

TERMS AND CONDITIONS FOR THE SUPPLY OF GOODS AND/OR SERVICES TO UNIVERSITY OF CHESTER

INTERPRETATION

1.1 Definitions. In these Conditions, the following definitions apply:

Business Day: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

Commencement Date: has the meaning set out in clause 2.2.

Conditions: these terms and conditions as amended from time to time in accordance with clause 25.10.

Confidential Information: information, data and material of any nature, which either Party may receive or obtain in connection with the conclusion and/or operation of the Contract including any procurement process which is Personal Data or Sensitive Personal Data (as defined by the DPA); and/or designated as confidential by either party or that ought reasonably to be considered as confidential (however it is conveyed or on whatever media it is stored);

Contract: the contract between the University and the Supplier for the supply of Goods and/or the Services, including, and in accordance with, these Conditions and, where the context so admits, the University's *Code of practice for contractors and sub-contractors when working on the premises of the University of Chester* and *Essential information for contractor personnel working for/on behalf of the University*.

Deliverables: all documents, products and materials developed by the Supplier or its agents, Suppliers and employees as part of or in relation to the Services in any form or media, including without limitation drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).

Goods: the goods (or any part of them) set out in the Order.

Goods Specification: any specification for the Goods, including any related plans and drawings that is agreed in writing by the University and the Supplier.

Intellectual Property Rights or IPR: patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Loss: includes losses, liabilities, claims, costs, charges and outgoings of every description (including legal costs and professional expenses on a full indemnity basis), compensation payable under contracts with suppliers and/or customers, loss of normal operating profits, loss of opportunity, loss of goodwill, loss of revenue from related contracts and pure economic loss.

Order: the University's official order form to which these Conditions are attached.

Premises: the location where the Goods are to be delivered and/or the Services are to be performed as specified in the Order or as otherwise agreed in writing between the University and the Supplier.

Price: the price inclusive of any Valued Added Tax payable to the Supplier by the University under the Contract for the full and proper performance by the Supplier of the Contract which shall be the price set out in the Order or, if no price is quoted, the price set out in the Supplier's published price list in force at the Commencement Date.

Services: the services, including any Deliverables, to be provided by the Supplier under the Contract as set out in the Service Specification.

Service Specification: the description or specification for Services agreed in writing by the University and the Supplier.

Sites: any areas at the Premises for the use of the Supplier and its staff in the provision of the Services, as set out in the Goods Specification and/or Service Specification.

Supplier: the person or firm from whom the University purchases the Goods and/or Services.

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

University: University of Chester, of Parkgate Road, Chester, Cheshire CH1 4BJ.

University Materials: has the meaning set out in clause 5.3(i).

VAT: value added tax chargeable under the Value Added Tax Act 1994 or any similar or replacement or extra tax.

1.2 **Construction.** In these Conditions, the following rules apply:

- (a) the headings shall not affect their interpretation;
- (b) the singular includes the plural and the plural includes the singular;
- (c) a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- (d) a reference to a party includes its personal representatives, successors or permitted assigns;
- (e) a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;

- (f) any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
 - (g) all covenants agreements and obligations entered into by more than one party are given and entered into by those parties jointly and severally.
- 1.3 Value Added Tax at the appropriate UK rate is deemed to be included in the Price but must be separately stated.

2. BASIS OF CONTRACT

- 2.1 The Order constitutes an offer by the University to purchase Goods and/or Services from the Supplier in accordance with these Conditions.
- 2.2 The Order shall be deemed to be accepted on the earlier of:
- (a) the Supplier issuing written acceptance of the Order; or
 - (b) any act by the Supplier consistent with fulfilling the Order,
- at which point and on which date the Contract shall come into existence (**Commencement Date**).
- 2.3 These Conditions apply to the Contract to the exclusion of any terms that the Supplier seeks to impose, incorporate or vary or which are implied by trade, custom, practice or course of dealing. Acceptance of an order will be deemed to bind the Supplier to these Conditions and no Goods or Services shall be supplied or performed by the Supplier, its employees; agents or representatives, except in accordance herewith. The University shall not be liable for any order unless it is issued or confirmed on its official order form and signed by designated University officers.
- 2.4 All of these Conditions shall apply to the supply of both Goods and Services except where the application to one or the other is specified.

3. SUPPLY OF GOODS

- 3.1 The Supplier shall supply the Goods detailed in the Order and perform its obligations under the Contract:
- (a) promptly and in any event within any time limits as may be set out in this Agreement;
 - (b) in accordance with all other provisions of this Agreement;
 - (c) using reasonable skill and care;
 - (d) in accordance with any quality assurance Standards as may be set out in the Specification or elsewhere in this Agreement;
 - (e) in accordance with all applicable laws and good industry practice;
 - (f) in accordance with all University policies of which the Supplier is notified; and
 - (g) in a professional and courteous manner
- 3.2 The Supplier shall ensure that the Goods shall:
- (a) correspond with their description and any applicable Goods Specification;

- (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, expressly or by implication, and in this respect the Supplier acknowledges that the University relies on the Supplier's skill and judgment;
 - (c) where applicable, be free from defects in design, materials and workmanship and remain so for twelve (12) months after delivery, (or such other period as may be specified in the Order and/or the Goods Specification).
 - (d) unless otherwise agreed by the University in writing, be new, consistent with any sample, and compliant with any applicable manufacturer's specifications; and
 - (e) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods.
- 3.3 The University shall have the right to inspect and test the Goods at any time before delivery and within a reasonable time after delivery.
- 3.4 If following such inspection or testing the University considers that the Goods do not conform or are unlikely to comply with the Supplier's undertakings at clause 3.1, the University shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance.
- 3.5 Notwithstanding any such inspection or testing, the Supplier shall remain fully responsible for the Goods and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract, and the University shall have the right to conduct further inspections and tests after the Supplier has carried out its remedial actions.
- 3.6 If any quality, performance and/or safety related reports, notices, alerts or other communications are issued by the Supplier or any regulatory or other body in relation to the Goods and/or the Services, the Supplier shall promptly provide the University with a copy of any such reports, notices, alerts or other communications.

4. DELIVERY OF GOODS TO THE UNIVERSITY

- 4.1 The Supplier shall ensure that:
- (a) the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition at the time(s) and at the place(s) specified in the Contract;
 - (b) each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the Order number (if any), the type and quantity of the Goods (including the code number of the Goods (where applicable)), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and
 - (c) if the Supplier requires the University to return any packaging material for the Goods to the Supplier, that fact is clearly stated on the delivery note. Any such packaging material shall only be returned to the Supplier at the Supplier's cost and risk.
- 4.2 The Supplier shall deliver the Goods:

- (a) on the date specified in the Order or, if no such date is specified, then within fourteen (14) days of the date of the Order;
 - (b) to the Premises or such other location as is set out in the Order or as instructed by the University before delivery (**Delivery Location**);
 - (c) during the University's normal hours of business on a Business Day, or as instructed by the University.
- 4.3 Delivery of the Goods shall be completed when unloading of the Goods at the Delivery Location has been completed by the Supplier and such delivery has been received by a duly authorised agent or employee of the University.
- 4.4 Part deliveries and/or deliveries outside of the agreed delivery times/dates/Delivery Location may be refused unless the University has previously agreed in writing to accept such deliveries. Where delivery of the Goods is refused by the University in accordance with this clause, the Supplier shall be responsible for all risks, costs and expenses associated with the rejected Goods and any re-delivery of the Goods in accordance with the agreed delivery times/dates/Delivery Location. Where the University accepts delivery more than five (5) days before the agreed delivery date, the University shall be entitled to charge the Supplier for the costs of insurance and storage of the Goods until the agreed date for delivery. If the Supplier delivers more or less than the quantity of Goods ordered, and the University accepts the delivery, a pro rata adjustment shall be made to the invoice for the Goods.
- 4.5 The Supplier shall not deliver the Goods in instalments without the University's prior written consent. Where it is agreed that the Goods are delivered by instalments, they may be invoiced and paid for separately. However, failure by the Supplier to deliver any one instalment on time or at all or any defect in an instalment shall entitle the University to the remedies set out in clause 7.1.
- 4.6 Title to and risk in the Goods shall pass to the University on completion of delivery.
- 4.7 Unless otherwise set out in the Order or agreed with the University in writing, the Supplier shall be responsible for carriage, insurance, transport, all relevant licences, all related costs, and all other costs associated with the delivery of the Goods to the Delivery Location and unloading of the Goods at that location. Without limiting the foregoing provision of this clause 4.7, unless otherwise stated in the Order or agreed with the University in writing, the Supplier shall be responsible for obtaining all export and import licences for the Goods and shall be responsible for any delays in delivery due to such licences not being available when required. In the case of any Goods supplied from outside the United Kingdom, the Supplier shall ensure that accurate information is provided to the University as to the country of origin of the Goods and shall be liable to the University for any extra duties or taxes for which the University may be accountable should the country of origin prove to be different from that set out in the Order.
- 4.8 Any third party engaged to deliver the Goods shall not at any time be an agent of the University. Accordingly the Supplier shall be liable to the University for the acts and omissions of all third parties engaged to deliver the Goods to the University.
- 4.9 All tools, equipment and materials of the Supplier required in the performance of the Supplier's obligations under the Contract shall be and remain at the sole risk of the

Supplier, whether or not they are situated at the Delivery Location, the Premises or any other premises of the University.

5. SUPPLY OF SERVICES

- 5.1 The Supplier shall from the date set out in the Order or if no date is set out in the Order, the Commencement Date, and for the duration of the Contract provide the Services to the University in accordance with the Contract at the Premises and/or at such other locations as may be set out in the Order or otherwise agreed by the University and the Supplier in writing.
- 5.2 The Supplier shall meet any dates for completion of performance of the Services specified in the Order or notified to the Supplier by the University.
- 5.3 In providing the Services, the Supplier shall:
- (a) co-operate with the University and with any other persons directed by the University in all matters relating to the Services, and comply with all instructions of the University;
 - (b) perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
 - (c) use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Contract;
 - (d) ensure that the Services and Deliverables will conform with all descriptions and specifications set out in the Service Specification, and that the Deliverables shall be fit for any purpose expressly or impliedly made known to the Supplier by the University;
 - (e) provide all equipment, tools, consumables and vehicles and such other items, resources and facilities as are required to provide the Services;
 - (f) use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to the University, will be free from defects in workmanship, installation and design;
 - (g) obtain and at all times maintain all necessary licences and consents, and comply with all applicable laws and regulations;
 - (h) observe all health and safety rules and regulations and any other security requirements that apply at any of the University's Premises;
 - (i) hold all materials, equipment and tools, drawings, specifications and data supplied by the University to the Supplier (**University Materials**) in safe custody at its own risk, maintain the University Materials in good condition until returned to the University, and not dispose or use the University Materials other than in accordance with the University's written instructions or authorisation;
 - (j) not do or omit to do anything which may cause the University to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that the University may rely or act on the Services;

- (k) not do, or omit to do, anything in relation to the Contract or in the course of its other activities that may bring the standing of the University into disrepute or attract adverse publicity for any of them;
- (l) at all times perform its obligations under the Contract with due regard to the need for those in a public service environment to observe the highest standards of efficiency, economy, probity, courtesy, consideration and hygiene; and
- (m) immediately notify the University of any complaint, notice, communication or failure relating to performance by the Supplier of the Services and provide the University with full co-operation and assistance in relation to any such complaint, notice, communication or failure.

6. PERSONNEL

- 6.1 The Supplier shall make available for the purposes of the Contract any individuals named on the Order as key personnel. The Supplier shall provide the University with a list of the names and addresses of all other persons who may be at any time concerned with provision of the Services, specifying in each case the capacities in which they are so concerned and giving such other particulars and evidence of identity and other supporting evidence as the University may reasonably require. The University may at any time by notice to the Supplier designate any person concerned with the Contract or any part of it as key personnel. The Supplier shall not without the proper written approval of the University make any changes in the key personnel referred to in this clause.
- 6.2 The Supplier shall take the steps reasonably required by the University to prevent unauthorised persons being admitted to the Premises or any premises of the University or who is not to become involved in or is to be removed from involvement in the Contract. The Supplier shall take all reasonable steps to comply with such notice.
- 6.3 The decision of the University as to whether any person is to be admitted to or is to be removed from the Premises or any premises of the University or who is not to become involved in or is to be removed from involvement in the Contract or as to the designation or approval of key personnel and as to whether the Supplier has furnished the information or taken the steps required of them by this clause shall be final and conclusive.
- 6.4 The Supplier shall bear the cost of any notice, instruction or decision of the University under this clause.

7. UNIVERSITY REMEDIES

- 7.1 If the Supplier fails to deliver the Goods and/or perform the Services in accordance with its obligations under the Contract, the University shall, without limiting its other rights or remedies, have one or more of the following rights, whether or not, in the case of Goods, it has accepted the Goods:
 - (a) upon written request and without charge, to require the Supplier promptly (and in any event within twenty (20) Business Days or such other time as may be agreed by the University and the Supplier in writing acting reasonably) remedy the deficiency by repairing such Goods and/or Services;

- (b) to reject the Goods (in whole or in part) whether or not title has passed and to return them to the Supplier at the Supplier's own risk and expense;
- (c) to terminate the Contract with immediate effect by giving written notice to the Supplier;
- (d) to refuse to accept any subsequent performance of the Services and/or delivery of the Goods which the Supplier attempts to make;
- (e) to recover from the Supplier any costs incurred by the University in obtaining substitute goods and/or services from a third party;
- (f) where the University has paid in advance for Services that have not been provided by the Supplier and/or Goods which have not been delivered by the Supplier, to have such sums refunded by the Supplier; and
- (g) 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 comply with its obligations under the Contract.

7.2 These Conditions shall extend to any substituted or remedial services and/or repaired or replacement goods supplied by the Supplier.

7.3 The University's rights under this Contract are in addition to its rights and remedies implied by statute and common law.

8. UNIVERSITY'S OBLIGATIONS

The University shall:

- (a) provide the Supplier with reasonable access at reasonable times to those parts of the Premises, if any, required to perform the Services for such period as the Supplier is obliged to provide the Services and during such other times as the parties may agree solely to enable the Supplier to perform its obligations under the Contract. The Supplier shall have the use of such Premises as licensee and shall not have or purport to claim any sole or exclusive right to possession, or to possession of any particular part, of such Premises and shall vacate such Premises upon the termination of the Contract or at such earlier date as the University may determine; shall not exercise or purport to exercise any rights in respect of any Premises in excess of those granted under this clause; and shall not damage the Premises or any assets on the Premises;
- (b) unless agreed otherwise in writing between the parties (referencing the Contract), be under no obligation to provide office or other accommodation or facilities or services (including telephony and IT services) to the Supplier;
- (c) provide such information as the Supplier may reasonably request for the provision of the Services and the University considers reasonably necessary for the purpose of providing the Services.

9. PRICE AND PAYMENT

9.1 The Price for the Goods is 'net', that is, after deduction of all agreed discounts. The Price is the fixed and entire price payable by the University to the Supplier in respect of the Goods and includes:

- (a) packaging, packing materials, addressing, labelling, loading, delivery to and unloading at the delivery location, all appropriate tax and duty, any installation costs and associated works, the costs of all associated documentation and information supplied or made accessible to the University in any media, and any training in relation to the use, storage, handling or operation of the Goods;
- (b) any royalties, licence fees or similar expenses in respect of the making, use or exercise by the Supplier of any Intellectual Property Rights for the purposes of performing this Agreement, and any licence rights granted to the University in accordance with this Agreement; and
- (c) costs and expenses in relation to supplies and materials used by the Supplier or any third party in the manufacture of the Goods, and any other costs incurred by the Supplier in association with the manufacture, supply or installation of the Goods

No extra charges shall be effective unless agreed in writing and signed by the University.

- 9.2 The Price for the Services shall be set out in the Order, and shall be the full and exclusive remuneration of the Supplier in respect of the performance of the Services. Unless otherwise agreed in writing by the University, the charges shall include any royalties, licence fees, supplies and all consumables used by the Supplier, travel costs, accommodation expenses, the cost of staff and all other costs and expenses of the Supplier directly or indirectly incurred in connection with the performance of the Services and VAT. No extra charges shall be effective unless agreed in writing and signed by the University.
- 9.3 In respect of Goods, the Supplier shall invoice the University on or at any time after completion of delivery. In respect of Services, the Supplier shall invoice the University on completion of the Services. Each invoice shall include such supporting information required by the University to verify the accuracy of the invoice, including but not limited to the relevant purchase order number.
- 9.4 In consideration of the supply of Goods and/or Services by the Supplier, the University shall pay each undisputed invoiced amount within thirty (30) days of the date of a correctly rendered invoice to a bank account nominated in writing by the Supplier.
- 9.5 No increase shall be made by the Supplier to the Price for any reason without the prior written consent of the University. The University shall be entitled to any discounts for prompt payment, bulk purchase, volume or purchase which may be customarily granted by the Supplier.
- 9.6 Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the University, the University shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods and/or Services at the same time as payment is due for the supply of the Goods and/or Services.
- 9.7 The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Services, and the Supplier shall allow the University to inspect such records at all reasonable times on request.

9.8 The University may at any time, without limiting any of its other rights or remedies, set off any liability of the Supplier to the University against any liability of the University to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract.

10. INTELLECTUAL PROPERTY RIGHTS

10.1 In respect of the Goods and any goods that are transferred to the University as part of the Services under this Contract, including without limitation the Deliverables or any part of them, the Supplier warrants that it has full clear and unencumbered title to all such items, and that at the date of delivery of such items to the University, it will have full and unrestricted rights to sell and transfer all such items to the University.

10.2 The Supplier assigns to the University, with full title guarantee and free from all third party rights, all Intellectual Property Rights in the products of the Services, including for the avoidance of doubt the Deliverables.

10.3 The Supplier shall obtain waivers of all moral rights in the products, including for the avoidance of doubt the Deliverables, of the Services to which any individual is now or may be at any future time entitled under Chapter IV of Part I of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction.

10.4 The Supplier shall, promptly at the University's request, do (or procure to be done) all such further acts and things and the execution of all such other documents as the University may from time to time require for the purpose of securing for the University the full benefit of the Contract, including all right, title and interest in and to the Intellectual Property Rights assigned to the University in accordance with clause 10.2.

10.5 Unless specified otherwise in the Order, the Supplier hereby grants to the University, for the life of the use of Goods by the University, an irrevocable, royalty-free, non-exclusive licence of any Intellectual Property Rights required for the purposes of receiving and using, and to the extent necessary to receive and use, the Goods (to include any associated technical or other documentation and information supplied or made accessible to the University in any media) in accordance with this Agreement.

10.6 All University Materials are the exclusive property of the University.

11. WARRANTIES

11.1 The Supplier hereby warrants and undertakes to the University that the Supplier:

- (a) will ensure sufficient stock levels to comply with its obligations under the Contract;
- (b) will ensure that all transport and delivery arrangements will result in delivery in good and useable condition;
- (c) where there is any instruction information, will provide a sufficient number of copies to the University and provide updated copies if the instruction information changes at any time during the performance of the Contract;
- (d) will not make any significant changes to the Goods or the Services without the prior written consent of the University;

- (e) will have, and will ensure its staff and any permitted agents and subcontractors will have, and will maintain throughout its performance of the Contract, all appropriate rights, consents, authorisations, registrations, licences and accreditations to fulfil the Supplier's obligations under the Contract;
- (f) will have and will maintain a properly documented system of quality controls and processes covering all aspects of its obligations under the Contract and shall at all times comply with them;
- (g) where any act of the Supplier requires the notification to and/or approval by any regulatory or other competent body, will comply fully with such notification and/or approval requirements;
- (h) will ensure that receipt of the Goods and/or Services by or on behalf of the University and use of the Goods, the Services and/or Deliverables or of any other item or information supplied or made available to the University will not infringe any third party rights, including any Intellectual Property Rights;
- (i) without prejudice to any specific notification requirements set out in the Contract, it will promptly notify the University of any health and safety hazard which has arisen, or the Supplier is aware may arise, in connection with the Goods and/or the performance of the Services and take such steps as are reasonably necessary to ensure the health and safety of persons likely to be affected by such hazards;
- (j) will use good industry practice to ensure that any information and communications technology systems and/or related hardware and/or software it uses are free from corrupt data, viruses, worms and any other computer programs or code which might cause harm or disruption to the University's information and communications technology systems;
- (k) will provide the University with such reports of its work on the Contract and provision of the Services and promptly respond to all requests for information regarding the Contract, the Goods and the provision of the Services at the frequency and in the format that the University may from time to time reasonably require;
- (l) will ensure that all information provided by the Supplier in connection with the Contract, the Order and all accompanying materials is and will be accurate in all material respects;
- (m) will keep and maintain until three years after the Contract has been completed records to the satisfaction of the University of all expenditures which are reimbursable by the University and of the hours worked and costs incurred by the Supplier or in connection with any employees and/or agents of the Supplier paid for by the University on a time charge basis. The Supplier shall on request afford the University or its representatives such access to those records as may be required by the University in connection with the Contract;
- (n) is a properly constituted entity, is fully empowered by the terms of its constitutional documents to enter into and to carry out its obligations under the Contract and the documents referred to in the Contract, has the right and

authority to enter into the Contract and has the capability and capacity to fulfil its obligations under the Contract;

- (o) has no actual, pending or threatened actions or proceedings before any court or administrative agency which would materially adversely affect the financial condition, business or operations of the Supplier;
- (p) has and will continue to have the capacity, funding and resources to meet all its obligations under the Contract; and
- (q) has understood the nature and extent of the Contract (including, if necessary, having visited the Premises), has satisfied itself as to the nature and extent of the risks assumed by it under the Contract and has gathered all information necessary to perform its obligations under the Contract and all other obligations assumed by it.

11.2 The Supplier agrees to use reasonable endeavours to assign to the University upon request the benefit of any warranty, guarantee or similar right which it has against any third party manufacturer or supplier of the Goods in full or part.

11.3 The Supplier warrants that all information, data and other records and documents required by the University as set out in the Order shall be submitted to the University in the format and in accordance with any timescales set out in the Order.

11.4 The Supplier further warrants and undertakes to the University that it will inform the University in writing immediately upon becoming aware that any of the warranties set out in this Clause 11 have been breached or it could reasonably be considered likely that there is a risk that any warranty given herein may be breached.

11.5 Any warranties provided by the Supplier under the Contract are both independent and cumulative and may be enforced independently or collectively at the sole discretion of the University.

12. INDEMNITIES

12.1 In addition to any other indemnities provided by the Supplier to the University elsewhere in these Conditions, the Supplier shall be liable to the University for, and shall indemnify and keep the University indemnified in full against, any and all Loss suffered, incurred or paid by the University, its servants or agents arising or resulting from the Supplier's acts or omissions or breach of its obligations in connection with the performance of the Contract including the supply of Goods and provision of the Services as a result of or in connection with:

- (a) any injury or allegation of injury to any person, including injury resulting in death;
- (b) any Loss of or damage to property;
- (c) any breach of the terms of the Contract including any warranty given by the Supplier under the Contract;

- (d) any claim that the Goods or the Services infringe, or their incorporation, use or resale infringes, the Intellectual Property Rights of any other person;
- (e) any claim made against the University in respect of any breach or alleged breach by the University of any statutory provision, regulation or bye-law or other rule of law arising from the acts or omissions of the Supplier or its employees, agents or subcontractors;
- (f) any liability under the Consumer Protection Act 1987 in respect of any Goods;
- (g) any liability under the General Product Safety Regulation 1994 in respect of the Goods and any claims which might give rise as a result of the Goods being a risk to health and safety or otherwise unsafe;
- (h) any liability under regulations relating to hazardous substances or under the Environment Protection Act 1990 in respect of the Goods; and
- (i) any act or omission of the Supplier or its employees, agents or sub-Suppliers in supplying, delivering and installing the Goods or performing the Services, including any injury, Loss or damage to persons or to University property caused or contributed to by any of their negligence or by faulty design, workmanship or materials (except to the extent that the injury, Loss or damage is caused by the negligent act or omission of the University).

12.2 The University may at its option satisfy the indemnities conferred by this clause (in whole or in part) by way of deduction from any payments due to the Supplier.

12.3 This clause 12 shall survive termination of the Contract.

13. INSURANCE

13.1 For the duration of the Contract and for a period of six years thereafter, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance for a sum insured of not less than £5,000,000, public liability insurance and employers' liability insurance for sums insured of not less than £10,000,000 and (where applicable) contract works or contractor's all risks insurance for the full value of the contract works to cover the liabilities that may arise under or in connection with the Contract. The Supplier shall, on the University's request, produce both the insurance certificates giving details of cover, and the receipt for the current year's premium in respect of each insurance.

13.2 The Supplier shall upon request produce to the University or cause any subcontractor to produce documentary evidence that the insurance is properly maintained.

13.3 If the Supplier defaults in insuring, the University may itself effect insurance and charge the cost together with an administrative charge of 5% to the Supplier.

14. CONFIDENTIALITY

14.1 A party (**receiving party**) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the receiving party by the other party (**disclosing**

party), its employees, agents or subcontractors, and any other Confidential Information concerning the disclosing party's business, its products and services which the receiving party may obtain. The receiving party shall only disclose such Confidential Information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract. The receiving party may also disclose such of the disclosing party's Confidential Information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction.

- 14.2 No media release, public announcement, disclosure, statement or advertisement may be made by the Supplier or the Supplier's employees or agents relating to the Contract or its subject matter, including but not limited to promotional or marketing material, (but excluding any announcement intended solely for internal distribution by the parties or any disclosure required by legal, accounting or regulatory requirements) without the prior written approval of the University.
- 14.3 The provisions of this clause shall apply during the continuance of the Contract and after its termination howsoever arising and are subject to the provisions of clause 22.

15. TERMINATION

- 15.1 Without limiting its other rights or remedies, the University may terminate the Contract:
- (a) in respect of the supply of Services, by giving the Supplier one month's written notice; and
 - (b) in respect of the supply of Goods, in whole or in part at any time before delivery with immediate effect by giving written notice to the Supplier, whereupon the Supplier shall discontinue all work on the Contract. The University shall pay the Supplier fair and reasonable compensation for any work in progress on the Goods at the time of termination, but such compensation shall not include loss of anticipated profits or any consequential loss.
- 15.2 Without limiting its other rights or remedies, the University may terminate the Contract with immediate effect by giving written notice to the Supplier if:
- (a) the Supplier commits a material breach of the terms of the Contract and (if such a breach is remediable) fails to remedy that breach within fourteen (14) days of receipt of notice in writing to do so;
 - (b) the Supplier commits more than one breach of any of its obligations under the Contract and the cumulative effect of such breaches is such that the University believes that the Supplier will continue to deliver a sub-standard performance over the period of not less than one (1) month immediately after such breach;
 - (c) the Supplier fails to make progress with delivery of any Goods and/or Services ordered so as to jeopardise the purpose for which the Goods and/or Services are to be supplied;
 - (d) 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 (being a company or limited liability partnership) 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, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;

- (e) 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 [other than (where a company) 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];
- (f) 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 (being a company) other than 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;
- (g) the Supplier (being an individual) is the subject of a bankruptcy petition or order;
- (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 its assets and such attachment or process is not discharged within fourteen (14) days;
- (i) 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 (being a company);
- (j) the holder of a floating charge over the assets of the Supplier (being a company) has become entitled to appoint or has appointed an administrative receiver;
- (k) 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;
- (l) 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 clause 15.2(d) to clause 15.2(k) (inclusive);
- (m) the Supplier suspends or ceases, or threatens to suspend, or cease, to carry on all or a substantial part of its business; or
- (n) the Supplier (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.

15.3 Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination.

15.4 Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.

16. **CONSEQUENCES OF TERMINATION**

On termination of the Contract for any reason, the Supplier shall immediately deliver to the University all Deliverables whether or not then complete, and return all University Materials in good condition and repair. If the Supplier fails to do so, then the University

may enter the Supplier's premises and take possession of them. Until they have been returned or delivered, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.

17. FORCE MAJEURE

- 17.1 Subject to the following provisions of this clause, the Supplier shall not be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under it if such a delay or failure result from an event, circumstances or cause beyond the Supplier's reasonable control (**Force Majeure Event**).
- 17.2 Where the Supplier is prevented or delayed in the performance of its obligations under the Contract by a Force Majeure Event, the Supplier shall as soon as reasonably practicable give notice in writing to the University specifying the nature and extent of the circumstances giving rise to its failure to perform or any anticipated delay in performance of its obligations.
- 17.3 Subject to service of such notice, the Supplier where affected by such circumstances shall have no liability for its failure to perform or for any delay in performance of its obligations affected by the Force Majeure Event only for so long as such circumstances continue.
- 17.4 The Supplier shall notify the University in writing as soon as the consequences of the Force Majeure Event have ceased and of when performance of its affected obligations can be resumed.
- 17.5 The Supplier shall use all reasonable endeavours to mitigate the effect of a Force Majeure Event on the performance of its obligations under the Contract and to resume performance of its obligations as soon as practicable.
- 17.6 Where the Force Majeure Event affects the Supplier's ability to perform part of its obligations under the Contract the Supplier shall fulfil all such obligations that are not so affected and shall not be relieved from its liability to do so.
- 17.7 If a Force Majeure Event prevents, hinders or delays the Supplier's performance of its obligations for a continuous period of thirty (30) Business Days or more, the University may terminate the Contract immediately by giving written notice to the Supplier.

18. SUPPLIER'S STATUS

- 18.1 The relationship of the Supplier to the University will be that of independent contractor and nothing in the Contract shall render the Supplier an employee, worker, agent or partner of the University and the Supplier shall not hold itself out as such.
- 18.2 The Supplier shall be fully and solely responsible for and shall indemnify the University from and in respect of any income tax, national insurance and social security contributions and any other liability, deduction, contribution, assessment, claim or tax arising from or made in connection with the performance of the Contract, where the recovery is not prohibited by law. The Supplier shall further indemnify the University against all reasonable costs, expenses and any penalty, fine or interest incurred or payable by the University in connection with or in consequence of any such liability, deduction, contribution, assessment or claim.

18.3 Without prejudice to clause 20.1 the Supplier shall be fully responsible for and shall indemnify the University from and in respect of any Loss or other liability arising out of or in connection with the performance of the Contract from any employment-related claim or any claim based on worker status brought against the University by the Supplier or by any person who is or has been an employee, worker, agent or contractor of the Supplier.

19. RE-TENDERING AND HANDOVER

19.1 During the currency of the Contract the Supplier shall provide to the University any information the University may reasonably require relating to any individual employed, assigned or engaged in providing the Services under the Contract to the extent permitted by law.

19.2 Without prejudice to the generality of clause 19.1, within twenty-one (21) days of being so requested by the University, the Supplier shall provide and thereafter keep updated, in a fully indexed and catalogued format, all the information necessary to enable the University to issue invitations to offer for the future provision of the Services, including but not limited to all employee liability information identified in Regulation 11 of TUPE.

19.3 Where, in the opinion of the University, TUPE is likely to apply on the termination or expiration of the Contract, the information to be provided by the Supplier under clause 19.2 shall include, as applicable, accurate information relating to the employees who would be transferred under the same terms of employment under TUPE, including:

- (a) the number of employees who would be transferred, including their names;
- (b) in respect of each of those employees, their dates of birth, sex, salary, length of service, hours of work and rates, and any other factors affecting redundancy entitlement, any specific terms applicable to those employees individually and any outstanding claims arising from their employment;
- (c) the general terms and conditions applicable to those employees, including probationary periods, retirement age, periods of notice, current pay agreements and structures, special pay allowances, working hours, entitlement to annual leave, sick leave, maternity and special leave, injury benefit, redundancy rights, terms of mobility, any loan or leasing agreements, and any other relevant collective agreements, facility time arrangements, additional employment benefits and any other particulars of employment that an employer is obliged to give to an employee pursuant to Section 1 of the Employment Rights Act 1996;
- (d) information of any disciplinary or grievance procedure taken against or by an employee within the previous two years;
- (e) information of any court or tribunal case, claim or action brought by an employee against the Supplier within the previous two years and any information that the Supplier has reasonable grounds to believe that an employee may bring any court or tribunal case, claim or action against the University or any Supplier engaged to replace the Supplier or any sub-Supplier of the Supplier (**Replacement Contractor**) arising out of the employee's employment with the Supplier.

- 19.4 The University shall take all necessary precautions to ensure that the information referred to in clause 19.2 is given only to Replacement Contractors who have qualified to offer for the future provision of services. The University shall require that such Replacement Contractors shall treat such information in confidence, that they shall not communicate it except to such persons within their organisation and to such extent as may be necessary for the purpose of preparing a response to an invitation to offer issued by the University and that they shall not use it for any other purpose.
- 19.5 The Supplier shall indemnify the University against any claim made against the University at any time by any person in respect of any liability incurred by the University arising from any deficiency or inaccuracy in information which the Supplier is required to provide under clause 19.3.
- 19.6 The Supplier shall allow access to the Sites, in the presence of a representative of the University, to any person representing any Replacement Contractor whom the University has selected to offer for the future provision of services. For the purpose of such access, where the Site is on the Supplier's premises, the University shall give the Supplier seven (7) days' notice of a proposed visit together with a list showing the names of all persons who will be attending those premises. All persons who attend the Supplier's premises for the purposes of this clause 19.6 shall comply with the Supplier's security procedures, subject to such compliance not being in conflict with the objective of the visit.
- 19.7 The Supplier shall co-operate fully with the University during any handover arising from the completion or earlier termination of the Contract. This co-operation, during the setting-up operations period of the Replacement Contractor, shall extend to allowing full access to, and providing copies of all documents, reports, summaries and other information necessary to achieve an effective transition without disruption to routine operational requirements.
- 19.8 Within ten (10) Business Days of being so requested by the University, the Supplier shall transfer to the University, or any person designated by the University, free of charge, all computerised filing, recordings, documentation, planning and drawings held on software and utilised in the provision of the Services. The transfer shall be made in a fully indexed and catalogued disk format to operate on any proprietary software package identical to that used by the University.

20. TUPE

- 20.1 The Supplier shall indemnify and keep indemnified the University against any Loss incurred by the University connected with or arising from:
- (a) any claim or proceedings by any trade union, elected employee representative, staff association, or employee made against the University in respect of any or all employees of the Supplier and which arises from or is connected with any failure by the Supplier to comply with its legal obligations in relation thereto whether under Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 or Regulations 11, 13 and/or 14 of TUPE;
 - (b) the contract of employment or any policy applicable to, or any collective agreement in respect of any person at any time employed by (or engaged as a consultant by) the Supplier made against the University at any time for breach of such contract, policy or

any such collective agreement, including but not limited to any claims relating to pay, unfair dismissal, statutory or contractual redundancy pay, discrimination on grounds of sex, gender reassignment, race, disability, religion or belief, sexual orientation, age, pregnancy or maternity, marriage or civil partnership, equal pay, unlawful deductions, loss of earnings, industrial or personal injury or otherwise and which results from any act, fault or omission of the Supplier while such person was employed by the Supplier;

- (c) any change or proposed change to the terms and conditions of employment of any Employees where such change is or is proposed to be effected following the transfer of any such person pursuant to the Contract and in respect of any Loss incurred by the University arising from the employment or proposed employment of any such Employee otherwise than on terms the same as those enjoyed by any such person immediately prior to such transfer.

20.2 The Supplier shall, if so requested by the University and to the extent permitted by law, within twenty (20) Business Days of the earliest of:

- (a) receipt of a notification from the University of any change or intended change in the identity of the provider of the whole or any part of the Services subsequent to the commencement of the Contract, whether as a result of termination or expiry of the Contract (or any part thereof) or otherwise resulting in a transfer of the Services in whole or in part;
- (b) receipt of the giving of notice of early termination of the Contract or any part thereof; or
- (c) the date which is 12 months before the expiry of the Contract (if an expiry date has been agreed between the University and the Supplier)

and, in any event, on receipt of a written request from the University at any time, supply to the University or any person designated by the University, all information required by the University as to the terms and conditions of employment and employment history of any employees (including all employee liability information identified in Regulation 11 of TUPE) then assigned by the Supplier to the provision of the Services and shall warrant the accuracy of such information and shall update such information when requested by the University. This obligation shall be a continuing obligation up to and including the date of any transfer by operation of TUPE.

20.3 Except with the prior written consent of the University, the Supplier agrees that it shall not from the date of the earliest event referred to in clause 20.2, assign any person to the provision of the Services who is not listed in the information provided pursuant to clause 20.2, vary any terms and conditions of employment of any employee or any policy or collective agreement applicable to any employee then assigned by the Supplier to the provision of the Services (provided always that this provision shall not affect the right of the Supplier to give effect to any pre-existing contractual obligation to any such employee) or remove or replace any particular employee so assigned (unless requested by such employee or upon the resignation of such employee in which case the Supplier may replace such person with another person of similar skills, qualifications and experience).

21. DATA PROTECTION

- 21.1 The Supplier shall ensure compliance with the requirements of the Data Protection Act 1998 (and any statutory modification or re-enactment thereof from time to time in force) (the 'DPA') in respect of any information supplied to the Supplier by the University. The Supplier and the University acknowledge that for the purposes of the DPA, the University is the Data Controller and the Supplier is the Data Processor of any Personal Data (as defined under the DPA).
- 21.2 The Supplier agrees to comply, and procure that its employees, representatives and agents comply, at all times with the University's data protection and data security policies in force from time to time and as notified by the University to the Supplier. The Supplier shall process the Personal Data only to the extent, and in such a manner, as is necessary for the purposes of complying with its obligations under the Contract and in accordance with the University's instructions from time to time, shall not process the Personal Data for any other purpose, shall not disclose the Personal Data to any Data Subject or to a third party other than at the request of the University or as provided for in the Contract and shall not transfer the Personal Data outside the European Economic Area without the prior written consent of the University.
- 21.3 The Supplier will keep a record of any processing of Personal Data it carries out on behalf of the University. The Supplier shall promptly comply with any request from the University requiring the Supplier to amend, transfer or delete the Personal Data. If the Supplier receives any complaint, notice or communication which relates directly or indirectly to the processing of the Personal Data or to either party's compliance with the DPA and the data protection principles set out therein, it shall immediately notify the University and it shall provide the University with full co-operation and assistance in relation to any such complaint, notice or communication. At the University's request, the Supplier shall provide to the University a copy of all Personal Data held by it in the format and on the media reasonably specified by the University. The Supplier shall promptly inform the University if any Personal Data is lost or destroyed or becomes damaged, corrupted, or unusable. The Supplier will restore such Personal Data at its own expense.

22. FREEDOM OF INFORMATION

- 22.1 The Supplier acknowledges that to the extent that the University is subject to the Freedom of Information Act 2000, all regulations and guidance made under it and the Environmental Information Regulations 2004 ("FOI Legislation") the Supplier agrees:
- (a) to assist and co-operate with the University to enable the University to comply with its obligations under the FOI Legislation; and
 - (b) that the University may be obliged under the FOI Legislation to disclose information without consulting or obtaining consent from the Supplier and, subject to the provisions of this clause 9, may ultimately at its discretion disclose such information.
- 22.2 Without prejudice to the generality of clause 22.1, the Supplier shall:

- (a) transfer to the University each FOI Legislation information request relevant to the Contract that it may receive as soon as practicable and in any event within two (2) Business Days of receiving such information request; and
- (b) in relation to information held by the Supplier on behalf of the University, provide the University with details about and/or copies of all such information that the University requests and such details and/or copies shall be provided within five Business Days of a request from the University (or such other period as the University may reasonably specify) and in such forms as the University may reasonably specify.

22.3 The University shall be responsible for determining whether information is exempt information under the FOI Legislation and for determining which information will be disclosed in response to an information request in accordance with the FOI Legislation. The Supplier shall not itself respond to any person making an information request, save to acknowledge receipt, unless expressly authorised to do so by the University.

23. EQUALITY AND COUNTER-TERRORISM

23.1 In performing its obligations under the Contract, the Supplier shall:

- (a) have due regard to the need to promote equality and foster good relations between those who share a protected characteristic (as defined in the Equality Act 2010) and those who do not;
- (b) comply with applicable provisions of the Equality Act 2010 and other relevant legislation and statutory codes of practice relating to equality;
- (c) not unlawfully discriminate against any person, or subject any person to harassment or victimisation, because of a protected characteristic (as defined in the Equality Act 2010) or subject any person to harassment under the Protection from Harassment Act 1997;
- (d) cooperate with the University to ensure that appropriate action is taken in respect of any breach or alleged breach of the foregoing provisions.

23.2 The Supplier shall give such reasonable assistance as the University may from time to time request to enable the University to comply with its statutory duty and policies under the Counter-Terrorism and Security Act 2015 to have due regard to the need to prevent people from being drawn into terrorism and extremism.

24. CONFLICTS OF INTEREST AND THE BRIBERY ACT 2010

24.1 The Supplier shall take appropriate steps to ensure that neither the Supplier nor any Staff are placed in a position where, in the reasonable opinion of the University, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Supplier and the duties owed to the University under the provisions of this Agreement. The Supplier will disclose to the University full particulars of any such conflict of interest which may arise.

24.2 The University reserves the right to terminate this Agreement immediately by notice in writing and/or to take such other steps it deems necessary where, in the reasonable opinion of the University, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Supplier and the duties owed to the

University under the provisions of this Agreement. The actions of the University pursuant to this Clause shall not prejudice or affect any right of action or remedy which shall have accrued or shall subsequently accrue to the University.

24.3 The Supplier warrants and represents to the University:

- (a) that it has not committed any offence under the Bribery Act 2010 or done any of the following ('Prohibited Acts'):
 - (i) offered, given or agreed to give any officer or employee of the University any gift or consideration of any kind as an inducement or reward for doing or not doing or for having done or not having done any act in relation to the obtaining or performance of this or any other agreement with the University or for showing or not showing favour or disfavour to any person in relation to this or any other agreement with the University; or
 - (ii) in connection with the Contract paid or agreed to pay any commission other than a payment, particulars of which (including the terms and conditions of the agreement for its payment) have been disclosed in writing to the University;and
- (b) it has in place adequate procedures to prevent bribery and corruption, as contemplated by section 7 of the Bribery Act 2010.

24.4 If the Supplier or its Staff (or anyone acting on its or their behalf) has done or does any of the Prohibited Acts or has committed or commits any offence under the Bribery Act 2010 with or without the knowledge of the Supplier in relation to the Contract or any other contract or arrangement with the University, the University shall be entitled:

- (a) to terminate the Contract and recover from the Supplier the amount of any Loss resulting from the termination;
- (b) to recover from the Supplier the amount or value of any gift, consideration or commission concerned; and/or
- (c) to recover from the Supplier any other Loss or expense sustained in consequence of the carrying out of the Prohibited Act or the commission of the offence under the Bribery Act 2010.

24.5 Any termination under Clause 24.4 shall be without prejudice to any right or remedy that has already accrued, or subsequently accrues, to the University.

25. GENERAL

25.1 Assignment and other dealings.

The Supplier shall not, assign, subcontract, novate, create a trust in, or in any other way dispose of the whole or any part of the Contract without the prior consent in writing of the University. If the Supplier subcontracts any of its obligations under the Contract, every act or omission of the subcontractor shall for the purposes of the Contract be deemed to be the act or omission of the Supplier and the Supplier shall be liable to the University as if such act or omission had been committed or omitted by the Supplier itself.

- 25.2 Any authority given by the University for the Supplier to subcontract any of its obligations under the Contract shall not impose any duty on the University to enquire as to the competence of any authorised subcontractor. The Supplier shall ensure that any authorised subcontractor has the appropriate capability and capacity to perform the relevant obligations and that the obligations carried out by such subcontractor are fully in accordance with the Contract.
- 25.3 Where the Supplier enters into a subcontract in respect of any of its obligations under the Contract relating to the manufacture, supply, delivery or installation of or training in relation to the Goods or provision of the Services, the Supplier shall include provisions in each such subcontract, unless otherwise agreed with the University in writing, which:
- (a) contain at least equivalent obligations as set out in the Contract in relation to such manufacture, supply, delivery or installation of or training in relation to the Goods or performance of the Services to the extent relevant to such subcontracting;
 - (b) contain at least equivalent obligations as set out in the Contract in respect of confidentiality, information security, data protection, Intellectual Property Rights, compliance with law and record keeping;
 - (c) contain a prohibition on the subcontractor subcontracting, assigning or novating any of its rights or obligations under such subcontract without the prior written approval of the University;
 - (d) contain a right for the University to take an assignment or novation of the subcontract (or part of it) upon expiry or earlier termination of the Contract; and
 - (e) require payment to be made of all sums due to the subcontractor from the Supplier within a specified period not exceeding thirty (30) days from receipt by the Supplier of a valid invoice.
- 25.4 The University may at any time transfer, assign, novate, subcontract or otherwise dispose of its rights and obligations under this Agreement or any part of this Agreement and the Supplier warrants that it will carry out all such reasonable further acts required to effect such transfer, assignment, novation, subcontracting or disposal.
- 25.5 **Notices.**
- (a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, or sent by pre-paid first class post or other next working day delivery service, commercial courier, fax [or e-mail].
 - (b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 25.5(a); if sent by pre-paid first class post or other next working day delivery service, at 12.00 pm on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail, at 12.00 pm on the Business Day after transmission.

- (c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

25.6 **Severance.** 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.

25.7 **Waiver.** A waiver of any right or remedy under the Contract or law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. 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.

25.8 **No partnership or agency.** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, nor constitute either party the agent of the other for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.

25.9 **Third parties.** A person who is not a party to the Contract shall not have any rights to enforce its terms.

25.10 **Variation.** The University may from time to time by notice to the Supplier vary the University's requirements in relation to the Goods and/or the Services. Such variations may include, but are not limited to additions, omissions, substitutions, alterations, changes in quality, form, character, kind, position, dimensions, level or line, and changes in any specified sequence method or timing of the Services.

If the Supplier considers that any directions of the University will then or later reduce or increase the Price, the Supplier shall promptly notify the University in writing giving details thereof.

Any adjustment to the Price shall be determined in accordance with the rates/prices specified in the Contract (if applicable). If the Contract shall not contain such rates/prices then reasonable rates/prices shall be agreed by the parties and the Supplier shall provide the University with whatever supporting evidence the University may reasonably require to enable such reasonable rates/prices to be determined.

If the University does not agree that its directions will reduce or increase the Price, or the rates/prices are not agreed between the University and the Supplier, the University shall notify the Supplier in writing of its reasons. Notwithstanding such disagreement the Supplier shall, unless otherwise notified by the University, carry out such variations without prejudice to any of its other rights under the Contract or at law.

The Supplier shall, when carrying out any such variations, be bound by the Contract.

Except as set out in these Conditions or in the Contract, no further variations of the Supplier, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by the University.

- 25.11 **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 England and Wales.
- 25.12 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).