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**UNIVERSITY OF CHICHESTER**

**TERMS & CONDITIONS OF CONTRACT FOR THE Operation and Maintenance of Building Management Systems (BMS)**

**SECTION A: FORMALITIES**

**1 Definitions**

In this Contract, the following expressions shall have the meanings hereby assigned to them:

**"Act of Parliament"** or any Order, Regulation, Statute, Statutory Instrument, Code of Practice, Byelaw or Directive or the like whether detailed expressly or incorporated by general reference shall be deemed to include a reference to any amendment, re-enactment or replacement of the same;

**"Approved Index**" means the Index of Retail Prices (all items) or any subsequent replacement or amendment thereof.

"**Approved Programme of Work**,” means the programme of work which has been approved by the Supervising Officer and now forms part of the Contract Documentation;

"**Building**,” means any building in the control of the University for which the Building Management System is required. Details of relevant buildings appear in Section 5;

"**Building Details**" means all Building Profiles, Building Measurements, floor plans and site maps and/or related details and measurements which are supplied by the University to the Contractor to show the areas under which work should be performed as part of the Contract;

"**University**" means University of Chichester, College Lane, Chichester, West Sussex, PO19 6PE

“**Contractor’’** means the person, firm, or company to whom the contract has been awarded.

**“Commencement Date”** shall be 1st October 2025, or such other date as is specified within the Agreement portion of the Contract Documentation.

"**Contract Period**" means that period between **1st October 2025 and 30th September 2028** or such longer period as the University has determined in accordance with Clause 13 of these Conditions.

"**Contractor Workbases**" means that property owned or leased by the Contractor consisting of work bases, buildings etc., which are used by the Contractor for the proper performance of the Services;

 **"Day"** means the period from midnight to midnight;

 **"Daywork Rates"** means the special rates for the performanceof certain aspects of the Services as detailed in the Tender Breakdown/Schedule of Prices;

"**Monthly Period**" means a period of a calendar month, which is used as the basis for calculating payment. The first monthly period shall start on the Commencement Date.

"**Monthly Account**" means the statement provided by the Contractor to the Supervising Officer, detailing the value of services performed during the relevant monthly period.

"**Programme of Work**" means either the Approved Programme of Work or the Provisional Programme of Work as appropriate to the context in which it is used in the Contract Documentation;

"**Provisional Programme of Work**" means that programme of work submitted by the Contractor at tender stage for approval by the University;

"**Schedule of Prices**" means the priced Schedule forming part of the Contract Documentation;

"**Specification**" means the detailed specification upon which the Contractor has tendered together with any subsequent modifications thereof;

"**Services**" means the Service and Maintenance of Building Management Systems (BMS) for the University as more particularly described in the Specification and in accordance with the tender submitted to and accepted by the University;

"**Staff**" means all personnel used by the Contractor in the performance of the Services whether such personnel are employed by the Contractor or by other contractors of the Contractor, or employed on their own account as independent contractors;

"**Supervising Officer**" means the Facilities Manager or any subsequent employee of the University who takes over those functions and who is notified to the Contractor in writing.

"**Supervising Officer's Office**" shall be University of Chichester, College Lane, Chichester, West Sussex, PO19 6PE but may be revised at any time to any other location notified to the Contractor in writing by the Supervising Officer;

"**Week**" for the purpose of defining a payment period means seven consecutive days starting on Monday and ending on the following Sunday;

**2. Contractors’ Operating Guidelines**

The successful Contractor will be required to read and sign the Contractors’ Operating Guidelines that shall be enforced throughout the contract period.

**3. The Supervising Officer**

The functions, rights and powers conferred by the Contract upon the University shall be exercised by the Supervising Officer. The Supervising Officer may nominate an officer or officers with whom the Contractor is to conduct all discussions and meetings in relation to this Contract. Such persons shall only have the specific authority given to them by the Supervising Officer and shall not have power to vary any part of the Contract, including but not limited to the Specification. The Contractor shall accept the authority of these officers to the extent that it has been delegated to them by the Supervising Officer.

**4. Notices**

4.1 No Notice to be served upon the University shall be valid or effective unless it is sent by prepaid post to the Supervising Officer or delivered by hand to the Supervising Officer's Office.

4.2 Any Notice to be served upon the Contractor shall be valid and effective if it is sent by prepaid post or delivered by hand to the Registered Office, principal place of business or to the Contractor Workbase from which the Services will be organised, or is delivered by hand to a Director, Proprietor or an appropriate employee or agent of the Contractor.

**5. Forbearance**

No forbearance, indulgence or relaxation on the part of the University or the Supervising Officer or any nominated representative shown or granted to the Contractor in respect of its obligations under this Contract shall in any way affect, restrict or diminish the rights and powers of the University or the Supervising Officer under the Contract or operate as, or be deemed, a waiver of any breach of contract.

**6. Force Majeure**

6.1 In the event of an Act of God or Force Majeure (which shall include acts of government, fire, tempest, acts of war and related matters which are both beyond the control of the Contractor and are such that the Contractor with the application of all due diligence and foresight could not prevent) which causes the cessation of or substantial interference with the performance of the Services, the duty of the Contractor to perform the Services shall be suspended until such circumstances have ceased and the University shall not be liable to make any payment to the Contractor in respect of such suspension and any such sum already paid in respect of any part of the services not yet performed shall be held to the credit of the University and returned to the University.

 6.2 For the avoidance of doubt it is hereby expressly agreed that industrial relations difficulties, failure to provide adequate premises, sites, vehicles, plant, machinery, equipment and/or staff or similar matters which a prudent and diligent Contractor could have avoided with the application of foresight are not to be considered as events of Force Majeure or Act of God.

6.3 If the period of suspension under sub‑clause 5.1 above lasts for longer than

 one month, either party may serve upon the other, one month's written notice

 of termination of the Contract and unless the Services have been resumed

 before the expiration of such notice the Contract shall terminate in accordance

 with such notice.

6.4 Upon termination of the Contract it is hereby agreed that Section B of these

 Conditions will continue in full force and effect.

**7. English Law**

This Contract and all its provisions shall be construed in accordance with English Law.

**8. Interpretation of Contract**

8.1 Except as otherwise expressly provided, all elements of the Contract

 Documentation are to be taken as mutually explanatory of one another. Any

 ambiguities or discrepancies, shall be referred in the first instance to the

 Supervising Officer who shall thereupon issue to the Contractor appropriate

 instructions in writing and the Contractor shall carry out and be bound by such

 instructions.

8.2 In the event of any inconsistency between the Contract Conditions and any

 other documents forming part of the Contract Documentation the Contract

 Conditions shall be deemed to prevail.

**9. Assistance in Legal Proceedings**

9.1 If requested to do so by the Supervising Officer, the Contractor shall provide to the University any relevant information (including but not limited to documentation and statements from personnel and staff) in connection with any legal inquiry or Court proceedings in which the University may become involved or any relevant disciplinary Hearing internal to the University, and shall give evidence in such inquiries or proceedings or hearings, arising out of the provision of the Services. Such assistance and disclosures shall only be provided and made subject to any restrictions within the Data Protection Act and any other relevant legislation.

9.2 Such information provided or assistance rendered pursuant to the obligation in para 8.1 above in any form shall be at no cost to the University.

**SECTION B: REGULATORY**

**10. Agency**

10.1 The Contractor is not and shall in no circumstances hold itself out as being the servant or agent of the University for any purposeother than those expressly conferred by this Contract.

10.2 The Contractor is not and shall in no circumstances hold itself out as being authorised to enter into any contract on behalf of the University or in any other way to bind the University to the performance variation release or discharge of any obligation.

10.3 The staff of the Contractor are not and shall not hold themselves out to be and shall not be held out by the Contractor as being, servants or agents of the University for any purposes other than those expressly conferred by this Contract.

**11.** **Observance of Statutory Requirements**

The Contractor shall comply with all statutes, regulations and bylaws to be observed

and performed in connection with the Services provided under the Contract and

shall indemnify the University accordingly against any loss or damage caused by

non‑compliance with the same.

**12.** **Health and Safety**

12.1 The Contractor shall at all times comply with, and shall ensure that its sub‑contractors at all times comply with the requirements of the Health and Safety at Work etc. Act 1974, the Electricity at Work Act 1989, the Control of Substances Hazardous to Health Regulations 1988, and of any other updated Acts, Regulations, Directives or Orders pertaining to the health and safety of its own employees, the University's employees and others who may be affected by its performance of the Services.

12.2 The Contractor shall provide its statement of safety policy to the University at tender stage.

12.3 The Contractor warrants that all its Management and Supervisory personnel have a detailed knowledge of this policy and that they will observe the Policy and require the Contractor's staff to comply fully with its provisions.

12.4 The Contractor shall fully and effectively indemnify the University from any liabilities, losses or costs incurred by the University arising out of any claims or proceedings brought against the University for breach of the Contractor's health and safety obligations under this clause 11. This indemnity shall be limited in amount to the sum detailed in Clause 17.

12.5 All Contractors who have the potential for their workforce to invade the structural integrity of the University’s building as part of their contracted work must evidence that staff working on University premises have undertaken training on Asbestos, to the level of identifying Asbestos and how Asbestos is managed in the workplace.

**13. Assignment and Sub‑Contracting**

13.1 The University shall be entitled to assign the benefit of this Contract or any part thereof to any other body. The University shall give reasonable notice of its intentions in this regard to the Contractor unless the assignment takes effect by operation of law.

13.2 If the Contractor wishes to assign the whole or any part of the Contract to another legal entity it shall seek the University's consent to the proposed assignment. Any such consent must be sought in writing by giving at least three months notice to the Supervising Officer. Such consent shall not be unreasonably withheld provided that the University's interests under this Contract are properly protected.

13.3 The Contractor shall not sub contract any part of the Services other than to a company within the same group of companies without the prior written consent of the Supervising Officer which consent shall not be unreasonably withheld. Notwithstanding such consent the Contractor shall not be relieved from any liabilities or obligations under the Contract and shall be responsible for the acts, omissions and defaults of any Sub-Contractor as fully as if they were the Contractor's own.

13.4 Where consent to sub-contracting is granted, the Contractor shall provide each Sub‑Contractor with a full set of Contract Documentation (unpriced) and if required by the University shall satisfy the University that the Contractor has obtained a written undertaking from the Sub‑Contractor that the Subcontractor is familiar with this documentation and will perform the Services fully in conformity with the Contract.

**14. Advertising**

No advertisement of any description will be allowed on premises, sites, vehicles,

plant, machinery or equipment utilised in the performance of the Services without the

prior written consent of the Supervising Officer which shall not be unreasonably

withheld. Any advertisement which is placed on the University's property with consent

shall be promptly removed at the end of the Contract Period.

**15. Patents**

The Contractor shall not in connection with the performance of the Services, use,

manufacture, supply or deliver any process, article, matter or thing, the use,

manufacture, supply or delivery of which would be an infringement of any patent or

patent rights or any other intellectual property rights.

#### **16. Race Relations Amendment Act 2000/Equal Opportunities**

16.1 All personnel employed by the Contractor for the purpose of performing this Contract must be fully trained, suitably qualified and experienced, and will be required to understand and fully comply with the Health and Safety at Work etc. Act 1974 and the Control of Substances Hazardous to Health Regulations (COSHH) or any other updated legislation and shall fulfil their duties in a professional, ethical manner, consistent with the University ’s commitment to equal opportunities and race equality and high standards of behaviour.

16.2 The Contractor will comply with legislation for the prevention of discrimination

 on the grounds of disability, race, sex, sexual orientation, age, religion and

 belief and the promotion of race equality. The Contractor is required where

 appropriate to provide information to the University on its compliance with

 legislation and its practices and procedures to prevent unlawful discrimination

 and to promote race equality and equal opportunities.

16.3 The Contractor shall not discriminate directly or indirectly against any person

 on grounds of their colour, race, nationality or ethnic or national origins

 contrary to Part II of the Race Relations Act 1976 (Discrimination in the Field

 of Employment) and/or contrary to Part III of the Act (Discrimination in Other

 Fields) either in employment or in service and/or contravene Part IV of the

 Act (Other Unlawful Acts).

16.4 The Contractor shall comply with the provisions of Section 7 of the Act in all

 dealings with sub- contractors.

16.5 The Contractor shall in performing the Contract comply with the provisions of

 Section 71 (1) of the Race Relations Act 1976 as amended by the Race

 Relations Amendment Act 2000 and the Race Regulations Act 1976

 (Amendment) Regulations 2003 as if the Contractor were a body within the

 meaning of Schedule 1A to the Act.

16.6 Where in connection with this Contract, the Contractor, its agents or sub-

 contractors, or the Contractor’s staff are required to carry out work on the

 University ’s premises or alongside the University ’s employees or students

 on any other premises, the Contractor shall comply with the University ’s

 policies and codes of practice relating to racial discrimination and equal

 opportunities.

16.7 The Contractor shall monitor its own employees by reference to their racial

 origins and ethnicity, and provide such information on request to the

 University.

16.8 The Contractor shall provide such information as the University requires

 about its policies and practices concerning the prevention of unlawful

 discrimination and the promotion of equal opportunities and race equality

 both in terms of employment and customer service. The Contractor shall

 have regard to the promotion of race equality and shall consider the

 promotion of race equality and good race relations as key objectives of the

 contract.

16.9 The University and Contractor shall continue to monitor the performance

 and objectives of the contract throughout its duration and to make any

 amendments or changes necessary to the contract, or its performance or

 objectives in order to further to promote race equality.

16.10 The Contractor shall notify the University immediately in writing as soon as

 it becomes aware of any investigation or proceedings brought against it

 under the Race Relations Act 1976, Race Relations Amendment Act 2000

 and Race Relations Act 1976 (Amendment) Regulations 2003 as amended.

16.11 Where any investigation is undertaken by a person or body empowered to

 conduct such an investigation and/or proceedings are instituted following

 such an investigation against the Contractor or against the University

 either in connection with any contract awarded to the Contractor or

 generally, the Contractor shall, without charge:-

1. provide any information requested in the timescale allotted;
2. attend and permit its employees to attend any meetings as required;
3. allow access to and investigation of any documents or data deemed to be relevant to the investigation;
4. allow itself and any of its employees to appear as witnesses in any proceedings; and
5. co-operate fully with the person or body conducting the investigation.

16.12 Where any investigation is conducted, or proceedings are brought which

 arise directly or indirectly out of any act or omission of the Contractor, its

 staff, employees, agents or sub-contractors and where there is a finding

 against the Contractor in any such investigation or proceedings, the

 Contractor shall indemnify the University with respect to all costs,

 charges and expenses (including legal and administrative expenses)

 incurred by the University during or in connection with any such

 investigation or proceedings and further indemnify the University for any

 compensation, damages, costs or other award the University may be

 ordered or required to pay to a third party.

 If a finding of unlawful discrimination or breach of equal opportunities

 legislation is made against the Contractor or against the University

 arising from the conduct of the Contractor, the University will require the

 Contractor to take immediate remedial steps to prevent further

 recurrences.

16.13 If the Contractor enters into any sub-contract as authorised in this

 Contract in connection with this Contract, it shall impose obligations on

 Its sub-contractors terms which are identical to those imposed on it in

 this section. The University expects that the Contractor will not sub-

 contract to any business, service or group which has a poor history of

 discrimination in employment or service delivery. A breach of this clause

 will be considered as a fundamental breach of the contract between the

 University and the Contractor.

16.14 Without prejudice to its remedies set out above, the University may

 terminate the contract if notice has been given to the Contractor of a

 substantial or persistent breach of this section providing that a

 reasonable period has been given during which the breach may have

 been rectified and the Contractor has failed to remedy the breach within

 the stated period.

**17. Transfer of Undertakings (Protection of Employment) Regulations 1981**

Subject to the disclosure in writing of the exact terms and conditions of each employee of the University and or the previous Contractor of the University, the Contractor accepts to offer to take over such employees on similar terms and conditions.

**SECTION C: INSURANCE AND DIVISION OF LIABILITIES**

**18. Insurance**

18.1 The Contractor shall maintain and shall ensure that its Sub‑Contractors maintain the following insurances: ‑

* + - * Third Party insurance with a minimum limit of indemnity of that sum detailed in the Approved Programme of Work in respect of any one act of occurrence or series of acts of occurrences in any one year.
			* Employer's Liability insurance to comply with statutory requirements.
			* Motor Vehicle insurance to comply with statutory requirements.

18.2 All deductibles under such Insurance shall be the sole and exclusive responsibility of the Contractor. Where appropriate, any benefits from agreed stop loss levels shall belong to the Contractor.

18.3 Both the Contractor and its sub‑contractors shall where appropriate, name the University as Co‑insured on any relevant policies, and ensure that their Underwriters/insurers endorse the policies to prevent any exercise of rights of subrogation against the University, its other Contractors and its or their employees.

18.4 If the Contractor wishes to self‑insure against such risks, detail of these arrangements must have been approved by the University in writing prior to the execution of the Contract.

18.5 The Contractor shall, prior to the commencement of the Services, and thereafter on the renewal date of each individual policy of insurance as and when such occurs and at such other times as the Supervising Officer may reasonably require: -

* + - * Provide sight of original insurance documentation (including policies, cover notes, premium receipts and other documents) to the University;
			* Supply copies of the original insurance documentation.

The University shall be entitled to notify the Contractor in writing that in its opinion any such policy of insurance or self insurance arrangements does not provide sufficient cover to comply with this Clause and to require the Contractor to provide such insurance as will so comply. Upon receipt of such notice, the Contractor shall forthwith procure and maintain such insurance as the University shall reasonably require and in default the University itself may cause such insurance to be effected whereupon the Contractor shall pay to the University as a debt such sum as the University shall certify as being the cost to the University of effecting such insurance, together with a sum equal to 10% of the costs of such insurance as a contribution towards the University's administrative costs and overheads.

**19.** **Liability of Contractor**

19.1 In its performance of the Services, the Contractor shall accept full responsibility for and shall indemnify and hold harmless the University its other Contractors and its and their employees from and against the following claims: ‑

19.2 All claims in respect of the Contractor's or its sub‑contractor's compliance with applicable laws and regulations, including but not limited to the Health and Safety at Work etc. Act 1974, The Income and Corporation Taxes Act 1970, The Finance (No 2) Act 1975, The Employment Protection (Consolidation) Act 1978, or in respect of any application of The Transfer of Undertakings (Protection of Employment) Regulations 198 1, or the Acquired Rights Directive 1977 or any updated legislation;

19.3 All claims whatsoever and howsoever arising which may at any time be made and which arise out of accidents to the Contractor's staff or the staff of the Contractor's sub‑contractors and/or loss or damage to Contractor's property and the property of its sub‑contractors and its and their staff;

19.4 All third party claims arising from the performance of the Services and all liabilities of whatsoever nature caused by the negligence of the Contractor or its sub‑contractors and its or their employees. Where the Contractor or its sub‑contractors and its or their employees have merely contributed by their negligence to such a claim, the University will only rely on this indemnity to the extent of the Contractor's, or its sub‑contractors' contributory negligence;

19.5 All loss or damage caused to any land, building or chattel in the ownership, occupation or possession of or partial occupation or possession of the University by an employee or agent of the Contractor or its sub‑contractors (whether such damage be caused by negligence or in any other way whatsoever);

19.6 All claims whatsoever and howsoever arising which may arise out of any patent rights or any other intellectual property rights in respect of any process, matter, or thing used, manufactured, supplied or delivered by the Contractor or its sub‑contractors in connection with the Services;

19.7 The Contractor will be required at tender stage to indicate its systems for dealing with third party insurance claims. It shall be a condition of this Contract that the Contractor will deal speedily and efficiently with all claims submitted to it by third parties, either by its own staff or by referring such claims to its insurers.

19.8 With the exception of death or injury the liability of the contractor shall be limited to £10m per annum aggregate for all claims.

**20.** **Liability of the University**

20.1 The University shall be liable to the Contractor forany loss or damage to the Contractor's property which is caused by the wilful or negligent acts of the University or its employees during the course of their employment but not in any other way whatsoever;

20.2 The University shall be liable for payment of sums properly due to the Contractor under this Contract. The University shall in no circumstances be liable to the Contractor for any consequential or economic or financial loss of any kind whatsoever which the Contractor sustains in consequence of any breach of this sub clause save where the Contractor has given the University at least one month's prior written notice of the importance of a particular payment, and the anticipated loss which delay would cause;

20.3 Any information given to the Contractor by way of guide quantities and any plan, drawing or report in the attached appendices is only given as a guide. The Contractor warrants that it has ascertained for itself the accuracy of the information. No claim against the University shall be allowed whether in contract or in tort or under the Misrepresentation Act 1967 or otherwise on the ground of any inaccuracy.

**Variations**

**21. Variation Orders**

21.1 The Supervising Officer shall be entitled to issue to the Contractor and the Contractor shall be obliged to comply with a Variation Order in the form attached at Schedule 1 containing instructions in writing requiring the Contractor to do (or as appropriate refrain from doing) all or any of the following:

* to vary the Approved Programme of Work and to perform the Services in accordance with the Programme as so varied;
* to omit and/or cease to perform any part of the Services for such period or periods as the Supervising Officer may direct;
* to perform such additional services other than those contained in the Specification as the Supervising Officer may reasonably require, provided that such additional services shall be the same as, or similar to, the Services under the Contract.

21.2 Where the contract is so varied, the value of that part of the Services so varied (as determined, where possible, by reference to the appropriate rates contained in, or derived from, the Schedule of Prices) shall be deducted from, or added to, the sums due to the Contractor, and the Approved Programme of Work and/or the Specification shall be deemed to be amended accordingly.

21.3 If required by the Supervising Officer, the Contractor shall prepare a detailed price estimate of the cost of any proposed variation, including a breakdown of how the costing has been calculated. Such estimate shall be provided without charge to the Supervising Officer.

21.4 In the event that any modifications or variations are required by the Supervising Officer of the Contractor to perform the Services or any part thereof in order to achieve the standards required by the Contract Documentation (including the Specification and the Approved Programme of Work), these modifications and variations shall be carried out promptly and at no additional cost to the University; irrespective if they require the use of additional resources by the Contractor to achieve the requisite standards.

**22 Variation of Specification**

Without prejudice to the operation of any other Contract Condition, no omission from,

addition to or variation of the Specification and/or Schedule of Prices shall be valid, or

of any effect unless it is agreed in writing and signed by the Supervising Officer.

**SECTION D: PAYMENT**

**23. Method of Valuation**

The University shall pay any monies owed for the proper provision of the Services in

the manner specified, payment is to be made by 12 equal monthly payments, in

arrears.

**24. Monthly Statement**

If required by the Supervising Officer, a Statement shall be submitted at the end of

each calendar month and shall identify separately:

* + - * the value of the Services performed during the relevant Monthly Period
			* the estimated additions which the Contractor considers should be made to the sum referred to above in respect of work undertaken in accordance with any Variation Orders issued under the terms of the Contract
			* such supporting documentation (for example daily work reports) as may reasonably be required by the University, and as the Supervising Officer shall from time to time notify to the Contractor; appropriate VAT details

**25. Value Added Tax**

25.1 Sums payable to the Contractor pursuant to this Contract are exclusive of Value Added Tax ("VAT").

25.2 The University shall pay to the Contractor in the manner hereinafter set out any VAT properly chargeable on the supply by the Contractor of the Services at the appropriate rate;

25.3 The Contractor shall, if required, as part of the Monthly Statement notify the University:

* + - which part or parts of such Services are exempt from VAT
		- which part or parts of such Services bear a zero rate of VAT
		- which part or parts of such Services bear a rate of VAT greater than zero, in each case specifying the exact rate chargeable.

25.4 The Monthly Statement shall include any necessary tax invoices in respect of the payment of VAT.

25.5 Upon receipt by the Contractor of any payment made by the University pursuant to the Contract being a payment including VAT the University shall forthwith issue to the Contractor an authenticated receipt in such form as may be required by the Finance Act 1972 ('The Act') or any amendment or re‑enactment thereof or by any Regulations made thereunder, and the Contractor shall return the same to the University within 28 days.

25.6 If the University objects to any part of such receipt and such objection cannot be resolved by the parties by agreement, the University may require the Contractor to refer to the Commissioners of Customs and Excise (hereinafter referred to as 'the Commissioners") any dispute difference or question in relation to any of the matters specified in section 40(1) of the Act.

25.7 If the Contractor refers the matter to the Commissioners and the University is dissatisfied with their decision on the matter the Contractor shall at the University's request refer the matter to a Value Added Tax Tribunal by way of appeal under Section 40 of the Act whether the Contractor is so dissatisfied or not. Should the Contractor be required to deposit a sum of money equal to all or part of the tax claimed under Section 40(2) (a) of the Act, the University shall pay an equivalent sum to the Contractor.

25.8 The University shall further reimburse the Contractor any costs or expenses reasonably and properly incurred in making the reference (less any costs awarded to the Contractor by the Tribunal).

25.9 Upon the final adjudication by the Commissioners or, in the event of a reference by a Tribunal the University shall pay the amount of the VAT adjudged due to the Contractor. Should the amounts already paid by the University either by way of payment of VAT or by way of reimbursement of any money required to be deposited by the Contractor with the commissioners exceed the VAT adjudged to be due, the Contractor shall forthwith repay such excess to the University.

25.10 Notwithstanding any provision to the contrary in the Contract Documentation the University shall not be obliged to make any further payment to the Contractor if the Contractor is in default in the return of the authenticated receipt provided that this sub-clause shall only apply where the University can show that it requires such receipt to validate any claim for credit for VAT paid or payable which the University is entitled to make to the Commissioners.

**26. Financial Records of Contractor**

26.1 If required, the Contractor shall provide to the Supervising Officer a copy of each year's audited accounts within six months of the relevant accounting period. In the event that the Contractor fails to provide accounts in accordance with this Contract Condition then, without prejudice to any other rights or remedies available to the University, the Supervising Officer or such persons as may from time to time be nominated by the Supervising Officer shall be permitted access to any and all accounting records and financial information in the possession, custody or control or the Contractor including those accounting records and financial information in the possession of the Contractor's Auditors.

**SECTION E: TERMINATION**

**27. Termination for Cause**

 The Contract may be determined by either party at any time subject to written notice having been given.  The notice period shall be three months.  The termination of this agreement for whatever reason shall not prejudice the accrued rights, claims or liabilities of either party.

27.2  Without prejudice to any other rights or remedies of the Purchaser, the Purchaser or Purchaser's representative may give the Contractor notice in writing to correct a specific default, such as a failure to proceed regularly and diligently with the Works, or carry out any reasonable instructions of the Purchaser or failure to comply with any provision of this Agreement.

27.3  If the Contractor should fail to remedy the default to the satisfaction of the client within seven days of the date of the written notice, then the Purchaser may wholly or in part determine this Agreement immediately.

27.4  In the event of this Contractor becoming bankrupt or apparently insolvent or being sequestrated or making a composition or arrangement approved in accordance with the Insolvency Act 1986 for the appointment of an administrator, or a winding up order made, a resolution for voluntary winding up passed or having an administrative receiver as defined in the Insolvency Act 1986 appointed, or having possession taken over all or a material part of his undertaking, then this Agreement shall forthwith automatically determine.

27.5  In the event of this Agreement being determined, the Purchaser may employ and pay others to carry out and complete the works using all of the Contractor's tools and facilities on site and all plant, materials and equipment intended for incorporation in or use in connection with the works.  The Contractor shall, if possible and if required by the Purchaser assign to the Purchaser without further payment, the benefit of any sub-contract or supply agreement which the Contractor may have made in connection with this Agreement and it shall be a condition of any consent given that suitable provision be made in any sub-contract or order for the operation of this clause.

27.6  On completion of the Works, the Purchaser shall pay to the Contractor the balance of any monies due to the Contractor up to the date of determination in respect of work properly carried out and materials necessarily supplied and paid for by the Contractor, less the additional cost to the Purchaser of completing the Works and less any loss, damage or expense suffered by the Purchaser by reason of the Contractor's default, but excluding any claims for loss of profit.

**28. Termination Other Than for Cause**

28.1 If the University shall omit or require the Contractor to cease to provide a substantial part of the Services, the University may terminate the Contract by not less than three months notice in writing to that effect.

28.2 In the event of such notice being given the University shall at any time before the expiration of the notice be entitled to exercise and shall exercise as soon as may be reasonably practicable within that period exercise such of the following powers as it considers expedient:

to direct the Contractor, where any aspect of the performance of the Services has not commenced, to refrain from commencing the performance of that aspect of the Services

to direct the Contractor to complete in accordance with the Contract all or any aspect of the Services, which shall be paid for at the agreed contract price. Where any extra Services are required to facilitate the handover back to the University or to another contractor, such Services shall be the subject of a variation order in accordance with the Contract.

28.3 If the Contract is terminated under this Clause the Contractor shall be entitled to receive from the University any sum or sums due in respect of aspects of the Services performed up to the date of termination and the University shall indemnify the Contractor against any commitments, liabilities or expenditure which have been entered into by the Contractor under the direction of the University and which are reasonably and properly chargeable by the Contractor to the University under the terms of this Contract.

28.4 Save as expressly provided within para 5.5.4 above, neither the University nor the Contractor shall have claims against the other in respect of any loss or damage resulting or arising out of the termination of the Contract.

28.5 Upon termination of the Contract it is hereby agreed that Sections C (Insurance & Division of Liabilities), H (Arbitration) and 1 (Termination) of this Contract shall continue in full force and effect and be enforceable by the University.

 28.6 For the avoidance of doubt, the rights of the University are not affected by the

 provisions of the Clauses above

**29.** **Breaches of Conditions or Specification**

The Contractor is advised that breaches of these Conditions or the Specification are

regarded as material breaches of contract.

**30.** **Bribery and Corruption**

The University shall be entitled to cancel the Contract and to recover from the

Contractor the amount of any loss resulting from such cancellation if:

* + - * the Contractor shall have offered or given or agreed to give to any person any gift or consideration of any kind, inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the Contract or any other Contract with the University or,
			* the like acts shall have been done by any person employed by the Contractor or acting on its behalf (Whether with or without the knowledge of the Contractor).

**31.** **Information on Retendering**

31.1 If requested to do so by the Supervising Officer, the Contractor shall provide to the University any relevant information to permit the University to prepare the necessary documentation, and meet its obligations in respect of any subsequent re‑tendering of the Services to the extent that it is required to ensure that the University is not in breach of any of its legal (statutory or otherwise) duties.

31.2 By way of example, but not by limitation, the University may require full details of all staff employed in the performance of the Services to enable it to comply with requests for information from other Contractors who may subsequently take over the performance of these services. This information may relate to the employment records and terms and conditions of staff and is recorded by the University by virtue of the operation of the Transfer of Undertakings (Protection of Employment) Regulations 1981 or updated legislation.

31.3 Such information provided pursuant to this Sub Clause shall be at no cost to the University.

**32. Right to Set Off**

The University reserves its right at Common Law and in Equity to set‑off against its indebtedness to the Contractor any debt owed to it by the Contractor and any liability, damage, loss, costs, charges and expenses which it has incurred in consequence of any breach by the Contractor of this Contract or any other contract with the University.

**Schedule 1**

**VARIATION ORDER (Specimen Format)**

This Variation Order is issued in accordance with Clause 21 of the Contract Conditions entered into between the Contractor and the University on [Date].

**NUMBER**: 1 DATE: [Date] EFFECTIVE: [Date]

**SUBJECT MATTER**:

The Specification relating to [ ]shall be varied as follows:

* Item [ ] of the Specification:
* This amendment to be made from [Date].

**VARIATION TO CHARGES**:

The Contractor shall be entitled to an extra [ ]

There will be a nil effect on the price of the contract

 The Contractor will reduce the price by [ ]

 The Price Schedule shall be amended accordingly.

**SIGNED: ……………………………………………………. (Supervising Officer)**

**For and on behalf of the University**

**SIGNED: ……………………………………………………. …………………………….**

**For and on behalf of the Contractor (Position)**