

FORM OF CONTRACT OF THE PURCHASE OF GOODS AND/OR SERVICES

DATE:

University Name:	King's College London [or other University group entity]
University Address:	Strand, London, WC2R 2LS
University email address for notices:	[Email Address]
Supplier Name:	[Legal name of the supplier]
Supplier Company Number:	[Company Number]
Supplier's registered office:	[Address]
Supplier email address for notices:	[Email Address]
Commencement Date:	[Date]
Goods:	either ["As specified in the Tender dated [date], with reference [xxxxxxx]"] OR [a description of the Goods]. [Note to University should ensure that this description is sufficiently details to ensure it is going to receive what it expects to.]
Delivery Date:	[DATE]
Delivery Location:	[Address]
Services:	either ["As specified in the Tender dated [date], with reference [xxxxxxx]"] OR [a description of the Services]. [Note to University should ensure that this description is sufficiently details to ensure it is going to receive what it expects to.]
Date of Performance of the Services:	[DATE]
Specification:	either ["As specified in the Tender dated [date], with reference [xxxxxxx]"] OR [detailed specification of the Goods/Services].

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	[Note to University should ensure that this description is sufficiently details to ensure it is going to receive what it expects to.]
KPIs (Services):	[If agreement is only for the provision of Goods – N/A] OR [Details of KPIs] [Note to University: If agreement includes the provision of Services, include any Key Performance Indicators that the Supplier has to meet in the provision of the Services, i.e. emails responded to by the Supplier within 4 hours, 99% of maintenance issues repaired within 2 days etc]
Service Credits (Services):	[Details of any payments to be refunded to the University by the Supplier in the event that the Supplier fails to comply with the KPIs i.e. for each KPI the Supplier fails to meet in a month (or applicable charges period), the Supplier the Service Credit shall be 2% of the Charges paid or payable for that month]
Liquidated Damages (Goods):	[If agreement is only for the provision of Goods – N/A] OR [insert]% of the Charges for each day the Goods are delayed, up to a maximum of [100]% of the Charges OR £[amount] [Note to the University: Any sum included in here needs to be a genuine attempt to estimate in advance the loss which the University would be likely to suffer from delay to the delivery of the Goods, and that cannot be in any way extravagant or unconscionable in comparison with the University's legitimate interest in ensuring timely delivery. You should consider the actual losses the University could suffer in the event of a delayed delivery (such as payments what would have to be made to other suppliers etc), and not exceed these.]
Charges:	[Details of the Charges]
University Trade Marks:	[Where the Supplier does not need to use any University Trade Marks – N/A] OR Where the Supplier does need to use a University Trade mark – include details of licensed trademarks] [Note to University: Only the University's trademarks which are <u>required</u> by the Supplier to provide the Goods/Services should be included here. You should include both an image of the trademark (where possible) and the registered trademark number, which can be found using the UK Intellectual Property Office's Trade Mark Search here.]



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Signed by KING'S COLLEGE LONDON
acting by

.....
Full Name (Director)

.....
Signature of Director

Signed by [SUPPLIER]
acting by

.....
Full Name (Director)

.....
Signature of Director

GENERAL CONDITIONS OF PURCHASE OF GOODS AND/OR SERVICES

1. INTERPRETATION

1.1 Definitions:

In these Conditions, the following definitions apply:

"Acceptance"	means the acceptance or deemed acceptance of the Goods by the University in accordance with the provisions of paragraph 7 and 8 of Schedule 1. "Accepted" shall be interpreted accordingly;
"Acceptance Test"	means any relevant tests, procedures and/or inspections to be undertaken in relation to the Goods in order for the University to establish whether the Goods comply with/are in accordance with the Specification or otherwise meets the University's requirements as contemplated by the Contract;
"Applicable EU Law"	means any law of the European Union law (or the law of one of the Member States of the European Union), and after 29 March 2019, shall, for the purposes of this definition, include any law of the United Kingdom;
"Business Day"	means a day other than a Saturday, Sunday or public holiday in England when the University is open for business;
"Card Payments Security Policy"	means the card payments security policy located at https://www.kcl.ac.uk/assets/policyzone/finance/card-payments-policy.pdf as updated from time to time;
"Charges"	means the charges for the Goods and/or Services set out in the Form of Contract or otherwise as agreed in writing between the Parties;
"Commencement Date"	means the date on which the Form of Contract is signed by both Parties;
"Conditions"	means the terms and conditions set out in this document;
"Confidential Information"	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: (a) was public knowledge at the time of disclosure (otherwise than by breach of Clause 11); (b) was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party; (c) is received from a third party (who lawfully acquired it) without restriction as to its disclosure, or

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	(d) is independently developed without access to the Confidential Information;
"Contract"	means these Conditions, the Form of Contract, the Specification (if any) and the Schedules to these Conditions together with any documents referred to in any of them;
"Deliverables"	means all documents, products and materials to be developed by the Supplier 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);
"Delivery Date"	means the date specified by the University for delivery of the Goods, as set out in the Form of Contract;
"Delivery Location"	means the location as instructed by the University, to the Supplier, before delivery, as set out in the Form of Contract;
"Designated Area"	means the area at the Delivery Location for the Installation of the Goods, as set out in the Installation Plan;
"Environmental Policy"	means the University's environmental policy as updated by the University from time to time and located at https://www.kcl.ac.uk/policyhub ;
"Ethics and Anti-bribery Policy"	means the University's ethics and anti-bribery policy as updated by the University from time to time and made available to the Supplier upon request;
"Form of Contract"	means the 'form of contract' attached to these Conditions;
"Freedom of Information Legislation"	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;
"Good Industry Practice"	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);
"Goods"	means any goods to be supplied by the Supplier as specified in the Form of Contract;
"Health and Safety Policies"	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 https://www.kcl.ac.uk/policyhub ;

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"Installation"	means the installation of the Goods by the Supplier, in the Designated Area and/or into the operating environment specified by the University in writing and "Install" and "Installed" shall be interpreted accordingly;
"Installation Plan"	means the plan appended to the Contract which sets out the details, method and processes for Installation;
"Installation Report"	shall have the meaning as set out at paragraph 8.2.1 of Schedule 1;
"Intellectual Property Rights"	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;
"ITT"	means the invitation to tender or request for quotes issued by the University for the Goods and/or Services (if any and as applicable);
"KPIs"	means the key performance indicators set out in the Form of Contract;
"Long Stop Completion Date"	means the date expiring 3 months after the Delivery Date or such other date as the Parties shall agreed in writing;
"Losses"	means losses, liabilities, damages, compensation, awards, payments made under settlement arrangements, claims, proceedings, costs and other expenses including fines, interest and penalties, whether arising in contract, tort (including negligence), breach of statutory duty or otherwise, legal and other professional fees and expenses;
"Modern Slavery Policy"	means the University's anti-slavery and human trafficking policy in force and notified to the Supplier from time to time located in the University Policies;
"New Supplier"	means another party chosen by the University to take over the provision of all or part of the Services on expiry or termination of the Contract;
"Outgoing Service Provider"	means any supplier(s) engaged to perform all or part of the Services prior to the date on which the Supplier takes over the provision of the Services;
"Payment Card Industry Data Security Standards"	means the industry standards found at https://www.pcisecuritystandards.org/standards/pci-dss/ as updated from time to time;
"Personnel"	means all persons engaged or employed from time to time by the Supplier in connection with the Contract, including employees,

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	consultants, contractors and permitted agents;
"Premises"	means any premises owned, operated or used by the University at which Services are to be performed or at which the Goods shall be Delivered and/or Installed;
"Returning Employees"	means those persons listed in a schedule to be agreed by the Parties prior to the Subsequent Transfer Date who it is agreed were employed by the Supplier wholly and/or mainly in the Services immediately before the Subsequent Transfer Date;
"Rules and Regulations for Contractors"	means the University's rules and regulations where the Supplier is a contractor (as defined therein) located at https://www.kcl.ac.uk/about/assets/estates-assets/pdf/rulesregs/ef-asu-02-pr60.pdf as updated from time to time;
"Services"	means the services to be performed by the Supplier as specified in the Form of Contract;
"Service Credit"	has the meaning given in the Form of Contract;
"Spares"	means any spare, replacement or component parts of the Goods;
"Specification"	means the description and specification for the Goods (including any related plans and drawings) and/or for the Services as set out in the Form of Contract, ITT, Tender (if any) or as otherwise is provided by the Supplier to the University;
"Subsequent Transfer Date"	means the date or dates on which there is a transfer of responsibility for the provision of the Services or part of the Services from the Supplier to the University and/or to a New Supplier (as the case may be);
"Supplier"	means the supplier of any Goods and/or Services under the Contract and whose details are set out in the Form of Contract;
"Supplier's Team"	means all employees, consultants, agents and subcontractors of the Supplier or of any subcontractors which are engaged in relation to the performance of the Services and/or the delivery of the Goods (including Installation);
"Tender"	means the Supplier's quotation or written response to the ITT including all supporting documentation and representations;
"Term"	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);
"TUPE"	means the Transfer of Undertakings (Protection of Employment) Regulations 2006;
"University"	means the King's College London or any wholly owned or associated

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subsidiary thereof named on the Form of Contract;

- "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);
- "University Materials"** has the meaning given to it in paragraph 2.5.9 of Schedule 2;
- "University Trade Marks"** has the meaning given in the Form of Contract; and
- "Warranty"** has the meaning given in paragraph 3.1 of Schedule 1.

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 Supplier seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.2 The Supplier 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.

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- 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 Form of Contract, the Specification (if any) and any Schedules, the following order of precedence shall apply:
- 2.4.1 the Form of Contract;
 - 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. **SUPPLIER'S REPRESENTATIONS AND WARRANTIES**
- 3.1 The Supplier represents and warrants to the University that:
- 3.1.1 all information, statements and representations contained in the Tender are in all material respects, true, accurate, and not misleading; and
 - 3.1.2 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.
- 3.2 The Supplier 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 3.1 false or misleading.
- 3.3 The Supplier 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.
- 3.4 The Supplier shall at all times comply with the University Policies.
- 3.5 Where the Supplier processes payments in connection with the provision of the Services, the Supplier shall comply with the Payment Card Industry Data Security Standards and the University's Card Payments Security Policy.
4. **PAYMENT AND INVOICES**
- 4.1 In consideration of the full and proper provision of the Goods and/or the Services, the University shall, subject to the Supplier complying with the remaining provisions of this Clause 4, pay the agreed Charges.
- 4.2 The Supplier shall invoice the University for the Goods and/or the Services following delivery of the Goods or, where applicable, in accordance with paragraph 5 of Schedule 1, Acceptance of Installation, and/or for the Services following performance of the Services, in accordance with paragraph 2 of Schedule 2. The Supplier shall comply with the remaining provisions of this Clause 4.
- 4.3 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 Supplier shall add to its invoices at the appropriate rate.

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- 4.4 In order to facilitate the payment process within the University's accounts payable team, the Supplier shall ensure that each invoice contains the following information:
- 4.4.1 a valid purchase order number;
 - 4.4.2 the period to which the invoice relates;
 - 4.4.3 details of the Goods provided and/or Services performed;
 - 4.4.4 a breakdown of the Charges; and
 - 4.4.5 details of the Supplier's nominated bank account.
- 4.5 The Supplier shall:
- 4.5.1 ensure each invoice/credit note image is clear and legible;
 - 4.5.2 ensure descriptions of goods/services match with the purchase order;
 - 4.5.3 include the address to where the goods were delivered or service provided;
 - 4.5.4 correctly address its invoice or credit note to the University entity as on the purchase order;
 - 4.5.5 ensure each credit note quotes the invoice and purchase order to which it refers; and
 - 4.5.6 ensure prices, quantities match the purchase order.
- 4.6 Failure to provide the required information may result in either returned invoices or payment delays.
- 4.7 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.
- 4.8 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 Supplier specifying the information it requires. The Supplier shall provide all information specified in or required by an Information Request within 5 Business Days of receipt of that Information Request.
- 4.9 If the Supplier fails to respond or, if following the Supplier'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.
- 4.10 If following the Supplier'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.
- 4.11 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 Supplier of any disputed amount shall not prejudice the University's right to dispute

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(and, where appropriate, recover) any sums that should be, or should not have been, paid by the University.

- 4.12 All undisputed sums due to the Supplier 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.
- 4.13 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 Supplier and does not constitute any acceptance by the University as to the performance by the Supplier of all, or any part of its obligations.
- 4.14 The University shall be entitled at any time to set off any liability of the Supplier to the University against any liability of the University to the Supplier (whether that liability is present or future, liquidated or unliquidated and irrespective of currency) under:
- 4.14.1 the Contract; or
- 4.14.2 any other contract between the University and the Supplier.
- 4.15 The Supplier shall make any payments due to the University without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise, unless the Supplier has a valid court order requiring an amount equal to such deduction to be paid by the University to the Supplier.

5. INTELLECTUAL PROPERTY RIGHTS

- 5.1 The Supplier assigns to the University, with full title guarantee and free from all third party rights, the Intellectual Property Rights and all other rights in the products of the Services (including the Deliverables).
- 5.2 The Supplier grants to the University a royalty free, non-exclusive, irrevocable, perpetual licence to use the Supplier's Intellectual Property Rights so far as it is required for the University to derive the full benefit of the Contract (including any of the Goods and Deliverables and receipt of the Services).
- 5.3 At its own expense, the Supplier shall, and shall use all reasonable endeavours to procure that any necessary third party shall, promptly execute and deliver such documents and perform such acts as may be required for the purpose of giving full effect to the Contract, including securing for the University all right, title and interest in and to the Intellectual Property Rights and all other rights assigned to the University in accordance with Clause 5.1.
- 5.4 The Supplier shall obtain waivers of any moral rights in the products of the Services (including the Deliverables) to which any individual is now or may be at any future time entitled under Chapter IV of Part I of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction.
- 5.5 The University grants to the Supplier a royalty-free, non-exclusive, non-transferable licence for the Term to use the University Trade Marks strictly for the purpose of providing the Goods and/or Services.

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- 5.6 Upon termination or expiry of the Contract, the Supplier shall cease all use of the University Trade Marks and shall, at the University's option, return or destroy any materials bearing the University Trade Marks.
- 5.7 The Supplier shall not use the University Trade Marks for any purpose other than the provision of the Goods and/or Services without the prior written consent of the University.
- 5.8 The Supplier acknowledges that it has no rights in the University Trade Marks other than as expressly granted under the Contract and that all goodwill arising from the use of the University Trade Marks shall accrue to the University.

6. OWNERSHIP OF RESULTS

- 6.1 If the Contract involves design and/or development work:
 - 6.1.1 all rights in the results of work arising out of or deriving from the Contract, including inventions, designs, copyright and knowledge, shall be the University's property and the University shall have the sole right to determine whether any Intellectual Property Rights and other protection shall be sought;
 - 6.1.2 the Supplier shall promptly communicate to the University all such results and shall if requested and at the University's expense do all acts and things necessary to enable the University or its nominee to obtain Intellectual Property Rights for such results in all territories and to assign the same to the University or its nominee to obtain Intellectual Property Rights for such results in all territories and to assign the same to the University or its nominee; and/or
 - 6.1.3 the Supplier shall ensure that all technical information (including computer programmes and programming information) arising out of or deriving from the Contract is held in strict confidence except for any such information which becomes public knowledge other than by breach of the Contract.

7. INDEMNITY

- 7.1 The Supplier 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:
 - 7.1.1 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 manufacture, supply or use of the Goods, or receipt, use or performance of the Services (an "**IPR Claim**");
 - 7.1.2 any claim or proceedings arising from any breach of the Supplier's obligations under Clause 13;
 - 7.1.3 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 Goods and/or the Services (as applicable), to the extent that the defects in the Goods and/or the Services (as applicable) are attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors; and
 - 7.1.4 any claim made against the University by a third party arising out of or in connection with the supply of the Goods and/or performance 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 Supplier, its employees, agents or subcontractors.

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- 7.2 If an IPR Claim is made or is reasonably likely to be made, the Supplier shall, at the University's option:
- 7.2.1 procure for the University the right to continue using and possessing the relevant Goods and/or receiving the Services; and/or
 - 7.2.2 modify or replace the infringing part of any Goods and/or Deliverables so as to avoid the infringement or alleged infringement, provided the Goods remain in material conformance to their Specification and provided that the modified or replaced deliverables are substantially similar (in all material respects) to the Deliverables.
- 7.3 This Clause 7 shall survive termination of the Contract.
8. **LIABILITY**
- 8.1 Nothing in the Contract shall limit or exclude the liability of the Supplier under Clause 7.1 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.
- 8.2 Without prejudice to Clause 8.1, the University shall not be liable to the Supplier, 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 data, loss of goodwill, or for any special, indirect or consequential damage or any special indirect or consequential loss suffered by the Supplier that arises under or in connection with the Contract.
- 8.3 Without prejudice to Clause 8.1 or Clause 8.2:
- 8.3.1 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 4); and
 - 8.3.2 the Supplier'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%) of the total Charges, or the level of insurance that the Supplier is required to obtain for such loss in accordance with the provisions of Clause 9.1.
9. **INSURANCE**
- 9.1 During the term of the Contract and for a period of six (6) years thereafter, the Supplier shall:
- 9.1.1 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

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- 9.1.2 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.
- 9.2 The Supplier shall:
 - 9.2.1 do nothing to invalidate any insurance policy or to prejudice the University's entitlement under it; and
 - 9.2.2 notify the University if any policy is (or will be) cancelled or its terms are (or will be) subject to any material change.
- 9.3 The Supplier's liabilities under any term of the Contract or otherwise shall not be deemed to be released or limited by the Supplier taking out the insurance policies referred to in Clause 9.1.
- 10. **INADEQUACY OF DAMAGES**
- 10.1 Without prejudice to any other rights or remedies that a Party may have, each Party acknowledges and agrees that damages alone would not be an adequate remedy for any breach of the terms of the Contract by the other Party. Accordingly, each Party 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.
- 10.2 Each Party's rights under the Contract are in addition to its rights and remedies implied by statute and common law.
- 11. **CONFIDENTIALITY**
- 11.1 Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in the Contract, each Party shall:
 - 11.1.1 treat the other Party's Confidential Information as confidential and safeguard it accordingly; and
 - 11.1.2 not disclose the other Party's Confidential Information to any other person without the other Party's prior written consent.
- 11.2 Clause 11.1 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 12.
- 11.3 Notwithstanding clause 11.1, each Party shall be entitled to disclose Confidential Information of the other Party;
 - 11.3.1 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 as though they were a Party to the Contract;
 - 11.3.2 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
 - 11.3.3 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 Goods and/or Services, or where there is a legal right, duty or requirement to disclose, provided

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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.

11.4 The Supplier shall procure that the Supplier's Team:

11.4.1 do not use or disclose any Confidential Information other than as provided in Clause 11.3; and

11.4.2 are contractually bound to it by obligations of confidentiality no less onerous than in this Clause 11. The Supplier shall be primarily liable for any breach of confidentiality by any of the Supplier's Team.

12. FREEDOM OF INFORMATION

12.1 The Supplier 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 Supplier. The University shall take reasonable steps to notify the Supplier 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.

12.2 The Supplier acknowledges that the University is subject to the Freedom of Information Legislation and shall assist and co-operate with the University to enable the University to comply with its obligations under the Freedom of Information Legislation.

12.3 The Supplier shall:

12.3.1 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;

12.3.2 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

12.3.3 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.

12.4 The Supplier 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.

12.5 This Clause 12 shall survive termination of the Contract.

13. DATA PROTECTION

13.1 Each Party agrees to comply with its obligations as set out in Schedule 3 (Data Protection) of these Conditions.

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14. ENVIRONMENTAL AND SUSTAINABILITY REQUIREMENTS

- 14.1 The Supplier shall comply with the obligations of Schedule 4 (Environmental and Sustainability Requirements) of these Conditions.

15. EQUALITY

- 15.1 The Supplier shall, and shall procure that the Supplier's Team shall:

- 15.1.1 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
- 15.1.2 take all necessary steps, and, if requested, 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).

16. GIFTS, INDUCEMENTS AND REWARDS

- 16.1 The Supplier shall:

- 16.1.1 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**");
- 16.1.2 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;
- 16.1.3 comply with the Ethics and Anti-bribery Policy;
- 16.1.4 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;
- 16.1.5 promptly report to the University any request or demand for any undue financial or other advantage of any kind received by the Supplier in connection with the performance of the Contract;
- 16.1.6 immediately notify the University (in writing) if a foreign public official becomes an officer or employee of the Supplier, or acquires a direct or indirect interest in the Supplier, and the Supplier warrants that it has no foreign public officials as direct or indirect owners, officers or employees at the Commencement Date; and

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- 16.1.7 on request, certify to the University in writing signed by an officer of the Supplier, compliance with this Clause 16 by the Supplier. The Supplier shall provide such supporting evidence of compliance as the University may reasonably request.
- 16.2 The Supplier shall ensure that any person associated with the Supplier 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 Supplier in this Clause 16 ("**Relevant Terms**"). The Supplier 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.
- 16.3 The Supplier 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.
17. **ANTI-SLAVERY**
- 17.1 The Supplier undertakes, warrants and represents that:
- 17.1.1 neither the Supplier nor any of its officers, employees, agents or subcontractors has:
- (a) committed an offence under the Modern Slavery Act 2015 (a "**MSA Offence**");
 - (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;
- 17.1.2 it shall comply with the Modern Slavery Act 2015 and the Modern Slavery Policy;
- 17.1.3 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 Supplier's obligations under Clause 17.1. Such notice to set out full details of the circumstances concerning the breach or potential breach of the Supplier's obligations.
- 17.2 Any breach of Clause 17.1 by the Supplier shall be deemed a material breach of the Contract incapable of remedy and shall entitle the University to terminate the Contract with immediate effect.
18. **ANTI-FACILITATION OF TAXATION**
- 18.1 The Supplier shall:
- 18.1.1 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;
- 18.1.2 have and shall maintain in place throughout the term of the Contract such policies and procedures as are both reasonable to prevent the facilitation of tax evasion by another

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- person (including without limitation employees of the Supplier.) and to ensure compliance with Clause 18.1.1;
- 18.1.3 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; and
- 18.1.4 within three months of the date of the Contract, and annually thereafter, the University may require, in writing signed by an officer of the Supplier, confirmation of compliance with this Clause 18 by the Supplier and all persons associated with it under Clause 18.2. The Supplier shall provide such supporting evidence of compliance as the University may reasonably request.
- 18.2 The Supplier shall ensure that any person associated with the Supplier who is performing services and/or providing goods 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 Supplier in this Clause 18 ("**Relevant Terms**"). The Supplier 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.
- 18.3 Any breach of this Clause 18 shall be deemed a material breach of the Contract incapable of remedy and shall entitle the University to terminate the Contract with immediate effect.
- 18.4 For the purposes of this Clause 18, 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 Supplier includes but is not limited to any subcontractor of the Supplier.
19. **TERMINATION**
- 19.1 Without limiting its other rights or remedies, the University may terminate the Contract:
- 19.1.1 in respect of the supply of Services, by giving the Supplier no less than thirty (30) days' written notice (or such other notice period as may be agreed between the Parties in writing). The University shall pay the Supplier'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; and
- 19.1.2 in respect of the supply of Goods, in whole or in part at any time before delivery with immediate effect by giving written notice to the Supplier, whereupon the Supplier shall discontinue all work on the Contract. The University shall pay the Supplier's reasonable costs incurred relating to any work in progress on the Goods at the time of termination subject to such costs being evidenced to the reasonable satisfaction of the University and mitigated.
- 19.2 In any of the circumstances in these Conditions in which a Party may terminate the Contract, where both Goods and Services are supplied, that Party may terminate the Contract in respect of the Goods, or in respect of the Services, and the Contract shall continue in respect of the remaining supply.
- 19.3 Without limiting its other rights or remedies, the University may terminate the Contract with immediate effect by giving written notice to the Supplier if:
- 19.3.1 the Supplier commits a material breach of the terms of the Contract and (if such a breach is remediable) fails to remedy that breach within thirty (30) days of receipt of notice in writing to do so;

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- 19.3.2 the Supplier persistently breaches any of the terms of the Contract in such a manner that if taken together they amount to a material breach;
- 19.3.3 any encumbrancer takes possession of or a receiver, administrative receiver or similar officer is appointed over any of the property or assets of the Supplier or if the Supplier 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 Supplier or if the Supplier ceases or threatens to cease to carry on business;
- 19.3.4 the Supplier's financial position deteriorates to such an extent that in the University's opinion the Supplier is unable to adequately fulfil its obligations under the Contract; or
- 19.3.5 there is a change of control of the Supplier (within the meaning of section 1124 of the Corporation Tax Act 2010).

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

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

20. CONSEQUENCES OF TERMINATION

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

20.1.1 enter the Supplier's premises and take possession of them; and/or

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

20.2 Until the Deliverables and any University Materials have been returned or delivered, the Supplier 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.

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

20.4 Termination of the Contract shall be without prejudice to any licence granted under Clause 5.2.

21. DISPUTE RESOLUTION

21.1 Without prejudice to Clause 4.8, 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.

21.2 If the Parties are unable to resolve the dispute within 28 days of being escalated in accordance with Clause 21.1, 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

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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.

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

21.4 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.

22. ANNOUNCEMENTS

22.1 Notwithstanding any other provision of these Conditions, the Supplier 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 11.3.3) without the prior written agreement of the University.

23. GENERAL

23.1 Entire Agreement

23.1.1 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.

23.1.2 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.

23.2 Force Majeure

Either Party may defer the date for performance of, or payment for, the Services, or delivery of, or payment for, the Goods, or to 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.

23.3 Assignment and other Dealings

23.3.1 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 Supplier.

23.3.2 The Supplier may not assign, transfer, mortgage, charge, 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 Supplier may only subcontract its obligations with the prior written consent of the University.

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- 23.3.3 The Supplier 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.
- 23.3.4 Notwithstanding Clause 11, 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 Supplier which it is reasonably necessary to disclose for the purposes of the proposed assignment, provided that no disclosure pursuant to this Clause 23.3 shall be made until notice of the identity of the proposed assignee has been given to the Supplier.

23.4 Notices

- 23.4.1 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.
- 23.4.2 A notice or other communication shall be deemed to have been received one business day after transmission of the email.
- 23.4.3 The provisions of this Clause shall not apply to the service of any proceedings or other documents in any legal action.

23.5 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.

23.6 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.

23.7 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.

23.8 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.

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23.9 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.

23.10 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 both Parties.

23.11 Time of the Essence

Time is of the essence for the performance of the Supplier'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.

23.12 Governing Law and Jurisdiction

23.12.1 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.

23.12.2 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 Supplier 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.

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SCHEDULE 1

TERMS APPLYING TO THE SUPPLY OF GOODS

1. INCORPORATION

The provisions set out in this Schedule shall apply to the supply of the Goods, in addition to those set out in main body of these Conditions.

2. SUPPLY OF GOODS

2.1 The Supplier shall supply the Goods to the University in accordance with the Specification and the terms of the Contract.

2.2 The Supplier shall ensure (and it shall be a condition of the Contract that) the Goods (and any delivery, Installation or connected services so far as applicable) shall:

2.2.1 correspond with their description and any applicable Specification including the requirements of the ITT and Tender (as applicable);

2.2.2 comply with the express terms of the Contract and any implied conditions, warranties and terms contained in the Sale of Goods Act 1979, and/or the Supply of Goods and Services Act 1982;

2.2.3 be new (unless otherwise specified by the University), of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for any purpose held out by the Supplier or made known to the Supplier by the University, expressly or by implication, and in this respect the University relies on the Supplier's skill and judgment;

2.2.4 not infringe the Intellectual Property Rights or other rights of any third party;

2.2.5 comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods (including any specific requirements as may be set out in the Specification) and provide all such reasonable assistance to the University to ensure that the University is not in breach of any such requirements and laws in relation to the Goods (including, without limitation, the Environmental Protection Act 1990 and the Waste Electrical Equipment Directive); and

2.2.6 subject to paragraph 7.2.5, be Installed and ready for the University to use as it anticipated as soon as possible following the Delivery Date.

2.3 All marking and labelling of the Goods (i) necessary to ensure safe and proper handling, processing, storage and transport and (ii) as particularly required by the University shall be carried out by the Supplier.

3. WARRANTY

3.1 Without prejudice to the University's other rights and remedies in the Contract, the Supplier warrants that the Goods shall be free from defects in design, materials and workmanship and remain so for 12 months after the Delivery Date or 12 months after Acceptance (whichever shall be the later) ("**Warranty**"). If the Goods are unavailable to the University due to any breach of this Warranty (or any other terms of the Contract) the period of the Warranty shall be extended by the period of such unavailability.

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- 3.2 The Supplier shall, without limiting the University's other rights or remedies, pay the University and/or be responsible for (as applicable) all costs arising from any breach of the Warranty, including any additional parts, labour and/or transportation costs arising as a result.
- 3.3 The Supplier shall comply with any response times for repairs to the Goods as notified in writing by the University and in the event of any failure by the Supplier to do so the University shall (without prejudice to its other rights and remedies) be entitled to the remedies set out paragraph 7.1.2.
- 3.4 For the avoidance of doubt, any alterations to, or attachments made to, the Goods by the University shall not invalidate the Warranty provided that the Supplier gives its prior consent.
- 4. SPARE PARTS AND CONSUMABLE SUPPLIES**
- 4.1 Where specified in the Specification, the Supplier shall continue to make available to the University for a period of at least seven years after the date of expiry or termination of the Contract the Goods and any Spares.
- 4.2 The University shall be free to negotiate the price of Spares following the expiry or termination of the Contract except that if the Parties cannot agree on a suitable price within 10 Business Days of commencing negotiations, the prices of the Spares shall not exceed the prices applicable to the Spares at the date of expiry or termination of the Contract subject to an increase or decrease of such price to reflect the fluctuation in the consumer prices index for the previous 12 months as at the date of subsequent supply. These Conditions shall apply to any Spares supplied to the University under this paragraph 4.
- 4.3 The University reserves the right to procure consumables to be used on or with the Goods from the Supplier or such other source as the University may deem appropriate. The Parties agree that the procurement of consumables from a third party shall not invalidate the University's rights and remedies under the Contract, provided that the consumables meet the minimum standards published by the Supplier or the manufacturer of the Goods (or where no such standards have been published, the standards generally accepted as being applicable to the consumables).
- 5. DELIVERY OF GOODS**
- 5.1 The Supplier shall ensure that:
- 5.1.1 the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition; and
- 5.1.2 if the Goods are being delivered by instalments, the Supplier shall clearly indicate the outstanding balance of Goods remaining to be delivered. The Supplier shall not deliver the Goods in instalments without the University's prior written consent. Where it is agreed that the Goods are delivered by instalments, they may be invoiced and paid for separately. However, failure by the Supplier to deliver any one instalment on time or at all or any defect in an instalment shall entitle the University to the remedies set out paragraph 7.1.2 and 7.1.3.
- 5.2 The Supplier shall deliver the Goods on the Delivery Date and to the Delivery Location.
- 5.3 Delivery of the Goods shall be completed:
- 5.3.1 if the Goods are to be Installed, on the completion of Installation of the Goods at the Designated Area; or
- 5.3.2 if otherwise, on completion of unloading of the Goods at the Delivery Location.

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6. TITLE AND RISK

- 6.1 Without prejudice to any right of rejection to which the University may be entitled, title to the Goods shall pass to the University upon completion of delivery in accordance with paragraph 5.3.
- 6.2 Risk in the Goods shall pass to the University upon Acceptance of the Goods in accordance with paragraph 7.
- 6.3 Risk shall revert to the Supplier whenever the Goods are within its custody and control.
- 6.4 In the event of rejection of the Goods by the University, risk of loss of or damage to the Goods shall revert to the Supplier upon notification by the University to the Supplier of such rejection.

7. ACCEPTANCE AND DEFECTIVE GOODS

7.1 Non-Installed Goods

- 7.1.1 Subject to paragraph 7.2, the University shall not be deemed to have accepted any Goods until it has had a reasonable time to inspect them following delivery, or, in the case of a latent defect in the Goods, until a reasonable time after the latent defect has become apparent.
- 7.1.2 If any Goods delivered to the University do not comply with paragraph 2, or are otherwise not in conformity with the terms of the Contract, then, without limiting any other right or remedy that the University may have, the University may reject those Goods and:
 - (a) require the Supplier to repair or replace the rejected Goods at the Supplier's risk and expense within five Business Days of being requested to do so; or
 - (b) require the Supplier to repay the price of the rejected Goods in full (whether or not the University has previously required the Supplier to repair or replace the rejected Goods); and
 - (c) claim damages for any other costs, expenses or losses resulting from the Supplier's delivery of Goods that are not in conformity with the terms of the Contract.
- 7.1.3 If the Supplier has delivered Goods that the University subsequently finds do not comply with the Contract (including, without limitation, the undertakings set out in paragraph 2.2), then, without limiting its other rights or remedies, the University shall have one or more of the following rights, whether or not it has accepted the Goods:
 - (a) to reject the Goods (in whole or in part) whether or not title has passed and to return them to the Supplier at the Supplier's own risk and expense (if practically capable of doing so);
 - (b) to terminate the Contract with immediate effect by giving written notice to the Supplier;
 - (c) to require the Supplier to repair or replace the rejected Goods in reasonable timescales directed by the University or, upon the University's request, to provide a full refund of the price of the rejected Goods;
 - (d) to refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;

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- (e) to claim damages for any additional costs, loss or expenses incurred by the University arising from the Supplier's delivery of Goods that are not in conformity with the Contract.
- 7.1.4 The Universities rights and remedies under paragraph 7.1.2 are in addition to the rights and remedies available to it in respect of the statutory conditions relating to description, quality, fitness for purpose and correspondence with sample implied into the Contract by the Sale of Goods Act 1979.
- 7.1.5 These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.
- 7.1.6 If the Supplier fails to promptly repair or replace rejected Goods in accordance with paragraph 7.1.2(a) or 7.1.3(c), the University may, without affecting its rights under paragraph 7.1.2(c) or 7.1.3(e) respectively, obtain substitute goods from a third party supplier, or have the rejected Goods repaired by a third party, and the Supplier shall reimburse the University for the costs it incurs in doing so.

7.2 Installed Goods

- 7.2.1 For Goods that are to be Installed, Acceptance Tests shall take place after Installation of the Goods. The objective of the Acceptance Tests is to test compliance of the Goods with the Specification (and such other requirements as may be agreed between the Parties).
- 7.2.2 Within 10 Business Days of signing the Contract, the Supplier shall provide all such support and information which may be required by the University to enable the University to conduct Acceptance Tests.
- 7.2.3 Acceptance of the Goods shall occur when the Goods have passed the Acceptance Tests to the satisfaction of the University. As soon as reasonably practicable after the Goods have passed the Acceptance Tests, the University shall confirm Acceptance in writing to the Supplier.
- 7.2.4 In the event that any Acceptance Tests are not passed, the defects that cause the relevant tests to be failed shall be documented by the University and presented to the Supplier for discussion as to how the Supplier will rectify such defects.
- 7.2.5 The Supplier shall remedy all defects promptly in order to ensure that the Goods pass the Acceptance Tests on a retest and so that the Goods are Accepted as soon as possible after the Delivery Date but in any event no later than the Long Stop Completion Date.
- 7.2.6 If such retest(s) demonstrates that the Goods are still not in accordance with the Specification (or such other requirements as may have been agreed between the Parties in writing), the University may, by written notice to the Supplier, elect at its sole option:
 - (a) to fix (without prejudice to its other rights and remedies) a new date for carrying out further tests on the Goods on the same terms and conditions as the retest (except that all reasonable costs which the University may incur as a result of carrying out such tests shall be reimbursed by the Supplier) which shall not exceed the Long Stop Completion Date. If the Goods fail such further tests, the University may elect to proceed under either paragraph 7.2.6(b) or paragraph 7.2.6(c); or
 - (b) to accept the Goods subject to a reduction of the price of the Goods, such reduction to be a mutually agreed reasonable amount, taking into account the

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circumstances. In the absence of written agreement as to such reduction within 14 days of the date of the notice given by the University in accordance with this paragraph 7.2.6, the University shall be entitled to reject the Goods in accordance with paragraph 7.2.6(c); or

- (c) to reject the Goods as not being in conformity with the Contract, in which event the Contract shall (without prejudice to the University's other rights and remedies) automatically terminate.

7.2.7 For the avoidance of doubt, any or all of paragraph 7.2.6(a), 7.2.6(b) and 7.2.6(c) may be used at the University's sole discretion and do not demonstrate an escalation process to which the University must adhere. Further, such provisions are not the sole and exclusive remedy of the University in such instances.

8. INSTALLATION OF GOODS

8.1 This paragraph applies if the Supplier is carrying out Installation.

8.2 Unless otherwise agreed by the Parties in writing, the Supplier shall be required to undertake a visit to the Premises and shall:

8.2.1 issue an Installation Report detailing work to be carried out to prepare the Premises for delivery and/or Installation of the Goods. Such work shall not affect the Long Stop Completion Date. If the Supplier does not notify the University of any such work or requirements, the Supplier shall be deemed to have accepted that the Premises are suitable and shall proceed with delivery and Installation of the Goods; or

8.2.2 issue a certificate, stating that the Premises (including, without limitation, the conditions, layout, design and any other factors) are suitable and acceptable for the delivery and/or Installation or use of the Goods and proceed with the delivery and Installation.

8.3 The Supplier shall ensure that the Installation Report contains adequate information in sufficient time to enable the University and/or the Supplier (as applicable) to prepare the Premises for Installation, and enable the University and/or the Supplier (as applicable) to provide:

8.3.1 a suitable supply of electric current and such other mains services as may reasonably be required;

8.3.2 all other required electrical and mechanical items and fittings, as specified by the Supplier in the Installation Report and as may agreed by the University;

8.3.3 such facilities and environmental conditions as specified by the Supplier in the Installation Report and as may agreed by the University; and

8.3.4 access to and from, the Premises and/or the Designated Area for delivery and Installation of the Goods to enable delivery, off-loading and placing in position of the Goods (including, without limitation, appropriate access and egress that enables the Supplier to deliver and remove any equipment, tooling or other facilities required for the purposes of undertaking and completing delivery and Installation of the Goods) which complies with any specific requirements set out in the Installation Report.

8.4 Where the Supplier has issued an Installation Report, the Supplier shall be required to re-examine the Premises upon the notification by the University that any work specified in the Installation Report has been completed (or upon the Supplier completing such work as applicable) and issue a certificate in accordance with paragraph 8.2.2, or apply the provisions of paragraph 8.2.1 as appropriate.

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- 8.5 Both Parties shall work together and cooperate in good faith to ensure that the tasks identified in the Installation Report are undertaken efficiently and effectively to ensure that the Supplier is able to deliver the Goods on the Delivery Date and to ensure that Installation and testing is undertaken to ensure the Goods are Installed and ready to operate as soon as possible following the Delivery Date but, in any event, by no later than the Long Stop Completion Date. If any such work is unsuitable for the purpose of the Installation as the result of an act, omission or default of one Party, then any costs which the other Party can demonstrate as being reasonably and necessarily incurred as a direct result of that act, omission or default shall be recoverable from the defaulting Party.
- 8.6 The University shall provide the authorised members of the Supplier's Team at all reasonable times and with prior agreement, such access to the Premises, (but not necessarily sole access) as may be necessary for the inspection of the Premises and for the execution of delivery and Installation. Provided that the University shall always have the right to refuse to admit, or order the removal from, the Premises of any members of the Supplier's Team or any other individual or acting on behalf of the Supplier who, in the opinion of the University (which shall be final), is not a fit and proper person to be on the Premises. Action under this Clause shall not relieve the Supplier of any of its obligations under the Contract.
- 8.7 The Supplier must take reasonable care to ensure that, in the execution of the delivery and Installation, they do not interfere with the operations of the University, its employees or any other contractor employed on the Premises.
- 8.8 The Supplier shall (and shall ensure that all members of the Supplier's Team shall), without prejudice to any other obligations to the University with regard to access to the Premises: -
- 8.8.1 comply at all times with its statutory obligations in respect of health and safety at work and the University's policies, procedures and/or reasonable instructions in respect of health and safety (or otherwise);
 - 8.8.2 comply with any policies, procedures and/or reasonable instructions of the University at all times when working on, the Premises (including, but not limited to matters, in relation to security, working in relation to others on Premises, access and egress);
 - 8.8.3 ensure that any Installation and/or other Services which require the attendance of the Supplier on the Premises be undertaken during the University's standard operational hours unless otherwise agreed by the University; and
 - 8.8.4 leave the Goods and the Premises in a clean and tidy condition at the end of each visit and upon completion of the Installation.
- 8.9 The work required of the Supplier to complete Installation shall be as set out in the Installation Plan. In the absence of any Installation Plan, the Supplier shall ensure that Installation shall be completed in accordance with any dates as may have been agreed by the Parties and in any event so that the Long Stop Completion Date is achieved.
- 8.10 Without reducing the scope of any obligations imposed on the Supplier by the terms of the Contract with regard to the standard of the Installation, the Supplier shall use good quality materials, techniques and standards to execute the Installation with the care, skill and diligence required in accordance with the best industry practice.
- 9. LIQUIDATED DAMAGES**
- 9.1 If the Supplier fails to deliver the Goods in accordance with Schedule 1 and the Goods have not been delivered or made available for collection within three of the Delivery Date, the Supplier shall pay the University, as liquidated damages, the sums set out in the Form of Contract.

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- 9.2 The Supplier shall pay the liquidated damages on demand or the University may deduct them from its payments to the Supplier. Liquidated damages shall not be the University's sole and exclusive remedy for the Supplier failing deliver the Goods in accordance with Clause Schedule 1 and the payment of liquidated damages is without prejudice to the University's right to refuse to accept delivery of the Goods pursuant to Schedule 1 Paragraph 7.
- 9.3 The liquidated damages payments in Clauses 9.1 represents a genuine pre-estimate of the University's loss and do not impose a detriment on the Supplier which is disproportionate to the legitimate interests of the University in the enforcement of Schedule 1 and is without prejudice to the Supplier's obligation to fulfil its obligations under the Contract if it is reasonably able to do so.
- 9.4 The Supplier's liability to pay liquidated damages pursuant to this clause is subject to Clause 9.5.
- 9.5 The Supplier shall not be liable to pay liquidated damages to the extent that the same arises as a direct result of:
- 9.5.1 a breach by the University of any of its obligations under the Contract, or
 - 9.5.2 a Force Majeure Event,
- (each a "**Relief Event**"), provided that the Supplier provides the University with prompt written notice of the Relief Event and takes all reasonable steps to deliver the Goods in accordance with Schedule 1 with minimal disruption notwithstanding the Relief Event.
10. **UNIVERSITY REMEDIES**
- 10.1 If the Supplier fails to Install the Goods so that they are not accepted by the Long Stop Completion Date, the University shall, without limiting its other rights or remedies, have one or more of the following rights:
- 10.1.1 to terminate the Contract with immediate effect by giving written notice to the Supplier;
 - 10.1.2 to refuse to accept any subsequent delivery/Installation of the Goods which the Supplier attempts to make;
 - 10.1.3 to recover from the Supplier any additional costs incurred by the University in obtaining substitute Goods from a third party;
 - 10.1.4 claim Liquidated Damages in accordance with paragraph 9;
 - 10.1.5 where the University has paid in advance for Services that have not been provided by the Supplier and/or Goods which have not been delivered and Installed by the Supplier, to have such sums refunded by the Supplier; and
 - 10.1.6 to claim damages for any additional costs, loss or expenses incurred by the University which are directly attributable to the Supplier's failure to meet such dates.
- 10.2 The Contract shall extend to any substituted or remedial services and/or repaired or replacement goods supplied by the Supplier.

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SCHEDULE 2

TERMS APPLYING TO THE SUPPLY OF SERVICES

1. INCORPORATION

The provisions set out in this Schedule shall apply to the supply of the Services, in addition to those set out in main body of these Conditions.

2. SERVICES

2.1 The Supplier shall provide the Services to the University in accordance with the Specification, and in accordance with the terms of the Contract.

2.2 The Supplier shall meet any performance dates for the Services set out in the Form of Contract or as otherwise notified to the Supplier by the University in writing.

2.3 The Supplier shall perform the Services in accordance with the KPIs.

2.4 If the Supplier 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 Supplier in the next invoice then due to be issued under the Contract, or the Supplier shall issue a credit note against a previous invoice and the amount for the Service Credits shall be repayable by the Supplier 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.

2.5 In providing the Services, the Supplier shall (and it shall be a condition of the Contract that the Supplier shall):

2.5.1 co-operate with the University in all matters relating to the Services, including the requirements of the ITT and Tender, and comply with all instructions of the University;

2.5.2 perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;

2.5.3 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 Supplier by the University;

2.5.4 provide all equipment, tools and vehicles and such other items as are required to provide the Services;

2.5.5 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;

2.5.6 observe, and ensure that the Supplier's Team observe, all applicable law regarding health and safety, all health and safety rules and regulations and any other security requirements that apply at the Premises. The University reserves the right to refuse the Supplier's Team access to the Premises, which shall only be given to the extent necessary for the performance of the Services;

2.5.7 observe, and ensure that the Supplier's Team observe, the Health and Safety Policies whilst at the Premises;

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- 2.5.8 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 Supplier shall instruct the Supplier's Team to adopt any necessary associated safety measures in order to manage any such material health and safety hazards;
 - 2.5.9 hold all materials, goods, equipment and tools, drawings, specifications and data supplied by the University to the Supplier ("**University Materials**") in safe custody at its own risk, maintain the University Materials in good condition until returned to the University, and not dispose or use the University Materials other than in accordance with the University's written instructions or authorisation;
 - 2.5.10 not do or omit to do anything which may cause the University to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that the University may rely or act on the Services; and
 - 2.5.11 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.
- 2.6 The Supplier shall be responsible for and bear all costs incurred in the performance of the Services including the costs of contracts which are entered into by the Supplier to enable it to perform the Services.
- 2.7 The Supplier will comply (and will procure that the Supplier's Team complies) with:
 - 2.7.1 The University's Rules and Regulations for Contractors;
 - 2.7.2 the Premises security policy;
 - 2.7.3 the Premises health and safety policy; and
 - 2.7.4 all other policies of the University which apply to persons permitted access to the Premises,in each case as the same are in force from time to time. Such policies will be made available to the Supplier upon request.
- 3. **VARIATION OF SERVICES**
 - 3.1 The University may on giving not less than 14 days' notice to the Supplier, instruct the Supplier:
 - 3.1.1 not to carry out the Services at all or on some of the areas in the Premises; and/or
 - 3.1.2 to carry out the Services in additional areas in the Premises.
 - 3.2 Where a direction is given in accordance with paragraph 3.1, both Parties will consider, agree and implement, as necessary, any variations to the Charges arising from the change and any other impact of the change on the Contract both Parties at all times acting reasonably and in good faith..
- 4. **REMEDIES**
 - 4.1 If any Services are not supplied in accordance with, or the Supplier 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:
 - 4.1.1 to terminate the Contract with immediate effect by giving written notice to the Supplier;

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- 4.1.2 to refuse to accept the provision of any further Services by the Supplier and to require the immediate repayment by the Supplier of all sums previously paid by the University to the Supplier under the Contract; or
- 4.1.3 to require the Supplier, without charge to the University, to carry out such additional work as is necessary to correct the Supplier's failure; and
- 4.1.4 in any case, to claim such damages as it may have sustained in connection with the Supplier's breach (or breaches) of the Contract not otherwise covered by the provisions of this paragraph 4.

5. SUPPLIER'S TEAM

- 5.1 At all times, the Supplier shall ensure that:
 - 5.1.1 each of the Supplier's Team is suitably qualified, adequately trained and capable of providing the applicable Services in respect of which they are engaged;
 - 5.1.2 there is the required number of the Supplier's Team to provide the Services properly;
 - 5.1.3 only those people who are authorised by the Supplier are involved in providing the Services; and
 - 5.1.4 all of the Supplier's Team comply with all of the University's policies including those that apply to persons who are allowed access to the Premises.
- 5.2 The University may refuse to grant access to, and remove, any of the Supplier's Team who do not comply with any such policies, or if they otherwise present a security threat.
- 5.3 The Supplier shall maintain up-to-date personnel records on the Supplier's Team engaged in the provision of the Services and, on request, provide reasonable information to the University on the Supplier's Team.
- 5.4 The Supplier shall use its best endeavours to ensure continuity of members of the Supplier's Team and to ensure that the turnover rate of its staff engaged in the provision or management of the Services is at least as good as the prevailing industry norm for similar services, locations and environments.
- 5.5 The Supplier shall take the steps reasonably required by the University to prevent unauthorised persons being admitted to the Premises. If the University gives the Supplier notice that any person is not entitled to be admitted to the Premises, the Supplier shall take all reasonable steps to prevent that person being admitted.
- 5.6 If and when instructed by the University, the Supplier shall give to persons who are or maybe at any time concerned with the Services or any part of them specifying the capacities in which they are so concerned and giving such other particulars as the University may reasonably require.
- 5.7 The decision of the University as to whether any person is to be admitted to the Premises and as to whether the Supplier has furnished the information or taken the steps required of him by this Condition shall be final and conclusive.
- 5.8 The Supplier shall bear the cost of any notice, instruction or decision of the University under this paragraph.

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- 5.9 The Supplier shall ensure that all members of the Supplier's Team whilst performing the Services wear:
- 5.9.1 a uniform of a kind or design approved by the University; and
 - 5.9.2 an appropriate form of identification.
6. **UNIVERSITY PREMISES**
- 6.1 **Inspection of Premises**
- Save as the University may otherwise direct, the Supplier 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.
- 6.2 **Fire Precautions**
- 6.2.1 The Supplier must comply with any directions given by the University in relation to fire safety at the Premises.
 - 6.2.2 The Supplier 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.
7. **UNIVERSITY'S OBLIGATIONS**
- 7.1 The University shall:
- 7.1.1 provide the Supplier with reasonable access at reasonable times to the Premises for the purpose of providing the Services; and
 - 7.1.2 provide such information as the Supplier may reasonably request for the provision of the Services and the University considers reasonably necessary for the purpose of providing the Services.
8. **TRANSFER OF UNDERTAKINGS (TUPE)**
- 8.1 The Parties acknowledge and agree that the Services are not currently carried out by the University or an Outgoing Service Provider and no employees are therefore currently engaged wholly or partly to provide the Services. It is therefore agreed that no past or present employees of the University or an Outgoing Service Provider shall be employed by the Supplier following the Commencement Date for the purposes of TUPE or otherwise.
- 8.2 The Parties acknowledge and agree that where all or part of the Services cease to be provided by the Supplier for any reason and where all or part of the Services continue to be provided by the University and/or a New Supplier, there may be a relevant transfer of the Returning Employees to the University and/or the New Supplier for the purposes of TUPE. If there is such a transfer, the employment of the Returning Employees shall transfer to the University and/or the New Supplier in accordance with TUPE with effect from the Subsequent Transfer Date.
- 8.3 Save where the Parties reasonably believe that there will be no relevant transfer for the purposes of TUPE, the Parties shall co-operate in agreeing a list of Returning Employees prior to the Subsequent Transfer Date, and shall co-operate in seeking to ensure the orderly transfer of the Returning Employees to the University and/or the New Supplier.

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- 8.4 The Supplier shall not later than six months prior to the expiry of the Contract (or, if earlier, within 30 days of notice being given of termination of the Contract) to the extent lawfully permitted provide the University with the following details:
- 8.4.1 a list of those personnel engaged in the Services (the “**Potential Returning Employees**”);
 - 8.4.2 job title, age, length of continuous services, current remuneration, benefits, and notice periods of the Potential Returning Employees;
 - 8.4.3 terms and conditions of employment of the Potential Returning Employees, including any particulars that the Supplier is obliged to give under section 1 of the Employment Rights Act 1996;
 - 8.4.4 any current disciplinary or grievance proceedings ongoing in respect of the Potential Returning Employees and any such proceedings in the preceding two years;
 - 8.4.5 any claims, current or which the Supplier has reasonable grounds to believe will be brought by the Potential Returning Employees or their representatives or which have been brought in the preceding two years;
 - 8.4.6 all benefit schemes or arrangements (whether contractual or not) applicable in respect of the Potential Returning Employees; and
 - 8.4.7 information on any collective agreements which will have effect in relation to the Potential Returning Employees after the Subsequent Transfer Date pursuant to TUPE.
- 8.5 The Supplier shall provide updates of the details listed above at regular intervals to be specified by the University.
- 8.6 Within six months prior to the expiry of the Contract (or, if earlier, within 30 days of notice being given of termination of the Contract) the Supplier shall not make, propose or permit any changes to the terms and conditions of employment of any employees listed as Potential Returning Employees pursuant to paragraph 8.4.1.
- 8.7 The Supplier shall indemnify the University (both for itself and a New Supplier) against all Losses (including reasonable legal expenses) incurred by the University and/or a New Supplier in connection with or as a result of:
- 8.7.1 any claim or demand by any Returning Employee or a trade union or other body or person representing a Returning Employee (whether in contract, tort, under statute, pursuant to European law or otherwise) arising from any act, fault or omission of the Supplier on or before the Subsequent Transfer Date;
 - 8.7.2 any failure by the Supplier to comply with its obligations under regulations 13 and 14 of TUPE, or any award of compensation under regulation 15 of TUPE, save where such failure arises from the failure of the University and/or New Supplier to comply with its or their duties under regulation 13 of TUPE; and/or
 - 8.7.3 a claim by any person who transfers or alleges that they have transferred to the University or the New Supplier but whose name is not included in the list of Returning Employees.
- 8.8 If TUPE applies to transfer the employment of any person employed by the Supplier to the University or any New Supplier then if the University or such New Supplier shall serve a notice terminating the employment of such person within six months after the date of such transfer, the Supplier shall indemnify the University (for itself and a New Supplier) in respect of any statutory or contractual

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redundancy payment payable in respect of such person, and any compensation or damages which the University is obliged to pay to such person for unfair and/or wrongful dismissal or as a reasonable settlement of a claim for such compensation or damages.

SCHEDULE 3

DATA PROTECTION

1. DEFINITIONS

1.1 In this Schedule:

"Administrative Purposes"	means the administration and management of the Contract, resolution of disputes in connection with the Contract, and compliance with obligations under Applicable Law (including delivery of the Goods and/or provision of the Services);
"Affiliate"	means any entity that directly or indirectly controls, is controlled by or is under common control with, another entity;
"Applicable Law"	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 Supplier (as applicable) is bound to comply;
Appropriate Safeguard:	means a safeguard which the University deems to be necessary to ensure that the Restricted Transfer may occur in accordance with Data Protection Legislation, including: (a) the Standard Contractual Clauses; (b) where the Data Importer is an Affiliate of the Supplier, Binding Corporate Rules; or (c) another data transfer mechanism which is or may become available (including any standard clauses forming part of an applicable code of conduct or certification scheme), as amended or replaced from time to time;
Approved Transfer:	means the transfer(s) set out at paragraph 1 of Appendix 2 to this Schedule 3;
"Communication"	means any Data Subject Request, Third Party Communication or Regulator Correspondence;
"Data Importer"	means a Sub-Processor that is established in a Restricted Country;
"Data Protection Impact Assessment"	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;
"Data Protection Legislation"	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 Contract, including the UK Data

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	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;
"Data Protection Particulars"	means, in relation to any Processing for which the Supplier acts in its capacity as Processor, under the Contract: (a) the subject matter and duration of the Processing; (b) the nature and purpose of the Processing; (c) the type of Personal Data being Processed; and (d) the categories of Data Subjects, as those categories are described in Appendix 1 to this Schedule 1, if applicable;
"Data Protection Supervisory Authority"	has the meaning given to the term "supervisory authority" in the EU GDPR and, in relation to the UK, means the ICO;
"Data Subject Request"	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;
"Data Transfer Agreement"	means an agreement between the Supplier and the Data Importer which incorporates an Appropriate Safeguard;
"Data Transfer Risk Assessment"	means an assessment of the Restricted Transfer, which shall set out: (a) the Personal Data which will be transferred and/or Processed; (b) the country or countries in which and/or to which the Personal Data will be transferred and/or Processed; (c) details of the proposed transfer, including duration, scale and regularity of the transfer, the length of any onward Processing chain and the number of actors involved and the transmission channels; (d) details of any Public Authority Request made to each Data Importer or those third parties with whom each Data Importer may/shall onward share the Personal Data; (e) confirmation of the implementation of the appropriate safeguards as are necessary under Data Protection Legislation, including the Appropriate Safeguard; (f) without limiting paragraph (c), how each Data Importer will ensure that the Data Subjects have enforcement rights and effective legal remedies;

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- (g) the results of a Data Protection Impact Assessment;
- (h) the local country assessment undertaken to record the Data Importer's assessment of legal sufficiency of the recipient country (including whether in the Data Importer's reasonable opinion, having regard to Data Protection Legislation, anything in that country's law or practice impinges on the effectiveness of the Appropriate Safeguard), including respecting the essence of the fundamental rights and freedoms and that such laws and practices do not exceed what is necessary and proportionate in a democratic society to safeguard the objectives set out in Article 23(1) of the GDPR and are not otherwise in contradiction with the Data Protection Legislation;
- (i) what supplementary measures (including relevant technical measures such as encryption of Personal Data, contractual measures and organisational measures) have been adopted by the Data Importer in cases that the local country assessment (referred to in (h) above) has identified any impingement on the effectiveness of the Appropriate Safeguard as a consequence of the laws or practices therein; and
- (j) that it has regard to and complies with current government, European Data Protection Board, or other Data Protection Supervisory Authority's recommendations, policies, procedures, guidance and codes of practice on, and any approval processes in connection with the Restricted Transfer;

"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

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	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);
"Losses"	means any losses, liabilities, damages, compensation, awards, claims, proceedings, costs and other expenses including fines, penalties, interest, legal and other professional fees and expenses;
"Permitted Purpose"	means the purpose of the Processing the Personal Data under or in connection with the Contract, 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, consultants, contractors, agents and/or Sub-Processors;
"Personnel Personal Data"	means Personal Data relating to the Personnel;
"Public Authority Request"	means, in the event of a Restricted Transfer occurring, a request for disclosure of, or direct access to, University Data by any government or public authority (or any body with delegated authority for any of them) under the laws of the country of destination;
"Regulator"	means the relevant Data Protection Supervisory Authority, and any other regulatory or supervisory body to which each of the Parties are subject 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 Contract;
"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 Contract;
"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

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Clause/Schedule [] of the Contract] **[NOTE TO KCL: We have included the option for the University to specify Security Requirements in a Schedule or Clause to these Conditions. If there are no additional requirements, please delete this wording.];**

"Sub-Processor"

means a Processor appointed by the Supplier 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 Contract;

"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"

means:

- (a) the Privacy and Electronic Communications Regulations 2003;
- (b) the Data Protection Act 2018; and
- (c) the EU GDPR,

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.

Each shall be referred to as **"PECR"**, the **"DPA 2018"** and the **"UK GDPR"** accordingly; and

"University Data"

means all information, materials and data, including Personal Data that is:

- (a) Processed by, or on behalf of the Supplier;
- (b) created or generated by the Supplier; or
- (c) made available or accessible to the Supplier,

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

- 1.2 In the Contract, 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

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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 Contract. 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 an 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 Supplier may act as Processor. **[NOTE TO KCL: Where the agreement is purely for the purposes of sale of Goods delivered direct to the University, it is likely that the University and the Supplier will be independent Controllers, and so the Processor provisions will not apply. We have included "fallback" Processor provisions which will apply in case the Supplier 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 Contract.

2.2 General Obligations

2.3 Whether the Supplier acts in its capacity as independent Controller or Processor, the Supplier shall prepare and securely maintain a record of all categories of Processing activities carried out pursuant to the Contract in relation to the University Data, including as a minimum:

2.3.1 its name and contact details and details of its data protection officer [or other person with responsibility for data protection compliance];

2.3.2 the categories of Processing it carries out;

2.3.3 any Restricted Transfers;

2.3.4 a general description of the technical and organisational security measures referred to in paragraph 4.1.3, or as otherwise implemented in compliance with its obligations under Article 32 GDPR; and

2.3.5 the same information in relation to any Sub-Processor, together with its name and contact details (together the **"Data Record"**).

2.4 The Supplier will promptly, upon request, securely supply a copy of the Data Record to the University.

2.5 [Without prejudice to paragraph 4.1.3 or the Supplier's obligations under Article 32 GDPR, the Supplier will not without the prior written consent of the University:

2.5.1 convert any University Data into anonymised, pseudonymised, depersonalised, aggregated or statistical data;

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- 2.5.2 use any University Data for “big data” analysis, machine learning or purposes involving similar technologies; or
- 2.5.3 match, compare, enhance or supplement any University Data with or against any other Personal Data (whether the Supplier's or any third party's) nor use any University Data to enhance or supplement any other Personal Data.]

3. **CONTROLLER OBLIGATIONS** *[NOTE TO KCL: These Conditions assume that any Personal Data shared between the Parties as Controllers will be low volume and low risk (e.g. contact details of the 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.]*

- 3.1 Each Party shall Process Personnel Personal Data for the Administrative Purposes (under paragraph 2.1.2) 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 Supplier acts in its capacity as Processor under the Contract, the Supplier 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 Contract 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 3 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 3;

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- 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 Contract (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 3 is an accurate description of the Data Protection Particulars.

4.3 Appointment of a Sub-Processor

Where the Supplier acts as a Processor, the Supplier shall:

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- 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 Supplier is prohibited by law or regulation from notifying the University prior to such disclosure, in which case it shall notify the University immediately following such disclosure to the extent it may lawfully do so and in any event as soon as practicable thereafter.
- 4.3.2 not sub-contract the performance of any of its obligations under the Contract 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 Supplier 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-contractor (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 3.
- 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 Supplier's own acts, errors, and omissions to the extent that the Supplier would be liable to the University under the Contract for those acts, errors, and omissions.

5. INTERNATIONAL TRANSFERS OF PERSONAL DATA

[NOTE TO KCL: This Contract assumes that the Supplier will be based in the UK or EEA, but provides a mechanism whereby the Supplier can make transfers of data outside the UK, subject to the consent of the University, and taking other steps to ensure the transfer is compliant. If the University is making a direct transfer to a Restricted Country, you should review the University's guidance and decision tree as additional steps and clauses may be necessary (namely the Data Transfer Risk Assessment and IDTA/UK Addendum).]

5.1 Requirements for International Transfers of Personal Data

- 5.1.1 The Supplier shall not (and shall ensure that its Sub-Processors, if any, shall not) make a Restricted Transfer without first:
 - (a) obtaining the prior written consent of the University (which the University shall be entitled to withhold for any reason); and
 - (b) ensuring that an Appropriate Safeguard is in place and providing the University with documented evidence of the same,
 save in relation to the transfers described at paragraph 5.1.5.

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- 5.1.2 Without prejudice to paragraphs 5.1.1 and 5.1.3, the University's consent is deemed to be given to the Approved Transfers, subject always to the Supplier complying with this paragraph 5. The Appropriate Safeguard for the Approved Transfers is set out in paragraph 2 of Appendix 2 to this Schedule 3.
- 5.1.3 Prior to seeking the University's consent pursuant to paragraph 5.1.1(a), the Supplier shall provide the University with a copy of its Data Transfer Risk Assessment including the details of its Appropriate Safeguard. The Supplier shall review and update each Data Transfer Risk Assessment provided to the University every twelve (12) months from the date on which the Data Transfer Risk Assessment was first provided, unless otherwise requested by the University (acting reasonably), and shall provide the University with its updated assessment. The Supplier confirms it has provided the University with a copy of its Data Transfer Risk Assessment in relation to each of the Approved Transfers.
- 5.1.4 The Supplier warrants that it has no reason to believe that the applicable laws or practices in the Restricted Country prevent it from fulfilling its obligations under the Contract or the Data Importer fulfilling its obligations under the Data Transfer Agreement.
- 5.1.5 The Supplier warrants and represents that any Restricted Transfer involving the Personnel Personal Data for the Administrative Purposes shall come within Article 49 GDPR. Accordingly, the Parties acknowledge and agree that this paragraph 0 shall not apply to such Restricted Transfers.

5.2 Public Authority Requests

- 5.2.1 Where, in any circumstances the Supplier or any Sub-Processor (as applicable) receives, or becomes aware of, a Public Authority Request, the Supplier shall (and shall procure that the relevant Sub-Processor shall):
 - (a) where it is able by Applicable Law to notify the University of the Public Authority Request:
 - (i) provide such notification immediately and include all information available to it (including the requesting public authority's legal basis for the request and any initial response provided) and provide such reasonable assistance as the University requires in connection with the Public Authority Request, including in connection with the initiation of court or other legal proceedings by the University; or
 - (ii) communicate to any entity requesting such University Data that the University has responsibility for that University Data and request that they contact the University's data protection officer at ***info-compliance@kcl.ac.uk***;

in either case, continue to provide further information to the University in connection with such Public Authority Request as any additional details become available; and
 - (b) where it is prohibited from notifying the University:
 - (i) use its best efforts to obtain a waiver of the prohibition to notify the University;

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- (ii) review the legality of the request and exhaust all remedies to challenge the request if it concludes there are grounds under the laws of the country of receipt to do so;
- (iii) not make any disclosure until required under applicable procedural rules;
- (iv) document its assessment and challenge of the request for disclosure and to the extent permitted make this available to the University and any required Regulator;
- (v) provide the University with information about the request and its compliance with this paragraph to the extent that it can do so; and
- (vi) where mandated only provide the minimum amount of information possible, based on a reasonable interpretation of the request.

5.2.2 The Supplier shall ensure such terms are binding on any Sub-Processor, any Sub-Processor's subcontractors, or any other recipients of University Data.

5.3 Notification to University and Restricted Transfers not compliant with the Data Protection Legislation

5.3.1 Following a Restricted Transfer, the Supplier shall notify the University immediately if it suspects that:

- (a) it or the Data Importer has become subject to laws which are not in line with the conclusions set out in the Data Transfer Risk Assessment;
- (b) the applicable laws or practices of the Restricted Country will prevent it from complying with, or cause it to breach, its obligations under the Contract (or prevent the Data Importer from complying with, or causing it to breach, its obligations under the Data Transfer Agreement); and/or
- (c) the Appropriate Safeguard put in place by the Supplier is deemed to be invalid further to any change to the Data Protection Legislation or judgment of an applicable court or guidance issued by a Data Protection Supervisory Authority.

5.3.2 Where the Supplier issues a notification to the University under paragraph 5.3.1 or the University otherwise becomes aware that any Restricted Transfers required for the performance of the Services and/or delivery of the Goods are (in the University's reasonable opinion) not compliant with Data Protection Legislation, the Supplier shall provide the University with such assistance within such timescales as the University reasonably requests.

5.3.3 Where the Supplier does not comply with the University's reasonable instructions pursuant to paragraph 5.3.2 or the University reasonably believes that it will not be possible to bring a Restricted Transfer into compliance with the Data Protection Legislation, the University may terminate the Contract immediately on notification to the Supplier.

6. LIABILITY

6.1 The Supplier 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;

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- 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 Supplier (or its Sub-Processors) of this Schedule 3 and/or their respective obligations under the Data Protection Legislation.

- 6.2 Nothing in this Schedule 3 or the Contract will exclude, limit, or restrict the Supplier's liability under the indemnity set out in paragraph 6.1.

7. MISCELLANEOUS

Notwithstanding anything in these Contract to the contrary, this Schedule 3 shall continue in full force

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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 Contract where the Supplier 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 Contract.

2. NATURE AND PURPOSE OF PROCESSING

Broadly, the Supplier Processes the University Data to enable it to provide the Goods and/or Services to the University and to comply with its obligations under the Contract 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 Supplier 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.]

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APPENDIX 2

INTERNATIONAL TRANSFERS – APPROVED TRANSFERS AND APPROPRIATE SAFEGUARDS (IF APPLICABLE)

[NOTE TO KCL: This Appendix 2 will not be applicable if there are no Approved Transfers envisaged under the Contract. If this Appendix 2 is not applicable, please delete paragraphs 1 – 2 and remove the square brackets from the words [Not used.]]

1. [APPROVED TRANSFERS]

The University consents to the following Restricted Transfers:

Data Exporter	Jurisdiction of Data Exporter	Data Importer	Jurisdiction of Data Importer	Jurisdictions to which the Personal Data will be transferred	Purpose of transfer
[insert]	[insert]	[insert]	[insert]	[insert]	[insert]

2. APPROPRIATE SAFEGUARDS

[NOTE TO KCL: Insert the Appropriate Safeguard for the Approved Transfers, if applicable.]

[Not used.]

SCHEDULE 4

SUPPLIER SUSTAINABILITY OBLIGATIONS

1. Definitions

1.1 In this Schedule 4:

“Carbon Reductions Plan”	means a plan substantively in the form found at PPN-0621-Carbon-Reduction-Plan-Template-Jan22.odt (live.com) or as updated from time to time;
“Contract Carbon Footprint”	means the GHG Emissions resulting from the execution of the Contract as described by the GHG Protocol Corporate Standard (ghg-protocol-revised.pdf (ghgprotocol.org));
“Net Zero”	means the state in which the amount of GHG Emissions released into the atmosphere are balanced by the amount of GHG Emissions removed; and
“GHG Emissions”	means the release of greenhouse gases as defined in the GHG Protocol (https://ghgprotocol.org/product-standard), typically measured in tonnes of carbon dioxide-equivalent (t CO ₂ e).

2. General Obligations

2.1 The Supplier shall perform its obligations under the Contract in accordance with the Environmental Policy and other related policies.

2.2 The Supplier shall, through best endeavours:

- 2.2.1 ensure that their environmental impact is minimised throughout the delivery of the contract;
- 2.2.2 actively avoid causing environmental damage and/or negative environmental impact through raw material source, manufacturing processes, supply of the Goods and/or Services and disposal of supply chain waste;
- 2.2.3 protect and minimise use of clean water sources through reduced use of pollutants and toxic chemicals, and increase water use efficiency through measures such as recycling and re-use of grey water in manufacturing, desalination, water harvesting and waste-water treatment;
- 2.2.4 work towards developing and innovating more environmentally friendly products/service solutions and take manufacture, use and disposal into consideration, including the possibility of circular supply chains; and
- 2.2.5 take active steps towards the elimination of excessive packaging and single use plastics through volume reduction and increase of recycled content in plastics and packaging materials.

2.3 The Supplier shall not use any materials which contain CFCs (chlorofluorocarbons), halons and any other environmentally damaging substances.

- 2.4 The Supplier shall ensure waste is minimised and the amount of waste sent to landfill is reduced. The Supplier shall ensure packaging material is recyclable where possible. The Supplier shall take responsibility for waste management and work with the University to ensure it meets external and internal targets for the reduction of waste. The Supplier shall develop sustainable ways of achieving zero waste to landfill and continuous improvements as advances in technology arise.
- 2.5 The Supplier shall take measures to ensure compliance with the Environmental Protection Act 1990, Duty of Care Regulations associated with waste arising and any other acts, orders or regulations relating to the environment.
- 2.6 The Supplier shall, on the reasonable request of the University, provide evidence of its compliance with this Schedule 4.

3. **Obligation to provide a Carbon Reduction Plan**

- 3.1 The Supplier acknowledges that the University has made environmental commitments in its Environmental Policy including to reduce scope 1, 2 and 3 emissions by 50% by 2030, and to achieve Net Zero by 2050 (the “**Environmental Commitments**”).
- 3.2 The Supplier shall:
- 3.2.1 set a target to reduce scope 1, 2 and 3 emissions by 2030 and to achieve Net Zero by 2050;
 - 3.2.2 prepare and provide to the University within three months of the Commencement Date its Carbon Reduction Plan;
 - 3.2.3 maintain its Carbon Reduction Plan;
 - 3.2.4 deliver the Contract in line with its Carbon Reduction Plan and to support the achievement of the University’s Environmental Commitments.
 - 3.2.5 provide details of the steps it is taking to reduce its Carbon Footprint; and
 - 3.2.6 provide a Contract Carbon Footprint by undertaking an assessment of GHG Emissions for the Contract within three months of the Commencement Date.

4. **Social Compliance**

- 4.1 The Supplier shall:
- 4.1.1 not use forced, involuntary or underage labour;
 - 4.1.2 ensure workers are free to choose their employment and leave that employment on reasonable notice without hold of financial deposit or personal items;
 - 4.1.3 not use forced, bonded or involuntary / prison labour;
 - 4.1.4 not engage in any way with human trafficking, nor support or work with organisations that engage in any way with human trafficking activities, organisations or persons;
 - 4.1.5 ensure recruitment fees, if applicable, are always borne by the employer only;
 - 4.1.6 actively exceed the requirements of any anti-slavery / modern slavery legislation in any country that they operate in and comply with any voluntary and mandatory reporting schemes in place to provide transparency of this activity;
 - 4.1.7 identify, analyse and evaluate its exposure to modern slavery risks and conduct a necessary level of due diligence;
 - 4.1.8 support the effective abolition of child labour;

- 4.1.9 comply with the national minimum age for employment, or minimum age 14, whichever is the higher unless a lower local minimum age is permitted under International Labour Organisation (ILO) convention 138; and
- 4.1.10 ensure where any child is found to be engaged in or performing child labour, to provide support for that child to enable them to complete, as a minimum, their compulsory education (even if they shall cease to be involved in child labour), or an equivalent education level, as provided for under the UN Covenant on Economic, Social and Cultural Rights. Such support by the supplier should recognise and not prove detrimental to the conditions of the child or those that their work supports.

5. Working Environment

5.1 The Supplier shall:

- 5.1.1 ensure at least statutory minimum wages (or if none, a realistic living wage) are paid without discrimination to all workers, and all non-statutory deductions must be reasonable and with the consent of the worker;
- 5.1.2 ensure that working hours are not excessive (not over 48 hours per week, excluding overtime) and must allow for at least 1 day off for each 7-day period on average or, where allowed by national law, 2 days off in every 14-day period. Working beyond this should be non-regular and of workers' own will and not used to replace regular employment. Maximum working hours shall not exceed 60 hours including overtime, unless under exceptional circumstances and allowed by national law;
- 5.1.3 ensure a safe and hygienic working environment is provided, including any catering, washroom or accommodation areas. Any hazardous working, as defined by ILO, should only be carried out by persons aged 18 years or over;
- 5.1.4 ensure all equipment is safe for use, and processes must allow a safe working environment. Workers must receive training (which must be mandatory to attend and be in a language they can understand) in safe operation of all equipment and tools. Training must be provided as frequently as required to remain effective;
- 5.1.5 use best endeavours to eliminate (in the first instance) and to reduce the threat to workers health from all hazards, including any hazardous chemical agents used in manufacturing and/or supply chain activities and provide mandatory training (in a language workers can understand) in the safe use of any harmful chemicals;
- 5.1.6 provide all personal protective equipment necessary to ensure the health and safety of workers; and
- 5.1.7 ensure policies and processes are in place for recording and eliminating occurrence/reoccurrence of health and safety related incidents and they should have regard to avoiding the cause of any mental health issues affecting workers.

6. Worker Rights and Behaviour

6.1 The Supplier shall:

- 6.1.1 allow workers the freedom of association to join (but not be forced to join), or be represented by, a trade union or similar organisation of their choice, and be free to leave such organisations. Representatives of workers must be elected by the relevant workers, not appointed by management;
- 6.1.2 not discriminate or unfairly treat any worker for any reason including education, social class/caste, nationality, trade union membership, age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, culture, religion or belief, sex, or sexual orientation;

- 6.1.3 provide a workplace free from discrimination, bullying, harassment, violence or victimisation;
- 6.1.4 ensure the principles of equality, diversity and inclusion are fully respected for all workers, treating all workers with respect and dignity, and not accept inequality as justifiable for any reason;
- 6.1.5 remunerate all workers equally at the same employment grade, regardless of any characteristics listed above, unless statutory conditions require otherwise;
- 6.1.6 ensure effective worker engagement practises are in place to such an extent that all workers are clear of their duties and their employment rights under local and international laws; and
- 6.1.7 ensure all representatives of suppliers, whilst on or near the institution's premises, or while interacting with any member of staff, student, or member of the public, behave in a respectful and polite manner and in accordance with the institution's equality, diversity and inclusion standards.

7. Ethical Compliance and Economic Development

7.1 The Supplier shall:

- 7.1.1 as a minimum, comply with all laws, regulations and financial/tax legal requirements of the countries they are working in, manufacturing in or trading with, as applicable;
- 7.1.2 not be involved in any way with acts of corruption or bribery, participate in anti-competition practices/cartels or support acts of violence or terrorism or abuse of individual people or communities;
- 7.1.3 not force unsustainable or unfair contract terms on their suppliers, or throughout its supply chain, nor allow unfair exploitation of a dominant market or customer position;
- 7.1.4 support fair trade conditions for producers, where applicable;
- 7.1.5 always act with respect and integrity, including open and transparent accounting;
- 7.1.6 allow staff protection if reporting misconduct or raising concerns with respect to their own, or another organisation, and ensure all affected staff are treated in a fair and transparent manner; and
- 7.1.7 have undertaken due diligence of their supply chains and impacts caused by their activities, and actively seek out ways in which to minimise such negative impacts.