

January 2025 – v. 1.1

[Consultant Company name]  
Consultant Company address]

Attn: [insert Consultant Company contact name]

By email to: [insert Consultant Company contact email address]

Date: [Insert date]

Consultant Company ref: [Insert  
Consultant Company's reference, if any]

Our ref: [Insert University reference]

Dear Sirs,

**Award of contract for the supply of [insert description of Services]**

This letter (the “**Award Letter**”) and its Annex(es) set out the terms of the contract between King's College London [or other applicable University entity] as the customer (the “**University**”) and [insert Consultant Company's name] as the consultant (the “**Consultant Company**” or “**you**”) for the provision of the Services. Unless the context otherwise requires, capitalised expressions used in this Award Letter have the same meanings as in the terms and conditions of contract set out in Annex 3 to this Award Letter (the “**Conditions**”).

Following the Consultant Company's tender/ proposal for the supply of [insert short description of services] to the University, the University is pleased to award this contract to the Consultant Company.

Please do not attach any terms and conditions to this Award Letter as they will not be accepted by the University and may delay the conclusion of the Contract.

For the purposes of the Contract, the University and the Consultant Company agree as follows:

- 1) The Services shall be performed at [insert description of premises (including whether they are the University's premises, the Consultant Company's premises and/or a third party's premises and in each case the address)].
- 2) The charges for the Services shall be as set out in [Annex 1 / the Consultant Company's quotation dated [insert date a copy of which is at Annex 2]].
- 3) The specification of the Services to be supplied is as set out in [Annex 2 / the Consultant Company's quotation dated [insert date] a copy of which is at Annex 2].
- 4) The Term shall commence on [insert the start date of the contract].
- 5) The address for notices of the Parties are:

**University**

[King's College London / applicable entity  
and address of University entity]

Attention: [insert title]

Email: [insert email address]

**Consultant Company**

[insert name  
and address of Consultant Company]

Attention: [insert title]

Email: [insert email address]

- 6) The following persons are Key Personnel for the purposes of the Contract:

**Name**

**Title**

- 7) For the purposes of the Contract the Staff Vetting Procedures are available on the University's website: <https://www.kcl.ac.uk/jobs/how-we-recruit/pre-employment-checks> and the Data Protection Policy, Information Security Policy, Equality and Diversity Policy and Environmental Sustainability Policy are in the [University's Policy Hub](#).

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- 8) The University may require the Consultant Company to ensure that any person employed in the provision of the Services has undertaken a Disclosure and Barring Service check. The Consultant Company shall be obliged to disclose the results to the University and accept the Universities decision as to whether the person is employed or engaged in the provision of any part of the Services.
- 9) The Consultant Company shall comply with the following KPIs:  
[Details of KPIs] [Note to University: If required, include any Key Performance Indicators that the Consultant Company has to meet in the provision of the Services, i.e. emails responded to by the Consultant Company within 4 hours, 99% of maintenance issues repaired within 2 days etc]
- 10) Service Credits - [Details of any payments to be refunded to the University by the Consultant Company in the event that the Consultant Company fails to comply with the KPIs - i.e. for each KPI the Consultant Company fails to meet in a month (or applicable charges period), the Consultant Company the Service Credit shall be 2% of the Charges paid or payable for that month]

### Payment

All invoices must be sent electronically, quoting a valid purchase order number (PO Number), to: [accountspayable@kcl.ac.uk](mailto:accountspayable@kcl.ac.uk). You must be in receipt of a valid PO Number before submitting an invoice.

To avoid delay in payment it is important that the invoice is compliant and that it includes a valid PO Number, PO Number item number (if applicable) and the details (name and telephone number) of the University contact (i.e. Contract Manager). Non-compliant invoices will be sent back to the Consultant Company, which may lead to a delay in payment. If the Consultant Company has a query regarding an outstanding payment it should contact the University's Accounts Payable section either by email to [accountspayable@kcl.ac.uk](mailto:accountspayable@kcl.ac.uk) or by telephone (020) 7848 3255 between 09:00-17:00 Monday to Friday.

### Liaison

For general liaison the Consultant Company's contact at the University will continue to be [insert Contract Manager name and contact details] or, in their absence, [insert secondary name and contact details].

We thank you for your co-operation to date and look forward to forging a successful working relationship resulting in a smooth and successful delivery of the Services. Please confirm the Consultant Company's acceptance of the award of this contract by signing and returning the enclosed copy of this letter to [insert name] at the above address **within seven days from the date of this letter**. No other form of acknowledgement will be accepted. Please remember to quote the reference number above in any future communications relating to this contract.

Yours faithfully,

Signed for and on behalf of King's College London

Name: [insert name]  
[insert job title]

Signature:

Date:

We accept the terms set out in this letter and its **Annexes**, including the Conditions.

Signed for and on behalf of [insert name of Consultant Company]



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Name: [*insert name*]  
[*insert job title*]

Signature:

Date:

### **Annex 1 – Charges**

[Include detailed breakdown of the Charges payable to the Consultant Company]

## **Annex 2 – Services Specification**

[Include detailed breakdown of the Services to be provided by the Consultant Company]

### **Annex 3 - Conditions of Appointment**

#### **1. INTERPRETATION**

##### **1.1 Definitions:**

In these Conditions, the following definitions apply:

<b>"Award Letter"</b>	means the 'Award Letter' attached to these Conditions;
<b>"Business Day"</b>	means a day (other than a Saturday, Sunday or public holiday) in England when the University is open for business;
<b>"Charges"</b>	means the charges for the Services set out in the Award Letter or as otherwise agreed in writing between the Parties, less any deductions for income tax and national insurance contributions as required by law;
<b>"Commencement Date"</b>	means the date on which the Award Letter is signed by both Parties;
<b>"Conditions"</b>	means the terms and conditions set out in this document;
<b>"Confidential Information"</b>	<p>means any information which has been designated as confidential by either Party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information the disclosure of which would, or would be likely to, prejudice the commercial interests of any person, trade secrets, Intellectual Property Rights and know-how of either Party. Confidential Information shall not include information which:</p> <ul style="list-style-type: none"><li>(a) was public knowledge at the time of disclosure (otherwise than by breach of Clause 20;</li><li>(b) was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party;</li><li>(c) is received from a third party (who lawfully acquired it) without restriction as to its disclosure, or</li><li>(d) is independently developed without access to the Confidential Information;</li></ul>
<b>"Consultant Company"</b>	means the company named on the Award Letter making available the Individual to provide the Services to the University under the Contract;
<b>"Contract"</b>	means these Conditions, the Award Letter, the Specification (if any) and the Schedules to these Conditions together with any documents referred to in any of them;
<b>"Deemed Employment"</b>	means an engagement to which section 61M(1)(d) of the Income Tax (Earnings and Pensions) Act 2003 applies.
<b>"Deliverables"</b>	means all documents, products and materials to be developed by the Consultant Company and/or the Individual 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);
<b>"Environmental Policy"</b>	means the University's environmental policy as updated by the

	University from time to time and located at <a href="http://www.kcl.ac.uk/policyhub">http://www.kcl.ac.uk/policyhub</a> ;
<b>"Engagement"</b>	means the engagement of the Consultant Company by the University on the terms of this Contract;
<b>"Ethics and Anti-bribery Policy"</b>	means the University's ethics and anti-bribery policy as updated by the University from time to time and made available to the Consultant Company upon request;
<b>"Freedom of Information Legislation"</b>	means the Freedom of Information Act 2000 and the Environmental Information Regulations 2004, together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to the same;
<b>"Good Industry Practice"</b>	means, at any time, the exercise of that degree of care, skill, diligence, prudence, efficiency, foresight and timeliness which would be reasonably expected at such time from a leading and expert supplier of similar services to the Services to a customer like the University, such supplier seeking to comply with its contractual obligations in full and complying with all applicable laws (including the Data Protection Legislation);
<b>"Health and Safety Policies"</b>	means the University's overarching health and safety policy and all applicable supporting policies and guidance notes as updated from time to time by the University and in each case as can be located at <a href="https://www.kcl.ac.uk/policyhub">https://www.kcl.ac.uk/policyhub</a> ;
<b>"Individual(s)"</b>	means a person or the persons agreed in writing between the Parties as being the person identified to provide the Services on behalf of the Consultant Company, including each Substitute;
<b>"Intellectual Property Rights"</b>	means all patents, rights to inventions, copyright and related rights, trade marks and trade names, rights to goodwill or to sue for passing off, rights in designs, database rights, rights in confidential information (including without limitation know-how) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, 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;
<b>"Invention"</b>	means any invention, idea, discovery, development, improvement or innovation made by the Consultant Company or by the Individual in connection with the provision of the Services, whether or not patentable or capable of registration, and whether or not recorded in any medium;
<b>"ITT"</b>	means the invitation to tender or request for quotes issued by the University for the Services (if any and as applicable);
<b>"Losses"</b>	means any losses, liabilities, damages, compensation, awards, claims, proceedings, costs and other expenses including fines, penalties, interest, legal and other professional fees and expenses
<b>"KPIs"</b>	means the key performance indicators set out in the Award Letter;

<b>"Modern Slavery Policy"</b>	means the University's anti-slavery and human trafficking policy in force and notified to the Consultant Company from time to time;
<b>"Off-payroll Working rules"</b>	means the rules in Chapter 10 of Part 2 of the Income Tax (Earnings and Pensions) Act 2003;
<b>"Payment Card Industry Data Security Standards"</b>	means the industry standards found at <a href="https://www.pcisecuritystandards.org/standards/pci-dss/">https://www.pcisecuritystandards.org/standards/pci-dss/</a> as updated from time to time;
<b>"Premises"</b>	means any premises owned, operated or used by the University and at which Services are to be performed as notified to the Consultant Company;
<b>"Regulations"</b>	means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (246/2006) as amended and/or any other regulations enacted for the purpose of implementing the Acquired Rights Directive (Council Directive 77/187/EEC as amended by Council Directive 98/50 EEC and consolidated in Council Directive 2001/23/EEC) into English law;
<b>"Replacement Consultant Company"</b>	means any alternative consultant company appointed by the University to make available the Individuals to provide the Services to the University;
<b>"Rules and Regulations for Contractors"</b>	means the University's rules and regulations where the Consultant Company is a contractor (as defined therein) located at <a href="https://www.kcl.ac.uk/about/assets/estates-assets/pdf/rulesregs/ef-asu-02-pr60.pdf">https://www.kcl.ac.uk/about/assets/estates-assets/pdf/rulesregs/ef-asu-02-pr60.pdf</a> as updated from time to time;
<b>"Services"</b>	means the services described in the Award Letter or in any direction given, including, without limitation, any Deliverables, to be provided by the Consultant Company under the Contract;
<b>"Service Credit"</b>	has the meaning given in the Award Letter;
<b>"Specification"</b>	means the description and specification for the Services as may be set out in the ITT or Tender or as otherwise as provided by the Consultant Company to the University;
<b>"Substitute"</b>	means a substitute for the Individual appointed under the terms of Clause 5.5 or 24.2.3;
<b>"Tender"</b>	means the Consultant Company's written response to the ITT and/or quotation, if applicable, including all supporting documentation and representations;
<b>"Term"</b>	means the duration of the Contract, from the Commencement Date until both Parties' obligations under the Contract have been performed (unless the Contract is otherwise terminated in accordance with these Conditions or it is otherwise lawfully terminated);
<b>"University"</b>	means King's College London or any wholly owned or associated subsidiary thereof named on the Award Letter;
<b>"University's Code of Conduct"</b>	means the University's code of conduct as updated by the University from time to time and made available to the Consultant Company



upon request;

**"University Materials"**

has the meaning given to it in Clause 5.1.13;

**"University Policies"**

means the University's policies and procedures which can be found at <https://www.kcl.ac.uk/policyhub> (as updated from time to time);

**"Works"**

means all records, reports, documents, papers, drawings, designs, transparencies, photos, graphics, logos, typographical arrangements, software programs, inventions, ideas, discoveries, developments, improvements or innovations and all materials embodying them in whatever form, including but not limited to hard copy and electronic form, prepared by the Consultant Company or the Individual in connection with the provision of the Services.

## 1.2 Interpretation:

In these Conditions:

- 1.2.1 use of the singular includes the plural (and *vice versa*) and use of any gender includes the other genders;
- 1.2.2 a reference to a Party is to a party to the Contract and shall include that Party's personal representatives, successors or permitted assignees;
- 1.2.3 a reference to persons includes natural persons, firms, partnerships, bodies corporate and corporations, and associations, organisations, governments, states, foundations, trusts and other unincorporated bodies (in each case whether or not having separate legal personality and irrespective of their jurisdiction of origin, incorporation or residence);
- 1.2.4 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;
- 1.2.5 a reference to writing or written includes emails but not fax;
- 1.2.6 a reference to a statute or statutory provision is a reference to it as amended, extended, re-enacted or substituted from time to time and shall include any subsidiary legislation including any modification or re-enactment thereof;
- 1.2.7 the table of contents and headings are included for convenience only and will not affect the construction or interpretation of the Contract;
- 1.2.8 a reference to a Clause or Schedule is to the relevant Clause of or Schedule to these Conditions; a reference to a paragraph is to the relevant paragraph of the Schedule in which it appears; and
- 1.2.9 the Schedules form an integral part of these Conditions and have effect as if set out in full in the body of these Conditions.

## 2. BASIS OF CONTRACT

- 2.1 These Conditions apply to the Contract to the exclusion of any other terms that the Consultant Company seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

- 2.2 The Consultant Company acknowledges and agrees that the University is entering into the Contract on the basis of the Tender, the Tender is accurate and complete in all material respects, and is not misleading.
- 2.3 The Contract commences on the Commencement Date and will continue in full force and effect for the Term.
- 2.4 In case of a conflict between these Conditions, the Award Letter, the Specification (if any) and any Schedules, the following order of precedence shall apply:
  - 2.4.1 the Award Letter;
  - 2.4.2 these Conditions;
  - 2.4.3 the Specification (if any);
  - 2.4.4 the Schedules; and
  - 2.4.5 any other document incorporated into these Conditions.

### 3. **APPOINTMENT**

- 3.1 The University shall engage the Consultant Company and the Consultant Company shall make available to the University the Individual(s) to provide the Services for the duration of the Contract upon the terms and conditions of the Contract.

### 4. **CONSULTANT COMPANY'S REPRESENTATIONS AND WARRANTIES**

- 4.1 The Consultant Company represents and warrants to the University that:
  - 4.1.1 all information, statements and representations contained in the Tender, if applicable, are in all material respects, true, accurate, and not misleading; and
  - 4.1.2 it is not (and will not at any time be) subject to any contractual obligation, compliance with which is likely to have an effect on its ability to perform its obligations under the Contract.
- 4.2 The Consultant Company shall promptly notify the University if it becomes aware of any fact, matter or circumstance after the Commencement Date which would render the representations and warranties set out in Clause 4.1 false or misleading.
- 4.3 The Consultant Company shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract and in relation to the Individual's performance of the Services.

### 5. **OBLIGATIONS OF THE CONSULTANT COMPANY**

- 5.1 In providing the Services, the Consultant Company shall (and it shall be a condition of the Contract that the Consultant Company shall), and (where appropriate) shall procure that the Individual shall:
  - 5.1.1 provide the Services and spend as much time as is necessary:
    - (a) for the proper performance of the duties under the Contract; and
    - (b) to meet the University's requirements for the Services;
  - 5.1.2 at all times comply with the University Policies;

- 5.1.3 complete any training required by the University relating to the requirements of the Contract. If the Individual does not successfully complete such training within the time period specified by the University, then the University shall be entitled to terminate the Contract by written notice with immediate effect and the University shall have no liability of any kind under the Contract except for fees for Services properly provided;
- 5.1.4 perform the Services exercising the professional skill, care and diligence that would be expected of a professionally qualified consultant experienced in performing services substantially similar in size, scope and complexity to the Services;
- 5.1.5 provide the University with such reports relating to the provision of the Services at such intervals and in such form as the University may from time to time require;
- 5.1.6 co-operate fully with all of the University's personnel during the term of the Contract;
- 5.1.7 co-operate with the University in all matters relating to the Services, including the requirements of the ITT, Tender and Award Letter; and comply with all instructions of the University;
- 5.1.8 ensure that the Services and Deliverables will conform with all descriptions and specifications set out in the Specification, and that the Deliverables shall be fit for any purpose expressly or impliedly made known to the Consultant Company by the University;
- 5.1.9 provide all equipment, tools and vehicles and such other items as are required to provide the Services;
- 5.1.10 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;
- 5.1.11 comply with all applicable laws and regulations;
- 5.1.12 notify the University as soon as it becomes aware of any health and safety hazards or issues which arise in relation to the Services. The Consultant Company shall instruct the Individual to adopt any necessary associated safety measures in order to manage any such material health and safety hazards;
- 5.1.13 hold all materials, equipment and tools, drawings, specifications and data supplied by the University to the Consultant Company ("**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;
- 5.1.14 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 Consultant Company acknowledges that the University may rely or act on the Services; and
- 5.1.15 ensure that, so far as is reasonably practicable, the performance of the Services does not hinder or interrupt the use or occupation of any room or place in the Premises by the University.
- 5.2 The Consultant Company shall perform the Services in accordance with the KPIs.
- 5.3 If the Consultant Company fails to perform the Services in accordance with the KPIs it shall automatically credit the University the applicable Service Credits. Service Credits shall either be shown as a deduction from the amount due from the University to the Consultant Company in the next invoice then due to be issued under the Contract, or the Consultant Company shall issue a

credit note against a previous invoice and the amount for the Service Credits shall be repayable by the Consultant Company as a debt within ten Business Days of issue of the credit note. The Parties agree that any such Service Credits have been calculated as, and are, a genuine pre-estimate of the loss likely to be suffered by the University.

- 5.4 If the Consultant Company is unable to provide the Services due to illness or injury, the Consultant Company shall advise the University of that fact as soon as reasonably practicable. For the avoidance of doubt, no fee shall be payable in accordance with Clause 8 in respect of any period during which the Services are not provided.
- 5.5 The Consultant Company may, subject to the following proviso, appoint a suitably qualified and skilled Substitute to perform the Services instead of the Individual, provided that the Substitute shall be required to enter into direct undertakings with the University, including with regard to confidentiality. The Consultant Company shall continue to invoice the University in accordance with Clause 8 and shall be responsible for the remuneration of the Substitute.
- 5.6 The Consultant Company warrants that the Individual:
  - 5.6.1 has the necessary qualifications, ability and expertise to perform the Services; and
  - 5.6.2 shall comply with all applicable laws, statutes and regulations and codes of practice during the supply of the Services, including corruption, fraud, anti-bribery and health and safety legislation.
- 5.7 The Contract is conditional upon the Consultant Company completing and passing all of the University's vetting procedures. Failure by the Consultant Company of any part of the vetting process shall deem the Contract null and void with no cost to the University. Vetting requirements can be made available on request.
- 5.8 Unless it or he has been specifically authorised to do so by the University in writing:
  - 5.8.1 neither the Consultant Company nor the Individual shall have any authority to incur any expenditure in the name of or for the account of the University; and
  - 5.8.2 the Consultant Company shall not, and shall procure that the Individual shall not, hold itself out as having authority to bind the University.
- 5.9 The Consultant Company shall, and shall procure that the Individual shall, comply with all reasonable standards of safety and comply with the Health and Safety Policies, the Rules and Regulations for Contractors, and the University's health and safety procedures from time to time in force at the Premises where the Services are provided and report to the University any unsafe working conditions or practices.
- 5.10 The Consultant Company may use a third party to perform any administrative, clerical or secretarial functions which are reasonably incidental to the provision of the Services provided that:
  - 5.10.1 the University will not be liable to bear the costs of such functions; and
  - 5.10.2 at the University's request the third party shall be required to enter into direct undertakings with the University, including with regard to confidentiality.
- 5.11 The Consultant Company shall, and shall procure that the Individual shall, promptly give to the University all such information and documentation as it may reasonably require from time to time in order for the University to determine whether the Engagement is or will be within the Off-payroll Working rules and is or will be Deemed Employment and, if the University determines the Engagement is Deemed Employment, in order to comply with any obligation on the University to deduct and account for tax or national insurance contributions from the fees due under Clause 8. The Consultant Company shall, and shall procure that the Individual shall, promptly inform the

University of any material change to any information or documentation previously provided in compliance with this clause and shall also promptly provide any other information or documentation that it considers (or ought reasonably to consider) to be materially relevant to determining whether the Engagement is Deemed Employment. Subject to Clause 30.10, the University reserves the right to amend the terms of the Engagement, and this Contract, if the Engagement is determined to be Deemed Employment.

- 5.12 Where the Consultant Company processes payments in connection with the provision of the Services, the Consultant Company shall comply with the Payment Card Industry Data Security Standards and the University's Card Payments Security Policy.

## **6. UNIVERSITY'S OBLIGATIONS**

- 6.1 The University shall:

- 6.1.1 provide the Consultant Company and/or the Individual with reasonable access at reasonable times to the Premises for the purpose of providing the Services; and
- 6.1.2 provide such information as the Consultant Company and/or the Individual may reasonably request for the provision of the Services and the University considers reasonably necessary for the purpose of providing the Services.

## **7. UNIVERSITY PREMISES**

### **7.1 Inspection of Premises**

Save as the University may otherwise direct, the Consultant Company is deemed to have inspected the Premises before submitting the Tender and to have made appropriate enquiries so as to be satisfied in relation to all matters connected with the performance of its obligations under the Contract.

### **7.2 Fire Precautions**

- 7.2.1 The Consultant Company must comply with any directions given by the University in relation to fire safety at the Premises.
- 7.2.2 The Consultant Company must ensure that all flammable agents and equipment are kept away from naked flames and exposed electrical elements, are stored safely and are safely disposed of when no longer required or use.

## **8. PAYMENT AND INVOICES**

- 8.1 In consideration of the full and proper performance of the Services, the University shall, subject to the Consultant Company complying with the remaining provisions of this Clause 8, pay the agreed Charges.
- 8.2 The Consultant Company shall invoice the University for the Services and shall comply with the remaining provisions of this Clause 8.
- 8.3 The Charges shall be inclusive of all costs, overheads and expenses of any kind (including all delivery costs) and all other charges, duties, expenses and taxes but shall be exclusive of VAT, which the Consultant Company shall add to its invoices at the appropriate rate.
- 8.4 The Consultant Company shall submit invoices in accordance with the payment schedule agreed between the Parties in writing.
- 8.5 In order to facilitate the payment process within the University's accounts payable team, the invoice shall contain the following information:

- 8.5.1 a valid purchase order number;
  - 8.5.2 the period to which the invoice relates;
  - 8.5.3 details of the Services performed;
  - 8.5.4 a breakdown of the Charges and any additional charges incurred; and
  - 8.5.5 details of the Consultant Company's nominated bank account.
- 8.6 The Consultant Company shall:
- 8.6.1 ensure each invoice/credit note image is clear and legible;
  - 8.6.2 ensure descriptions of goods/services match with the purchase order;
  - 8.6.3 include the address to where the goods were delivered or service provided;
  - 8.6.4 correctly address its invoice or credit note to the University entity as on the purchase order;
  - 8.6.5 ensure each credit note quotes the invoice and purchase order to which it refers; and
  - 8.6.6 ensure prices, quantities match the purchase order.
- 8.7 Failure to provide the required information may result in either returned invoices or payment delays.
- 8.8 All invoices without exception are to be sent by email to the University's Accounts Payable Team at the email address [accountspayable@kcl.ac.uk](mailto:accountspayable@kcl.ac.uk).
- 8.9 If the University requires any information in order to verify the accuracy of any invoiced amount it shall, within 10 Business Days of receiving the relevant invoice, give written notice (an "**Information Request**") to the Consultant Company specifying the information it requires. The Consultant Company shall provide all information specified in or required by an Information Request within 5 Business Days of receipt of that Information Request.
- 8.10 If the Consultant Company fails to respond or, if following the Consultant Company's response the University considers that it is still unable to verify the relevant invoiced amount or disagrees with such amount, the matters in dispute shall be referred to a chartered accountant of not less than ten years standing (the "**Charges Expert**"). The parties shall comply with the decision of the Charges Expert.
- 8.11 If following the Consultant Company's response the University can verify the relevant invoiced amount and agrees with it, payment of that relevant invoiced amount shall be deemed to be due on the later of: (a) the invoice payment date in respect of the relevant invoice; and (b) the date which is 10 days following the date upon which the University received all of the information specified in the relevant Information Request.
- 8.12 Pending the resolution of any matter or the provision of any necessary information, the University shall be entitled to withhold payment of such part of the invoice as it relates to the matters which are the subject of the relevant Information Request (as appropriate). Any failure or delay by the University in notifying the Consultant Company of any disputed amount shall not prejudice the University's right to dispute (and, where appropriate, recover) any sums that should be, or should not have been, paid by the University.
- 8.13 All undisputed sums due to the Consultant Company under the terms of the Contract shall be paid against a valid invoice. Payment of any undisputed sum shall be made within 30 days following receipt of a valid invoice.

- 8.14 If either Party fails to make payment in accordance with the Contract the other Party shall be entitled, in addition to any unpaid amount that should properly have been paid, to simple interest on that amount from the final date for payment until the date of actual payment such interest to be calculated at a daily rate of 2% above the *Bank of England* base rate which is current at the date the payment became overdue. Payment by the University of all or any part of any invoice is without prejudice to any rights or remedies that the University may otherwise have against the Consultant Company and does not constitute any acceptance by the University as to the performance by the Consultant Company of all, or any part of its obligations.
- 8.15 The University shall be entitled at any time to set off any liability of the Consultant Company to the University against any liability of the University to the Consultant Company (whether that liability is present or future, liquidated or unliquidated and irrespective of currency) under:
- 8.15.1 the Contract; or
- 8.15.2 any other contract between the University and the Consultant Company.
- 8.16 The Consultant Company shall make any payments due to the University without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise, unless the Consultant Company has a valid court order requiring an amount equal to such deduction to be paid by the University to the Consultant Company.
- 8.17 Should the University become required by law to deduct income tax and national insurance contributions from the fees, the University shall inform the Consultant Company of the deadline by which invoices must be submitted for payment to be included in the next monthly payroll and payment shall not be made until the Consultant Company has supplied to the University all relevant information, in accordance with Clause 5.11, required for the purpose of making the relevant deductions.

## 9. **EXPENSES**

The Consultant Company shall bear its own expenses incurred in the course of the Contract unless otherwise agreed in writing between the Parties.

## 10. **STATUS**

- 10.1 The relationship of the Consultant Company (and the Individual) to the University will be that of independent contractor and nothing in this Contract shall render it (nor the Individual) an employee, worker, agent or partner of the University and the Consultant Company shall not hold itself out as such and shall procure that the Individual shall not hold himself out as such.
- 10.2 This Contract constitutes a contract for the provision of services and not a contract of employment and accordingly the Consultant Company shall be fully responsible for and shall indemnify the University for and in respect of:
- 10.2.1 any income tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from a determination that the Engagement is Deemed Employment, or made in connection with either the performance of the Services or any payment or benefit received by the Individual in respect of the Services, where such recovery is not prohibited by law. The Consultant Company 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;
- 10.2.2 any liability arising from any employment-related claim or any claim based on worker status (including reasonable costs and expenses) brought by the Individual or any Substitute against the University arising out of or in connection with the provision of the Services.



- 10.3 The indemnity in Clause 10.2 does not apply to:
- 10.3.1 any income tax or National Insurance contributions deducted by the University if the Engagement is Deemed Employment and the University makes the deductions from the Charges prior to payment to the Consultant Company;
  - 10.3.2 such amount that HMRC directs by written notice is to be treated as having been recovered from the Consultant Company or the Individual (or both) and which is not to be recoverable from the University provided that the directions notice has been notified to the University and that neither the Consultant Company nor the Individual has appealed or otherwise challenged it.
- 10.4 The University may at its option satisfy such indemnity (in whole or in part) by way of deduction from payments due to the Consultant Company.
- 10.5 The Consultant Company warrants that it is not nor will it prior to the cessation of this Contract, become a managed service company, within the meaning of section 61B of the Income Tax (Earnings and Pensions) Act 2003.

## 11. **INDEPENDENCE/OUTSIDE INTERESTS**

Subject to the full and proper provision of the Services and this Clause 11, the Consultant Company may provide services to any third party provided that such services do not conflict with the provision of the Services and the Parties' obligations under the Contract. The Consultant Company agrees to provide advance notification of any other commitments both prior to the contract commencement and during its term.

## 12. **TERMINATION**

- 12.1 Without limiting its other rights or remedies, the University may terminate the Contract by giving the Consultant Company no less than seven days' written notice (or such other notice period as may be agreed between the Parties in writing). The University shall pay the Consultant Company's reasonable costs incurred relating to the performance of the Services at the time of termination subject to such costs being evidenced to the reasonable satisfaction of the University and mitigated.
- 12.2 Without limiting its other rights or remedies, the University may terminate the Contract with immediate effect by giving written notice to the Consultant Company if:
- 12.2.1 the Consultant Company or the Individual commits a material breach of the terms of the Contract and (if such a breach is remediable) fails to remedy that breach within thirty (30) days of receipt of notice in writing to do so;
  - 12.2.2 the Consultant Company or the Individual persistently breach any of the terms of the Contract in such a manner that if taken together they amount to a material breach;
  - 12.2.3 the Individual commits any gross misconduct affecting the business of the University;
  - 12.2.4 the Consultant Company is in material breach of any of the University Policies or the Individual is in material non-compliance with any of the University Policies;
  - 12.2.5 the Individual is convicted of any criminal offence (other than an offence under any road traffic legislation in the United Kingdom or elsewhere for which a fine or non-custodial penalty is imposed);
  - 12.2.6 the Consultant Company or the Individual is, in the reasonable opinion of the University, negligent or incompetent in the performance of the Services;



- 12.2.7 the Individual is declared bankrupt or makes any arrangement with or for the benefit of his creditors or has a county court administration order made against him under the County Court Act 1984;
- 12.2.8 any encumbrancer takes possession of or a receiver, administrative receiver or similar officer is appointed over any of the property or assets of the Consultant Company or if the Consultant Company makes any voluntary arrangement with its creditors or becomes subject to an administration order or has an administrator appointed or goes into liquidation or has a resolution for its winding up passed or anything analogous to any of these events under the law of any jurisdiction occurs in relation to the Consultant Company or if the Consultant Company ceases or threatens to cease to carry on business;
- 12.2.9 the Consultant Company's financial position deteriorates to such an extent that in the University's opinion the Consultant Company is unable to adequately fulfil its obligations under the Contract;
- 12.2.10 the Individual is incapacitated (including by reason of illness or accident) from providing the Services for an aggregate period of 28 days in any 52-week consecutive period; and/or
- 12.2.11 there is a change of control of the Consultant Company (within the meaning of section 1124 of the Corporation Tax Act 2010).

12.3 Termination of the Contract, however arising, shall not affect either Parties' rights and remedies that have accrued as at termination.

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

### 13. **CONSEQUENCES OF TERMINATION**

13.1 On termination of the Contract for any reason, the Consultant Company shall immediately deliver to the University all Deliverables whether or not then complete, and return all University Materials. If the Consultant Company fails to do so, then, without prejudice to any other rights and remedies, the University may:

13.1.1 enter the Consultant Company's premises and take possession of them; and/or

13.1.2 withhold payment of any amounts due under the Contract until any such Deliverable and University Materials have been returned or delivered.

13.2 Until the Deliverables and any University Materials have been returned or delivered, the Consultant Company shall be solely responsible for their safe keeping (including, but not limited to, insuring such items) and will not use them for any purpose not connected with the Contract.

13.3 The Consultant Company shall be liable for and agrees to pay the costs of repairing any damage caused to the University's property as result of any decommissioning by the Consultant Company.

### 14. **INTELLECTUAL PROPERTY RIGHTS**

14.1 The Consultant Company warrants to the University that it has obtained from the Individual a written and valid assignment of all existing and future Intellectual Property Rights in the Works and the Inventions and of all materials embodying such rights and a written irrevocable waiver of all the Individual's statutory moral rights in the Works, to the fullest extent permissible by law, and that the Individual has agreed to hold on trust for the Consultant Company any such rights in which the legal title has not passed (or will not pass) to the Consultant Company. The Consultant Company agrees to provide to the University a copy of this assignment on or before the Commencement Date.

- 14.2 The Consultant Company hereby assigns to the University all existing and future Intellectual Property Rights in the Works and the Inventions and all materials embodying these rights to the fullest extent permitted by law. Insofar as they do not vest automatically by operation of law or under this Contract, the Consultant Company holds legal title in these rights and inventions on trust for the University.
- 14.3 The Consultant Company undertakes to the University:
- 14.3.1 to notify to the University in writing full details of all Inventions promptly on their creation;
  - 14.3.2 to keep confidential the details of all Inventions;
  - 14.3.3 whenever requested to do so by the University and in any event on the termination of the Contract, promptly to deliver to the University all correspondence, documents, papers and records on all media (and all copies or abstracts of them), recording or relating to any part of the Works and the process of their creation which are in its or the Individual's possession, custody or power;
  - 14.3.4 not to register nor attempt to register any of the Intellectual Property Rights in the Works, nor any of the Inventions, unless requested to do so by the University; and
  - 14.3.5 to do all acts necessary to confirm that absolute title in all Intellectual Property Rights in the Works and the Inventions has passed, or will pass, to the University,
- and confirms that the Individual has given written undertakings in the same terms to the Consultant Company.
- 14.4 The Consultant Company warrants that:
- 14.4.1 it has not given and will not give permission to any third party to use any of the Works or the Inventions, nor any of the Intellectual Property Rights in the Works;
  - 14.4.2 it is unaware of any use by any third party of any of the Works or Intellectual Property Rights in the Works; and
  - 14.4.3 the use of the Works or the Intellectual Property Rights in the Works by the University will not infringe the rights of any third party,
- and confirms that the Individual has given written undertakings in the same terms to the Consultant Company.
- 14.5 The Consultant Company agrees to indemnify the University and keep it indemnified at all times against all or any costs, claims, damages or expenses incurred by the University, or for which the University may become liable, with respect to any intellectual property infringement claim or other claim relating to the Works or Inventions supplied by the Consultant Company to the University during the course of providing the Services. The Consultant Company shall maintain adequate liability insurance coverage and ensure that the University's interest is noted on the policy, and shall supply a copy of the policy to the University on request. The University may at its option satisfy such indemnity (in whole or in part) by way of deduction from any payments due to the Consultant Company.
- 14.6 The Consultant Company acknowledges that no further remuneration or compensation other than that provided for in this Contract is or may become due to the Consultant Company in respect of the performance of its obligations under this Clause 14.
- 14.7 The Consultant Company undertakes to execute all documents, make all applications, give all assistance and do all acts and things, at the expense of the University and at any time either during or after the Contract, as may, in the opinion of the University, be necessary or desirable to vest the Intellectual Property Rights in, and register or obtain patents or registered designs in, the name of

the University and to defend the University against claims that works embodying Intellectual Property Rights or Inventions infringe third party rights, and otherwise to protect and maintain the Intellectual Property Rights in the Works. The Consultant Company confirms that the Individual has given written undertakings in the same terms to the Consultant Company.

- 14.8 The Consultant Company irrevocably appoints the University to be its attorney in its name and on its behalf to execute documents, use the Consultant Company's name and do all things which are necessary or desirable for the University to obtain for itself or its nominee the full benefit of this clause. A certificate in writing, signed by any director or the secretary of the University, that any instrument or act falls within the authority conferred by this Contract shall be conclusive evidence that such is the case so far as any third party is concerned.

## 15. **REMEDIES**

- 15.1 If any Services are not supplied in accordance with, or the Consultant Company fails to comply with, any terms of the Contract, the University shall be entitled (without prejudice to any other right or remedy) to exercise any one or more of the following rights or remedies:

- 15.1.1 to terminate the Contract with immediate effect by giving written notice to the Consultant Company;
- 15.1.2 to refuse to accept the performance of any further Services by the Consultant Company and to require the immediate repayment by the Consultant Company of all sums previously paid by the University to the Consultant Company under the Contract; or
- 15.1.3 to require the Consultant Company, without charge to the University, to carry out such additional work as is necessary to correct the Consultant Company's failure; and

in any case, to claim such damages as it may have sustained in connection with the Consultant Company's breach (or breaches) of the Contract not otherwise covered by the provisions of this Clause 15.

## 16. **INDEMNITY**

- 16.1 The Consultant Company shall keep the University indemnified against all Losses (including but not limited to any direct loss of profit, and loss of reputation (calculated on a full indemnity basis) incurred by the University as a result of or in connection with:

- 16.1.1 any claim made against the University for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with the receipt, use or performance of the Services, to the extent that the claim is attributable to the acts or omissions of the Consultant Company, the Individual, its employees, agents or subcontractors (an "**IPR Claim**");
- 16.1.2 any claim or proceedings arising from any breach of the Consultant Company's obligations under Clause 21;
- 16.1.3 any claim made against the University by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in the Services (as applicable), to the extent that the defects in the Services (as applicable) are attributable to the acts or omissions of the Consultant Company, its employees, agents or subcontractors; and
- 16.1.4 any claim made against the University by a third party arising out of or in connection with the supply of the Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Consultant Company, its employees, agents or subcontractors.

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16.2 If an IPR Claim is made or is reasonably likely to be made, the Consultant Company shall, at the University's option:

16.2.1 procure for the University the right to continue receiving the Services; and/or

16.2.2 modify or replace the infringing part of any Deliverables so as to avoid the infringement or alleged infringement, provided that the modified or replaced deliverables are substantially similar (in all material respects) to the Deliverables.

16.3 This Clause 16 shall survive termination of the Contract.

## 17. **LIABILITY**

17.1 Nothing in the Contract shall limit or exclude the liability of the Consultant Company under Clause 16.1 or the liability of either Party for death or personal injury resulting from negligence, fraud or fraudulent misrepresentation or for any other matters which cannot be excluded or limited by law.

17.2 The Consultant Company shall have liability for and shall indemnify the University for any loss, liability, costs (including reasonable legal costs), damages or expenses arising from any breach by the Consultant Company of the terms of the Contract due to the act or omission by the Individual or from any negligent or reckless act, omission or default in each case by the Individual in the performance of the Services.

17.3 Without prejudice to Clause 17.1, the University shall not be liable to the Consultant Company, whether in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, for loss of anticipated profits, loss of revenue, loss of goodwill, or for any special, indirect or consequential damage or any special indirect or consequential loss suffered by the Consultant Company that arises under or in connection with the Contract.

17.4 Without prejudice to Clause 17.1 or Clause 17.3:

17.4.1 the University's total liability arising under or in connection with the Contract, whether arising in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, shall be limited to one hundred percent (100%) of the total Charges (but for the avoidance of doubt this limitation shall not affect the University's obligation to pay properly invoiced sums in accordance with Clause 8.1); and

17.4.2 the Consultant Company's total liability arising under or in connection with the Contract, whether arising in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, shall be limited to the higher of one hundred percent (100%) the total Charges and the level of insurance that the Consultant Company is required to obtain for such loss in accordance with the provisions of Clause 18.1.

## 18. **INSURANCE**

18.1 During the term of the Contract and for a period of six (6) years thereafter, the Consultant Company shall:

18.1.1 maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance and public liability insurance in the following amounts:

(a) public liability insurance – £10,000,000;

(b) employer's liability insurance - £5,000,000;

(c) professional indemnity insurance - £5,000,000; and

(d) product liability insurance - £5,000,000; and

18.1.2 on the University's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

18.2 The Consultant Company shall:

18.2.1 do nothing to invalidate any insurance policy or to prejudice the University's entitlement under it; and

18.2.2 notify the University if any policy is (or will be) cancelled or its terms are (or will be) subject to any material change.

18.3 The Consultant Company's liabilities under any term of the Contract or otherwise shall not be deemed to be released or limited by the Consultant Company taking out the insurance policies referred to in Clause 18.1.

## 19. **INADEQUACY OF DAMAGES**

19.1 Without prejudice to any other rights or remedies that the University may have, the Consultant Company acknowledges and agrees that damages alone would not be an adequate remedy for any breach of the terms of the Contract by the Consultant Company. Accordingly, the University shall be entitled to the remedies of injunction, specific performance or other equitable relief for any threatened or actual breach of the terms of the Contract.

19.2 Each Party's rights under the Contract are in addition to its rights and remedies implied by statute and common law.

## 20. **CONFIDENTIALITY**

20.1 Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in the Contract, each Party shall:

20.1.1 treat the other Party's Confidential Information as confidential and safeguard it accordingly; and

20.1.2 not disclose the other Party's Confidential Information to any other person without the other Party's prior written consent.

20.2 Clause 20.1 shall not apply to the extent that such disclosure is a requirement of law placed upon the Party making the disclosure, including any requirements for disclosure under the Freedom of Information Legislation pursuant to Clause 22.1.

20.3 Notwithstanding Clause 20.1, each Party shall be entitled to disclose Confidential Information of the other Party;

20.3.1 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 20 as though they were a Party to the Contract;

20.3.2 to their respective insurers or legal advisers (in the case of legal advisers for the purposes of any actual or threatened dispute between the Parties); and/or

20.3.3 to a third party to the extent that this is required, by any court of competent jurisdiction, or by a governmental or regulatory authority or a professional body of which the Party wishing to make the disclosure or its personnel are members and which is relevant to the Services, or where there is a legal right, duty or requirement to disclose, provided that (and without

breaching any legal or regulatory requirement) where reasonably practicable not less than two (2) Business Days' notice in writing is first given to the other Party.

- 20.4 The Consultant Company shall procure that the Individual:
- 20.4.1 does not use or disclose any Confidential Information other than as provided in Clause 20.3 or for the purposes of providing the Services under the Contract; and
  - 20.4.2 is contractually bound to it by obligations of confidentiality no less onerous than in this Clause 20. The Consultant Company shall be primarily liable for any breach of confidentiality by an Individual.

## 21. PROTECTION OF PERSONAL DATA

- 21.1 Each Party agrees to comply (and to the extent applicable, the Consultant Company agrees to ensure the Individual complies) with its obligations as set out in Schedule 1 (Data Protection) of the Conditions.
- 21.2 Without prejudice to Clause 21.1, the Consultant Company undertakes that it will ensure that both it and the Individual (where applicable) at all times during and in connection with the provision of the Services act in accordance with the Data Protection Legislation. The Consultant Company warrants and undertakes that it is fully aware of and will comply with (and will procure that the Individual (where applicable) is fully aware of and will comply with) the University's Data Protection Policy and Information Security Policy (available at [Policy Hub | King's College London \(kcl.ac.uk\)](https://www.kcl.ac.uk/policyhub)).
- 21.3 Where applicable, the Consultant Company undertakes that it will bind the Individual with appropriate confidentiality obligations, all to the satisfaction of the University. The Consultant Company warrants that it has appropriate policies and processes in place to ensure that the Individual complies with all applicable Data Protection Legislation.
- 21.4 Where applicable, the Consultant Company will procure that the Individual is notified (in accordance with its transparency obligations under the GDPR (as defined in Schedule 1 (Data Protection)), including as required Articles 5(1)(a), 12 and 14 GDPR or analogous provisions under other Data Protection Legislation as applicable) that the University will hold Personal Data (as defined in Schedule 1 (Data Protection)) relating to the Individual which is necessary or reasonably required for the proper performance of the Conditions and in connection with the provision of the Services, including: (i) the administration of the Services and any work to which the Services relate (both during and after the provision of the Services by the Consultant Company); (ii) the performance of the University's responsibilities in relation to health and safety management; (iii) the conduct of the University's business; or (iv) where such provision is required by law (including to comply with its obligations regarding the retention of individual records). Such data will include, but not be limited to, the Individual's work history and experience, address, professional references, work, holiday and attendance records in relation to delivery of the Services, and other records.

## 22. FREEDOM OF INFORMATION

- 22.1 The Consultant Company acknowledges that the University may be required under the Freedom of Information Legislation to disclose information (including commercially sensitive information) without consulting or obtaining consent from the Consultant Company. The University shall take reasonable steps to notify the Consultant Company of a request for information to the extent that it is permissible and reasonably practical for it to do so but (notwithstanding any other provision in the Contract) 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 Freedom of Information Legislation.
- 22.2 The Consultant Company acknowledges that the University is subject to the Freedom of Information Legislation and shall assist and co-operate with the University (at the Consultant Company's



expense) to enable the University to comply with its obligations under the Freedom of Information Legislation.

22.3 The Consultant Company shall:

22.3.1 transfer a request for information to the University as soon as practicable after receipt and in any event within three (3) days of receiving such request for information;

22.3.2 provide the University with a copy of all information requested which is in its possession or power in the form that the University requires within seven days (or such other period as the University may specify) of the University requesting that information; and

22.3.3 provide all necessary assistance as reasonably requested by the University to enable the University to respond to a request for information within the time for compliance set out in the Freedom of Information Legislation.

22.4 The Consultant Company shall ensure that all information produced in the course of the Contract or relating to the Contract is retained for disclosure and shall permit the University to inspect such records as requested from time to time.

22.5 This Clause 22 shall survive termination of the Contract.

23. **TUPE**

23.1 Where all or part of the Services cease to be provided by the Consultant Company for any reason and where all or part of the Services continue to be provided by the University or a Replacement Consultant Company, if it is found or alleged that the employment of any person, or any liability relating to any person, transfers to the University or a Replacement Consultant Company pursuant to the Regulations:

23.1.1 in the case of a transfer of employment, the University or Replacement Consultant Company may, within 21 days of becoming aware of that finding or allegation, dismiss that person;

23.1.2 the Consultant Company shall indemnify and keep indemnified the University (whether for itself or for and on behalf of a Replacement Consultant Company) against all costs, liabilities and expenses (including reasonable legal expenses) which the University and the Replacement Consultant Company may suffer or incur in relation to that dismissal and/or the employment of that person up to the date of that dismissal and any other claim brought by that person;

23.1.3 in the case of a transfer of a liability, the Consultant Company shall indemnify and keep indemnified the University (whether for itself or for and on behalf of a Replacement Consultant Company) in respect of that liability; and

23.1.4 the Consultant Company shall indemnify and keep indemnified the University (whether for itself or for and on behalf of a Replacement Consultant Company) against all costs, liabilities and expenses (including reasonable legal expenses) which the University and the Replacement Consultant Company may suffer or incur in relation to any breach or alleged breach of the Regulations by the Consultant Company.

24. **EQUALITY**

24.1 The Consultant Company shall, and shall procure that the Individual shall:

24.1.1 perform its obligations under the Contract (including those in relation to the Services) in accordance with:

- (a) all applicable equality law (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 updated by the University 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 equality law; and

24.1.2 take all necessary steps, and inform the University of the steps taken, to prevent unlawful discrimination designated as such by any court or tribunal, or the Equality and Human Rights Commission or (any successor organisation).

24.2 Without prejudice to any other rights and remedies accruing to the University under the Contract, in the event that the Consultant Company and/or any member of the Consultant Company's Team, fails to comply with its obligations pursuant to Clause 24.1, the University shall have the right to:

24.2.1 terminate the Contract forthwith on written notice to the Consultant Company, without liability of any kind whatsoever;

24.2.2 proceed with the fulfilment of the Contract, in which case the Consultant Company and the Consultant Company's Team must comply with any measures specified by the University which the University deems, at the University's sole and absolute discretion, to be appropriate and necessary to ensure compliance with Clause 24.1. Such measures to be undertaken to achieve compliance shall be undertaken at the Consultant Company's risk and expense, and, unless otherwise agreed in writing by the University before the measures are taken, without charge to the University; or

24.2.3 require that the Individual is replaced (at no cost to the University) with a Substitute acceptable to the University.

## 25. **GIFTS, INDUCEMENTS AND REWARDS**

25.1 The Consultant Company shall, and where applicable shall procure that the Individual shall:

25.1.1 comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 ("**Relevant Requirements**");

25.1.2 not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;

25.1.3 comply with the Ethics and Anti-bribery Policy;

25.1.4 have and shall maintain in place throughout the term of the Contract its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements, the Ethics and Anti-bribery Policy and will enforce them where appropriate;

25.1.5 promptly report to the University any request or demand for any undue financial or other advantage of any kind received by the Consultant Company in connection with the performance of the Contract;

25.1.6 immediately notify the University (in writing) if a foreign public official becomes an officer or employee of the Consultant Company, or acquires a direct or indirect interest in the



Consultant Company, and the Consultant Company warrants that it has no foreign public officials as direct or indirect owners, officers or employees at the date of the Contract; and

25.1.7 on request, certify to the University in writing signed by an officer of the Consultant Company, compliance with this Clause 25 by the Consultant Company. The Consultant Company shall provide such supporting evidence of compliance as the University may reasonably request.

25.2 The Consultant Company shall ensure that any person associated with the Consultant Company who is performing services in connection with the Contract does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Consultant Company in this Clause 25 ("**Relevant Terms**"). The Consultant Company shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to the University for any breach by such persons of any of the Relevant Terms.

25.3 The Consultant Company shall not offer, give or agree to give to any person employed by the University any gift, consideration or reward, other than items of small intrinsic value for advertisement, on the attainment or execution of the Contract.

## 26. **ANTI-SLAVERY**

26.1 The Consultant Company undertakes, warrants and represents that:

26.1.1 neither the Consultant Company nor the Individual(s) has:

(a) committed an offence under the Modern Slavery Act 2015 (a "**MSA Offence**"); or

(b) been notified that it is subject to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015; or

(c) is aware of any circumstances within its supply chain that could give rise to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015;

26.1.2 it shall comply with the Modern Slavery Act 2015 and the Modern Slavery Policy;

26.1.3 it shall notify the University immediately in writing if it becomes aware or has reason to believe that it, or any of its officers, employees, agents or subcontractors have breached or potentially breached any of the Consultant Company's obligations under Clause 26.1. Such notice to set out full details of the circumstances concerning the breach or potential breach of the Consultant Company's obligations.

26.2 Any breach of Clause 26.1 by the Consultant Company shall be deemed a material breach of the Contract incapable of remedy and shall entitle the University to terminate the Contract with immediate effect.

## 27. **ANTI-FACILITATION OF TAX EVASION**

27.1 The Consultant Company shall:

27.1.1 not engage in any activity, practice or conduct which would constitute either:

(a) a UK tax evasion facilitation offence under section 45(5) of the Criminal Finances Act 2017; or

(b) a foreign tax evasion facilitation offence under section 46(6) of the Criminal Finances Act 2017;

- 27.1.2 have and shall maintain in place throughout the term of this Contract such policies and procedures as are both reasonable to prevent the facilitation of tax evasion by another person (including without limitation employees of the Consultant Company.) and to ensure compliance with Clause 27.1.1;
- 27.1.3 promptly report to the University any request or demand from a third party to facilitate the evasion of tax within the meaning of Part 3 of the Criminal Finances Act 2017;
- 27.1.4 within three months of the Commencement Date, and annually thereafter or as the University may require, certify to the University in writing signed by an officer of the Consultant Company, compliance with this Clause 27 by the Consultant Company and all persons associated with it under Clause 27.2. The Consultant Company shall provide such supporting evidence of compliance as the University may reasonably request.

27.2 The Consultant Company shall ensure that any person associated with the Consultant Company who is performing Services in connection with this Contract does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Consultant Company in this Clause 27 ("**Relevant Terms**"). The Consultant Company shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to the University for any breach by such persons of any of the Relevant Terms.

27.3 Any breach of this Clause 27 shall be deemed a material breach of the Contract incapable of remedy and shall entitle the University to terminate the Contract with immediate effect.

27.4 For the purposes of this Clause 27, the meaning of reasonable prevention procedure shall be determined in accordance with any guidance issued under section 47 of the Criminal Finances Act 2017 and a person associated with the Consultant Company includes but is not limited to any subcontractor of the Consultant Company.

## 28. **DISPUTE RESOLUTION**

28.1 Without prejudice to Clause 8.10, the Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Contract and such efforts shall involve the escalation of the dispute to an appropriately senior representative of each Party.

28.2 If the Parties are unable to resolve the dispute within 28 days of being escalated in accordance with Clause 28.1, the parties will attempt to settle the dispute by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, within 14 days of notice of the dispute, the mediator will be nominated by CEDR. To initiate the mediation a Party must give notice in writing ("**ADR Notice**") to the other Party to the dispute requesting a mediation. A copy of the request should be sent to CEDR. Unless otherwise agreed, the mediation will start not later than 28 days after the date of the ADR Notice.

28.3 The commencement of mediation shall not prevent the Parties seeking an injunction in relation to the dispute.

28.4 If the dispute is not resolved within 60 days after service of the ADR Notice, or either Party fails to participate or to continue to participate in the mediation before the expiration of the said period of 60 days, or the mediation terminates before the expiration of the said period of 60 days, either Party shall be entitled to issue proceedings.

## 29. **ANNOUNCEMENTS**

29.1 Notwithstanding any other provision of these Conditions, the Consultant Company shall not make any announcement relating to the Contract or its subject matter or its appointment hereunder except to the extent required by law or by any governmental or regulatory authority (and then subject to the notification obligations in Clause 20.3.3) without the prior written agreement of the University.

30. **GENERAL**

30.1 **Entire Contract**

30.1.1 The Contract constitutes the entire agreement and understanding between the Parties in respect of the matters dealt with in it and supersedes any previous agreement between the Parties relating to such matters notwithstanding the terms of any previous agreement or arrangement expressed to survive termination.

30.1.2 Each of the Parties represents and agrees that in entering the Contract it does not rely on, and will have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether Party to the Contract or not) other than as expressly set out in the Contract.

30.2 **Force Majeure**

Either Party may defer the date for performance of, or payment for, the Services, or terminate the Contract, if it is prevented from, or delayed in, carrying on its business by act of God including but not limited to fire, flood, earthquake, windstorm or other natural disaster; act of any sovereign including but not limited to war, invasion, act of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation, nationalisation, requisition, destruction or damage to property by or under the order of any government or public or local authority or imposition of government sanction embargo or similar action; law, judgment, order, decree, embargo, blockade, labour dispute including but not limited to strike, lockout or boycott.

30.3 **Assignment and other Dealings**

30.3.1 The University may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract, provided that the University gives prior written notice to the Consultant Company.

30.3.2 The Consultant Company may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of the University. The Consultant Company may only subcontract its obligations with the prior written consent of the University.

30.3.3 The Consultant Company will be responsible for all acts and omissions of its sub-contractors (including without limitation any sub-sub-contractors) as though they were its own.

30.3.4 Notwithstanding Clause 20, if the University is assigning any or all of its rights under the Contract it may disclose to a proposed assignee any information in its possession that relates to the Contract or its subject matter, the negotiations relating to it and the Consultant Company which it is reasonably necessary to disclose for the purposes of the proposed assignment, provided that no disclosure pursuant to this Clause 30.3 shall be made until notice of the identity of the proposed assignee has been given to the Consultant Company.

30.4 **Notices**

30.4.1 Any notice or other communication given to a Party under or in connection with the Contract shall be in writing and shall be sent by email, addressed to that Party at such email address as specified in the Form of Contract or such other address notified by a Party to the other in writing.

30.4.2 A notice or other communication shall be deemed to have been received one business day after transmission of the email.

30.4.3 The provisions of this Clause shall not apply to the service of any proceedings or other documents in any legal action.

### 30.5 **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.

### 30.6 **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.

### 30.7 **Third Parties**

A person who is not a Party to the Contract will have no right under the Contract (Rights of Third Parties) Act 1999 to enforce any of its terms.

### 30.8 **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.

### 30.9 **Further Assurance**

Each Party to the Contract shall at the request and expense of the other or any of them execute and do any deeds and other things reasonably necessary to carry out the provisions of the Contract or to make it easier to enforce.

### 30.10 **Variations to the Contract**

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

### 30.11 **Time of the Essence**

Time is of the essence for the performance of the Consultant Company's obligations under the Contract, both as regards times, dates and periods specified in the Contract and as to any times, dates or periods that may by agreement in writing between the Parties be substituted for any of them.

### 30.12 **Governing Law and Jurisdiction**

30.12.1 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.

- 30.12.2 Each Party irrevocably agrees, for the sole benefit of the University that, subject as provided below, the courts of England and Wales shall have exclusive jurisdiction over 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). Nothing in this Clause shall limit the right of the University to take proceedings against the Consultant Company in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.

## SCHEDULE 1

### DATA PROTECTION

#### 1. DEFINITIONS

##### 1.1 In this Schedule:

<b>"Administrative Purposes"</b>	means the administration and management of the Conditions (including in relation to the Consultant Company, as set out in Clause 21.4 of the Conditions), resolution of disputes in connection with the Conditions, and compliance with obligations under Applicable Law (including provision of the Services);
<b>"Applicable Law"</b>	means any and all applicable rules of law, statutes, statutory instruments, directives, regulations, orders and other instruments having the force of law and any applicable codes of conduct, guidance, directions and/or determinations with which the University or the Consultant Company (as applicable) is bound to comply;
<b>"Communication"</b>	means any Data Subject Request, Third Party Communication or Regulator Correspondence;
<b>"Data Protection Impact Assessment"</b>	means an assessment of the impact of the envisaged Processing operations on the protection of Personal Data, as required by Article 35 of the GDPR;
<b>"Data Protection Legislation"</b>	means any law, statute, declaration, decree, directive, legislative enactment, order, ordinance, regulation, rule or other binding restriction which relates to the protection of individuals with regards to the Processing of Personal Data to which a Party is subject in relation to the Conditions, including the UK Data Protection Legislation and the EU Data Protection Legislation (as applicable), and any code of practice or guidance published by a Regulator from time to time;
<b>"Data Protection Particulars"</b>	<p>means, in relation to any Processing for which the Consultant Company acts in its capacity as Processor, under the Conditions:</p> <ul style="list-style-type: none"><li>(a) the subject matter and duration of the Processing;</li><li>(b) the nature and purpose of the Processing;</li><li>(c) the type of Personal Data being Processed; and</li><li>(d) the categories of Data Subjects,</li></ul> <p>as those categories are described in Appendix 1 to this Schedule 1, if applicable;</p>
<b>"Data Protection Supervisory Authority"</b>	has the meaning given to the term " <b>supervisory authority</b> " in the EU GDPR and, in relation to the UK, means the ICO;
<b>"Data Subject Request"</b>	means an actual or purported request or notice or complaint from (or on behalf of) a Data Subject exercising his or her rights under the Data Protection Legislation that relates to the University Data

**"EU Data Protection Legislation"**

means:

- (a) 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) ("**EU GDPR**"), as supplemented by the domestic legislation of each Member State, and as amended, replaced or superseded from time to time; and
- (b) any national legislation implementing Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the Processing of Personal Data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications), and as amended, replaced or superseded from time to time;

**"GDPR"**

means the EU GDPR or the UK GDPR, as the context requires;

**"Group"**

means in respect of either Party, that Party, its holding company, its subsidiaries and any other direct or indirect holding company or subsidiary from time to time of such holding company or subsidiary;

**"ICO"**

means the UK Information Commissioner's Office (or any successor body which replaces it);

**"Permitted Purpose"**

means the purpose of the Processing the Personal Data under or in connection with the Conditions, as set out in more detail in the Data Protection Particulars;

**"Personnel"**

means, in relation to either Party, all persons engaged or employed by that Party from time to time, including its officers, directors, suppliers, contractors, agents and/or in respect of the Consultant Company, the Individual and any Sub-Processors;

**"Personnel Personal Data"**

means Personal Data relating to the Personnel;

**"Regulator"**

means the relevant Data Protection Supervisory Authority, and any other regulatory or supervisory body to which each of the parties are subject to from time to time with respect to the Processing of Personal Data;

**"Regulator Correspondence"**

means any correspondence or communication (whether written or verbal) from a Regulator in relation to the Processing of Personal Data under or in connection with the Conditions;

**"Restricted Country"**

means a country, territory or jurisdiction that is outside of the United Kingdom ("**UK**") or European Economic Area which (i) is not the subject of an adequacy determination by the UK Secretary of State or the European Commission (as applicable); or (ii) is the subject of an adequacy determination by the UK Secretary of State or the European Commission (as applicable), but such determination does not extend to the Restricted Transfers carried out under or in connection with the Conditions;



"Restricted Transfer"	means transferring any University Data to, and/or accessing any University Data from and/or Processing any University Data within, a jurisdiction or territory that is a Restricted Country;
"Security Requirements"	means the requirements regarding the security of Personal Data, as set out in the Data Protection Legislation (including in particular the measures set out in Article 32(1) of the GDPR, taking due account of the matters described in Article 32(2) of the GDPR) [and the University Security Requirements as set out in Clause/Schedule [ ] of the Conditions]; <b>[NOTE TO KCL: We have included the option for the University to specify Security Requirements in a Schedule or Clause to the Conditions. If there are no additional requirements, please delete this wording.]</b>
"Sub-Processor"	means a Processor appointed by the Consultant Company to Process the University Data on its behalf (including any Sub-Processors of such Sub-Processor, and any approved Sub-Processors set out in paragraph 6 of Appendix 1 to this Schedule 1);
"Third Party Communication"	means any request, complaint, or communication from a third Party under or in connection with the Conditions;
"Third Party Request"	means a written request from any third party for disclosure of University Data where compliance with such request is required or purported to be required by law or regulation;
"UK Data Protection Legislation"	<p>Means:</p> <ul style="list-style-type: none"><li>(a) the Privacy and Electronic Communications Regulations 2003;</li><li>(b) the Data Protection Act 2018; and</li><li>(c) the EU GDPR</li></ul> <p>as each is amended in accordance with the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (as amended) and as incorporated into the law of England and Wales, Scotland, and Northern Ireland under the European Union (Withdrawal) Act 2018.</p> <p>Each shall be referred to as "<b>PECR</b>", the "<b>DPA 2018</b>" and the "<b>UK GDPR</b>" accordingly;</p>
"University Data"	<p>means all information, materials and data, including Personal Data that is:</p> <ul style="list-style-type: none"><li>(a) Processed by, or on behalf of the Consultant Company; or</li><li>(b) created or generated by the Consultant Company; or</li><li>(c) made available or accessible to the Consultant Company,</li></ul>



and in each case, under or in connection with the Conditions.

- 1.2 In the Conditions, the terms “**Controller**”, “**Data Subject**”, “**Personal Data**”, “**Personal Data Breach**”, “**Processor**” and “**Processing**” (“**Process**”, “**Processes**” and “**Processed**” shall be construed accordingly) shall have the same meanings given to them in the Data Protection Legislation. Any reference to “**Personal Data**” includes a reference to “special categories of personal data”, and “personal data relating to criminal convictions and offences” as applicable, whereby such terms means personal data that incorporates such categories of data as are listed in Article 9(1) of the GDPR and Article 10 of the GDPR respectively.

## 2. **ARRANGEMENT BETWEEN THE PARTIES**

### 2.1 **Relationship of the parties**

- 2.1.1 The parties agree that they may each Process Personal Data under the Conditions. Accordingly, they each acknowledge that the factual arrangement between them dictates the classification of each Party in respect of the Data Protection Legislation.
- 2.1.2 Notwithstanding paragraph 2.1.1, the parties anticipate that each shall act as independent Controller in relation to any Processing of Personnel Personal Data for the Administrative Purposes.
- 2.1.3 Notwithstanding paragraph 2.1.1 and subject to paragraph 2.1.2, the parties anticipate that in some circumstances (for the purposes set out in Appendix 1, if applicable), the University may act as a Controller and the Consultant Company may act as Processor. **[NOTE TO KCL: We have included “fallback” Processor provisions which will apply in case the Consultant Company is acting as a Processor (for example where a Service provision requires Personal Data Processing on behalf of the University).]**
- 2.1.4 Each Party will comply with its obligations under the Data Protection Legislation in its performance of its obligations under the Conditions.

3. **CONTROLLER OBLIGATIONS** **[NOTE TO KCL: The Conditions assumes that any Personal Data shared between the parties as Controllers will be low volume and low risk (e.g. contact details of the Individual and related details, party’s representatives, delivery information, etc. If the Personal Data being shared is high in volume or risk, more detailed Controller provisions will be required.)]**

Each Party shall Process such Personal Data for the Administrative Purposes (under paragraph 2.1.2 and Clause 21.4 of the Conditions) in accordance with their respective privacy policies. The Parties acknowledge that they may be required to share Personnel Personal Data with members of their Group and other relevant parties, within or outside of the country of origin, in order to carry out the Administrative Purposes, and in doing so each Party will ensure that the sharing and use of this Personal Data complies with applicable Data Protection Legislation.

## 4. **PROCESSOR OBLIGATIONS**

- 4.1 To the extent that the Consultant Company acts in its capacity as Processor under the Conditions, the Consultant Company shall:
- 4.1.1 Process University Data for and on behalf of the University for the Permitted Purpose, and only in accordance with the terms of the Conditions and any written instructions from the University;
- 4.1.2 unless prohibited by law, notify the University immediately (and in any event within twenty-four (24) hours of becoming aware of the same) if it considers, in its opinion (acting

reasonably) that it is required by Applicable Law to act other than in accordance with the instructions of the University, including where it believes that any of the University's instructions under paragraph 4.1.1 infringes the Data Protection Legislation;

- 4.1.3 implement and maintain appropriate technical and organisational security measures which are sufficient to comply with at least the obligations imposed on the University by the Security Requirements;
- 4.1.4 take all reasonable steps to ensure the reliability and integrity of any of the Personnel who shall have access to the University Data on a strict need to know basis, and ensure that each member of the Personnel shall have entered into appropriate contractually binding confidentiality undertakings;
- 4.1.5 within thirty (30) calendar days of a request from the University (or, in the event of a Personal Data Breach, immediately on request from the University) allow its data processing facilities, procedures and documentation to be submitted for inspection and/or audit by the University (and/or its representatives, including its appointed auditors) in order to ascertain compliance with the terms of this Schedule 1 and provide reasonable information, assistance and co-operation to the University, including access to relevant Personnel and/or, on the request of the University, provide the University with written evidence of its compliance with the requirements of this Schedule 1;
- 4.1.6 notify the University promptly (and in any event within two (2) Business Days) following its receipt of any Communication and shall:
  - (a) not disclose any University Data in response to any Communication without the University's prior written consent;
  - (b) provide the University with all reasonable co-operation and assistance required by the University in relation to any such Communication; and
  - (c) continue to provide such further information relating to any such Communication as details become available;
- 4.1.7 notify the University promptly (and in any event within twenty-four (24) hours) upon becoming aware of any actual or suspected, threatened or 'near miss' Personal Data Breach, and:
  - (a) implement any measures necessary to restore the security of the compromised University Data;
  - (b) assist the University with making any notifications to the Regulator and affected Data Subjects; and
  - (c) continue to provide further information relating to any such Personal Data Breach as details become available,

any such notification shall be made to the University's nominated data protection officer at ***info-compliance@kcl.ac.uk***, and the University's contract representative;

- 4.1.8 except to the extent required by Applicable Law, upon termination or expiry of the Conditions (as applicable), cease Processing all University Data and return and/or permanently and securely destroy so that it is no longer retrievable (as directed in writing

by the University) all University Data and all copies in its possession or control save where such retention is required under Applicable Law; and

- 4.1.9 in accordance with Good Industry Practice, assist the University with complying with the obligations imposed on the University by the Data Protection Legislation, including:
- (a) compliance with the Security Requirements;
  - (b) obligations relating to notifications required by the Data Protection Legislation to the Regulator and/or any relevant Data Subjects; and
  - (c) undertaking any Data Protection Impact Assessments (and, where required by the Data Protection Legislation, consulting with the Regulator in respect of any such Data Protection Impact Assessments).

## 4.2 Data Protection Particulars

Each of the parties acknowledges and agrees that Appendix 1 to this Schedule 1 is an accurate description of the Data Protection Particulars.

## 4.3 Appointment of a Sub-Processor

Where the Consultant Company acts as a Processor, the Consultant Company shall:

- 4.3.1 not disclose University Data to a third party in any circumstances without the University's prior written consent, save in relation to: (i) any approved Sub-Processors set out in paragraph 6 of Appendix 1 to this Schedule 1; and (ii) a Third Party Request where the Consultant Company is prohibited by law or regulation from notifying the University, in which case it shall notify the University in advance of such disclosure and in any event as soon as practicable thereafter.
- 4.3.2 not sub-contract the performance of any of its obligations under the Conditions unless it:
- (a) has obtained prior written consent from the University in respect of the proposed Sub-Processor;
  - (b) undertakes thorough due diligence on the proposed Sub-Processor, including a risk assessment of the information, governance-related practices and processes of the proposed Sub-Processor, which shall be used by the Consultant Company to inform any decision on appointing the proposed Sub-Processor;
  - (c) provides the University with full details of the proposed Sub-Processor (including the results of the due diligence undertaken in accordance with paragraph 4.3.2(b) above) before its appointment and the University has consented to such appointment in writing; and
  - (d) has put in place a contract with the proposed sub-contract (as it relates to the Processing of University Data) on terms which are substantially the same as, and in any case no less onerous than, the terms set out in this Schedule 1.
- 4.3.3 remain liable to the University for the acts, errors, and omissions of any Sub-Processor to whom it discloses University Data and shall be responsible to the University for the acts, errors, and omissions of such Sub-Processor as if they were the Consultant Company's own acts, errors, and omissions to the extent that the Consultant Company would be liable to the University under the Conditions for those acts, errors, and omissions.

## 5. INTERNATIONAL TRANSFERS OF PERSONAL DATA

The Consultant Company shall not (and shall ensure that its Sub-Processors, if any, shall not) make a Restricted Transfer without the prior written consent of the University (which the University shall be entitled to withhold for any reason). **[NOTE TO KCL: We have assumed that (a) the Consultant Company will not be processing Personal Data in a Restricted Country; and (b) the Consultant Company will not be transferring any Personal Data to a Sub-Processor in a Restricted Country. If there are Restricted Transfers of Personal Data (whether direct to the Consultant Company, or indirectly via the Consultant Company in the UK/EEA to a Sub-Processor in a Restricted Country) more detailed provisions with respect to those Restricted Transfers will be required.]**

## 6. LIABILITY

6.1 The Consultant Company shall indemnify on demand and keep indemnified the University from and against:

- 6.1.1 any monetary penalties or fines levied by a Regulator on the University;
- 6.1.2 the costs of an investigative, corrective or compensatory action required by a Regulator, or of defending proposed or actual enforcement taken by a Regulator;
- 6.1.3 any Losses suffered or incurred by, awarded against, or agreed to be paid by, the University pursuant to a claim, action or challenge made by a third party against the University (including by a Data Subject); and
- 6.1.4 except to the extent that paragraph 6.1.1 and/or 6.1.2 and/or 6.1.3 apply, any Losses suffered or incurred, awarded against, or agreed to be paid by, the University,

in each case to the extent arising as a result of a breach by the Consultant Company (or its Sub-Processors) of this Schedule 1 and/or their respective obligations under the Data Protection Legislation.

6.2 Nothing in this Schedule 1 or the Conditions will exclude, limit, or restrict the Consultant Company's liability under the indemnity set out in paragraph 6.1.

## 7. MISCELLANEOUS

Notwithstanding anything in the Conditions to the contrary, this Schedule 1 shall continue in full force

## APPENDIX 1

## DATA PROTECTION PARTICULARS (IF APPLICABLE)

**[NOTE TO KCL: This Appendix 1 will not be applicable if there are no activities envisaged under the Conditions where the Consultant Company will be acting in its capacity as Processor. If this Appendix 1 is not applicable, please delete paragraphs 1 – 6 and remove the square brackets from the words [Not used.]]**

1. **[SUBJECT MATTER AND DURATION OF PROCESSING]**

The subject matter and duration of the Processing are as set out in the Conditions.

2. **NATURE AND PURPOSE OF PROCESSING**

Broadly, the Consultant Company Processes the University Data to enable it to provide the Services to the University and to comply with its obligations under the Conditions whilst they remain in force.

3. **CATEGORIES OF COMPANY PERSONAL DATA**

**[NOTE TO KCL: Insert details.]**

4. **CATEGORIES OF SPECIAL CATEGORIES OF DATA PERSONAL DATA AND PERSONAL DATA RELATING TO CRIMINAL CONVICTIONS AND OFFENCES DATA**

**[NOTE TO KCL: Insert details.]**

5. **CATEGORIES OF DATA SUBJECTS**

**[NOTE TO KCL: Insert details.]**

6. **APPROVED SUB-PROCESSORS**

The parties agree that the Consultant Company may engage and appoint the following Sub-Processors to provide the Services:

Name of Sub-Processor	Sub-Processor's details (company number, address)	Location of Sub-Processor and jurisdiction in which Personal Data is Processed	Personal Data to be Processed by Sub-Processor
[insert]	[insert]	[insert]	[insert]

]

[Not used.]