



THE UNIVERSITY *of* EDINBURGH

STANDARD TERMS AND CONDITIONS RELATING TO THE PURCHASE OF GOODS AND SERVICES

between

The University Court of the University of Edinburgh, a charitable body registered in Scotland under the registration number SC005336, incorporated under the Universities (Scotland) Acts and having its principal administrative offices at Old College, South Bridge, Edinburgh, EH8 9YL (the “**University**”)

and

The person, firm, company or other body supplying the Goods and Services identified in the Purchase Order (the “**Supplier**”),

each referred to as a “**Party**” and together as the “**Parties**”.

BACKGROUND

- (A) The Supplier is engaged in the business of supplying the Goods and Services.
- (B) The University has selected the Supplier to provide these Goods and Services and the Supplier is willing and able to provide the Goods and Services in accordance with the Supplier’s Tender, the Purchase Order and these Standard Terms.
- (C) These Standard Terms & Conditions are intended to make clear the manner in which the Parties have agreed to implement and fulfil the Contract between them.

AGREED TERMS

1. DEFINITIONS AND INTERPRETATION

- 1.1 The definitions and rules of interpretation in this clause apply to these Standard Terms (including the recitals).

Affected Services: has the meaning given to that term in clause 12.8.

Applicable Laws: any applicable law, statute, bye-law, regulation, order, regulatory policy, guidance or industry code, rule of court or directives or requirements of any Regulatory Body, delegated or subordinate legislation or notice of any Regulatory Body.

Associated Company: any holding company from time to time of the Supplier and any subsidiary from time to time of the Supplier, or any subsidiary of any such holding company.

Bespoke IPR: has the meaning given to that term in clause 25.4.

Best Industry Practice: the standards which fall within the upper quartile in the relevant industry for the provision of goods or services which are substantially similar to the Goods or Services or the relevant part of them, having regard to factors such as the nature and size of the parties, the term, efficiencies, the pricing structure and any other relevant factors of the Contract.

Bribery Laws: the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation, all other applicable UK legislation, statutory instruments and regulations in relation to bribery or corruption, and any similar or equivalent legislation in any other relevant jurisdiction.

Change: any change to the supply or nature of the Goods or Services.

Change Control Note: the written record of a Change agreed or to be agreed by the Parties pursuant to the Change Control Procedure, in the form set out in Appendix 1.

Change Control Procedure: the procedure for changing the Contract, as set out in clause 15.

Charges: the charges which shall become due and payable by the University to the Supplier in respect of the Goods and Services as such charges are set out in the Purchase Order.

Commencement Date: the date specified in the Purchase Order as the commencement date or in the absence of any such date, the date on which the Supplier commences its supply of the Goods and / or provision of the Services.

Commercially Sensitive Information: information of a commercially sensitive nature relating to the Supplier, its Intellectual Property or its business or which the Supplier has indicated in writing to the University that, if disclosed by the University, would cause the Supplier significant commercial disadvantage or material financial loss.

Contract: means the agreement between the University and the Supplier constituted of 1) the University's Invitation to Tender and the Supplier's Tender, 2) the Purchase Order and 3) these Standard Terms.

Contract Year: each period of twelve (12) months, commencing on the Commencement Date.

Data Controller: has the meaning given to that term in Data Protection Law.

Data Processor: has the meaning given to that term in Data Protection Law.

Data Protection Law: means

- (a) Applicable Laws that apply from time to time in any territory in which either Party Processes Personal Data, including without limitation the GDPR and the e-Privacy Directive and relevant member state laws in the European Economic Area ("**EEA**") and in relation to the United Kingdom ("**UK**") the Data Protection Act 2018 and the Privacy and Electronic Communications Regulations 2003 (amended by SI 2011 no. 6) and the GDPR (as incorporated into UK law under the UK European Union (Withdrawal) Act 2018) as the same are amended in accordance with the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (as amended by SI 2020 no. 1586), as amended to be referred to as **PECR**, **DPA 2018** and the **UK GDPR** respectively, as the same are amended, consolidated, modified, re-enacted or replaced from time to time;
- (b) any code of practice or guidance published by a Regulator from time to time; and/or
- (c) any binding pronouncements (including findings, orders, decisions and/or judgements) issued by a Regulator or a court.

Data Subject: means an individual who is the subject of any of the Disclosed Data.

Delivery Date: has the meaning given to that term in clause 6.1.

Disclosed Data: means the Personal Data disclosed to the Supplier by or on behalf of the University in connection with the supply of the Goods and/or delivery of the Services, and in this context "disclose" includes directly or indirectly giving the Supplier, or arranging for the Supplier to have, access to Personal Data in any manner and in any form or format whatsoever, including by instructing the Supplier to collect Personal Data directly from the Data Subject (or anyone authorised by the Data Subject to provide it).

Dispute: has the meaning given to that term in clause 16.1.

Dispute Notice: has the meaning given to that term in clause 16.1(a).

Dispute Resolution Procedure: the procedure set out in clause 16.

Economic Crime Laws: the Economic Crime and Corporate Transparency Act 2023 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation, all other applicable UK

legislation, statutory instruments and regulations in relation to fraud, and any similar or equivalent legislation in any other relevant jurisdiction.

EI(S)Rs: the Environmental Information (Scotland) Regulations 2004 together with any guidance and/or codes of practice issued by the Scottish Information Commissioner or relevant government department in relation to such regulations.

Employee Liability Information: has the meaning given to it in Regulation 11(2) of the TUPE Regulations.

Extended Term: has the meaning given to that term in clause 3.1.

FOI(S)A: the Freedom of Information (Scotland) Act 2002, and any subordinate legislation made under the Act from time to time, together with any guidance and/or codes of practice issued by the Scottish Information Commissioner or relevant government department in relation to such legislation.

Force Majeure Event: any cause affecting the performance by a Party of its obligations under the Contract arising from acts, events or omissions beyond its reasonable control, including acts of God, riots, war, acts of terrorism, fire, flood, storm or earthquake and any disaster, but excluding any industrial dispute relating to the Supplier, the Supplier's Personnel or any other failure in the Supplier's supply chain.

GDPR: means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and repealing Directive 95/46/EC (General Data Protection Regulation) OJ L 119/1, 4.5.2016.

Goods: the goods (or any part of them) to be delivered by or on behalf of the Supplier under the Contract, as more particularly described or referred to in the Tender and/or the Purchase Order.

Health and Safety Policy: the health and safety policy of the University as provided to the Supplier from time to time except any provision of any such policy that cannot be reasonably reconciled to ensuring compliance with Applicable Laws regarding health and safety.

Initial Term: the period commencing on the Commencement Date and ending on the date set out in the Purchase Order, or in the absence of any such date set out in the Purchase Order, the date on which the Supplier has fulfilled all of its obligations to supply the Goods and perform the Services under the Contract to the reasonable satisfaction of the University (as notified by the University to the Supplier).

Insolvency Event: means an event where:

- (a) the Supplier suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 OR (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, OR (being a partnership) has any partner to whom any of the foregoing apply;

- (b) the Supplier commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors for the sole purpose of a scheme for a solvent amalgamation of the Supplier with one or more other companies or the solvent reconstruction of the Supplier;
- (c) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Supplier;
- (d) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the Supplier;
- (e) the holder of a qualifying floating charge over the assets of the Supplier has become entitled to appoint or has appointed an administrative receiver;
- (f) a person becomes entitled to appoint a receiver over the assets of the Supplier or a receiver is appointed over the assets of the Supplier;
- (g) the Supplier (being an individual) is the subject of a bankruptcy petition or order or submits an application for his own bankruptcy;
- (h) a creditor or encumbrancer of the Supplier attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the Supplier's assets and such attachment or process is not discharged within fourteen (14) days;
- (i) any event occurs, or proceeding is taken, with respect to the Supplier in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in (a) to (h) (inclusive);
- (j) the Supplier suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
- (k) the Supplier (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation.

Intellectual Property: any and all intellectual property rights of any nature anywhere in the world whether registered, registerable or otherwise, including patents, utility models, trade marks, registered designs and domain names, applications for any of the foregoing, trade or business names, goodwill, copyright and rights in the nature of copyright, design rights, rights in databases, moral rights, know-how and any other intellectual property rights which subsist in computer software, computer programs, websites, documents, information, techniques, business methods, drawings, logos, instruction manuals, lists and procedures and particulars of customers, marketing methods and procedures and advertising literature, including the "look and feel" of any websites.

Key Personnel: those Supplier Personnel identified as such in accordance with clause 10.1.

Location: has the meaning given to that term in clause 6.1.

Management Reports: the reports to be prepared and presented by the Supplier regarding the Goods and Services which are agreed by the Parties at the Commencement Date or which are reasonably requested by the University from time to time.

Necessary Consents: all approvals, certificates, authorisations, permissions, licences, permits, regulations and consents necessary from time to time for the performance of the Services or the provision of the Goods (as applicable).

New Supplier: means a contractor (other than the Supplier) who is appointed by the University to supply the Services (or similar services) or part thereof in succession to the Supplier on expiry or termination of this Contract or the earlier cessation of the Services or part thereof.

Personal Data and Processing: each have the meanings given to them in Data Protection Law and "Process" and any other tense or part of that verb will be interpreted accordingly.

Potential Returning Employees: means any employee (as defined in the TUPE Regulations) of the Supplier who is employed in relation to the Services.

Prohibited Act: means any of the following:

- (a) to directly or indirectly offer, promise or give any person working for or engaged by the University a financial or other advantage to:
 - (i) induce that person to perform improperly a relevant function or activity; or
 - (ii) reward that person for improper performance of a relevant function or activity;
- (b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with the Contract;
- (c) committing any offence:
 - (i) under the Bribery Act 2010;
 - (ii) under Applicable Law concerning fraudulent acts; or
 - (iii) defrauding, attempting to defraud or conspiring to defraud the University, including under the Economic Crime Laws;
- (d) committing any offence:
 - (i) under the Criminal Finances Act 2017 or the Economic Crime Laws; or
 - (ii) under Applicable Law concerning the facilitation of tax evasion; or

- (e) any activity, practice or conduct which would constitute one of the offences listed under (c) and/or (d) above, if such activity, practice or conduct had been carried out in the UK.

Purchase Order: means a purchase order issued by the University to the Supplier regarding the provision of the Goods and Services.

Regulatory Bodies: those government departments and regulatory, statutory and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in the Contract or any other affairs of the University or the Supplier and "**Regulatory Body**" shall be construed accordingly.

Relevant Employees: has the meaning given to that term in clause 22.6(a).

Relevant Transfer: a relevant transfer for the purposes of the TUPE Regulations.

Representative(s): the person(s) designated as such by the University and the Supplier respectively, as notified by each Party to the other from time to time.

Request for Information: a request for information or an apparent request under the FOI(S)A or the EI(S)Rs.

Required Insurances: has the meaning given to that term in clause 20.1.

Services: the services to be delivered by or on behalf of the Supplier under the Contract, as more particularly described or referred to in the Tender and/or the Purchase Order.

Supplier's Personnel: all employees, staff, other workers, agents and consultants of the Supplier and of any Sub-Contractors who are engaged in the provision of the Services from time to time.

Supplier's Tender or Tender: the tender, quotation or offer submitted by the Supplier, any clarifications and responses thereto, and other associated documentation which has led to the University accepting such tender or offer by issuing a Purchase Order.

Standard Terms: these Standard Terms and Conditions relating to the Purchase of Goods and Services together with Appendix 1 annexed to these Standard Terms and Conditions relating to the Purchase of Goods and Services.

Sub-Contract: any contract between the Supplier and a third party pursuant to which the Supplier sources the supply of the Goods (or any part thereof) and / or the provision of any of the Services (or any part thereof) from that third party.

Sub-Contractor: the contractors or suppliers that enter into a Sub-Contract with the Supplier.

Tax Evasion Laws: the Criminal Finances Act 2017 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation, all other applicable UK legislation, statutory instruments and

regulations in relation to the facilitation of tax evasion, and any similar or equivalent legislation in any other relevant jurisdiction.

Term: the period of the Initial Term as may be varied by:

- (a) any extensions agreed pursuant to clause 3; or
- (b) the earlier termination of the Contract in accordance with its terms.

Termination Date: the date of expiry or termination of the Contract or the earlier cessation of the Services or part thereof (as applicable).

Transferring Employees: a Potential Returning Employee whose employment transfers to a New Supplier following the Termination Date by virtue of the TUPE Regulations.

TUPE Regulations: the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended.

University Assets: any documents, information, items, materials, University Data, plant or equipment owned or held by the University and provided or made available by the University for use in the supply of the Goods or provision of the Services.

University Data: all data supplied by the University to the Supplier including Disclosed Data and data relating to the Goods and Services that is owned and managed by the University.

University's Invitation to Tender: the document or documents setting out the University's requirements in relation to the supply of Goods and/or Services.

University's Premises: the premises made available by the University for use or access by the Supplier for the supply of the Goods or the provision of the Services on the terms set out in the Contract.

Working Day: Monday to Friday, excluding 1st and 2nd January and 25th and 26th December of each year.

- 1.2 Clause, schedule and paragraph headings shall not affect the interpretation of the Contract.
- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5 Words in the singular shall include the plural and vice versa.
- 1.6 A reference to one gender shall include a reference to the other genders.
- 1.7 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-

enactment and includes any subordinate legislation for the time being in force made under it.

- 1.8 A reference to **writing** or **written** includes e-mail but excludes fax. A reference to notification excludes e-mail.
- 1.9 Any obligation in the Contract on a person not to do something includes an obligation not to agree or allow that thing to be done.
- 1.10 References to clauses are to the clauses of the Standard Terms.
- 1.11 Any words following the terms **including, include, in particular, for example** or any other similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or terms preceding those terms.
- 1.12 Where there is any conflict or inconsistency between the provisions of the Contract, such conflict or inconsistency shall be resolved according to the following order of priority:
- (a) the Purchase Order;
 - (b) the Standard Terms;
 - (c) the University's Invitation to Tender;
 - (d) the Supplier's Tender.

COMMENCEMENT AND DURATION

2. TERM

The Contract shall take effect on the Commencement Date and shall continue for the Term, whereupon it shall automatically terminate without notice.

3. EXTENDING THE INITIAL TERM

- 3.1 The University may extend the Contract beyond the Initial Term (an "**Extended Term**") on one or more occasions by giving the Supplier at least 1 month's written notice of such intention before the expiry of the Initial Term (or then current Extended Term).
- 3.2 If the University gives a notice as referred to under clause 3.1, then the Term shall be extended by the period set out in the relevant notice.
- 3.3 Notwithstanding clause 3.1 and without prejudice to clause 27, in the absence of such a notification by the University and in the event that, following expiry of

the Initial Term or then current Extended Term, the Supplier continues to supply the Goods or provide the Services without protest from the University and the University continues to pay the Charges, the Term shall be presumed to be extended for another Contract Year.

SUPPLIER OBLIGATIONS

4. DUE DILIGENCE AND SUPPLIER'S WARRANTY

- 4.1 The Supplier acknowledges and confirms that it has:
- (a) had an opportunity to carry out a thorough due diligence exercise in relation to the Goods and Services and has asked the University all the questions it considers to be relevant for the purpose of establishing whether it is able to provide the Goods and supply the Services in accordance with the terms of the Contract;
 - (b) received all information requested by it from the University pursuant to clause 4.1(a) to enable it to determine whether it is able to supply the Goods and provide the Services in accordance with the terms of the Contract;
 - (c) made and shall make its own enquiries to satisfy itself as to the accuracy and adequacy of any information supplied to it by or on behalf of the University pursuant to clause 4.1(b);
 - (d) raised all relevant due diligence questions with the University before the Commencement Date; and
 - (e) entered into the Contract in reliance on its own due diligence.
- 4.2 Save as provided in the Contract, no representations, warranties or conditions are given or assumed by the University in respect of any information which is provided to the Supplier by the University and any such representations, warranties or conditions are excluded, save to the extent that such exclusion is prohibited by Applicable Laws.
- 4.3 The Supplier:
- (a) as at the Commencement Date, warrants and represents that all information contained in the Supplier's Tender remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the University prior to the Commencement Date;
 - (b) shall promptly notify the University in writing if it becomes aware at any time during the Term of any changes to the Supplier's operations, business or financial standing or if it becomes aware of any other matter, which, if these had been known by the University prior to the Commencement Date would have caused the University to exclude or deselect the Supplier from its procurement process or prevented the University from awarding the Contract to the Supplier; and

- (c) shall promptly notify the University in writing if it becomes aware during the performance of the Contract of any inaccuracies in any information provided to it by the University during such due diligence which materially and adversely affects its ability to supply the Goods or perform the Services.

4.4 The Supplier shall not be entitled to recover any additional costs from the University which arise from, or be relieved from any of its obligations as a result of, any matters or inaccuracies notified to the University by the Supplier in accordance with clause 4.3(c) save where such additional costs or adverse effect on performance have been caused by the Supplier having been provided with fundamentally misleading information by or on behalf of the University and the Supplier could not reasonably have known that the information was incorrect or misleading at the time such information was provided. If this exception applies, the Supplier shall be entitled to recover such reasonable additional costs from the University or shall be relieved from performance of certain obligations, in each case as shall be agreed by the Parties via the Change Control Procedure.

5. SUPPLY OF GOODS AND SERVICES

5.1 The Supplier shall supply the Goods and provide the Services to the University for the Term in accordance with the provisions of the Contract.

5.2 The Contract governs the Supplier's supply of the Goods and performance of the Services, and will prevail over any terms put forward by the Supplier, unless a duly authorised signatory of the University expressly agrees to other terms in writing. No conduct by the University or any of its employees, agents or sub-contractors will be deemed to constitute acceptance of any alternative terms put forward by the Supplier.

5.3 Without prejudice to clause 5.1, the Supplier shall:

- (a) supply the Goods and provide the Services, or procure that they are supplied and provided:
 - (i) with reasonable skill and care and in accordance with Best Industry Practice;
 - (ii) in accordance with the Supplier's Tender;
 - (iii) in accordance with any performance dates or timescales set out in the Supplier's Tender or the Purchase Order or which have otherwise been agreed by the Parties in writing;
 - (iv) in all respects in accordance with the University's policies as disclosed by the University to the Supplier from time to time; and
 - (v) in accordance with all Applicable Laws;

- (b) use reasonable endeavours in accordance with Best Industry Practice and using commercially available virus detection software to ensure that none of the Services or Goods are contaminated by any computer viruses or any other harmful software code which may cause an interruption to the business processes of or be harmful to the University. The Supplier will notify the University immediately if it suspects that any Goods or Services contains such viruses or code and agrees to make every reasonable effort to ensure that same is removed;
- (c) without prejudice to clause 29, promptly tell the University in writing if it becomes aware that it will, or is likely to, be delayed in performing any of its obligations under the Contract. Such notice shall include the reasons for the delay and the likely duration and the Supplier shall use its reasonable efforts to continue to perform its obligations under the Contract to mitigate the effects of the delay; and
- (d) without limiting the general obligation in clause 7.1, ensure that it complies with all relevant export procedures regarding the Goods and shall provide all necessary documentation relating to the Goods including any certificates of origin, user manuals and warranty documentation.

6. SUPPLY OF GOODS

DELIVERY, TITLE AND RISK

- 6.1 Delivery of the Goods will be made at the location stipulated in the Purchase Order or specified in writing by the University from time to time (the "**Location**") on the date and (if applicable) time for delivery listed in the Purchase Order, or such other date(s) and time(s) as may be agreed in writing from time to time by the University (the "**Delivery Date**").
- 6.2 Title to the Goods will pass to the University on the earlier of initial delivery of the Goods, whether in whole or part, to the relevant Location or payment by the University for the Goods.
- 6.3 Risk of damage to, or loss of, any Goods shall pass from the Supplier to the University on delivery of the Goods to the University and unloading, provided the Delivery Date and Location is as agreed with the University.
- 6.4 The Supplier will ensure that the Goods are securely packed in trade packages of a type normally used for commercial deliveries of the same or similar goods within the United Kingdom.

OBLIGATIONS REGARDING GOODS

- 6.5 The Supplier shall keep the Goods free from any and all claims, liens, encumbrances and legal processes whilst those Goods are in the Supplier's

custody and until they are delivered and unloaded at the relevant Location in accordance with this Contract.

- 6.6 The Supplier warrants and it is a condition of the Contract that the Goods will:
- (a) be free from defects in material and workmanship and conform to applicable specifications; and
 - (b) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for any purpose held out by the Supplier or made known to the Supplier by the University.

QUANTITY OF GOODS

- 6.7 The University will not be obliged to accept quantities of Goods which vary from those specified in the Contract or agreed in writing by the Parties (if any) unless the Supplier has obtained the University's prior written consent.
- 6.8 Each delivery of Goods shall be accompanied by a delivery note from the Supplier showing the relevant Purchase Order number, the type and quantity of Goods, including (as applicable) any code numbers and batch numbers of the Goods, and, in the case of an order being delivered by instalments, the outstanding balance of Goods remaining to be delivered.

UNIVERSITY REMEDIES

- 6.9 If the Supplier fails to deliver the Goods by the applicable date or to perform the Services by the applicable date, the University may without limiting or affecting other rights or remedies available to it, have any one or more of the following rights and remedies:
- (a) to terminate the Contract with immediate effect by giving written notice to the Supplier;
 - (b) to refuse to accept any subsequent performance of the Services or delivery of the Goods which the Supplier attempts to make;
 - (c) to recover from the Supplier any costs incurred by the University in obtaining substitute goods or services from a third party;
 - (d) to require a refund from the Supplier of sums paid in advance for Services that the Supplier has not provided or Goods that it has not delivered; and;

- (e) to claim damages for any additional costs, loss or expenses incurred by the University which are in any way attributable to the Supplier's failure to meet such dates.

6.10 If on inspection (either before or within a reasonable time after delivery) any or all of the Goods do not comply with the warranty set out in clause 6.6 and/or which are not in accordance with the Contract or with any sample, description or specification, the University may exercise one or more of the following rights and remedies, whether or not it has accepted the Goods:

- (a) terminate the Contract with immediate effect by giving written notice to the Supplier;
- (b) reject any or all of the Goods, including any of the Goods not affected by the breach, whereupon the Supplier will provide, at the University's option, a credit, a refund, or replacement(s), for such Goods. Rejected Goods are at the risk and expense of the Supplier from the date of notification to the Supplier. The University need only hold such Goods for a reasonable time from the date of notification to the Supplier;
- (c) require such Goods to be remedied, whereupon the Supplier will send a representative to the location of the Goods, and such representative will remedy the Goods on-site, or remove them to premises acceptable to the University for remedy and then return them. The Supplier will perform all such obligations as soon as reasonably practicable after the date of notification to the Supplier. Goods collected for remedy will be at the Supplier's risk from the time of collection by the Supplier, its agent or sub-contractor until the time at which the Goods so remedied are unloaded at the relevant Location in accordance with this Contract;
- (d) refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;
- (e) recover from the Supplier any expenditure incurred by the University in obtaining substitute goods from a third party; and/or
- (f) claim damages for any additional costs, loss or expenses incurred by the University which are incurred by the University arising from the Supplier's failure to supply the Goods in accordance with clause 6.6 and/or this Contract or with any sample, description or specification.

6.11 If the University demands the remedy or replacement of any or all of the Goods, and the Supplier fails to comply, or the remedied or replacement Goods fail to meet the requirements of the Contract, then the University may subsequently reject the Goods.

- 6.12 The University's rights and remedies under this clause 6 are in addition to the rights and remedies available to it in respect of the statutory conditions relating to description, quality, fitness for purpose, correspondence with sample, title and quiet possession implied into the Contract by the Sale of Goods Act 1979 and/or the Supply of Goods and Services Act 1982.

7. COMPLIANCE AND NECESSARY CONSENTS

- 7.1 The Supplier shall ensure that all Necessary Consents are in place to supply the Goods and provide the Services and the University shall not (unless otherwise agreed in writing between the Parties) incur any additional costs associated with obtaining, maintaining or complying with the same.
- 7.2 Where there is any conflict or inconsistency between the provisions of the Contract and the requirements of a Necessary Consent, then the latter shall prevail, provided that the Supplier has made all reasonable attempts to obtain a Necessary Consent in line with the requirements of the Goods and Services.
- 7.3 The Supplier shall perform its obligations under the Contract (including those in relation to the Goods and Services) in accordance with all Applicable Laws.

EQUALITY AND DIVERSITY

- 7.4 Without limiting the general obligation set out in clause 7.3, the Supplier shall (and shall procure that the Supplier's Personnel shall) perform its obligations under the Contract (including those in relation to the Goods and Services) in accordance with:
- (a) all Applicable Laws regarding equality (whether in relation to race, sex, gender reassignment, age, disability, sexual orientation, religion or belief, pregnancy, maternity or otherwise);
 - (b) the University's equality and diversity policy as provided to the Supplier from time to time; and
 - (c) any other requirements and instructions which the University reasonably imposes in connection with any equality obligations imposed on the University at any time under Applicable Laws regarding equality.

HEALTH AND SAFETY

- 7.5 Without limiting the general obligation set out in clause 7.3, the Supplier shall perform its obligations under the Contract (including those in relation to the Goods and Services) in accordance with:
- (a) all Applicable Laws regarding health and safety; and
 - (b) the Health and Safety Policy whilst at the University's Premises.

- 7.6 Each Party shall notify the other as soon as practicable of any health and safety incidents or material health and safety hazards at the University's Premises of which it becomes aware and which relate to or arise in connection with the performance of the Contract. The Supplier shall instruct the Supplier's Personnel to adopt any necessary associated safety measures in order to manage any such material health and safety hazards.

MODERN SLAVERY

- 7.7 In performing its obligations under the Contract (including those in relation to the Goods and Services) and without limiting the general obligation set out in clause 7.3, the Supplier shall:
- (a) comply with the Modern Slavery Act 2015 and all other Applicable Laws regarding anti-slavery and human trafficking, including such statutes and regulations from time to time in force in such countries in which the Supplier operates;
 - (b) have and maintain throughout the Term its own policies and procedures to ensure its compliance with the foregoing; and
 - (c) include in its contracts with its Sub-Contractors anti-slavery and human trafficking provisions that are at least as onerous as those set out in this clause 7.7, including the requirement to comply with the Modern Slavery Act 2015 and all other Applicable Laws relating to anti-slavery and human trafficking from time to time in force.
- 7.8 The Supplier shall use reasonable endeavours to implement due diligence procedures for its subcontractors, suppliers and other participants in its supply chains, to ensure that there is no slavery or human trafficking in its supply chains.
- 7.9 The Supplier shall notify the University as soon as it becomes aware of:
- (a) any breach, or potential breach, of Applicable Laws regarding antislavery and human trafficking in any part of its business, its activities or committed by the Supplier's Personnel; or
 - (b) any actual or suspected slavery or human trafficking in a supply chain which has a connection with the Contract.
- 7.10 At the University's request, the Supplier shall prepare and deliver to the University, at the start of each Contract Year, an annual slavery and human trafficking report setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its business.
- 7.11 Any breach of this clause 7 by the Supplier shall be deemed a material breach of the Contract incapable of remedy and shall entitle the University to terminate the Contract with immediate effect in accordance with clause 26.1(a).

8. UNIVERSITY'S PREMISES AND ASSETS

- 8.1 The University shall provide the Supplier with access to such parts of the University's Premises as the Supplier reasonably requires for the purposes only of properly supplying the Good and providing the Services.
- 8.2 In the event of the expiry or termination of the Contract, the University shall on reasonable notice provide the Supplier with such access as the Supplier reasonably requires to the University's Premises to remove any of the Supplier's equipment (other than the Goods). All such equipment shall be promptly removed by the Supplier.
- 8.3 The Supplier shall ensure that:
- (a) where it is using the University's Premises and any University Assets, they are kept properly secure and it will comply and cooperate with the University's Representative's reasonable directions regarding the security of the same;
 - (b) only those of the Supplier's Personnel that are duly authorised to enter upon the University's Premises for the purposes of supplying the Goods or providing the Services, do so; and
 - (c) any University Assets used by the Supplier are maintained (or restored at the end of the Term) in the same or similar condition as at the Commencement Date (fair wear and tear excepted) and are not removed from the University's Premises unless expressly permitted under the Contract or by the University's Representative.
- 8.4 The Supplier shall notify the University immediately on becoming aware of any damage caused by the Supplier, its agents, or Supplier Personnel to the University Assets, the University's Premises or to any other property of the University or other recipient of the Goods and Services in the course of the supply of the Goods or provision of the Services.

CHARGES AND PAYMENT

9. PAYMENT

- 9.1 In consideration of the supply of Goods and provision of the Services by the Supplier in accordance with the terms and conditions of the Contract, the University shall pay the Charges to the Supplier. All Charges due by the University to the Supplier shall be fixed for the duration of the Term and payable in British Pound Sterling, unless otherwise specified in the Purchase

Order. All bank transfer charges and/or exchange losses incurred will be borne by the Supplier.

- 9.2 All invoices shall be directed by the Supplier to the University's Accounts Payable department and shall not be issued by the Supplier prior to their due date for payment, as agreed in writing by the Parties.
- 9.3 The University shall pay the Supplier any undisputed sums due to a bank account nominated in writing by the Supplier no later than a period of thirty (30) days from the date of receipt of the relevant invoice.
- 9.4 Where the Supplier enters into a Sub-Contract, the Supplier shall include in that Sub-Contract:
- (a) provisions having the same effect as clause 9.3 of the Contract; and
 - (b) a provision requiring the counterparty to that Sub-Contract to include in any sub-contract which it awards provisions having the same effect as clause 9.3 of the Contract.
- 9.5 Where the University disputes any sum to be paid by it then the University may withhold payment of the sum in dispute but a payment equal to the sum not in dispute shall be paid. The dispute as to the sum that remains unpaid shall be determined in accordance with clause 16. Provided that the sum has been disputed in good faith, interest due on any sums in dispute which the Parties subsequently agree pursuant to clause 16 are due and payable shall not start to accrue until the expiry of a period of thirty (30) days after resolution of the dispute between the Parties.
- 9.6 Subject to clause 9.5, the Supplier will be entitled, but not obliged, to charge interest on the late payment of any undisputed Charges properly invoiced under the Contract from the date due to the date of actual payment (whether before or after judgement) at a rate of 2% per annum above the then current base lending rate of the Royal Bank of Scotland plc. The Parties agree that the level of interest payable under this clause is a substantial contractual remedy for the purposes of the Late Payment of Commercial Debts (Interest) Act 1998. The Supplier shall not suspend the supply of the Goods or Services or any part thereof if any payment is overdue.
- 9.7 The Charges are stated inclusive of any applicable taxes except VAT, which shall be added at the prevailing rate as applicable and paid by the University following delivery of a valid VAT invoice. The Supplier shall indemnify and keep the University indemnified against any liability (including any interest, penalties or costs incurred) which is levied, demanded or assessed on the University at any time in respect of the Supplier's failure to account for, or to pay, any VAT or other taxes relating to payments made to the Supplier under the Contract.

- 9.8 Transport, package and delivery charges are included within the Charges. No additional charges shall be payable unless agreed by the University in writing in advance of any such costs being incurred.
- 9.9 The Supplier shall maintain complete and accurate records of, and supporting documentation for, all amounts which may be chargeable to the University pursuant to the Contract. Such records shall be retained for inspection by the University for seven (7) years from the end of the Contract Year to which the records relate.
- 9.10 The University may set off any sums owed to it by the Supplier which have fallen due and payable against any sums due to the Supplier under the Contract or any other agreement pursuant to which the Supplier or any Associated Company of the Supplier provides goods or services to the University.

STAFF

10. KEY PERSONNEL

- 10.1 The Key Personnel shall be those people who are identified by the Parties as being key to the success of the performance by the Supplier of its obligations under the Contract and who shall be retained on the performance of the Contract for such time as is necessary for the person to perform the role which has been allocated to them. The Key Personnel shall have the authority to act on behalf of their respective Party on the matters for which they are expressed to be responsible.
- 10.2 The Supplier shall not remove or replace any of the Key Personnel unless:
- (a) requested to do so by the University;
 - (b) the person is on long-term sick leave or other type of authorised long-term leave (long-term exceeding 3 months);
 - (c) the element of the supply of the Goods or Services in respect of which the individual was engaged has been completed to the University's satisfaction;
 - (d) the person resigns from their employment with the Supplier; or
 - (e) the Supplier obtains the prior written consent of the University.
- 10.3 The Supplier shall inform the University of the identity and background of any replacements for any of the Key Personnel as soon as a suitable replacement has been identified. The University shall be entitled to interview any such person and may object to any such proposed appointment within ten (10) Working Days of being informed of or meeting any such replacement if, in its reasonable opinion, it considers the proposed replacement to be unsuitable for any reason.

- 10.4 The Supplier shall ensure that the role of each of its Key Personnel is not vacant (in terms of a permanent representative) for a consecutive period of more than twenty (20) Working Days and a suitably qualified temporary replacement shall be provided with immediate effect from the Supplier or the University becoming aware of the role becoming vacant.
- 10.5 Any replacement Key Personnel appointed pursuant to clause 10.3 shall be as, or more, qualified and experienced as the previous incumbent and fully competent to carry out the tasks assigned to the Key Personnel whom they have replaced.
- 10.6 The University may require the Supplier to remove, or procure the removal of, any of its Key Personnel whom the University considers, in its reasonable opinion, to be unsatisfactory for any reason which has a material impact on the supply of the Goods or the performance of the Services.
- 10.7 If the Supplier replaces the Key Personnel as a consequence of this clause 10, the cost of effecting such replacement shall be borne by the Supplier.

11. SUPPLIER PERSONNEL

- 11.1 At all times, the Supplier shall ensure that:
- (a) each of the Supplier's Personnel is suitably qualified, adequately trained and capable of providing the applicable Goods and Services in respect of which they are engaged;
 - (b) there is an adequate number of Supplier's Personnel to provide the Goods and Services properly;
 - (c) only those people who are authorised by the Supplier (under the relevant authorisation procedure as agreed between the Parties) are involved in providing the Goods and Services; and
 - (d) all of the Supplier's Personnel comply with all of the University's policies notified to them when supplying the Goods and providing the Services, including those policies that apply to persons who are allowed access to the University Assets and the University's Premises.
- 11.2 The University may refuse to grant access to the University Assets or the University's Premises, or remove from the University's Premises any of the Supplier's Personnel who do not comply with any such policies referred to in clause 11.1(d) above, or if, in the University's reasonable opinion, they otherwise present a security threat or are unsatisfactory.
- 11.3 The Supplier shall replace any of the Supplier's Personnel who the University reasonably decides have failed to carry out their duties with reasonable skill and care. Following such removal of any of the Supplier's Personnel, the Supplier shall ensure such person is replaced promptly with another person

with the necessary training and skills to meet the requirements of the Services.

- 11.4 The Supplier shall maintain up-to-date personnel records on the Supplier's Personnel engaged in the provision of the Goods and Services and shall provide information to the University as the University reasonably requests on the Supplier's Personnel. The Supplier shall ensure at all times that it has the right to provide these records in compliance with the applicable Data Protection Law.

12. TUPE

- 12.1 The University and the Supplier agree that where all or part of the Services cease to be provided by the Supplier for any reason and where all or part of the Services continue to be provided to the University by a New Supplier then the Transferring Employees may be the subject of a Relevant Transfer to the New Contractor under the TUPE Regulations with effect from the Termination Date.
- 12.2 Within 10 Working Days of service of a request, the Supplier shall provide to the University a list of the employees of the Supplier which the Supplier believes are Potential Returning Employees.
- 12.3 Where the University is to appoint a New Supplier, the Parties shall cooperate in seeking to ensure the orderly transfer of the Transferring Employees to the New Supplier.
- 12.4 The Supplier shall, at no cost to the University, within 10 Working Days of service of a request, to the extent lawfully permitted, provide the University with:
- (a) a list of the Potential Returning Employees, including details of their job titles, age, length of continuous service, current remuneration, benefits and notice;
 - (b) a list of agency workers, agents and independent contractors engaged by the Supplier;
 - (c) the total payroll bill of the Potential Returning Employees;
 - (d) the terms and conditions of the Potential Returning Employees;
 - (e) details of any current disciplinary or grievance proceedings on-going or circumstances likely to give rise to such proceedings in respect of the Potential Returning Employees;
 - (f) details of any claims, current or threatened, brought by the Potential Returning Employees or their representatives;
 - (g) details of all death, disability benefit or permanent health insurance schemes and other similar arrangements with or in respect of the Potential Returning Employees including the identities of any such employees in receipt of benefits under any such scheme;

- (h) details of any enhanced sick pay, maternity, paternity or other parental leave or pay, details of any enhanced termination or redundancy entitlements; and
- (i) details of all collective agreements relating to or affecting the Potential Returning Employees with a brief summary of the current state of negotiations with such bodies and with details of any current industrial disputes or claims for recognition by any trade union.

12.5 The University shall keep such information confidential and shall only use it for the purpose of a tender exercise for a continuation of the Services, in which case the information may be disclosed to a prospective tenderer, or for its own internal purposes.

12.6 At intervals to be stipulated by the University (which shall not be more frequent than every 30 days) and immediately prior to the Termination Date, the Supplier shall deliver to the University a complete update of all such information as shall have been deliverable pursuant to clause 12.4. The Supplier shall warrant the completeness and accuracy of all such information as it was aware or should reasonably be aware at the date that it is disclosed.

12.7 Without prejudice to clauses 12.4 to 12.6 the Supplier agrees to provide the Employee Liability Information to the University (or, at the request of the University, the New Supplier) at such time or times as are required by the TUPE Regulations, and, at the time of providing such Employee Liability Information, the Supplier shall warrant that the Employee Liability Information:

- (a) is complete and accurate at the time it is provided to the University (or, where relevant, the New Supplier); and
- (b) will be updated to take account of any changes to such information, as required by the TUPE Regulations.

12.8 The Supplier undertakes to the University that, during the 6 months prior to the Termination Date, and in any event at any time following service of notice, and in respect of that part of the Services which will cease to be provided by the Supplier at the Termination Date (the "**Affected Services**" for the purposes of this clause), the Supplier shall not without the prior written consent of the University (such consent not to be unreasonably withheld or delayed):

- (a) amend or vary (or purport or promise to amend or vary) the terms and conditions of employment or engagement (including, for the avoidance of doubt, pay) of any Potential Returning Employees (other than where such amendment or variation has previously been agreed between the Supplier and the Potential Returning Employees in the normal course of business, and where any such amendment or variation is not in any way related to the transfer of the Services);
- (b) terminate or give notice to terminate the employment or engagement of any Potential Returning Employees (other than in circumstances in

which the termination is for reasons of misconduct or lack of capability);

- (c) transfer away, remove, reduce or vary the involvement of any of the Potential Returning Employees from or in the provision of the Affected Services other than where such transfer or removal: (i) was planned as part of the individual's career development; (ii) takes place in the normal course of business; and (iii) will not have any adverse impact upon the delivery of the Services by the Supplier, (provided that any such transfer, removal, reduction or variation is not in any way related to the transfer of the Services); or
- (d) recruit or bring in any new or additional individuals to provide the Affected Services who were not already involved in providing the Affected Services prior to the relevant period.

12.9 The Supplier shall indemnify the University (both for itself and a New Supplier) against all costs, claims, liabilities and expenses (including reasonable legal expenses) incurred by the University and/or a New Supplier in connection with or as a result of:

- (a) any claim or demand by any Potential Returning Employee whether in contract, delict, under statute, pursuant to Applicable Law or otherwise including any claim or demand of any other nature, in each case arising directly from any act, fault or omission of the Supplier in respect of any Potential Returning Employee on or before the Termination Date;
- (b) any failure by the Supplier to comply with its or their obligations under Regulations 13 and 14 of the TUPE Regulations, or any award of compensation under Regulation 15 of the TUPE Regulations, save where such failure arises from the failure of a New Supplier to comply with its or their duties under Regulation 13 of the TUPE Regulations; and
- (c) any claim (including any individual employee entitlement under or consequent on such a claim) by any trade union or other body or person representing the Potential Returning Employees arising from or connected with any failure by the Supplier to comply with any legal obligation to such trade union, body or person.

12.10 The University shall indemnify the Supplier against all costs, claims, liabilities and expenses (including reasonable legal expenses) incurred in connection with or as a result of:

- (a) any claim or demand by any Transferring Employee whether in contract, delict, under statute, pursuant to Applicable Law or otherwise including any claim or demand of any other nature, in each case arising directly from any act, fault or omission of the New Supplier in respect of any Transferring Employee on or after the Termination Date;

- (b) any failure by a New Supplier to comply with its obligations under Regulation 13 of the TUPE Regulations;
- (c) any claim (including any individual entitlement of a Transferring Employee under or consequent on such claim) by any trade union or other body or person representing the Transferring Employees arising from or connected with any failure by a New Supplier to comply with any legal obligation to such trade union, body or person.

12.11 The University may in its discretion assign the benefit of the indemnities set out in clause 12.9 to a New Supplier.

CONTRACT MANAGEMENT

13. REPORTING AND MEETINGS

13.1 The Supplier shall provide the Management Reports to the University in the form and at the intervals agreed with the University.

14. MONITORING

14.1 The University may monitor or get a third party to monitor the supply of the Goods and the performance of the Services by the Supplier.

14.2 The Supplier shall co-operate, and shall procure that its Sub-Contractors and the Supplier's Personnel co-operate, with the University in carrying out the monitoring referred to in clause 14.1 at no additional charge to the University.

15. CHANGE CONTROL AND CONTINUOUS IMPROVEMENT

15.1 The Supplier shall have an ongoing obligation throughout the Term to identify new or potential improvements to the supply of the Goods and Services. As part of this obligation the Supplier shall identify and report to the University's Representative at least once a year during the Term on:

- (a) the emergence of new and evolving relevant technologies which could improve the supply of the Goods and Services;
- (b) new or potential improvements to the Goods and Services including (as applicable) the quality, responsiveness, procedures, benchmarking methods, performance mechanisms and customer support services in relation to the Goods and Services;
- (c) new or potential improvements to the interfaces or integration of the Goods and Services with other goods and services provided by third parties or the University which might result in efficiency or productivity gains or in reduction of operational risk; and

- (d) changes in ways of working that would enable the Goods and Services to be delivered at lower costs and/or bring greater benefits to the University.

15.2 Any potential Changes highlighted as a result of the Supplier's reporting in accordance with clause 15.1 shall be addressed by the Parties using the Change Control Procedure.

CHANGE CONTROL PROCEDURE

15.3 Any Change shall be subject to the Change Control Procedure.

15.4 Where a written request for a Change is received from the University, the Supplier shall, unless otherwise agreed, submit two copies of a Change Control Note signed by the Supplier to the University within five (5) Working Days of the date of the request.

15.5 A recommendation to implement a Change by the Supplier shall be submitted directly to the University in the form of two (2) copies of a Change Control Note signed by the Supplier at the time of such recommendation. The University shall within three (3) weeks evaluate the Change Control Note and, as appropriate:

- (a) accept the Change Control Note by arranging for two copies of the Change Control Note to be signed by or on behalf of the University and return one of the copies to the Supplier; or
- (b) notify the Supplier of the rejection of the Change Control Note.

15.6 A Change Control Note signed by the University and by the Supplier shall constitute an amendment to the Contract pursuant to clause 39.3.

16. DISPUTE RESOLUTION

16.1 If a dispute arises out of or in connection with the Contract or the performance, validity or enforceability of it (a "**Dispute**") then the Parties shall follow the procedure set out in this clause:

- (a) either Party shall give to the other written notice of the Dispute, setting out its nature and full particulars (a "**Dispute Notice**"), together with relevant supporting documents. On service of the Dispute Notice, the Parties' Representatives shall attempt in good faith to resolve the Dispute;
- (b) if the Parties' Representatives are for any reason unable to resolve the Dispute within thirty (30) days of service of the Dispute Notice, the Dispute shall be referred to the University's Director of Corporate Services and the Supplier's Commercial Director or their

representatives who shall attempt in good faith to resolve it; and

- (c) if the University's Director of Corporate Services and the Supplier's Commercial Director, or their representatives are for any reason unable to resolve the Dispute within thirty (30) days of it being referred to them, either Party shall then be entitled to resort to formal legal proceedings. Nothing in this clause 16 shall prevent the University from seeking injunctive or similar relief or commencing court proceedings at any time.

17. SUB-CONTRACTING AND ASSIGNATION

17.1 Subject to clauses 12.11 and 17.3, neither Party shall assign, novate or otherwise dispose of any or all of its rights and obligations under the Contract without the prior written consent of the other Party, neither may the Supplier sub-contract the whole or any part of its obligations under the Contract except with the express prior written consent of the University.

17.2 In the event that the Supplier enters into any Sub-Contract it shall:

- (a) remain responsible to the University for the performance of its obligations under the Contract notwithstanding the appointment of any Sub-Contractor and be responsible for the acts, omissions and neglects of its Sub-Contractors;
- (b) impose obligations on its Sub-Contractor in the same terms as those imposed on it pursuant to the Contract and shall procure that the Sub-Contractor complies with such terms; and
- (c) provide a copy, at no charge to the University, of any such Sub Contract on receipt of a request for such by the University's Representative.

17.3 The University shall be entitled to novate the Contract to any other body which substantially performs any of the functions that previously had been performed by the University without the Supplier's consent. In such an event the Supplier will enter into a novation agreement with the University and the applicable third party in the form as the University may reasonably require.

LIABILITY

18. INDEMNITIES

18.1 The Supplier shall indemnify and keep the University indemnified in full against any and all actions, proceedings, damages, costs, claims, demands, liabilities, civil penalties, regulatory fines, legal and other professional fees and expenses awarded against, or incurred or suffered or paid by, the University as a result of, or in connection with:

- (a) any alleged or actual infringement of any third party's Intellectual Property arising out of the use or supply of the Goods and / or Services;
- (b) any claim made against the University to the extent such claim relates to or arises from the breach, negligent performance or failure or delay in performance of the Contract by the Supplier or any of the Supplier's Personnel;
- (c) death, personal injury or damage to property arising out of, or in connection with, defective Goods or non-conformity of the Services, to the extent that the defect in the Goods or non-conformity in the Services is attributable to the acts or omissions of the Supplier or any of the Supplier's Personnel;
- (d) breach of any Applicable Laws by the Supplier or any of the Supplier's Personnel in the performance of its obligations under the Contract; or
- (e) failure by the Supplier or the Supplier's Personnel to comply with clause 22 (Data Protection).

19. LIMITATION OF LIABILITY

19.1 Subject to clause 19.2, neither Party shall be liable to the other Party (whether in contract, delict (including negligence), breach of statutory duty, or otherwise) for indirect, special or consequential loss or damage.

19.2 Nothing in the Contract shall limit or exclude:

- (a) a Party's liability for fraud or fraudulent misrepresentation;
- (b) a Party's liability for death or personal injury caused by its negligence or that of its officers, agents, employees or subcontractors (as applicable);
- (c) the Supplier's liability under the indemnities given by it under the Contract;
- (d) the Supplier's liability for breach of the terms implied by section 12 of the Sale of Goods Act 1979 or breach of the terms implied by section 11A of the Supply of Goods and Services Act 1982; or
- (e) a Party's liability for any loss which by Applicable Laws cannot be limited or excluded.

19.3 Subject to clause 19.2, the University's total aggregate liability arising under or in connection with the Contract (whether in contract, delict (including negligence), breach of statutory duty, or otherwise) including under any indemnity shall in no event exceed an amount equivalent to the total Charges paid or properly invoiced and due to be paid under the Contract in the 12-month period immediately preceding the event giving rise to the liability.

20. INSURANCE

20.1 The Supplier shall at its own cost effect and maintain sufficient insurance policies with a reputable insurance company to:

- (a) comply with its statutory insurance obligations in any relevant jurisdiction;
- (b) cover all potential liabilities which the Supplier may have to the University under the Contract; and
- (c) reflect the following minimum levels of cover (or such other levels of cover as the Parties may agree in writing from time to time):
 - (i) where Goods are supplied under the Contract:-
 - (A) public liability insurance for an insured amount of not less than GBP 2,000,000 (or local country equivalent) per single event; and
 - (B) employers' liability insurance for an insured amount of not less than GBP 5,000,000 (or local country equivalent) per single event; and
 - (ii) where Services are provided under the Contract:-
 - (A) public liability insurance for an insured amount of not less than GBP 2,000,000 (or local country equivalent) per single event;
 - (B) employers' liability insurance for an insured amount of not less than GBP 5,000,000 (or local country equivalent) per single event; and
 - (C) professional indemnity insurance for an insured amount of not less than GBP 1,000,000 (or local country equivalent) per single event.

(the **Required Insurances**).

20.2 The Supplier shall give the University, on request, copies of all insurance policies referred to in this clause 20 or a broker's verification of insurance to demonstrate that the Required Insurances are in place, together with receipts or other evidence of payment of the latest premiums due under those policies.

- 20.3 If, for whatever reason, the Supplier fails to give effect to and maintain the Required Insurances, the University may make alternative arrangements to protect its interests and the Supplier shall, on demand, repay to the University the costs incurred by the University in effecting such arrangements.
- 20.4 The terms of any insurance or the amount of cover shall not relieve the Supplier of any liabilities under the Contract.
- 20.5 The Supplier shall hold and maintain the Required Insurances during the Term and for a minimum of six (6) years following the expiration or earlier termination of the Contract.

INFORMATION

21. FREEDOM OF INFORMATION

- 21.1 The Supplier acknowledges that the University is subject to the requirements of the FOI(S)A and the EI(S)Rs. The Supplier shall:
- (a) provide all necessary assistance and cooperation as reasonably requested by the University to enable the University to comply with its obligations under the FOI(S)A and EI(S)Rs;
 - (b) transfer to the University all Requests for Information relating to the Contract that it receives as soon as practicable and in any event within two (2) Working Days of receipt;
 - (c) provide the University with a copy of all information belonging to the University requested in the Request for Information which is in its possession or control in the form that the University requires within five (5) Working Days (or such other period as the University may reasonably specify) of the University's request for such information; and
 - (d) not respond directly to a Request for Information unless authorised in writing to do so by the University.
- 21.2 The Supplier acknowledges that the University may be required by law, including but not limited to the FOI(S)A and EI(S)Rs, to disclose information (including Commercially Sensitive Information) without consulting or obtaining consent from the Supplier. The University shall take reasonable steps to notify the Supplier of a Request for Information involving the Supplier's information and shall consider any representations the Supplier wishes to make regarding the disclosure of such information. Notwithstanding the foregoing, the University shall be responsible for determining in its absolute discretion whether any Commercially Sensitive Information and/or any other information is exempt from disclosure in accordance with the FOI(S)A and/or the EI(S)Rs.

22. DATA PROTECTION

- 22.1 In relation to any Processing of Disclosed Data undertaken by the Supplier on behalf of the University pursuant to the Contract, the University and the Supplier acknowledge that, for the purposes of Data Protection Law, the University is the Data Controller and the Supplier is the Data Processor of such Disclosed Data.
- 22.2 The Parties agree that the Supplier may only process Disclosed Data on and in the Supplier or the Supplier's Sub-Contractors' data centres in the United Kingdom and the Disclosed Data may not be stored, transferred, located or otherwise processed outside of such area. Neither the Supplier nor any of its Sub-Contractors are entitled to transfer any the Disclosed Data outside of the United Kingdom unless the University's prior written consent has been obtained and the following conditions are fulfilled:
- (a) the Supplier has provided appropriate safeguards in relation to the transfer;
 - (b) the data subject has enforceable rights and effective legal remedies;
 - (c) the Supplier complies with its obligations under the Data Protection Laws by providing an adequate level of protection to any Disclosed Data that is transferred, including by carrying out a transfer risk assessment and, where appropriate, putting in place an International Data Transfer Agreement or the addendum approved by the UK Information Commissioner's Office as amended, varied, supplemented or substituted from time to time, and the Supplier shall provide documentary evidence of such safeguards to the University upon request; and
 - (d) the Supplier complies with reasonable instructions notified to it in advance by the University with respect to the processing of the Disclosed Data.
- 22.3 The Supplier warrants and undertakes that it is solely responsible for ensuring that the Disclosed Data is processed by it in accordance with the Data Protection Law from the date that it is received from the University.
- 22.4 The Supplier undertakes to the University that it shall use the Disclosed Data only for purposes necessary for the performance of its obligations under the Contract and only in accordance with the instructions given from time to time by the University.
- 22.5 The Supplier shall (and shall procure that any of the Supplier's Personnel involved in the provision of the Contract shall) comply with any notification requirements under Data Protection Law and both Parties shall duly observe all their obligations under Data Protection Laws, which arise in connection with the Contract.

Supplier's Personnel

- 22.6 The Supplier will ensure that access to the Disclosed Data is limited to:
- (a) Supplier's Personnel who need access to the Disclosed Data to meet the Supplier's obligations under the Contract (the "**Relevant Employees**"); and
 - (b) in the case of any access by any of the Supplier's Personnel, such part or parts of the Disclosed Data as is strictly necessary for performance of said Supplier's Personnel duties.
- 22.7 The Supplier will ensure that its Relevant Employees:
- (a) only Process Disclosed Data to the extent permitted by the Contract;
 - (b) are bound by appropriate obligations of confidentiality in respect of the Disclosed Data and understand that the Disclosed Data is confidential in nature;
 - (c) have undertaken training in Data Protection Law; and
 - (d) are aware of the Supplier's obligations under such Data Protection Law and the Contract.
- 22.8 Without affecting the generality of clause 22.7, the Supplier will take appropriate steps to ensure the reliability of any of the Supplier's Personnel who have access to the Disclosed Data.

Security

- 22.9 Notwithstanding the general obligation in clause 23.2, where the Supplier is processing Disclosed Data as a Data Processor for the University, the Supplier shall ensure that it has in place appropriate technical and contractual measures to ensure the security of the Disclosed Data and to mitigate the risks associated with the Processing of such Disclosed Data, including against unauthorised or unlawful Processing, accidental or unlawful destruction, loss, alteration, unauthorised disclosure of or damage or access to such Disclosed Data, sufficient to ensure that the University complies with its obligations under Data Protection Law; and
- (a) provide the University with such information as the University may reasonably require to satisfy itself that the Supplier is complying with its obligations under this clause 22.9;
 - (b) promptly notify the University of any breach of the security measures required to be put in place pursuant this clause 22.9; and

- (c) ensure it does not knowingly or negligently do or omit to do anything which places the University in breach of the University's obligations under Data Protection Laws.

22.10 The Supplier shall notify the University forthwith upon it becoming aware that it is or is likely to become unable to comply with either its obligations under the Contract and/or Data Protection Laws whereupon the University shall be entitled, at its sole discretion, to either:-

- (a) suspend the right of the Supplier to receive and process Disclosed Data under or pursuant to the terms of the Contract (to such extent and for howsoever long as the University may determine) until the Supplier is able to demonstrate to the reasonable satisfaction of the University that the Supplier is able and will continue to be able to so comply; or
- (b) terminate the Contract on ten (10) Working Days' written notice.

Notifications

22.11 The Supplier will promptly (and, in any event, no later than twelve (12) hours after becoming aware of the breach or suspected breach) inform the University in writing of any breach or suspected breach of any of the Supplier's obligations in terms of this clause 22 and of any other unauthorised or unlawful Processing, accidental or unlawful destruction, loss, alteration, unauthorised disclosure of or damage or access to Disclosed Data. Such notification shall specify (at a minimum):

- (a) the nature of the Disclosed Data breach or suspected breach;
- (b) the date and time of occurrence;
- (c) the extent of Disclosed Data and Data Subjects affected or potentially affected;
- (d) the likely consequences of any breach or suspected breach (should it have occurred) for Data Subjects affected by it and any measures taken or proposed to be taken by the Supplier to contain the breach or suspected breach; and
- (e) any other information that the University shall require in order to discharge its responsibilities under applicable Data Protection Laws in relation to such breach or suspected breach,

and the Supplier will thereafter promptly, at the Supplier's expense: (i) take such steps as the University requires it to take to mitigate the detrimental effects of any such breach or suspected breach on any of the Data Subjects and/or on the University; and (ii) otherwise cooperate with the University in investigating and dealing with such breach or suspected breach and its consequences.

22.12 If the Supplier receives any complaint, notice or communication (including from any Data Subject exercising their rights under the Data Protection Laws, or correspondence from the Information Commissioner's Office) which relates directly or indirectly to the processing of the Disclosed Data or to either Party's compliance with Data Protection Law, it will immediately notify the University and it will provide the University with full co-operation and assistance in relation to any such complaint, notice or communication.

22.13 The Supplier shall not be entitled to recover any additional costs from the University which arise from, or be relieved from any of its obligations as a result of, any changes in Data Protection Law.

22.14 Upon the earlier of:

- (a) termination or expiry of the Contract (as applicable); and
 - (b) the date on which the Disclosed Data is no longer relevant to, or necessary for, the performance of its obligations under the Contract,
- the Supplier shall cease Processing all Disclosed Data and return and/or permanently and securely destroy (as directed in writing by the University) all Disclosed Data and all copies in its possession or control.

22.15 The provisions of this clause shall apply during the Term and indefinitely after the expiry or termination of the Contract (as applicable).

23. CONFIDENTIALITY

23.1 Subject to clause 23.2, each Party (the "**receiving Party**") shall keep confidential all matters relating to the Contract and all information concerning the business, customers, students, finances, contractual arrangements, other dealings and affairs of the other Party (the "**disclosing Party**") and shall use all reasonable endeavours to prevent the unauthorised publication or disclosure of any such information.

23.2 Clause 23.1 shall not apply to any disclosure of information:

- (a) required by any Applicable Laws or by any Regulatory Bodies;
- (b) to the receiving Party's employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of exercising that Party's rights or carrying out its obligations under or in connection with the Contract, provided that each Party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other Party's confidential information comply with this clause 23;
- (c) where the receiving Party can demonstrate that such information is already generally available and in the public domain otherwise than as a result of a breach of clause 23.1;

- (d) which was obtained from a third party without obligation of confidentiality;
- (e) which is already lawfully in the possession of the receiving Party, prior to its disclosure by the disclosing Party; and
- (f) by the University relating to the Contract and in respect of which the Supplier has given its prior written consent to disclosure.

23.A. Artificial Intelligence

The Supplier shall not use any University Data uploaded onto or integrated with the Goods or Services for the purposes of developing, training, fine-tuning or validating any Artificial Intelligence (AI) system or model, or for any other purposes not explicitly set out in the Contract. The Supplier shall not enable any functionality in any Goods or Services under this Contract which utilises generative AI technology without express written consent from the University.

24. AUDIT

- 24.1 During the Term and for a period of seven (7) years after the termination or expiry of this Contract, the University may conduct an audit for the following purposes:
- (a) to verify the accuracy of Charges (and proposed or actual variations to them in accordance with the Contract) and/or the costs of all suppliers (including Sub-Contractors) of the Services;
 - (b) to review the integrity, confidentiality and security of the Disclosed Data and any other data relating to the University or any service users;
 - (c) to review the Supplier's compliance with clause 22 (Data Protection), the Data Protection Laws, the FOI(S)A and EI(S)Rs and any other Applicable Laws;
 - (d) to review any books of account kept by the Supplier in connection with the provision of the Services;
 - (e) to carry out the audit and certification of the University's accounts;
 - (f) to verify the accuracy and completeness of the Management Reports delivered or required by the Contract.
- 24.2 Except where an audit is imposed on the University by a Regulatory Body or where the audit relates to suspected or actual breach of Applicable Laws, criminal activity or breach of clause 22 (Data Protection), the University may not conduct an audit under this clause 24 more than twice in any calendar year.

- 24.3 The University shall use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Supplier or delay the provision of the Services.
- 24.4 Subject to the University's obligations of confidentiality, the Supplier shall on demand provide the University and any relevant Regulatory Body (and/or their agents or representatives) with all reasonable co-operation and assistance in relation to each audit, including:
- (a) all information requested by the above persons within the permitted scope of the audit;
 - (b) reasonable access to any sites from where the Services are provided or which are controlled by the Supplier and to any equipment used (whether exclusively or non-exclusively) in the performance of the Contract by the Supplier; and
 - (c) access to the Supplier's Personnel.
- 24.5 The University shall endeavour to (but is not obliged to) provide at least fifteen (15) days' notice of its or, where possible, a Regulatory Body's, intention to conduct an audit.
- 24.6 The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this clause, unless the audit identifies a material failure by the Supplier to perform its obligations under the Contract in which case the Supplier shall reimburse the University for all the University's reasonable costs incurred in the course of the audit.
- 24.7 If an audit identifies that:
- (a) the Supplier has failed to perform its obligations under the Contract in any material manner, the Parties shall agree and implement a remedial plan. If the Supplier's failure relates to a failure to provide any information to the University about the Charges, proposed Charges or the Supplier's costs, then the remedial plan shall include a requirement for the provision of all such information;
 - (b) the University has overpaid any Charges, the Supplier shall pay to the University the amount overpaid within twenty (20) days. The University may deduct the relevant amount from the Charges if the Supplier fails to make this payment; and
 - (c) the University has underpaid any Charges, the University shall pay to the Supplier the amount of the under-payment less the cost of audit incurred by the University if this was due to a default by the Supplier in relation to invoicing within twenty (20) days.

25. INTELLECTUAL PROPERTY

- 25.1 Each Party retains all right, title and interest in and to its trade marks, trade names, logos or other marks, signs or names.
- 25.2 All information and any Intellectual Property therein which is owned or controlled by a Party prior to the Commencement Date or created outwith the Services is and shall remain the exclusive property of the Party owning it (or, where applicable, the third party from whom its right to use the information or Intellectual Property has derived).
- 25.3 Where needed to supply the Goods or perform the Services, the University hereby grants to the Supplier a fully paid-up, non-exclusive, royalty-free, non-transferable licence to use the University Assets and any Intellectual Property therein for the Term and for the sole purpose of providing the Services to the University.
- 25.4 In the absence of prior written agreement by the University to the contrary, all Intellectual Property created by the Supplier or any employee, agent or subcontractor of the Supplier:
- (a) in the course of performing the Services;
 - (b) exclusively for the purpose of performing the Services; or
 - (c) in designing, developing, manufacturing or otherwise providing the Goods,

(the "**Bespoke IPR**") shall vest in the University on creation and the Supplier hereby assigns (or shall procure the assignment of) to the University absolutely, with full title guarantee, all right, title and interest in any such Intellectual Property, and the Supplier shall do all such things and sign all documents necessary in the University's opinion to so vest all such Intellectual Property in the University, and to enable the University to defend and enforce such Intellectual Property.

- 25.5 The University grants the Supplier a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and otherwise use the Bespoke IPR solely for the Term for the purpose of providing the Goods and Services to the University in accordance with the Contract.

26. TERMINATION FOR BREACH

- 26.1 The University may terminate the Contract with immediate effect by the service of written notice on the Supplier if:
- (a) the Supplier is in breach of any material obligation under the Contract provided that if the breach is capable of remedy, the University may only terminate the Contract under this clause 26.1(a) if the Supplier has failed

to remedy such breach within twenty-eight (28) days of receipt of notice from the University to do so;

- (b) any Necessary Consent is revoked or modified such that the Supplier is no longer able to comply with its obligations under the Contract or receive any benefit to which it is entitled;
- (c) there is an Insolvency Event;
- (d) any of the provisions of Regulation 73(1) of the Public Contracts (Scotland) Regulations 2015 apply to the Contract.

26.2 The University may also terminate the Contract in accordance with the provisions of clause 27, clause 29 or clause 30.

26.3 If the Contract is terminated by the University under clauses 26.1(a) to (d) (inclusive) such termination shall be at no loss or cost to the University and the Supplier hereby indemnifies and keeps the University indemnified against any such losses or costs which the University may suffer as a result of any such termination.

26.4 If the Supplier becomes aware that any event has occurred, or circumstances exist, which may entitle the University to terminate the Contract under this clause 26, it shall immediately notify the University in writing.

26.5 The Supplier may terminate the Contract in the event that the University fails to pay an undisputed invoice within thirty (30) days of the University's receipt of said invoice, by giving forty-five (45) days' written notice to the University. In the event that the University remedies the payment default prior to the expiry of the forty-five (45) day notice period, the Supplier's notice to terminate the Contract shall be deemed to have been withdrawn.

27. TERMINATION ON NOTICE

Without prejudice to any other right or remedy available to it, the University may terminate the Contract at any time by giving at least three (3) months' written notice to the Supplier.

28. TERMINATION IN PART

28.1 Where under the Contract the University is entitled to terminate the Contract, the University may, in its absolute discretion, terminate the Contract or terminate the supply of certain Services and / or Goods only (without terminating the Contract). The clauses of the Contract shall be construed accordingly to give effect to the University's right to terminate in part under this clause 28.1.

28.2 In the event of any such partial termination referred to in clause 28.1, the Parties will agree the effect of such partial termination on the other Goods and / or Services (as applicable) and the Charges and in this respect the Parties agree that the following principles shall apply:

- (a) the Supplier agrees to implement a pro rata reduction in the Charges to reflect the Services and / or Goods terminated; and
- (b) the Supplier shall not be entitled to an increase in the Charges in respect of any such partial termination.

29. FORCE MAJEURE

29.1 Subject to the remaining provisions of this clause 29, neither Party shall be liable to the other for any delay or non-performance of its obligations under the Contract to the extent that such non-performance is due to a Force Majeure Event.

29.2 In the event that:

- (a) either Party is delayed or prevented from performing its obligations under the Contract by a Force Majeure Event, such Party shall:
 - (i) give notice in writing of such delay or prevention to the other Party as soon as reasonably possible, stating the commencement date and extent of such delay or prevention, the cause thereof and its estimated duration;
 - (ii) use all reasonable endeavours to mitigate the effects of such delay or prevention on the performance of its obligations under the Contract; and
 - (iii) resume performance of its obligations as soon as reasonably possible after the removal of the cause of the delay or prevention; and
- (b) the Supplier is the Party impacted by the Force Majeure Event, the Charges shall be reduced to the extent the University does not receive the Goods or Services.

29.3 A Party cannot claim relief if the Force Majeure Event is attributable to that Party's wilful act, neglect or failure to take reasonable precautions against the relevant Force Majeure Event.

29.4 The Supplier cannot claim relief if the Force Majeure Event is one where a reasonable supplier should have foreseen and provided for the cause in question.

29.5 As soon as practicable following the affected Party's notification, the Parties shall consult with each other in good faith and use all reasonable endeavours to agree appropriate terms to mitigate the effects of the Force Majeure Event

and to facilitate the continued performance of the Contract. Where the Supplier is the affected Party, it shall take and/or procure the taking of all steps to overcome or minimise the consequences of the Force Majeure Event in accordance with Best Industry Practice.

29.6 The affected Party shall notify the other Party as soon as practicable after the Force Majeure Event ceases or no longer causes the affected Party to be unable to comply with its obligations under the Contract. Following such notification, the Contract shall continue to be performed on the terms existing immediately before the occurrence of the Force Majeure Event unless agreed otherwise by the Parties.

29.7 The University may, during the continuance of any Force Majeure Event, terminate the Contract by written notice to the Supplier if a Force Majeure Event occurs that prevents all or a substantial part of the Goods being supplied or Services being performed for more than thirty (30) Working Days.

30. PREVENTION OF PROHIBITED ACTS

30.1 The Supplier represents and warrants that neither it, nor to the best of its knowledge any Supplier's Personnel, have at any time prior to the Commencement Date:

- (a) committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act; and/or
- (b) been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act.

30.2 The Supplier and the Supplier's Personnel shall not during the Term:

- (a) commit a Prohibited Act; and/or
- (b) do or suffer anything to be done which would cause the University or any of the University's employees, consultants, contractors, subcontractors or agents to contravene any of the Bribery Laws, Economic Crime Laws or Tax Evasion Laws or otherwise incur any liability in relation to the Bribery Laws, Economic Crime Laws or Tax Evasion Laws.

30.3 The Supplier shall during the Term:

- (a) establish, maintain and enforce, and require that its Sub-Contractors establish, maintain and enforce, policies and procedures which are adequate to ensure compliance with the Bribery Laws, Economic Crime Laws and the Tax Evasion Laws (including the Bribery Act 2010, the Economic Crime and Corporate Transparency Act 2023 and

the Criminal Finances Act 2017) and prevent the occurrence of a Prohibited Act;

- (b) promptly report to the University any request or demand for any undue financial or other advantage of any kind received by the Supplier in connection with the performance of the Contract, including in relation to the facilitation of tax evasion; and
- (c) keep appropriate records of its compliance with its obligations under clause 30.3(a) and (b) and make such records available to the University on request.

30.4 The Supplier shall immediately notify the University in writing if it becomes aware of any breach of clause 30.1 and/or clause 30.2, or has reason to believe that it has or any of the Supplier's Personnel have:

- (a) been subject to an investigation or prosecution which relates to an alleged Prohibited Act;
- (b) been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act; and/or
- (c) received a request or demand for any undue financial or other advantage of any kind in connection with the performance of the Contract or otherwise suspects that any person or Party directly or indirectly connected with the Contract has committed or attempted to commit a Prohibited Act.

30.5 If the Supplier makes a notification to the University pursuant to clause 30.4, the Supplier shall respond promptly to the University's enquiries, co-operate with any investigation, and allow the University to audit any books, records and/or any other relevant documentation in accordance with clause 24.

30.6 If the Supplier is in breach of any of its obligations set out in clause 30.1 and/or clause 30.2, the University may by notice:

- (a) require the Supplier to remove from performance of the Contract any Supplier's Personnel whose acts or omissions have caused the breach; or
- (b) immediately terminate the Contract.

30.7 Any notice served by the University under clause 30.6 shall specify the nature of the Prohibited Act, the identity of the party who the University believes has committed the Prohibited Act and the action that the University has elected to take (including, where relevant, the date on which the Contract shall terminate).

31. CONSEQUENCES OF TERMINATION

31.1 On the expiry of the Term or if the Contract or the supply of any Goods and / or Services are terminated for any reason, the following provisions shall apply (where and to the extent applicable):

- (a) the Supplier shall co-operate fully with the University to ensure an orderly migration of the supply of the Goods and Services to the University or, at the University's request, to a third party;
- (b) the Supplier shall procure that all data, property and other material belonging to the University (and all media of any nature containing information and data belonging to the University or relating to the Services), shall be delivered to the University forthwith and the Supplier's Representative shall certify full compliance with this clause;
- (c) the University will make payment to the Supplier of all Charges due up to the date of such termination, and/or the Supplier will refund to the University that part of the Charges paid in advance for Services and Goods no longer to be provided as a result of such termination; and
- (d) the Supplier will at its expense promptly deliver to the University all Goods in respect of which the University has paid the relevant Charges.

31.2 Any termination or expiry of the Contract (howsoever arising) will not affect any rights or liabilities of either Party that may have accrued before termination or expiry or any provisions of the Contract which are expressly or by implication intended to come into or continue in force on or after such termination or expiry including the provisions of clause 1 (Definitions and Interpretation), 6 (Supply of Goods), clause 9.8 (Charges), clause 12 (TUPE), clause 18 (Indemnities), clause 19 (Limitation of Liability), clause 20 (Insurance), clause 21 (Freedom of Information), clause 22 (Data Protection), clause 23 (Confidentiality), clause 24 (Audit), clause 25 (Intellectual Property), clause 26 (Termination for Breach), this clause 31 (Consequences of Termination), clause 40 (Governing Law) and clause 41 (Jurisdiction) shall survive termination or expiry of the Contract.

GENERAL PROVISIONS

32. WAIVER

No failure or delay by a Party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

33. RIGHTS AND REMEDIES

Except as expressly provided in the Contract, the rights and remedies provided under the Contract are in addition to, and not exclusive of, any rights or remedies provided by law.

34. SEVERABILITY

- 34.1 If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.
- 34.2 If any provision or part-provision of the Contract is invalid, illegal or unenforceable, the Parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

35. PARTNERSHIP OR AGENCY

- 35.1 Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between any of the Parties, constitute any party the agent of another Party, or authorise any Party to make or enter into any commitments for or on behalf of any other Party.
- 35.2 Each Party confirms it is acting on its own behalf and not for the benefit of any other person.

36. THIRD PARTY RIGHTS

- 36.1 No one other than a Party to the Contract shall have any right to enforce any of its terms, and the Parties confirm that it is not their intention to confer any rights on any person who is not a Party to the Contract by virtue of its terms, whether under the operation of jus quaesitum tertio, Applicable Law or otherwise.

37. PUBLICITY

The Supplier shall not, without the prior written consent of the University:

- (a) make any press announcements or publicise the Contract or its contents in any way; or
- (b) use the University's name or logo in any promotion or marketing or announcement of orders,

except as required by law, any government or regulatory authority, any court or other authority of competent jurisdiction.

38. NOTICES

- 38.1 Any notice given to a Party under or in connection with the Contract shall be in writing marked for the attention of the Party's Representative and shall be:
- (a) delivered by hand;
 - (b) within the UK, by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or (c) from outwith the UK, by courier.
- 38.2 Any notice shall be deemed to have been received:
- (a) if delivered by hand, on signature of a delivery receipt;
 - (b) if sent within the UK by pre-paid first-class post or other next working day delivery service, at 12.00 pm on the second Working Day after posting or at the time recorded by the delivery service whichever is later.
 - (c) if sent from outwith the UK, at the time signed by the receiving Party as recorded by the courier.
- 38.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

39. ENTIRE AGREEMENT AND VARIATIONS

- 39.1 The Contract, including its Appendix, the Purchase Order and the Supplier's Tender constitutes the entire agreement between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 39.2 Each Party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract.
- 39.3 No variation of the Contract shall be valid unless it is in writing and signed by Representatives of each Party who are authorised to act on behalf of such Party.

40. **GOVERNING LAW**

The Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of Scotland.

41. **JURISDICTION**

Subject to clause 16, each Party irrevocably agrees that the courts of Scotland shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Contract or its subject matter or formation (including non-contractual disputes or claims).

Appendix 1 - Template Change Control Note

CHANGE CONTROL NOTE

| | |
|---|--|
| CHANGE REQUESTED BY | |
| DATE | |
| | |
| ORIGINAL PO NUMBER | |
| BACKGROUND INFORMATION | |
| REQUESTED CHANGES | <i>Note: Changes to the nature of the Goods or Services, volume or term which result in an increase of more than 10% of the initial contract value, require procurement advice. Please contact the University's Procurement Department - http://www.ed.ac.uk/procurement</i> |
| IMPACT OF REQUESTED CHANGES ON THE GOODS OR SERVICES AND THE SUPPLIER'S ABILITY TO MEET ITS OTHER OBLIGATIONS UNDER THE CONTRACT | |
| ANY VARIATIONS REQUIRED TO THE TERMS OF THE CONTRACT | |
| TIMETABLE FOR IMPLEMENTATION (INCLUDING TESTING WHERE NECESSARY) | |
| PRICE OF THE CHANGE (if any) | |
| DATE OF EXPIRY OF THE CHANGE | |
| ANY OTHER INFORMATION | |

This Change Control Note has been entered into on the date of final signature by the Parties below:

For and on behalf of the University Court of the University of Edinburgh

Name _____
Title _____
Date _____

For and on behalf of [the Supplier]

Name _____
Title _____
Date _____