

STANDARD TERMS AND CONDITIONS FOR THE SUPPLY OF GOODS AND SERVICES

Interpretation

The following definitions and rules of interpretation apply in these Conditions.

Definitions:

Bribery Act	means the Bribery Act 2010 together with any guidance or codes of practice issued by the relevant government department concerning the legislation.
Business Day	a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.
Commencement Date	has the meaning given in clause 1.2.
Conditions	these terms and conditions as amended from time to time in accordance with clause 23.9.
Contract	the contract between the Customer and the Supplier for the supply of Goods and/or Services in accordance with these Conditions.
Control	has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression change of Control shall be construed accordingly.
Customer	means the customer identified on the Order.
Customer Materials	has the meaning set out in clause 4.3.9.
Data Protection Legislation	the UK Data Protection Legislation.
Deliverables	all documents, products and materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form or media, including drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).
Delivery Location	has the meaning given in clause 3.2.3.
EIRs	the Environmental Information Regulations 2004 (SI 2004/3391) together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations.

FOIA	the Freedom of Information Act 2000 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation.
Goods	the goods (or any part of them) set out in the Order.
Goods Specification	any specification for the Goods, including any related plans and drawings, that is agreed in writing by the Customer and the Supplier.
Information	has the meaning given under section 84 of FOIA.
Intellectual Property Rights	patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
Law	means any applicable Act of Parliament, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, exercise of the royal prerogative, enforceable community right within the meaning of section 2 of the European Communities Act 1972, bye-law, regulatory policy, statutory guidance or statutory code, judgment of a relevant court of law, or directives or requirements of any regulatory body.
Mandatory Policies	the Customer's business policies and codes including those set out in the Schedule as may be updated or amended from time to time.
Personal Data	as defined in UK Data Protection Legislation.
Order	the Customer's purchase order for the supply of Goods and/or Services, as set out in the Customer's purchase order form.
Services	the services, including any Deliverables, to be provided by the Supplier under the Contract as set out in the Service Specification.
Service Specification	the description or specification for Services agreed in writing by the Customer and the Supplier.
Supplier	the person or firm from whom the Customer purchases the Goods and/or Services.

Regulated Activity	in relation to children shall have the same meaning as set out in Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006 and in relation to vulnerable adults shall have the same meaning as set out in Part 2 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006.
Regulated Activity Provider	shall have the same meaning as set out in section 6 of the Safeguarding Vulnerable Groups Act 2006.
Relevant Transfer	a relevant transfer for the purposes of TUPE.
Relevant Transfer Date	in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place.
Replacement Services	any services that are identical or substantially similar to any of the Services and which the Customer receives in substitution for any of the Services following the termination or expiry of this Contract, whether those services are provided by the Customer internally or by any Replacement Supplier.
Replacement Supplier	any third-party Supplier of Replacement Services appointed by the Customer from time to time.
Service Transfer	any transfer of the Services (or any part of the Services), for whatever reason, from the Supplier to a Replacement Supplier
Tender	the Supplier's tender for the Services or Goods or both.
Transferring Supplier Employees	those employees of the Supplier to whom TUPE will apply on the Service Transfer Date.
TUPE	the Transfer of Undertakings (Protection of Employment) Regulations 2006 (<i>SI 2006/246</i>).
UK Data Protection Legislation	all applicable data protection and privacy legislation in force from time to time in the UK including the UK General Data Protection Regulation; the Data Protection Act 2018; the Privacy and Electronic Communications Regulations 2003 (<i>SI 2003/2426</i>) as amended and any other applicable law relating to the processing, privacy and or use of Personal Data as applicable to either party and any laws which implement any such laws and any laws that replace, extend, enact consolidate or amend any of the foregoing.

Interpretation:

A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

A reference to a party includes its successors and permitted assigns.

A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.

Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

A reference to **writing** or **written** includes email.

1 Basis of contract

- 1.1 The Order constitutes an offer by the Customer to purchase Goods and/or Services from the Supplier in accordance with these Conditions.
- 1.2 The Order shall be deemed to be accepted on the earlier of:
 - 1.2.1 the Supplier issuing written acceptance of the Order; or
 - 1.2.2 any act by the Supplier consistent with fulfilling the Order,at which point and on which date the Contract shall come into existence (Commencement Date).
- 1.3 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 law, trade custom, practice or course of dealing.
- 1.4 All of these Conditions shall apply to the supply of both Goods and Services except where the application to one or the other is specified.
- 1.5 In the event of any conflict between these Conditions and the following documents, the descending order of precedence between them shall be as follows:
 - 1.5.1 the Order (but only for price, quantity, place of delivery, dates and description and specification of the Goods and Services);
 - 1.5.2 these terms and conditions;
 - 1.5.3 any other documents incorporated by the Customer by reference;
 - 1.5.4 the Supplier's Tender.
- 1.6 These Conditions apply to contracts for the supply of Goods and Services. Clauses 2 and 3 apply to Contracts for the supply of Goods including any Goods ancillary to the performance of Services. Clause 5 applies to Contracts for the supply of Services.

2 Supply of Goods

- 2.1 The Supplier shall ensure that the Goods shall:
 - 2.1.1 correspond with their description and any applicable Goods Specification;
 - 2.1.2 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for any purpose held out by the Supplier or made known to the Supplier by the Customer, expressly or by implication, and in this respect the Customer relies on the Supplier's skill and judgement;
 - 2.1.3 where they are manufactured products, be free from defects in design, materials and workmanship and remain so for 12 months after delivery; and

- 2.1.4 comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods.
- 2.2 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 in respect of the Goods.
- 2.3 The Customer may inspect and test the Goods at any time before delivery. The Supplier shall remain fully responsible for the Goods despite any such inspection or testing and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract.
- 2.4 If following such inspection or testing the Customer considers that the Goods do not comply or are unlikely to comply with the Supplier's undertakings at clause 2.1, the Customer shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance.
- 2.5 The Customer may conduct further inspections and tests after the Supplier has carried out its remedial actions.

3 Delivery of Goods

- 3.1 The Supplier shall ensure that:
 - 3.1.1 the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition;
 - 3.1.2 each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the Order number (if any), the type and quantity of the Goods (including the code number of the Goods (where applicable)), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and
 - 3.1.3 it states clearly on the delivery note any requirement for the Customer to return any packaging material for the Goods to the Supplier. Any such packaging material shall only be returned to the Supplier at the cost of the Supplier.
- 3.2 The Supplier shall deliver the Goods on the date specified in the Order or, if no such date is specified, the Contract is to be treated as including a term that the Supplier must deliver the goods:-
 - 3.2.1 without undue delay; and
 - 3.2.2 in any event, not more than 14 days after the day on which the Contract is entered into.
 - 3.2.3 to the Customer's premises as specified in the Order or as instructed by the Customer before delivery in writing (Delivery Location); and
 - 3.2.4 during the Customer's normal hours of business on a Business Day or as instructed by the Customer.
- 3.3 Delivery of the Goods shall be completed on the completion of unloading of the Goods at the Delivery Location.

3.4 If the Supplier:

3.4.1 delivers less than 95% of the quantity of Goods ordered, the Customer may reject the Goods; or

3.4.2 delivers more than 105% of the quantity of Goods ordered, the Customer may at its sole discretion reject the Goods or the excess Goods,

and any rejected Goods shall be returnable at the Supplier's risk and expense. If the Supplier delivers more or less than the quantity of Goods ordered, and the Customer accepts the delivery, the Supplier shall make a pro rata adjustment to the invoice for the Goods.

3.5 The Supplier shall not deliver the Goods in instalments without the Customer'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 Customer to the remedies set out in clause 6.1.

3.6 Title and risk in the Goods shall pass to the Customer on completion of delivery.

4 Supply of Services

4.1 The Supplier shall from the date set out in the Order and for the duration of the Contract supply the Services to the Customer in accordance with the terms of the Contract.

4.2 The Supplier shall meet any performance dates for the Services specified in the Order or that the Customer notifies to the Supplier and time is of the essence in relation to any of those performance dates.

4.3 In providing the Services, the Supplier shall:

4.3.1 co-operate with the Customer in all matters relating to the Services, and comply with all instructions of the Customer;

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

4.3.3 use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Contract;

4.3.4 ensure that the Services will conform with all descriptions, standards and specifications set out in the Service Specification, and that the Deliverables shall be fit for any purpose that the Customer expressly or impliedly makes known to the Supplier;

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

4.3.6 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 Customer, will be free from defects in workmanship, installation and design;

- 4.3.7 obtain and at all times maintain all licences and consents which may be required for the provision of the Services;
- 4.3.8 observe all health and safety rules and regulations and any other security requirements that apply at any of the Customer's premises;
- 4.3.9 hold all materials, equipment and tools, drawings, specifications and data supplied by the Customer to the Supplier (Customer Materials) in safe custody at its own risk, maintain the Customer Materials in good condition until returned to the Customer, and not dispose or use the Customer Materials other than in accordance with the Customer's written instructions or authorisation;
- 4.3.10 not do or omit to do anything which may cause the Customer 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 Customer may rely or act on the Services; and
- 4.3.11 comply with any additional obligations as set out in the Service Specification.

5 Representations and warranties

5.1 The Supplier represents and warrants that:

- 5.1.1 its employees, its agents, officers, sub-contractors and representatives have complied with and shall comply throughout the duration of the Contract with all applicable laws and all applicable Mandatory Policies;
- 5.1.2 in submitting any bids or in performing the Contract, the Supplier has not breached competition law and any other applicable laws;
- 5.1.3 the individuals who sign the Order have been duly authorised to represent and bind the Supplier.
- 5.1.4 The Supplier represents and warrants that the Goods and the Services shall:
 - (a) not be changed without the prior written consent of the Customer;
 - (b) be of the best available design, of the best quality and workmanship without fault or defect (including latent defect);
 - (c) in the case of the Services, be performed with all reasonable care and skill, in accordance with generally recognised good commercial practices and standards for similar services;
 - (d) conform precisely to Specification and the Order;
 - (e) in the case of the Goods, be complete, fully operational, fit for purpose and shall be delivered with all parts and tools and also those parts that are not specified in the Order but which are required for proper operation and also including the usual safety devices, and special appliances;
 - (f) be accompanied by all appropriate information, warnings, instructions and documentation in relation to the safe use, handling, storing, operation, consuming,

transportation and disposal of any Goods or parts or materials, in particular in relation to hazardous materials which will be clearly identified to the Customer;

- (g) comply with any applicable national and international quality assurance standards from time to time published under which the Supplier is approved; and/or as reasonably requested by the Customer, including any International Standard Specification, European National, or British Standard Code of Practices.
 - (h) conform with all regulations, legislation, codes of practice and relevant guidance applicable to such Services including in relation to health, safety and environmental standards or such Goods as regards the design, manufacture, quality, packaging, transportation, delivery, labelling, health, safety and environmental standards and use of such Goods which are in force at the time of supply.
- 5.1.5 In the case of Goods, when delivered, be accompanied by a delivery note which shows, amongst other things, the Purchase Order Number and date or reference to the relevant Purchase Order Number, number of packages and contents and, in the case of part delivery, the outstanding balance remaining to be delivered.
- 5.1.6 The Supplier acknowledges that the Customer has relied upon any representations, statements or warranties made by the Supplier or on its behalf by any of its personnel and/or sub-contractors, (whether orally or in writing or in any brochures, catalogues or advertisements) in connection with the Goods and/or Services, as a condition of entering into the Contract.
- 5.1.7 The Supplier undertakes that it and its sub-contractors shall at all times throughout the Contract and at their own expense:
- (a) maintain all necessary licenses and consents and comply with all applicable laws in the performance of the Contract;
 - (b) perform its obligations under the Contract in accordance with all applicable laws regarding health and safety, all health and safety rules and regulations and any other reasonable security requirements that apply at any of the Customer's premises from time to time and have been provided to the Supplier (the Customer reserves the right to refuse any of the Supplier's personnel access to the Customer's premises);
 - (c) without prejudice to the generality of the foregoing, adopt safe working practices and at the proper time supply and install within the original price such safety devices as may be necessary to comply with the provisions of all health and safety legislation and shall not in the performance of the Contract in any manner endanger the safety of or unlawfully interfere with the convenience of any other person, including employees and/or suppliers, students or pupils of the Customer;
 - (d) notify the Customer as soon as practicable of any health and safety incidents or material health and safety hazards at the Customer's premises of which it becomes aware and which relate to or arise in connection with the performance of the Contract. The Supplier shall instruct the Supplier's personnel to adopt any necessary associated safety measures in order to manage any such material health and safety hazards;

- (e) ensure that, in performing its obligations under the Contract, it does not cause any disturbance or damage to the Customer's operations and property at the relevant site/s;
- (f) comply with the Customer's policies and conditions in relation to any relevant site (including but not limited to health and safety conditions, safety management systems, safety cases, hygiene policies and security policies) and the Customer's codes of conduct and ethics made available to the Supplier from time to time;
- (g) comply with all applicable laws relating to health and safety;
- (h) assist the Customer (and any person nominated by the Customer) in the investigation of any accident or incident or the resolution of any dispute, which assistance shall include, but not be limited to, making personnel available for interview, providing access to documents and records and providing information reasonably requested by the Customer;
- (i) notify the Customer as soon as it becomes aware of any breach of any applicable laws or any health and safety hazard or issue which arises in relation to the Goods or Services (which notification shall not release the Supplier from any liability and/or obligations in respect of such breach, hazard or issue);
- (j) co-operate with the Customer in all matters relating to the Contract;
- (k) upon the request of the Customer, appoint or, at the request of the Customer, replace without delay, a designated representative, who shall have authority under the Contract contractually to bind the Supplier on all matters relating to the Contract; and
- (l) immediately provide to the Customer suitable certificates of competence from the Supplier for any person employed or engaged in connection with the Goods or Services.

6 Customer remedies

- 6.1 If the Supplier fails to deliver the Goods by the applicable date or to perform the Services by the applicable date, or both, the Customer shall, without limiting or affecting other rights or remedies available to it, have one or more of the following rights and remedies:
 - 6.1.1 to terminate the Contract with immediate effect by giving written notice to the Supplier;
 - 6.1.2 to refuse to accept any subsequent performance of the Services and/or delivery of the Goods which the Supplier attempts to make;
 - 6.1.3 to recover from the Supplier any costs incurred by the Customer in obtaining substitute goods and/or services from a third party;
 - 6.1.4 to require a refund from the Supplier of sums paid in advance for Services that the Supplier has not provided and/or Goods that it has not delivered; and
 - 6.1.5 to claim damages for any additional costs, loss or expenses incurred by the Customer which are in any way attributable to the Supplier's failure to meet such dates.

- 6.2 If the Supplier has delivered Goods that do not comply with the undertakings set out in clause 2.1, then, without limiting or affecting other rights or remedies available to it, the Customer shall have one or more of the following rights and remedies, whether or not it has accepted the Goods:
- 6.2.1 to terminate the Contract with immediate effect by giving written notice to the Supplier;
 - 6.2.2 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;
 - 6.2.3 to require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods;
 - 6.2.4 to refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;
 - 6.2.5 to recover from the Supplier any expenditure incurred by the Customer in obtaining substitute goods from a third party; and
 - 6.2.6 to claim damages for any additional costs, loss or expenses incurred by the Customer arising from the Supplier's failure to supply Goods in accordance with clause 2.1.
- 6.3 If the Supplier has supplied Services that do not comply with the requirements of clause 4.3.4 then, without limiting or affecting other rights or remedies available to it, the Customer shall have one or more of the following rights and remedies:
- 6.3.1 to terminate the Contract with immediate effect by giving written notice to the Supplier;
 - 6.3.2 to return the Deliverables to the Supplier at the Supplier's own risk and expense;
 - 6.3.3 to require the Supplier to provide repeat performance of the Services, or to provide a full refund of the price paid for the Services;
 - 6.3.4 to refuse to accept any subsequent performance of the Services which the Supplier attempts to make;
 - 6.3.5 to recover from the Supplier any expenditure incurred by the Customer in obtaining substitute services or deliverables from a third party; and
 - 6.3.6 to claim damages for any additional costs, loss or expenses incurred by the Customer arising from the Supplier's failure to comply with clause 4.3.4.
- 6.4 These Conditions shall extend to any substituted or remedial services and/or repaired or replacement goods supplied by the Supplier.
- 6.5 The Customer's rights and remedies under the Contract are in addition to, and not exclusive of, any rights and remedies implied by statute and common law.

7 Customer's obligations

- 7.1 The Customer shall:
- 7.1.1 provide the Supplier with reasonable access at reasonable times to the Customer's premises for the purpose of providing the Services; and

- 7.1.2 provide such necessary information for the provision of the Services as the Supplier may reasonably request.

8 Charges and payment

- 8.1 The price for the Goods:
 - 8.1.1 shall be the price set out in the Order, or if no price is quoted, the price set out in the Supplier's published price list in force at the Commencement Date; and
 - 8.1.2 shall be inclusive of the costs of packaging, insurance and carriage of the Goods. No extra charges shall be effective unless agreed in writing and signed by the Customer.
- 8.2 The charges for the Services shall be set out in the Order, and shall be the full and exclusive remuneration of the Supplier in respect of the performance of the Services. Unless otherwise agreed in writing by the Customer, the charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.
- 8.3 In respect of the Goods, the Supplier shall invoice the Customer on or at any time after completion of delivery. In respect of Services, the Supplier shall invoice the Customer on completion of the Services. Each invoice shall include such supporting information required by the Customer to verify the accuracy of the invoice, including but not limited to the relevant purchase order number. **Provision of Goods and/or Services without a corresponding purchase order indicated on an invoice will not be paid.**
- 8.4 In consideration of the supply of Goods and/or Services by the Supplier, the Customer shall pay the invoiced amounts within 30 days of the date of a correctly rendered invoice to a bank account nominated in writing by the Supplier.
- 8.5 The charges are stated exclusive of VAT, which shall be added at the prevailing rate if applicable as identified in the Order.
- 8.6 Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods and/or Services at the same time as payment is due for the supply of the Goods and/or Services.
- 8.7 If a party fails to make any payment due to the other party under the Contract by the due date for payment, then the defaulting party shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each date at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when the base rate is below 0%.
- 8.8 The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Services, and the Supplier shall allow the Customer to inspect such records at all reasonable times on request.
- 8.9 The Customer may at any time, without notice to the Supplier, set off any liability of the Supplier to the Customer against any liability of the Customer to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract. Any exercise by the Customer of its rights under this clause shall not limit or affect any other rights or remedies available to it under the Contract or otherwise.

9 Intellectual property rights

- 9.1 All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any Customer Materials) shall be owned by the Supplier.
- 9.2 The Supplier grants to the Customer, or shall procure the direct grant to the Customer of, a fully paid-up, worldwide, non-exclusive, royalty-free perpetual and irrevocable licence to copy and modify the Deliverables (excluding Customer Materials) for the purpose of receiving and using the Services and the Deliverables.
- 9.3 The Customer grants the Supplier a fully paid-up, non-exclusive, royalty-free non-transferable licence to copy and modify any materials provided by the Customer to the Supplier for the term of the Contract for the purpose of providing the Services to the Customer.
- 9.4 All Customer Materials are the exclusive property of the Customer.
- 9.5 The Supplier will comply with any additional Intellectual Property requirements as may be agreed in writing by the Customer and the Supplier.

10 Indemnity

- 10.1 The Supplier shall indemnify the Customer against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other [reasonable] professional costs and expenses) suffered or incurred by the Customer arising out of or in connection with:
 - 10.1.1 any claim made against the Customer 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 supply of the Services (excluding the Customer Materials);
 - 10.1.2 any claim made against the Customer by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in the Goods, as delivered, or the Deliverables; and
 - 10.1.3 any claim made against the Customer by a third party arising out of or in connection with the supply of the Goods, as delivered, or the Services.
- 10.2 This clause 10 shall survive termination of the Contract.

11 Insurance

- 11.1 During the term of the Contract and for a period of 3 years thereafter, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract, and shall, on the Customer'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.

12 Confidentiality and FOIA

- 12.1 Each party undertakes that it shall not to disclose to any person any confidential information concerning the business, affairs, customers, Customers or suppliers of the other party, except as permitted by clause 12.2.
- 12.2 Each party may disclose the other party's confidential information:
- 12.2.1 to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under the Contract. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 12; and
 - 12.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 12.3 Neither party shall use the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.
- 12.4 The Supplier acknowledges that the Customer is subject to the requirements of the FOIA and the EIRs.
- 12.5 The Supplier shall:
- 12.5.1 provide all necessary assistance and cooperation as reasonably requested by the Customer to enable it to comply with its obligations under the FOIA and EIRs;
 - 12.5.2 transfer to the Customer all Requests for Information relating to this Contract or its subject matter that it receives as soon as practicable and in any event within 2 Business Days of receipt;
 - 12.5.3 provide the Customer with a copy of all Information belonging to the Customer requested in the Request for Information which is in its possession or control in the form that the Customer requires within 5 Business Days (or such other period as the Customer may reasonably specify) of the Customer's request for such Information; and
 - 12.5.4 not respond directly to a Request for Information unless authorised in writing to do so by the Customer.
- 12.6 The Supplier acknowledges that the Customer may be required under the FOIA and EIRs to disclose Information (including commercially sensitive information) without consulting or obtaining consent from the Supplier. The Customer shall take reasonable steps to notify the Supplier of a relevant Request for Information (in accordance with the Secretary of State's section 45 Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the FOIA) to the extent that it is permissible and reasonably practical for it to do so but (notwithstanding any other provision in the Contract) the Customer 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 FOIA and/or the EIRs.
- 12.7 Clauses 12.4-12.6 shall not apply where the Customer is not a public body for the purposes of FOIA.

13 Compliance with relevant laws and policies and Safeguarding

- 13.1 In performing its obligations under the Contract, the Supplier shall:
- 13.1.1 comply with all applicable laws, statutes, regulations and codes from time to time in force; and
 - 13.1.2 comply with the Mandatory Policies.
- 13.2 Where the Supplier is a Regulated Activity Provider with ultimate responsibility for the management and control of the Regulated Activity provided under this Contract and for the purposes of the Safeguarding Vulnerable Groups Act 2006, the Supplier shall:
- 13.2.1 ensure that all individuals engaged in Regulated Activity are subject to a valid enhanced disclosure check for regulated activity undertaken through the Disclosure and Barring Service (DBS); and
 - 13.2.2 monitor the level and validity of the checks under this clause for each member of staff;
 - 13.2.3 not employ or use the services of any person who is barred from, or whose previous conduct or records indicate that he or she would not be suitable to carry out Regulated Activity or who may otherwise present a risk to service users.
- 13.3 The Supplier warrants that at all times for the purposes of this Contract it has no reason to believe that any person who is or will be employed or engaged by the Supplier in the provision of the Services is barred from the activity in accordance with the provisions of the Safeguarding Vulnerable Groups Act 2006 and any regulations made thereunder, as amended from time to time.
- 13.4 The Supplier shall immediately notify the Customer of any information that it reasonably requests to enable it to be satisfied that the obligations of this clause have been met.
- 13.5 The Supplier shall refer information about any person carrying out the Services to the DBS where it removes permission for such person to carry out the Services (or would have, if such person had not otherwise ceased to carry out the Services) because, in its opinion, such person has harmed or poses a risk of harm to the service users, children, vulnerable adults.

14 Audit

- 14.1 The Supplier shall, during and after the term of the Contract, allow the Customer (or its professional advisers or auditors or regulators) to access the Supplier's premises, personnel, systems and relevant records to:
- 14.1.1 verify compliance by the Supplier with the Contract, the applicable laws and the Customer policies;
 - 14.1.2 verify that the price and any other sums charged to the Customer under the Contract are accurate;
 - 14.1.3 identify or investigate actual or suspected fraud, impropriety or accounting mistakes, any breach or threatened breach of security or any circumstances which may impact upon the financial stability of the Supplier or their ability to perform the Contract;

- 14.1.4 carry out the Customer's internal and statutory audits or in connection with the Customer's annual or interim reports and accounts;
 - 14.1.5 obtain such information as is necessary to fulfil the Customer's obligations to supply information for parliamentary, ministerial, regulatory, judicial or administrative purposes including the supply of information to the local government ombudsman or any auditor or audit authority; and
 - 14.1.6 enable Ofsted, the Independent Schools Inspectorate, the Education Skills Funding Agency, the Department for Education, the National Audit Office, the local government ombudsman, any awarding body, the Charity Commission and any other auditor, authority or regulator or any successor bodies to carry out any relevant inspection or examination.
- 14.2 The Supplier shall provide the Customer (and its professional advisers) with all reasonable co-operation, access and assistance in relation to each audit. The Customer shall provide at least 5 Business Days' notice of its intention to conduct an audit, unless earlier access is required by any order, auditor, authority or regulator.
- 14.3 The Customer and its professional advisers shall have the right to take copies of any records which they reasonably require and remove such copies and the Supplier shall provide the necessary facilities to assist in copying free of charge.

15 Data protection

- 15.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation. In this clause **Applicable Laws** means (for so long as and to the extent that they apply to the Supplier) the law of the European Union, the law of any member state of the European Union and/or Domestic UK Law; and **Domestic UK Law** means the UK Data Protection Legislation and any other law that applies in the UK.
- 15.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the controller and the Supplier is the processor.
- 15.3 Without prejudice to the generality of clause 15.1 the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the personal data to the Supplier for the duration and purposes of the Contract.
- 15.4 Without prejudice to the generality of clause 15.1, the Supplier shall, in relation to any personal data processed in connection with the performance by the Supplier of its obligations under the Contract:
- 15.4.1 process that personal data only on the documented written instructions of the Customer unless the Supplier is required by Applicable Laws to otherwise process that personal data. Where the Supplier is relying on Applicable Laws as the basis for processing personal data, the Supplier shall promptly notify the Customer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Supplier from so notifying the Customer;
 - 15.4.2 ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Customer, to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, appropriate to the harm that might result from the unauthorised or unlawful processing or

- accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting personal data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to personal data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
- 15.4.3 ensure that all personnel who have access to and/or process personal data are obliged to keep the personal data confidential; and
- 15.4.4 not transfer any personal data outside of the European Economic Area unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:
- (a) the Customer or the Supplier has provided appropriate safeguards in relation to the transfer;
 - (b) the data subject (as defined in the Data Protection Legislation) has enforceable rights and effective legal remedies;
 - (c) the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any personal data that is transferred; and
 - (d) the Supplier complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the personal data;
- 15.4.5 assist the Customer, at the Customer's cost, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- 15.4.6 notify the Customer without undue delay on becoming aware of a personal data breach;
- 15.4.7 at the written direction of the Customer, delete or return personal data and copies thereof to the Customer on termination of the Contract unless required by Applicable Law to store the personal data; and
- 15.4.8 maintain complete and accurate records and information to demonstrate its compliance with this clause 14 and allow for audits by the Customer or the Customer's designated auditor] and immediately inform the Customer if, in the opinion of the Supplier, an instruction infringes the Data Protection Legislation.
- 15.5 The Customer does not consent to the Supplier appointing any third-party processor of personal data under the Contract unless agreed in writing with the Supplier. If permitted by the Supplier confirms that it will enter with the third-party processor into a written incorporating terms which are substantially similar to those set out in this clause 14 and in either case which the Supplier undertake reflect and will continue to reflect the requirements of the Data Protection Legislation. As between the Customer and the Supplier, the Supplier shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 15.

- 15.6 Either party may, at any time on not less than 30 days' notice, revise this clause 15 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to the Contract).

16 Termination

- 16.1 Without affecting any other right or remedy available to it, the Customer may terminate the Contract:

16.1.1 with immediate effect by giving written notice to the Supplier if:

- (a) there is a change of Control of the Supplier; or
- (b) the Supplier commits a breach of clause 13 (Compliance with relevant laws and policies).
- (c) the Supplier commits a series of minor but persistent breaches of the Contract;
- (d) the Customer reasonably believes that the circumstances set out in regulation 73(1) of the Public Contracts Regulations 2015 apply (this clause shall not apply where the Customer is not a Contracting Authority (as defined in the Public Contract Regulations 2015));

16.1.2 for convenience by giving the Supplier two (2) months' written notice.

- 16.2 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

16.2.1 the other party commits a material breach of any term of the Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so;

16.2.2 the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business [or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction];

16.2.3 the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business. or

16.2.4 the other party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of this Contract is in jeopardy.

17 Consequences of termination

- 17.1 On termination of the Contract, the Supplier shall immediately deliver to the Customer all Deliverables whether or not then complete, and return all Customer Materials. If the Supplier fails to do so, then the Customer may enter the Supplier's premises and take possession of them. Until they have been returned or delivered, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.

- 17.2 Termination or expiry of the Contract shall not affect the parties' rights and remedies that have accrued as at termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.
- 17.3 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.

Force majeure

- 17.4 Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances [the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed.

18 TUPE on Retender

- 18.1 The parties understand that TUPE may apply when this Contract terminates.
- 18.2 If requested by the Customer (for itself or for a Replacement Supplier), the Supplier will give to the Customer full information in writing relating to any Transferring Supplier Employees as follows:
- 18.2.1 the name, length of service and job title of each Transferring Supplier Employee;
 - 18.2.2 the remuneration and terms of employment (including any staff handbook or similar) of each Transferring Supplier Employee;
 - 18.2.3 any disciplinary proceedings or grievances raised by the Transferring Supplier Employees within the period of two years from the date of termination of this Contract; and
 - 18.2.4 any court or Tribunal case claim or action brought by a Transferring Supplier Employee within the period of two years from the date of termination of this Contract or which the Customer has reasonable grounds to believe a Transferring Supplier Employee may bring.
- 18.3 If there is a material change to the information referred to in clause 18.2 the Supplier will provide the new or revised information the Customer (for itself or for a Replacement Supplier) within seven days of the change.
- 18.4 The Supplier agrees that during any period of notice to terminate this Contract it will not, unless with the Customer's prior written consent (which will not be unreasonably withheld or delayed):
- 18.4.1 terminate the employment of any Transferring Supplier Employee;
 - 18.4.2 vary or promise to vary the terms of employment of any Transferring Supplier Employee (other than pay increases in the ordinary course of business); or
 - 18.4.3 increase the numbers of Transferring Supplier Employees that would transfer to the Customer or a Replacement Supplier under TUPE.

- 18.5 The Customer and the Supplier will in a co-operative and helpful manner comply with any respective obligations under TUPE relating to provision of information and consultation.
- 18.6 The Supplier warrants to the Customer and any Replacement Supplier that all information provided by the Supplier this Annex will be true and accurate in all material respects and that no persons are employed or engaged in the provision of the Services other than those included in the information provided the Supplier in accordance with this clause 18.
- 18.7 The Supplier shall comply with all its obligations in respect of the Transferring Supplier Employees arising under TUPE in respect of the period up to (and including) the Service Transfer Date and shall perform and discharge, arising in respect of the period up to (and including) the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part to the period ending on (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between:
- 18.7.1 the Supplier and
- 18.7.2 the Replacement Supplier.
- 18.8 The Supplier shall indemnify the Customer and/or the Replacement Supplier against any Employee Liabilities in respect of any Transferring Supplier Employee (or, where applicable any employee representative as defined in TUPE) arising from or as a result of:
- 18.8.1 any act or omission of the Supplier whether occurring before, on or after the Service Transfer Date;
- 18.8.2 the breach or non-observance by the Supplier occurring on or before the Service Transfer Date of:
- (a) any collective agreement applicable to the Transferring Supplier Employees; and/or
- (b) any other custom or practice with a trade union or staff association in respect of any Transferring Supplier Employees which the Supplier is contractually bound to honour;
- (c) any claim by any trade union or other body or person representing any Transferring Supplier Employees arising from or connected with any failure by the Supplier to comply with any legal obligation to such trade union, body or person arising on or before the Service Transfer Date;
- (d) any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
- (i) in relation to any Transferring Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on and before the Service Transfer Date; and

- (ii) in relation to any employee who is not a Transferring Supplier Employee, and in respect of whom it is later alleged or determined that TUPE applied so as to transfer his/her employment from the Supplier to the Customer and/or Replacement Supplier to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on or before the Service Transfer Date;
- (iii) a failure of the Supplier to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Supplier Employees in respect of the period up to (and including) the Service Transfer Date);
- (iv) any claim made by or in respect of any person employed or formerly employed by the Supplier other than a Transferring Supplier Employee for whom it is alleged the Customer and/or the Replacement Supplier may be liable by virtue of this Contract and/or TUPE; and
- (v) any claim made by or in respect of a Transferring Supplier Employee or any appropriate employee representative (as defined in TUPE) of any Transferring Supplier Employee relating to any act or omission of the Supplier in relation to its obligations under regulation 13 of TUPE, except to the extent that the liability arises from the failure by the Customer and/or Replacement Supplier to comply with regulation 13(4) of TUPE.

18.9 The indemnities in this Annex shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Replacement Supplier whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities:

18.9.1 arising out of the resignation of any Transferring Supplier Employee before the Service Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Replacement Supplier to occur in the period on or after the Service Transfer Date); or

18.9.2 arising from the Replacement Supplier's failure to comply with its obligations under TUPE.

18.10 If any person who is not a Transferring Supplier Employee claims, or it is determined in relation to any person who is not a Transferring Supplier Employee, that his/her contract of employment has been transferred from the Supplier to the Replacement Supplier pursuant to TUPE, then:

18.10.1 the Customer shall procure that the Replacement Supplier shall, within five Working Days of becoming aware of that fact, give notice in writing to the Supplier; and

18.10.2 the Supplier may offer employment to such person within 15 Working Days of the notification by the Replacement Supplier or take such other reasonable steps as it considers appropriate to deal with the matter provided always that such steps are in compliance with law.

18.11 If such offer is accepted, or if the situation has otherwise been resolved by the Supplier, the Customer shall procure that the Replacement Supplier shall, immediately release or procure the release of the person from his/her employment or alleged employment.

- 18.12 If after the 15 Working Day period specified in clause 18.10.2 has elapsed:
- 18.12.1 no such offer of employment has been made;
 - 18.12.2 such offer has been made but not accepted; or
 - 18.12.3 the situation has not otherwise been resolved the Customer shall advise the Replacement Supplier as appropriate that it may within five Working Days give notice to terminate the employment or alleged employment of such person.
- 18.13 Subject to the Replacement Supplier acting in accordance with the provisions of paragraph 18.10 to paragraph 18.12, and in accordance with all applicable proper employment procedures set out in applicable Law, the Supplier shall indemnify the Replacement Supplier against all Employee Liabilities arising out of the termination pursuant to the provisions of paragraph 18.12 provided that the Replacement Supplier takes, all reasonable steps to minimise any such Employee Liabilities.
- 18.14 The indemnity in paragraph 18.13:
- 18.14.1 shall not apply to:
 - (a) in any case in relation to any alleged act or omission of the Replacement Supplier, any claim for: (A) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or (B) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees; or
 - (b) any claim that the termination of employment was unfair because the Replacement Supplier neglected to follow a fair dismissal procedure; and
 - (c) shall apply only where the notification referred to in paragraph 18.10.1 is made by the Replacement Supplier to the Supplier within six months of the Service Transfer Date.
- 18.15 If any such person as is described in paragraph 18.10 is neither re-employed by the Supplier nor dismissed by the Replacement Supplier within the time scales set out in paragraph 18.10 to paragraph 18.12, such person shall be treated as a Transferring Supplier Employee and the Replacement Supplier shall comply with such obligations as may be imposed upon it under applicable Law.
- 18.16 The Supplier shall comply, with all its obligations under TUPE and shall perform and discharge all its obligations in respect of the Transferring Supplier Employees before and on the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part in respect of the period up to (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between:
- 18.16.1 the Supplier; and
 - 18.16.2 the Replacement Supplier

- 18.17 The Supplier shall promptly provide to the Customer and any Replacement Supplier, in writing such information as is necessary to enable the Customer, to carry out its duties under regulation 13 of TUPE. The Customer shall procure that the Replacement Supplier, shall promptly provide to the Supplier in writing such information as is necessary to enable the Supplier to carry out its duties under regulation 13 of TUPE.
- 18.18 If either the Customer or the Supplier becomes aware of a claim that may give rise to it (the “**beneficiary**”) having a claim for indemnity under this clause against the other party (the “**indemnifying party**”), it will promptly tell the indemnifying party and provide such information and assistance as it may request.
- 18.19 At the expense of the indemnifying party, the beneficiary will take such action as the indemnifying party requests in relation to the claim and, if the indemnifying party requires, will Customer the conduct of any litigation or negotiation to the indemnifying party. Indemnity under the clause is conditional on the beneficiary not admitting liability or settling any claim without prior written authority from the indemnifying party.
- 18.20 A Replacement Supplier may enjoy the benefit and enforce the terms of this clause in accordance with the Contracts (Rights of Third Parties) Act 1999. Notwithstanding this, the Customer and the Supplier do not require the consent of any Replacement Supplier to rescind or vary this Contract at any time, even if that variation or rescission affects the benefits conferred on such Replacement Supplier.
- 18.21 This clause shall survive termination or expiry of the Contract howsoever arising.

19 Equal Opportunities

- 19.1 The Supplier shall perform its obligations under this Contract in accordance with:
- 19.1.1 all applicable aw relating to equality (whether in relation to age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation or otherwise); and
 - 19.1.2 any other requirements and instructions which the Customer reasonably imposes in connection with any equality obligations imposed on the Customer at any time under applicable equality Law or otherwise.
- 19.2 The Supplier shall take all necessary steps, and inform the Supplier of the steps taken, to prevent unlawful discrimination designated as such by any court or tribunal
- 19.3 The Supplier shall not unlawfully discriminate within the meaning and scope of the provisions of the Equality Act 2010, relating to discrimination in employment or in delivery of the Services.

20 Inducements

- 20.1 The Supplier shall not offer or give, or agree to give, to any employee, agent, servant or representative of the Customer any gift or consideration of any kind as an inducement or reward for doing or not doing, any act in relation to the obtaining or execution of the Contract or any other agreement with the Customer, or for showing or refraining from showing favour or disfavour to any person in relation to the Contract or any such agreement. The attention of the Supplier is drawn to the criminal offences under the Bribery Act.

- 20.2 The Supplier warrants that it has not paid commission nor agreed to pay any commission to any employee or representative of the Customer by the Supplier or on the Supplier's behalf.
- 20.3 The Supplier warrants, represents and undertakes that it is not aware of any financial or other advantage being given or promised to be given to any person employed by or engaged by the Customer.
- 20.4 Where the Supplier engages in conduct prohibited by clauses 20.1 to 20.3 inclusive in relation to this or any other agreement with the Customer, the Customer has the right to:
- 20.4.1 terminate the Contract and recover from the Supplier the amount of any loss suffered by the Customer resulting from the termination, including the cost reasonably incurred by the Customer of making other arrangements for the delivery of the Services and supply of Goods and any additional expenditure incurred by the Customer throughout the remainder of the term of the Contract; or
 - 20.4.2 recover in full from the Supplier any other loss sustained by the Customer in consequence of any breach of this clause whether or not the Contract has been terminated.
- 20.5 Any breach of this clause by the Supplier shall entitle the Customer to terminate this Contract and recover from the Supplier any fees paid by the Customer to the Supplier.
- 20.6 The requirements set out in this clause shall apply to both the duration of this Contract and for a period of up to six (6) years thereafter.

21 Fraud and Bribery

- 21.1 The Supplier must notify the Customer immediately where it becomes aware of any instance of suspected fraud or financial irregularity in the delivery of the Services and supply of Goods by the Supplier, including but not limited to, cases of:
- 21.1.1 collusion of any Supplier staff with staff of the Customer;
 - 21.1.2 computer fraud;
 - 21.1.3 the submission to the Customer of inaccurate, incomplete, misleading or falsified information for the purpose of a claim for funding;
 - 21.1.4 fraud involving any regulatory body, or;
 - 21.1.5 fraud involving sub-contractors.
- 21.2 Where the Customer has reasonable cause to suspect that fraud or irregularity has occurred in relation to the delivery of the Services and the supply of Goods and payments made hereunder, the Customer shall have the right of access to the Supplier's premises (which for the avoidance of doubt includes sub-contractor's premises) at any reasonable time with or without notice to examine and remove or copy all relevant documents and records including electronic records and to interview any individual engaged with the delivery of the Services and the Goods.

- 21.3 Where the Customer has reasonable cause to suspect that fraud or irregularity has occurred in relation to the delivery of the Services and the Goods and/or payments made hereunder, the Customer may;
- 21.3.1 require the Supplier to procure the services of an independent accountant (or other equivalent/appropriate professional) to investigate, at the Supplier's cost; and/or
 - 21.3.2 suspend any payments due hereunder; and/or; and/or
 - 21.3.3 in its absolute discretion terminate this Contract.
- 21.4 Any breach of this clause by the Supplier shall entitle the Customer to terminate this Contract and recover from the Supplier any payment paid by the Customer to the Supplier.
- 21.5 The requirements set out in this clause 21 shall apply to both the duration of this Contract and for a period of up to six (6) years thereafter.

22 Compliance with Anti-Slavery and Human Trafficking Laws

- 22.1 In performing its obligations under the Contract, the Supplier shall:
- 22.1.1 comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including but not limited to the Modern Slavery Act 2015; and
 - 22.1.2 have and maintain throughout the term of this Contract its own policies and procedures to ensure its compliance with the Modern Slavery Act 2015; and
 - 22.1.3 not engage in any activity, practice or conduct that would constitute an offence under sections 1, 2 or 4, of the Modern Slavery Act 2015 if such activity, practice or conduct were carried out in the UK; and
 - 22.1.4 include in its contracts with its subcontractors and suppliers anti-slavery and human trafficking provisions that are at least as onerous as those set out in this clause.
- 22.2 The Supplier represents and warrants that:-
- 22.2.1 neither the Supplier nor any of its officers, employees or other persons associated with it:
 - (a) has been convicted of any offence involving slavery and human trafficking; and
 - (b) having made reasonable enquiries, so far as it is aware has been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of or in connection with slavery and human trafficking.
- 22.3 The Supplier shall implement due diligence procedures for its subcontractors and suppliers and other participants in its supply chains, to ensure that there is no slavery or human trafficking in its supply chains.
- 22.4 The Supplier shall notify the Customer as soon as it becomes aware of:

- 22.4.1 any breach, or potential breach, of this clause; or
- 22.4.2 any actual or suspected slavery or human trafficking in a supply chain which has a connection with this Contract.
- 22.5 The Supplier shall:
 - 22.5.1 maintain a complete set of records to trace the supply chain of all Goods and Services provided to the Customer in connection with this Contract; and
 - 22.5.2 permit the Customer and its third party representatives, on reasonable notice during normal business hours, but without notice in case of any reasonably suspected breach of this clause, to have access to and take copies of the Supplier's records and any other information and to meet with the Supplier's personnel to audit the Supplier's compliance with its obligations this clause.
- 22.6 The Customer may terminate the Contract with immediate effect by giving written notice to the Supplier if the Supplier commits a breach of the compliance with this clause.

23 General

23.1 Assignment and other dealings.

- 23.1.1 The Customer may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with all or any of its rights and obligations under the Contract.
- 23.1.2 The Supplier shall not assign, transfer, mortgage, charge, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of the Customer.

23.2 Subcontracting.

- 23.2.1 The Supplier may not subcontract any or all of its rights or obligations under the Contract without the prior written consent of the Customer. If the Customer consents to any subcontracting by the Supplier, the Supplier shall remain responsible for all the acts and omissions of its subcontractors as if they were its own.

23.3 Notices.

- 23.3.1 Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be:
 - (a) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
 - (b) sent by email to the address specified in the Order
- 23.3.2 Any notice or communication shall be deemed to have been received:
 - (a) if delivered by hand, on signature of a delivery receipt; and

- (b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service; and
 - (c) if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 23.3.2(c), business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.
- 23.3.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.
- 23.4 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Contract. If any provision of the Contract is deemed deleted under this clause 23.4 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 23.5 **Waiver.** A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.
- 23.6 **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, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party. Each party confirms it is acting on its own behalf and not for the benefit of any other person.
- 23.7 **Entire agreement.** The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 23.8 **Third party rights.**
 - 23.8.1 Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
 - 23.8.2 The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.
- 23.9 **Variation.** Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by the parties or their authorised representatives.
- 23.10 **Governing law.** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

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

Schedule

Mandatory Policies

The Mandatory Policies available from the Customer representative:

- UL Data and Privacy/Data Protection Policy
 - where the Supplier is a data processor a data processing agreement will be required. Where the contract involves controller to controller sharing, a data sharing agreement will be required

- Safeguarding Policies
 - confirmation required from the Supplier that it is following local Safeguarding policies that are applicable to the services being provided and the site(s) being supplied
 - confirmation/evidence from Supplier of:
 - Safer Recruitment procedures
 - Organization's Safeguarding policy

- Health and Safety Policy
 - The H&S policies that are applicable to the services being provided and the site(s) being supplied