



**National Library of Wales  
Supply of Film Transfer Units  
Invitation to Tender**

**Common Procurement Vocabulary (CPV)**  
32333000 Video recording or reproducing apparatus

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# **1 INTRODUCTION**

## ***1.1 Introduction***

The National Library of Wales is seeking, subject to funding, to enhance and upgrade its technical facilities in relation to the transfer and digitisation of audiovisual materials.

The current requirement is for two film transfer units, and associated equipment and software, from a single supplier, capable of scanning the following formats: Standard 8mm, Super 8mm, 9.5mm, 16mm, Super 16mm, 35mm.

Due to the terms of the funding it is critical that the units are delivered and installed prior to 25 February 2011. If the funding is not forthcoming the procurement will be abandoned.

## ***1.2 National Screen & Sound Archive of Wales***

NSSAW was formed in 2001 with the merging of the Sound and Moving Image department of the National Library of Wales and the Wales Film & Television Archive and is now a fully integrated part of the National Library of Wales. Situated in Aberystwyth, the National Library of Wales was founded by Royal Charter in 1907 and is internationally recognised as one of the World's major national libraries. Primarily funded by the Welsh Assembly Government, NLW is a legal deposit library for material published in the UK and Ireland as well as maintaining a broad variety of collections devoted to Wales and its people in a wide range of diverse media, part of which is the NSSAW film collection currently exceeding 6 million feet of film.

Full information about NLW and NSSAW can be found on the websites <http://www.llgc.org.uk> and <http://www.archif.com>

## ***1.3 Digitisation Programme***

The National Library of Wales is seeking funding from the Welsh Assembly Government to modify its current facilities for NSSAW and install new equipment on a single floor within the National Library building for the digitisation of its audiovisual holdings..

The digitisation programme will be a long-term exercise, and the equipment will be required to be of a robust, reliable and professional standard, capable of producing consistently high performance in all aspects over the lifetime of the project.

## **2. Requirements and process**

### **2.1 Key requirements**

- Supply and installation of one x 16mm/35mm film transfer unit delivered installed and fully commissioned.
- Supply and installation of one x Standard 8mm, Super 8mm, 9.5mm film transfer unit, delivered, installed and fully commissioned.
- Supply and delivery, installation and licensing of operating software.
- Documentation.

Workstations and signal capture units will be supplied by NSSAW to meet the specification of the supplier of the film transfer units.

### **2.2 Tender process**

Suppliers intending to submit a proposal are asked to email [john.reed@llgc.org.uk](mailto:john.reed@llgc.org.uk) to ensure that they receive any supplementary information the Library may issue.

The closing date for submission of tenders is 11am, 10<sup>th</sup> December 2010. Late submissions will be excluded. Details of submission are presented in Section 9 below.

This document is intended to provide all information necessary for suppliers to prepare a tender. If there are any queries they should be submitted by email to [john.reed@llgc.org.uk](mailto:john.reed@llgc.org.uk). Queries of general interest will be collated and anonymised, with responses, and circulated to all tenderers. No site visits are envisaged.

The tenders will be opened by the Director of Corporate Services in the presence of a member of the Library's Board of Trustees.

### **2.3 Conditions for exclusion**

Suppliers may be excluded if any of the following apply to them:<sup>1</sup>

(a) is bankrupt or is being wound up, whose affairs are being administered by the courts, who has entered into an arrangement with creditors or who is in any analogous situation arising from a similar procedure under national laws and regulations;

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<sup>1</sup> Lettered in accordance with the Contract Notice. Clause c has been omitted intentionally.

(b) is the subject of proceedings for a declaration of bankruptcy, for an order for compulsory winding-up or administration by the courts or for an arrangement with creditors or is the subject of any other similar proceeding under national laws or regulations;

(d) has been guilty of grave professional misconduct proven by any means which the contracting authorities can justify;

(e) has not fulfilled obligations relating to the payment of social security contributions in accordance with the legal provisions of the country in which he is established or those of the country of the contracting authority;

(f) has not fulfilled obligations relating to the payment of taxes in accordance with the legal provisions of the country in which he is established or those of the country of the contracting authority;

(g) is guilty of serious misrepresentation in supplying the information required under the provisions of the Directive on the criteria for qualitative selection;

Tenderers should note that the National Library of Wales is an Assembly Government Sponsored Body which is subject to the information disclosure rules of the Freedom of Information Act and the related Code of the National Assembly for Wales.

## **2.4 Timescale**

<b>Date</b>	<b>Milestone</b>
19 November 2010	Issue contract notice
10 December 2010	11.00am Closing date for submission of tenders Evaluate tenders, select Preferred Bidder and notify bidders of result
15 December 2010	Award contract
30 January 2011	Publish Contract Award Notice
25 February 2011	Completed delivery and installation

Note that delivery and installation by 25 February 2011 is a fixed requirement and suppliers unable to meet this timescale should not submit a tender.

### 3 Requirements

#### 3.1 Unit One (16mm/35mm)

##### 3.1.1 Hardware

Formats	16mm, Super 16mm and all 35mm format ratio including 1.33, 1.37, 1.66, 1.85, 2.1 Anamorphic, 3 or 4 perf <sup>o</sup> . Ratio adjustable between 16:9 and 4:3
Material Suitability	Film base types tri-acetate, di-acetate, polyester and nitrate.
Motion	Continuous motion sprocket less capstan drive on both 16mm & 35mm formats with adjustable tension
Transfer speeds	Selectable transfer speeds up to 25fps.
Shuttle	Variable shuttle speed preferably with stable image between approximately 5 to 800fps
Audio	Optical and Magnetic sound readers for 16mm/35mm and interface to separate sound follower
Shrinkage	Shrinkage compensation on both picture and sound. Preferably up to 4% shrinkage
Output	HD-SDI & SDI with embedded audio
Output Resolution	Standard Definition (768 Vertical x 576 Horizontal) High Definition (full 1920 vertical x 1080 Horizontal)
Image Sensing	3 x CCD image sensor minimum 2 Mega pixels or agreed equivalent, with optional upgrading to 2K or 4K scanning.
Reel Capacity	Up to 3000ft
Light Source	Preferably high intensity flashing LED
Film Cleaning	Optional fitting of particle roller cleaning
Machine control	RS 422 remote controller
Imaging	Zoom, Focus and Pan control
Metadata	Metadata output
Power consumption in operation	The NLW is conscious of conserving energy and the unit supplied should be designed to function using a minimum of electrical energy
Ergonomics	The unit should be designed and constructed to occupy minimum workspace and provide a satisfactory ergonomic relationship between operator and machine.

##### 3.1.2 Software

*Signal Processing & Machine control*

Primary Colour Correction

Six Vector Colour Correction

Support for remote control

Programmable Event Notification

Settings Memory  
 Automated cue point setting  
 Automatic White and Colour balance  
 Image Enhancement functions  
 Transport control  
 Colour Bars  
 Frame Counting  
 Blanking and Aspect ratio conversion  
 B/W scanning  
 Shrinkage correction  
 Adjustable Film Tension  
 Audio Control

### **3.2 Unit Two (Standard 8mm, Super 8mm & 9.5mm)**

#### **3.2.1 Hardware**

Formats	Standard 8mm, Super 8mm & 9.5mm
Material Base	Di-acetae & tri-acetate
Motion	Continuous motion sprocket less capstan drive on all formats
Shuttle	Variable shuttle speeds preferably with stable picture between approximately 5 and 100fps
Frame Rates	Selectable frame rates up to and including 25 and 50fps
Light	Preferably high intensity flashing LED
Image Sensing	3 chip CCD 720p or agreed equivalent
Film Cleaning	Optional fitting for particle roller cleaning.
Ratio	Adjustable ratio 16:9 to 4:3
Video Output	Switchable SD 576i, HD 720p and HD 1080i
Audio	Stereo processing embedded with video
Remote Control	Dedicated RS 422 remote control unit
Power consumption	The NLW is conscious of conserving energy and the unit supplied should be designed to function using a minimum of electrical energy.
Ergonomics	The unit should be designed and constructed to occupy minimum workspace and provide a satisfactory ergonomic relationship between operator and machine.

#### **3.2.2 Software**

##### *Signal Processing & Machine Control*

Primary Colour Correction (Black Gamma Gain)  
 Six Vector Colour Correction  
 Support for remote control  
 Programmable Event Notification

Settings Memory  
Automated cue point setting  
Automatic White and Colour balance  
Image Enhancement (Knee, detail, limiter)  
Transport control (Wind, shuttle, play, cue)  
Colour Bars  
Frame Counting  
Blanking and Aspect ratio conversion  
B/W scanning  
Shrinkage correction  
Film Tension  
Audio control (Volume, balance)

### **3.3 *Training and documentation***

On site training to be provided by the supplier for all functions of the scanner and software operation for multiple users. Training will need to be arranged on a single day at a mutually convenient time, during March 2011. Comprehensive operating manuals for hardware and software, in printed and/or electronic format should be provided.

### **3.4 *Delivery and timescale***

The scanning system will be delivered, installed and fully operational on or before 25<sup>th</sup> February 2011



## **4 ADDITIONAL INFORMATION REQUIRED**

Suppliers are requested to supply information on the following matters as outlined in the Contract Notice:

- confirmation that none of the issues listed in 2.3 above apply.
- recent bank statement
- balance sheets or extracts of balance sheets;
- statement of turnover for a maximum of the last three years
- description and photographs of products
- service contract terms and cost
- confirmation that the supplier complies with the Conditions of Contract in Section 7 of this document

The tender should be submitted on the attached Tender Response Form (p. 24).

Electronic submissions of the tender are not acceptable.

## 5 WHAT IS REQUIRED FROM SUPPLIERS

Suppliers should provide detailed information on how their systems satisfy the requirements, under the headings in section 3.

The tender should be set out on the Tender Response Form, giving a costs for the two units. The supplier must also note on this form whether all requirements are met and whether any of the grounds for exclusion apply. In the event that a supplier is unable to meet a requirement, they should submit a formal query by email in advance of submission so that a notice may be issued to clarify whether the requirement stands or may be amended.

If the supplier decides not to tender, they should inform the Library.

Suppliers are asked to indicate the terms of a Service agreement to cover the equipment and the annual cost that would be charged.

## 6 EVALUATION CRITERIA

### 6.1 Selection criteria

All suppliers will be selected who:

- confirm that none of the criteria for exclusion in 2.3 apply
- confirm that NLW Conditions of Contract are acceptable
- meet the requirements for the equipment

Suppliers who do not meet one or more of the criteria will be excluded.

### 6.2 Departure from requirements

Suppliers who are unable to fulfil all requirements of the specification will be excluded.

### 6.2 Award criteria

The award will be made on the basis of the Most Economically Advantageous Tender, based on quality (50%) and lifetime cost (50%).

Quality criteria will be scored as

Criteria	Threshold for meeting requirement	Weighting (as % total score)
Capstan drive	Sprocket-less capstan drive	10%
Film path	Smooth uninterrupted film path	10%
Light source	Minimum mechanical interface	10%
Film transport system	Low torque and safe for fragile materials	10%
Ease of use	Designed as integrated unit with ergonomic layout	10%

Scores will be assigned by the evaluation panel on the basis of the supplied information, based on the following:

- Exceeds requirement and adds value - Score = 5
- Meets requirement - Score = 3
- Falls below requirement Score = 1
- Fails to meet requirement completely Score = 0

## 7 CONTRACTUAL TERMS

The procurement shall adhere to the standard National Library of Wales standard conditions of contract, which are as follows:

### STANDARD CONDITIONS OF CONTRACT FOR THE PURCHASE OF GOODS AND/OR SERVICES

#### DEFINITIONS

(i) In these Conditions:

‘Conditions’ means the standard terms & 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 parties to this contract

‘Contract’ means the contract for the sale and purchase of the Goods and the supply and acquisition of the services

‘We’, ‘Us’ and ‘Our’ means The National Library of Wales (“the Library”).

‘You’ and ‘Your’ means the person, firm or company to whom the purchase order is addressed and any employees, sub-contractors or agents of said person, firm or company

‘Goods’ ‘Services’ means the products, materials, articles, works and services described in the purchase order.

‘Package’ or ‘Packaging’ means any type of package including bags, cases, carboys, cylinders, drums, pallets, tank wagons and other containers.

‘Price’ means financial consideration and shall include ‘rate’ or ‘fee’ particularly in the provision of services.

‘Purchase Order’ means our purchase order to which these Conditions are annexed

‘Authorised Officer’ means our employee specifically authorised by us to sign our Purchase Order, confirmation of which may be obtained from the Library’s Director of Finance.

‘Authorised’ means signed by one of the authorised officers

‘Order Amendment’ means our authorised Purchase Order amendment

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

‘Codes of Practice’ means the Department for Constitutional Affairs’ Code of Practice on the Discharge of Public Authorities’ Functions under Part 1 of the FOIA issued under s45 and/or s46 of the FOIA and/or such other code issued under the FOIA as may be relevant from time to time to the Library’s discharge of its obligations under the FOIA

‘Confidential Information’ means information, the disclosure of which would constitute an actionable breach of confidence, which has either been designated as confidential by either party in writing or that ought to be considered as confidential (in whatever form or medium and whether disclosed orally or in writing, together with all reproductions in whatsoever form or medium and any part or parts of it) including commercially sensitive information, information which relates to the business, affairs, properties, assets, trading practices, Goods/Services, developments, trade secrets, Intellectual Property Rights, know-how, personnel, customers and suppliers of either

party and all personal data and sensitive personal data within the meaning of the DPA. For the avoidance of doubt and subject to Clause 33, the information set out in an agreed Schedule is regarded by you as Confidential Information relating to you under this Agreement and for the duration specified in that Schedule.

‘DPA’ means the Data Protection Act 1998 and any subordinate legislation made under it from time to time;

‘EI Regulations’ means the Environmental Information Regulations 2004;

‘FOIA’ means the Freedom of Information Act 2000 and any subordinate legislation made under this Act from time to time

‘Information’ has the meaning given under section 84 of the FOIA;

“Information Commissioner” and “Information Tribunal” have the meanings given under section 6 of the DPA

‘Requests for Information’ shall have the meaning set out in FOIA or any apparent request for information under the FOIA, and for the Environmental Information Regulations and or the Codes of Practice

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

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

#### BASIS OF PURCHASE

The purchase order constitutes an offer by us to purchase the goods and/or acquire the services subject to these Conditions.

These Conditions shall apply to the Contract to the exclusion of any other terms of sale or other conditions of trade on which you may seek to rely. Your terms on order acknowledgements, delivery notes, invoices or any other of your standard documentation are excluded unless specific clauses are agreed in writing between the signatories to this Contract.

The purchase order will be deemed to be accepted unconditionally by you if no detailed counter-offer is received within 14 days of its date, subject to clause 2(ii) above.

Delivery of goods or provision of services in response to the purchase order or order amendment shall imply that you have accepted these Conditions.

No variation to the purchase order or these Conditions shall be binding unless agreed in writing between the signatories to this Contract.

#### SPECIFICATIONS

The quantity, quality, performance and description of the goods and the services shall, subject as provided in these Conditions, be as specified in the purchase order and/or in any applicable specification supplied by us to you or agreed in writing by us.

Any specification supplied by us to you, or specifically produced by you for us, in connection with the Contract, together with the copyright, design rights or any other intellectual property rights in the specification, shall be our exclusive property. You shall not disclose to any third party or use any such specification except as permitted within Clause 32 herein.

You 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.

(iv) You shall at your expense provide any programmes of manufacture and

delivery that we may reasonably require. You shall notify us without delay in writing if your progress falls behind or may fall behind any of these programmes.

(v) You shall not unreasonably refuse any request by us to inspect and test the goods during manufacture, processing, or storage at your premises or any third party prior to despatch, and you shall provide us with all facilities reasonably required for inspection and testing.

(vi) If as a result of inspection or testing we are not satisfied that the goods will comply in all respects with the Contract, and we inform you within 10 days of inspection or testing, you shall take such steps as are necessary to ensure compliance.

(vii) Any inspection, or approval by us shall not relieve you from your obligations under this Contract.

(viii) The goods shall be marked in accordance with our 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.

(ix) The goods shall be new unless otherwise specified on the purchase order and be of sound materials and skilled and careful workmanship.

#### VOLUMES & VALUES OF BUSINESS

Any written or verbal estimates of potential volumes or values of business, which may be achieved under this Contract, which are not part of a purchase order, are provided only for guidance and are not binding. We will use reasonable endeavour to provide relevant information but no guarantee is given regarding the overall extent to which the contract will be used.

#### PRICE

You will sell us the goods or provide the services for the firm price stated in the contract. If no price is stated in the contract, then the price shall be a competitive price, taking into account prevailing market conditions.

The price shall be inclusive of all charges for storing, packaging, shipping, carriage, insurance and delivery of the goods to the delivery address, installation and commissioning (as applicable) and any other duties, imposts or levies other than value added tax.

No increase in price may be made whether on account of increased material, labour or transport costs, fluctuation in exchange rates or otherwise without our prior consent in writing.

We shall be entitled to any discount for prompt payment, bulk purchase or volume of purchase customarily granted by you, whether or not shown in your own terms and conditions of sale.

(v) We shall give you a reasonable opportunity to replace the Goods with new Goods that conform with this Contract, after which time we shall be entitled to cancel the purchase order and purchase the nearest equivalent Goods elsewhere. In the event of cancellation under this condition you shall promptly repay any monies paid under the Contract without any retention or offset whatsoever. Cancellation of the purchase order under this condition shall not affect any other rights we may have. You must collect all rejected Goods within a reasonable time of rejection or we shall return them to you at your risk and expense.

#### DELIVERY

(i) 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 purchase order, in either

case during our usual business hours.

(ii) The goods shall be properly packed, secured and despatched at your expense to arrive in good condition at the time or times and the place or places specified in the contract.

(iii) If you or your carrier delivers any goods at the wrong time or to the wrong place then we may deduct from the price any resulting costs incurred by us for temporary insurance, storage or transport. We shall not be responsible for any loss or damage to incorrectly delivered goods.

(iv) If the goods are to be delivered, or the services are to be performed, by instalments, the Contract will be treated as a single contract and not severable. We shall be entitled to reject any goods which are not in accordance with the Contract, and shall not be deemed to have accepted any goods until we have 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.

When a specific date has been agreed in writing between the parties, the time of delivery of the goods and of performance of the services is of the essence of the Contract.

#### PACKAGING

Unless otherwise stated in the contract, all packaging shall be deemed to be collected and removed by you at your own expense. We shall not be obliged to return to you any packaging or packing materials for the goods. If any specific written agreement is made for packaging to be returned by us after delivery, you must give us full disposal instructions before the time of delivery. The packaging must be clearly marked to show to whom it belongs. You must make suitable arrangements in advance of any return to cover the cost of all associated carriage and handling. We shall not be liable for any packaging lost or damaged in transit.

#### PAYMENT

You shall be entitled to invoice us on or at any time after correct delivery of the goods or performance of the services.

Subject to clauses 6 & 9 herein, we shall pay you within 30 days of receipt of a correctly rendered invoice. Your invoice must be addressed to the department indicated on the purchase order and must quote the full purchase order number. VAT, where applicable, shall be shown separately on all invoices as a strictly nett extra charge. We shall not be held responsible for delays in payment caused by your failure to comply with our invoicing instructions.

(iii) We shall be entitled to set off against the price any outstanding sums owed to us by you.

#### DEFAULT IN PERFORMANCE

(i) Goods

If the goods or any part of them are not delivered by the time or times specified in the contract then we may by written notice cancel any undelivered balance of the goods. We may also return for full credit and at your expense any goods that in our opinion cannot be used owing to this cancellation.

(ii) Services

In the case of services failing to be carried out to the quality levels or within the agreed programme of dates or times under the contract, we may at our sole

discretion adopt one or more of the following remedies:-

(a) have the work performed by alternative means and any additional costs reasonably so incurred shall be charged to you;

(b) deduct from any invoice presented by you such sum as we consider reasonable for the unsatisfactory services concerned or to meet any additional costs arising from clause 9(ii)(a) above.

(c) terminate the contract either for the specific services which have not been carried out in accordance with the contract or for all the services to which the contract relates. In either such case you will not be entitled to payment by way of compensation, other than due consideration for those parts of the service which have been carried out satisfactorily but subject to clause 9(ii)(a) above.

In the event of termination you shall co-operate in the transfer of services, particularly under TUPE provisions, to any other organisation in accordance with advice from us.

#### TERMINATION OF CONTRACT

We shall be entitled to cancel the purchase order in respect of all or part only of the goods and/or the services without penalty by giving you notice at any time prior to delivery or performance unless such goods have been specially manufactured to our requirements. In that event, our sole liability will be to pay for the price of the goods in respect of which we have exercised our right of cancellation, less your net saving of cost arising from cancellation.

We shall be entitled to terminate the Contract without liability by giving notice to you at any time if:

you make any voluntary arrangement with your creditors (within the meaning of the Insolvency Act 1986) or (being an individual or firm) become bankrupt or (being a company) become subject to an administration order or go into liquidation (otherwise than for the purpose of amalgamation or reconstruction, or an encumbrancer takes possession, or a receiver is appointed, of any of your property or assets, or

you cease, or threaten to cease, to carry on business, or

we reasonably apprehend that any of the events mentioned above is about to occur in relation to you and notify you accordingly.

If the Contract is in the form of a Framework Agreement, it shall be terminable at any time during the agreement period by not less than [3] months notice in writing being given by either party to the other.

#### VARIATIONS

We shall have the right, before delivery, to send you an order amendment adding to, deleting or modifying the Goods. If the order amendment will cause a change to the Price or delivery date then you must suspend performance of the Contract and notify us without undue delay of the new Price and delivery date. You must allow us a reasonable period of time to consider any new Price and delivery date. The order amendment shall take effect only if our Authorised Officer accepts in writing the new Price and delivery date within the time you stipulate. If our Authorised Officer declines the revised price or delivery date, he shall have the right to exercise the option either to confirm that the performance of the Contract shall immediately resume as though the said order amendment had not been issued, or that the original order may be cancelled.



## NON-OBSERVANCE OF CONDITIONS

If you breach or fail to observe any provision of this Contract we may give you written notice of such breach or non-observance and you shall have 28 days from receipt of the notice in which to rectify the breach or non-observance. For a material breach of contract, a maximum period of 7 days will be given in which to rectify the breach. Should you fail to rectify the breach, non-observance or material breach within the stipulated time, we shall have the right to terminate the Contract with immediate effect and without penalty.

## PROPERTY AND RISK IN GOODS

- a. You shall bear all risks of loss or damage to the goods until they have been correctly delivered and offloaded to the specified address and shall insure accordingly.
- b. Ownership of the goods shall pass to us when they have been paid for in full.

## WARRANTIES & LIABILITY

- (i) You warrant that the goods, or services:
  - (a) will be of satisfactory quality and fit for any purpose held out by you or made known to you in writing at or before the time the purchase order is placed (within the meaning respectively of the Sale of Goods Act 1979 as amended and the Supply of Goods & Services Act 1982 as amended by the Supply of Goods to Consumers Regulations 2002, and the implied terms contained within any of these Acts).
  - (b) will be free from defects in design, materials and workmanship – other than special design to our specification.

will correspond with any relevant specification or sample.

will be covered by a minimum warranty period of 12 calendar months from delivery to us, or for a period of 12 calendar months from commissioning, where the Contract provides that goods are not to be installed, commissioned, tested and handed over immediately following delivery. Where an Acceptance Certificate is issued, the warranty period start date shall be the date stated on the Acceptance Certificate. You shall be responsible for making good, expeditiously and at your own expense, any defect in or damage to any of the Goods and/or output of the Services. Such remedial action shall be performed on our site unless otherwise agreed in writing.

You warrant that the services will be performed by properly trained and qualified personnel, with due care and diligence and to such a high standard of quality as it is reasonable for us to expect in all the circumstances.

Without prejudice to any other remedy, if any goods or services are not supplied or do not perform in accordance with the Contract, we shall be entitled:

to require you to repair the goods or to supply replacement goods or services in accordance with the contract within [14] days; or

at our sole option, and whether or not we have previously required you to repair the goods or to supply any replacement goods or services, to treat the Contract as discharged by your breach and require the repayment of any part of the price which has been paid.

Repairs or replacements will themselves be covered by the above warranty but for a period of 12 months from acceptance by us.

You shall indemnify us in full against all liability, loss, damages, costs and expenses (including legal expenses) awarded against or incurred or paid by us as a result of or in connection with:

breach of any warranty given by you in relation to the goods or the services  
any claim that the goods infringe, or their importation, use or resale, infringes, the  
patent, copyright, design right, trade mark or other intellectual property rights of any  
person, except to the extent that the claim arises from your compliance with our  
specification  
any liability under the Consumer Protection Act 1987 in respect of goods,  
any act or omission by you or your employees, agents, or sub-contractors in  
supplying, delivering and installing the goods, and  
any act or omission by you or your employees, agents, or sub-contractors in  
connection with the performance of the services

#### INDEMNITY AND INSURANCE

(i) You shall indemnify us against all loss, actions, costs, claims, demands, expenses and liabilities whatsoever (if any) which we may incur either at common law or by statute in respect of personal injury to or death of any person or in respect of any loss or destruction of or damage to property (other than as a result of any default or neglect of ourselves or of any person for whom we are responsible) which shall have occurred in connection with any work executed by you under this contract or shall be alleged to be attributable to some defect in the goods.

You will indemnify us against any and all loss, costs, expenses and liabilities caused to us whether directly or as a result of the action, claim or demand of any third party by reason of any breach by you of these conditions or of any terms or obligations on your part either legislated for or implied by the Sale of Goods Act 1979 as amended, the Supply of Goods and Services Act 1982 and the Supply of Goods to Consumers Regulations 2002 or any other statute or statutory provision relevant to the contract or to goods or services covered thereby.

You shall hold satisfactory insurance cover with a reputable insurer to fulfil your insurance obligations for the duration of this contract including public liability cover of at least £5M (Five Million Pounds Sterling). Satisfactory evidence of such insurance and payment of current premiums shall be shown to us upon request.

#### WORK ON OUR PREMISES

If the contract involves any works or services which you perform on our premises, you shall ensure that you and your employees, agents, your sub-contractors and their employees and any other person associated with you will adhere in every respect to the obligations imposed on you by current safety legislation and will comply with any regulations that we may notify to you in writing.

#### HOURS OF WORK

We may specify the period during which you shall carry out your operations and work shall be performed in such a manner that the business of the Library is interfered with as little as possible.

#### OUR SAFETY POLICY

If required by us in writing, you must supply the following information at any time prior to the contract award decision, or during the contract:

Safety Policy	Safety Plans
Fire Safety Plan	Risk Assessments
Accident Statistics for the last 5 years	Valid insurance documents
Any Improvement/Prohibition Notice received	

Any prosecution or pending prosecution under Health & Safety legislation. You shall observe all legal requirements of the United Kingdom, European Union and relevant international agreements in relation to health, safety and environment, and in particular to the marking of hazardous Goods, the provision of data sheets for hazardous Goods, the provision of data sheets for hazardous materials and all provisions relating to food. Hazardous Goods must be clearly marked and display the name of the material in English. Transport and other documents must include declaration of the hazard and name of the material in English and Goods must be accompanied by emergency information in English.

#### ARTICLES ON LOAN AND USE OF INFORMATION

(i) All tools, materials, drawings, specifications and other equipment and data ('The Articles') loaned by us to you in connection with the contract shall remain always our property and be surrendered to us on demand in good and serviceable condition (fair wear and tear allowed) and are to be used by you solely for the purpose of completing the contract. You agree that no copy of any of the articles will be made without the consent in writing of our authorised officer. Until you return all the articles to us they shall be at your risk and insured by you at your own expense against the risk of loss, theft or damage. Any loss of or damage to such articles shall be made good by you at your expense including, in the case of loss of premises keys, or computerised door access cards, the costs of re-suiting necessary to recover the original level of building security. All scrap arising from the supply of such articles must be disposed of at our discretion and all proceeds of sales of such scrap must promptly be paid to us in full.

#### OWNERSHIP OF RESULTS

If the contract involves design and/or development work:

(i) All rights in the results of work arising out of or deriving from this contract, including inventions, designs, artwork, copyright and knowledge, shall be our property and we shall have the sole right to determine whether any letters patent, registered design, trademark and other protection shall be sought.

(ii) You shall promptly communicate to us all such results and shall if requested and at our expense do all acts and things necessary to enable us or our nominee to obtain letters patent, registered designs and other protection for such results in all territories and to assign the same to us or our nominee.

You shall ensure that all technical information (including computer programs and programming information) arising out of or deriving from this contract is held in strict confidence except for any such information which becomes public knowledge other than by breach of this contract.

#### INFRINGEMENT OF PATENT

(i) With the exception of goods made to our design or instructions, you warrant that neither the goods nor software, nor our use of them, will infringe any patent registered design, trade mark, copyright or other protected right and undertake to indemnify us against all actions, claims, demands, costs, charges and expenses arising from or incurred by reason of any infringement or alleged infringement of any such right.

(ii) If at any time any allegation of infringement of any patent, registered design or copyright is made in respect of the goods or software or in your reasonable opinion is likely to be made, you may at your own expense modify or replace the goods or

software, without detracting from overall performance. At the same time you will make good for any loss of use by us of goods or software during modification or replacement, so as to avoid the infringement.

## 22. Environmental Policy

Our Policy of Sustainable Procurement and Environmental Responsibility requires us to give reasonable priority to suppliers that have established, or propose to establish, appropriate sustainable environmental policies governing their own business activities. You must supply details of any existing, or proposed environmental policy relating to the raw materials used, production methods and finished products or services. We reserve the right at our sole discretion to apply sustainability and environmental factors in any contract award decision.

## ASSIGNMENT AND SUB-LETTING

Our purchase order is personal to you and you 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 obligations under the Contract.

You shall not sub-let any part of the contract without our written consent, but we shall not withhold such consent unreasonably. This restriction shall not apply to sub-contracts for materials for minor details or for any part of which the makers are named in the contract. You shall be held liable for all Goods supplied and/or all Services carried out by your sub-contractors under this Contract.

## MATTERS BEYOND CONTROL

If either party is delayed or prevented from performing its obligations under this contract by circumstances beyond the reasonable control of either party (including without limitation any form of government intervention, strikes and lock-outs relevant to the purchase order or breakdown of plant), such performance shall be suspended and if it cannot be completed within a reasonable time after the due date as specified in the purchase order, then the contract may be cancelled by either party. We shall pay to you such sum as may be fair and reasonable in all the circumstances of the case in respect of work performed by you under the purchase order prior to cancellation but only in respect of work that we have received full benefit as originally contemplated in the contract. This provision can have effect only if it is called into operation by the party wishing to rely on it giving written notice to the other to that effect.

## CORRUPT GIFTS

In connection with this or any other contract between you and us you shall not give, provide, or offer to our staff and agents any loan, fee, reward, gift or any emolument or advantage whatsoever. In the event of any breach of this condition, we shall, without prejudice to any other rights we may possess, be at liberty forthwith to terminate this and any other contract and to recover from you any loss or damage resulting from such termination.

## WELSH LANGUAGE SCHEME

You shall conform fully with the requirements of the Library's policy of giving equal validity to the Welsh and English languages and of any future Welsh Language Scheme, in compliance with the Welsh Language Act 1993 (c.38). If the provision of the goods or services includes a Welsh Language element, you should seek the assistance and advice of the Library with all translation tasks so as to ensure a

consistent and quality provision.

#### WAIVER

A failure at any time to enforce any provision of the contract shall in no way effect the right at a later date to require complete performance of the contract, nor shall the waiver of the breach of any provision be taken or held to be a waiver of any subsequent breach of the provision or be a waiver of the provision itself.

#### VALIDITY OF PROVISIONS

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.

#### NOTICE

All notices and communications required to be sent to you by us in this contract shall be made in writing and sent by either facsimile, first class mail or email (electronic mail) to your registered or head office and if sent by you to us sent to our authorised officer and shall be deemed to have reached the party to whom it is addressed on the next business day following the date of transmission or posting.

#### AMENDMENT

No addition, alteration or substitution of these Conditions will bind us or form part of the contract unless and until accepted in writing by our Purchasing Manager.

#### RACE RELATIONS AMENDMENT ACT 2000

- (i) You agree to comply with our policies and procedures to prevent unlawful discrimination on the grounds of sex, race, disability, sexual orientation, age, religion and belief.
- (ii) In accordance with our responsibilities under the Race Relations Act 1976 (as amended by the Race Relations (Amendment) Act 2000 and the Race Relations Act 1976 (Amendment) Regulations 2003) to eliminate unlawful racial discrimination, promote equal opportunities and promote good relations between people of different racial groups, we require you and any of your sub-contractors to comply with the terms of this section.
- (iii) You warrant that your own practices and procedures comply with legislation to prevent unlawful discrimination and that your employees are fully trained on matters relating to the prevention of unlawful discrimination.
- (iv) You will provide such information as required by us in relation to your compliance with anti-discrimination legislation and you will co-operate with any investigation by us or a body empowered to carry out such investigations under the relevant legislation.

Where any investigation is conducted, or proceedings are brought which arise directly or indirectly out of any act or omission by you, your agents or sub contractors and where there is a finding against you in any such investigation or proceedings, you shall indemnify us with respect to all costs, charges and expenses (including legal and administrative expenses) incurred by us during or in connection with any such investigation or proceedings and further indemnify us for any compensation, damages, costs or other award we may be ordered or required to pay to a third party.

Without prejudice to the remedies set out above, we may terminate the contract if notice has been given to you of a substantial or persistent breach of this clause providing that a reasonable period has been given during which the breach may have been rectified and you have failed to remedy the breach within the stated period.

#### SUSTAINABILITY AND THE ENVIRONMENT

The Library is an environmentally aware organisation and your company must make very effort to reduce the environmental impact of the processes involved in the design, manufacture and construction of items supplied by your company and sub-contractors to the Library. The processes involved shall be considered in relation to reducing energy usage, using materials with high-recycled content, reduction of waste generation and use of good disposal methods as well as recyclability of the product at the end of its useful life. Any design shall incorporate consideration of the reduction of the environmental impact of the product both during manufacture and throughout the whole life cycle of the product.

#### CONFIDENTIALITY

Without prejudice to clause 33, you acknowledge that you have/will on request set out in an agreed Schedule an exhaustive list of Information that you regards as your confidential information for the duration identified in said Schedule, the disclosure of which would in your view constitute an actionable breach of confidence.

Each party:-

- (a) shall treat all Confidential Information belonging to the other party as confidential and safeguard it accordingly; and
- (b) shall not disclose to any person any Confidential Information belonging to the other party without the prior written consent of the other party, except to such persons and to such extent as may be necessary for the performance of this Agreement but only then where such persons are subject to or have executed a confidentiality undertaking in terms no less stringent than those set out in this clause 33 prior to disclosure of such Confidential Information to them or except where disclosure is otherwise expressly permitted by the provisions of this Agreement
- (iii) The provisions of Clause 32 (ii) shall not apply to any Confidential Information received by one party from the other:-
  - (a) which is in or becomes part of the public domain (otherwise than by breach of this Clause 32);
  - (b) which was in the possession of the receiving party, without restriction as to its disclosure, before receiving it from the disclosing party;
  - (c) which is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure;
  - (d) is independently developed without access to the Confidential Information; or
  - (e) which is required to be disclosed in accordance with a statutory, legal or regulatory obligation placed upon the party making the disclosure, including any Request for Information or request for information under the EI Regulations
- (iv) In the event that one party fails to comply with this Clause 32, the other party reserves the right to terminate this Agreement by notice in writing with immediate effect.

#### FREEDOM OF INFORMATION

- (i) You acknowledge that we are subject to the requirements of the FOIA, the

#### Codes of Practice and the EI Regulations

- (ii) We may, at our discretion, notify you that a Request for Information concerning this Agreement has been submitted.
- (iii) You shall assist and cooperate with us at your expense to enable us to comply with the Information disclosure requirements concerning Information held by us and relating you or this Agreement and within the time for compliance set out in FOIA s10.
- (iv) Subject to any prior determination of the Information Commissioner and/or the Information Tribunal and/or the courts, (and we shall notify you of such determination) we shall be responsible for determine at our absolute discretion whether:-
  - (a) the Information relating to this Agreement and/or the Confidential Information is exempt from disclosure under the FOIA and/or the Code of Practice and/or the EI Regulations;
  - (b) the Information and/or the Confidential Information is to be disclosed in response to a Request for Information.
- (v) You acknowledge that you are not a public authority under the FOIA and shall not respond directly to a Request for Information concerning information relating to us or to this Agreement unless expressly authorised to do so by us
- (vi) You acknowledge that we may, acting in accordance with the Codes of Practice, be obliged under the Codes of Practice, the FOIA, or the EI Regulations to disclose Information:-
  - (a) without consulting you, or
  - (b) following consultation with you and having taken your views into account, but without any obligation on us to comply with those views

#### LAW

This contract shall be governed by the laws of Wales and England and the exclusive jurisdiction of the courts in Wales and England.

## 8 Tender Response Form

(to be completed and returned with tender)

*ALL PRICES SHOULD BE STATED IN POUNDS STERLING*

LLYFRGELL GENEDLAETHOL CYMRU / NATIONAL LIBRARY  
OF WALES

### Tender for supply of Film Transfer Units

Provision of 1 no. **16mm/35mm Unit** and 1no. **Standard 8mm/Super 8mm/9.5mm Unit** as per Section 3 of this document

(excluding VAT) £

Total (in words) \_\_\_\_\_

Is VAT chargeable? YES / NO

Signed

Name

Signed on Behalf of:

Date:

Do you confirm installation to be completed by 25 February 2011 YES / NO

Do you confirm acceptance of the Conditions of Contract ? YES / NO

Does your proposal meet all requirements? YES / NO

Do any of the grounds for exclusion in 2.3 apply? YES / NO

Is evidence of technical matters attached YES / NO



## 9 LABEL AND POSTING INSTRUCTIONS

Your tender should be sent to arrive by 11.00am on 10 December 2010 in a single package (4 copies of your entire submission), using the following label.

The package covering should not bear any information that identifies the supplier.

Electronic submissions are not acceptable. Late submissions will be excluded.

David Michael  
NSSAW 201001  
The National Library of Wales  
Aberystwyth  
Ceredigion  
SY23 3BU  
United Kingdom