formal and detailed exercise of obtaining sealed bids for goods where the value is high, and/or the specification is detailed or complex, and/or special terms and conditions may apply.

Quotations.

Written 'Quotations' should be invited by using the official quotation document available from the Office of Procurement and Supply Chain Management. This makes the exercise simple and fast, as long as care is taken to specify the requirement properly.

Tenders.

The procedures for seeking sealed bid tenders are designed not only to obtain the best value for money, but also to protect the buyer and the University in the event of any subsequent dispute or legal action by a disgruntled tenderer. The overriding principle is that all bidders must be given an equal opportunity to win the business. To this end, all invitations to tender must be identical and must be posted to bidders at the same time.

The main elements of the invitation to tender (ITT) are: -

Letter of Acknowledgement. (Example attached)

For the bidder to return immediately (within 10 working days), indicating that the ITT has been received and that the company wishes (or not) to submit a tender.

Tendering Instructions.

Instructing the company on how to complete and submit the tender and what information is required (e.g. copies of accounts, main customers, alternative proposals) in addition to the form of tender itself.

Conditions of Tender.

Informing the company about such things as: -

- Ensuring the independence of each tender.
- To whom enquiries should be addressed.
- The preparation of the tender.
- For how long the tender will remain valid for acceptance.
- How the tender should be packaged, addressed and returned.
- How many copies are required.
- Final delivery date and time (e.g. midday)
- The University's discretion to accept any part or all of any tender.
- Method of evaluation (e.g. short-listing, calls for presentations).
- List of award criteria (e.g. most economically advantageous tender)

Form of tender.

A form to be signed by the tenderer enclosing the tender submission and other required information. Whenever possible the tender submission should be pro forma, i.e. the ITT should include an outline format (showing prices, delivery dates, etc) to be completed by the tenderer, rather than leaving the tenderer to devise his/her own format.

Contract Documents.

Informing the tenderer of the kind of contract which will be signed, including any special terms and conditions in addition to (or instead of) the University's standard Terms and Conditions of Purchase.

Receiving, Opening and Recording Quotations and Tenders.

Where quotations are obtained verbally they must be recorded on paper so that any subsequent purchase order will be accurate, and to provide auditable evidence of the action taken. Where more than one quotation is being obtained a record can conveniently be kept on a Tenders/Quotation Record Sheet or in a box on the University standard requisition form.

Receipt of tenders should be recorded, but the package must be kept in a safe place, unopened, until the set date and time. Tenders should be opened as soon as possible after the final date and time set for their receipt as per the University procedures, by a team of two or more people. Membership of the team should be agreed and the time and place set, well beforehand. Action should be recorded preferably on a standard Opening of Tenders Control Sheet.

The tender should be signed on the front by at least two members of the team. All pages containing prices, or alterations made by the tenderer, should be initialled by at least two members of the team. All members of the team should sign the Tenders Control Sheet at the end of the opening exercise. Any bid received after the due time should normally be regarded as invalid and returned to the sender unopened with a covering letter of explanation. The Control Sheet should record that this action has been taken. A late tender may be given further consideration only if there is clear evidence that the delay was due to unforeseen circumstances and that the tenderer gained no advantage over other tenderers in terms of time or knowledge.

Thresholds

The terms 'Quotations' and 'Tenders' are used to describe the methods of procuring goods and services at the most cost effective prices whilst taking account of current Irish and European legislation.

A formal tender procedure shall be used for all purchases with an estimated value in excess of 25,000 Euro, excluding VAT, when a minimum of three offers to supply shall be sought.

In the event the value of the purchase may be 200,000 Euro or more the tender process must be coordinated by the Office of Procurement and Supply Chain Management to ensure compliance with Irish and European legislation.

For purchases of values between 5,000 Euro and 25,000 Euro at least three written quotations are required which should be invited by using the official quotation document available from the Office of Procurement and Supply Chain Management.

All purchase orders resulting from quotation and tender exercises without exception shall include the price agreed during negotiations unless there are compelling reasons for not doing so. Where orders are not priced a brief note shall be made and kept for inspection.

Single tender purchases will be permitted, in exceptional circumstances, subject to approval by the Head of department, a brief note to that effect being retained on the record for two years after the end of the financial year to which the transaction applies.

Authority to waive these procedures and the procedures defined in the Purchasing strategy, must be obtained from the Procurement and Supply Chain manager who will keep a record of approvals.

In some circumstances Post Tender Negotiations may be conducted, but as you would expect the regulations are complex. The Office of Procurement and Supply Chain Management will be pleased to provide advice.