

DATE:

21/07/2025

PURCHASE OF GOODS AND SERVICES AGREEMENT

Between

MACHINE TOOL TECHNOLOGIES LTD

and

UNIVERSITY OF SHEFFIELD

CONTRACT REFERENCE NUMBER : 4473/CYMRU/RH/25

Potential Suppliers should note that the University solely will be responsible for updating these terms and conditions to form a contract. Any changes made to this document by potential suppliers will not and cannot be accepted.



University of Sheffield

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THIS AGREEMENT is made on 21st July 2025

PARTIES:

- (1) **UNIVERSITY OF SHEFFIELD**, a body corporate established by Royal Charter under number RC000667 and having its principal place of business at Western Bank, Sheffield S10 2TN (the “**University**”); and
- (2) **Machine Tool Technologies Ltd** a company incorporated in United Kingdom under number 4319272 whose registered office is at Unit A1 Buckshaw Link, Ordnance Road, Chorley, Lancashire PR7 7EL (the “**Supplier**”),

each of the Supplier and the University being a “**party**”, and together the Supplier and the University are the “**parties**”.

RECITALS:

- (A) Where Schedule 2 (*Invitation to Tender*) and Schedule 3 (*Supplier’s Response to Invitation to Tender*) are populated and do not contain the wording ‘N/A’ or ‘Not applicable’, Recitals (B) and (C) shall apply. Otherwise, only Recital (D) shall apply.
- (B) On the ITT Issue Date the University issued its invitation to tender in respect of the provision of certain goods and/or services (as set out in Schedule 2 (*Invitation to Tender*)). The Supplier responded to that invitation to tender on the ITT Response Date and that response is as set out in Schedule 3 (*Supplier’s Response to Invitation to Tender*).
- (C) On the basis of and relying upon the Supplier’s response to that invitation to tender and subsequent negotiations with the Supplier, the University has selected the Supplier as its preferred supplier for the Goods and/or the Services (each as defined below).
- (D) Accordingly, the University has agreed to purchase, and the Supplier has agreed to supply, the Goods and/or the Services.

THE PARTIES AGREE:

1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement the following terms have the following meanings:

“**Acceptance**” means the acceptance of the Goods and/or Services by the University in accordance with the provisions of clause 7;

“**Acceptance Certificate**” means the form of certificate provided to the Supplier and signed by the University in accordance with the provisions of clause 7.3 to acknowledge Acceptance;

“**Acceptance Criteria**” means the criteria for acceptance of the Services (or any part thereof) and/or any Deliverables (or any part thereof) and/or the Goods (or any part thereof) as set out in Schedule 6 (*Services*);

“**Acceptance Tests**” means the tests to be carried out on the Goods and/or Services as set out in clause 7 and which may be set out in more detail in the Test Plan;

“**Affiliate**” means any entity that directly or indirectly Controls, is Controlled by, or is under common Control with, another entity;

“**Affiliate Losses**” has the meaning given in clause 48.3;

“Applicable Laws” means all laws, rules, statutes, regulations, regulatory requirements, byelaws, ordinances, subordinate legislation, codes of conduct, codes of practice issued by a Regulatory Body, and other laws, including any judicial or administrative interpretation of them, which, in each case, applies to one or each of the parties to this Agreement or the Services and/or Goods or relates to the subject matter or performance of this Agreement, and which is in force from time to time;

“Business Day” means a day other than a Saturday, Sunday or bank or public holiday in England;

“CEDR” has the meaning given in clause 38.5.1;

“Change” means any change to this Agreement including to any of the Services;

“Change Control Notice” means a document setting out any proposed Change(s) to the Services and/or the Goods and the effect those changes will have on the Services Levels, Charges, Price, timetable for the Services and/or Goods and any terms of this Agreement, in the form set out in Schedule 12 (*Template Change Control Notice*);

“Change of Control” means the acquisition of either: (a) the voting rights attaching to 25% or more of the voting shares of a party; (b) the power to direct or cause the direction and management of the policies of a party in accordance with the acquirer’s wishes, whether as a result of the ownership of shares, control of the board of directors, contract or any powers conferred by the articles of association or other constitutional documents of that party; or (c) all, or substantially all, of the assets of a party;

“Charges” has the meaning given in clause 23.1.2;

“Charges Connected Cap” has the meaning set out in Schedule 1 (*Contract Particulars*);

“Claim” has the meaning given in clause 29.1;

“Commencement Date” has the meaning set out in Schedule 1 (*Contract Particulars*);

“Confidential Information” means information disclosed pursuant to this Agreement that is either clearly labelled as confidential, is of a confidential nature or would appear to a reasonable person to be confidential, and shall include all know-how, trade secrets, financial, commercial, technical, tactical or strategic information of any kind;

“Contract Manager” has the meaning given in clause 21.1;

“Control” has the meaning given in the Corporation Tax Act 2010, s 1124 and **“Controls”**, **“Controlled”** and **“under common Control”** shall be interpreted accordingly;

“Defective Goods” has the meaning given in clause 8.6;

“Defects” has the meaning given in clause 7.4;

“Deliverables” means the output of the Services and items ancillary to the supply of the Services (but not including any Goods) to be supplied by the Supplier to the University, including those specified in Schedule 6 (*Services*) (if any);

“Delivery Date” has the meaning given in clause 3.4;

“EIRs” means the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner’s Office or relevant government department in relation to such regulations;

“Employment Liabilities” means costs, claims, liabilities and/or expenses (including legal expenses) of any nature (including without prejudice to the foregoing generality, in relation to negligence claims by any employee or other third party, unfair dismissal, redundancy, unlawful discrimination, breach of contract, breach of TUPE, unlawful deduction of wages and equal pay) arising out of the employment of such individual and/or the termination thereof;

“Final Extension Date” has the meaning set out in Schedule 1 (*Contract Particulars*);

“FOIA” means the Freedom of Information Act 2000, and any subordinate legislation made under that Act from time to time, together with any guidance and/or codes of practice issued by the Information Commissioner’s Office or relevant government department in relation to such legislation;

“Force Majeure Event” means any circumstance not within a party’s reasonable control including: (a) acts of God, flood, drought, earthquake or other natural disasters; (b) terrorist attack, civil war, civil commotion or riots; (c) nuclear, chemical or biological contamination or sonic boom; (d) any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent; (e) collapse of buildings, fire, explosion or accident; and (f) interruption or failure of utility service, but excluding, without limitation, epidemics, pandemics, strikes, lock-outs or other industrial disputes relating to the Supplier, the Supplier Personnel or any other failure in the Supplier’s supply chain provided that in each case: (i) the occurrence of the relevant event or circumstance is beyond the reasonable control of the affected party; (ii) the occurrence of the relevant event or circumstance could not reasonably have been foreseen by the affected party at the time of the execution of this Agreement; and (iii) the effects of the relevant event or circumstance could not reasonably have been avoided or overcome by the affected party;

“Good Industry Practice” means in relation to any undertaking and any circumstances, the highest degree of professionalism, skill, diligence, prudence and foresight which would be expected from a recognised and market leading company engaged in (as applicable) (i) the same type of activity and which is best in class; and/or (ii) the manufacture and/or supply of goods similar to the Goods (including in accordance with any codes of practice published by relevant trade associations), under the same or similar circumstances;

“Goods” means the goods listed in Schedule 5 (*Goods*);

“Guidance” means any applicable guidance, direction or determination and any policies, advice or industry alerts which apply to the Goods, to the extent that the same are published and publicly available or the existence or contents of them have been notified to the Supplier by the University;

“Initial Term” has the meaning set out in Schedule 1 (*Contract Particulars*);

“Intellectual Property Rights” means all intellectual and industrial property rights of any kind whatsoever including copyright, moral rights, performers’ rights, patents, rights in inventions, rights in Confidential Information, rights in know-how, rights in trade secrets, registered trade marks, comparable marks (EU), geographical indications, rights in trade names, design rights, rights in get-up, database rights, rights in domain names, rights in business names, rights in computer software, goodwill, the

right to sue for unfair competition and passing off, and all similar rights of whatever nature and, in each case: (i) whether registered or not; (ii) including any applications to protect or register such right; (iii) including all renewals, continuations, divisions, reissues, re-examinations, substitutions and extensions of such rights or applications; (iv) whether vested, contingent or future; and (v) wherever existing in the United Kingdom and/or any other country in the world;

“Insolvency Event” means, where: (i) a party becomes insolvent or suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts; (ii) an order is made or a resolution is passed for the winding up of a party (other than voluntarily for the purpose of solvent amalgamation or reconstruction); (iii) a liquidator, provisional liquidator, administrator, administrative receiver, receiver or manager, trustee or similar officer is appointed in respect of the whole or any part of a party’s assets or business; (iv) a party proposes to enter or enters into any composition or arrangement with its creditors generally or any class of creditors; (v) a party ceases to continue its business; or (vi) as a result of debt or maladministration a party takes or suffers any similar or analogous action to (i) to (v) above in any jurisdiction;

“Installation” shall mean the installation of the Goods in the designated location and into the operating environment approved in advance in writing by the University at the relevant University Premises, and **‘Install’** and **‘Installed’** shall be interpreted accordingly;

“Installation Plan” means the plan set out in Schedule 6 (*Services*) which sets out the details, method and processes for Installation and/or such other plan(s) that may be agreed between the parties in writing for Installation;

“Installation Report” has the meaning given in clause 6.2.1;

“Insurance Requirements” has the meaning set out in Schedule 1 (*Contract Particulars*);

“IPR Claim” has the meaning given in clause 29.1.1;

“ITT Issue Date” has the meaning set out in Schedule 1 (*Contract Particulars*);

“ITT Response Date” has the meaning set out in Schedule 1 (*Contract Particulars*);

“Key Personnel” means those persons which are key to the provision of the Services and set out in Schedule 6 (*Services*) (if any);

“Living Wage” means either the: (i) **“London Living Wage”** which is an hourly rate updated annually by the Living Wage Foundation (or any successor thereto) covering all boroughs in Greater London; or (ii) **“UK Living Wage”** which is an hourly rate updated annually by the Living Wage Foundation (or any successor thereto) covering all locations outside Greater London, as applicable;

“Long Stop Completion Date” has the meaning set out in Schedule 1 (*Contract Particulars*);

“LW Announcement Date” means in respect of each year, the date on which the Living Wage annual update is published by the Living Wage Foundation;

“LW Implementation Date” means any date up to a maximum of 6 months from each LW Announcement Date;

“Milestone” means an activity, process or outcome relating to the Services and identified as a milestone in Schedule 6 (*Services*) (if any);

“Milestone Date” means in respect of a Milestone the date set out in Schedule 6 (*Services*) (if any) by which that Milestone must have been achieved by the Supplier;

“MMP” has the meaning given in clause 38.5.1;

“Policies” means the policies of the University as the same may be updated from time to time by the University. The current versions of the Policies as of the Commencement Date are listed in Schedule 11 (*Policies*);

“Price” has the meaning given in clause 23.1.1;

“Product Information” means information concerning the Goods as may be reasonably requested by the University and supplied by the Supplier to the University in accordance with clause 12 for inclusion in the University’s product catalogue from time to time;

“Records” has the meaning given in clause 30.1;

“Regulatory Body” means any of those government departments and regulatory, statutory and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, supervise, regulate, investigate or influence the matters dealt with in this Agreement or any other affairs of the University;

“Rejected Goods” has the meaning given in clause 8.2;

“Relief Event” has the meaning given in clause 19.1;

“Replacement Service Provider” means any party chosen by the University to provide any services which are substantially similar and in substitution for the Services or any part thereof following any termination or expiry of this Agreement;

“Request for Information” means a request for information or any apparent request for information under the FOIA or the EIRs;

“Requirement to Recall” has the meaning given in clause 10.1;

“Security Policy” means the security policy of the University as the same may be updated from time to time by the University by notice to the Supplier. The current version of that security policy as of the Commencement Date is set out in Schedule 9 (*Security Policy*);

“Service Credits” means those amounts specified as being payable in Schedule 6 (*Services*) (if any), where the Supplier fails to meet one or more of the Service Levels;

“Service Level Report” has the meaning given in clause 18.2;

“Service Levels” means the requirements and standards for the Services, as detailed in Schedule 6 (*Services*);

“Services” means the services listed in Schedule 6 (*Services*) together with: (i) the provision of the Deliverables; and (ii) any Installation;

“Services Specification” means the description of the Services set out in Schedule 6 (*Services*);

“Specification” means, taken together, in the following order of priority: (i) the specification of the Goods set out in Schedule 4 (*Specification*); (ii) any written statements of the University’s requirements relating to the Goods as provided by the University to the Supplier (including any as set out in Schedule 2 (*Invitation to Tender*)); and (iii) any written statements of the Supplier provided to the University confirming how it will meet such requirements (including any as set out in Schedule 3 (*Supplier’s Response to Invitation to Tender*));

“Supplier Email Address” has the meaning set out in Schedule 1 (*Contract Particulars*);

“Supplier Held University Data” has the meaning given in clause 34.2;

“Supplier Materials” means any material owned by the Supplier prior to the Commencement Date or acquired by the Supplier independently of this Agreement, in each case relating to the Services, but in all cases excluding any Goods;

“Supplier Personnel” means all employees, officers, staff, other workers, agents and consultants of the Supplier (including Key Personnel), its Affiliates and any of their sub-contractors who are engaged in (i) the supply of the Goods; and/or (ii) the performance of the Services, in each case from time to time;

“Term” has the meaning given in clause 2.1 (*Term*);

“Termination Notice Period” has the meaning set out in Schedule 1 (*Contract Particulars*);

“Test Plan” means the plan set out in Schedule 6 (*Services*) which sets out the details, method and processes to be followed by the Supplier for Acceptance Tests and/or such other plan(s) that may be agreed between the parties in writing for Acceptance Tests;

“TUPE” means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246);

“University Data” means any data, documents, text, drawings, diagrams, images or sounds (together with any database made up of any of those), which are embodied in any medium, and which are supplied to the Supplier by or on behalf of the University and/or which the Supplier is required to generate, process, store or transmit pursuant to this Agreement;

“University Dependencies” means those actions specifically listed as University dependencies in Schedule 6 (*Services*) (if any);

“University Email Address” has the meaning set out in Schedule 1 (*Contract Particulars*);

“University Materials” means any material owned by the University relating to the Services (and any modifications to that material);

“University Premises” means the premises identified in Schedule 6 (*Services*) (if any) which are to be made available for use by the Supplier for the provision of the Services (or any part thereof) and/or Goods (or any part thereof) and/or which is a site at which the Goods shall be Installed, in each case on the terms set out in this Agreement;

“University Systems” means the plant, equipment, software, computers and other devices owned, supplied, operated or developed by or for the University or any Affiliate of the University and/or any of its sub-contractors including all networks, servers, hosted applications and data centres and any equipment contained therein;

“Value Connected Cap” has the meaning set out in Schedule 1 (*Contract Particulars*); and
“VAT” means value added tax, as defined by the Value Added Tax Act 1994 (or equivalent sales tax).

1.2 In this Agreement:

- 1.2.1 a reference to this Agreement includes its Schedules, appendices and annexes (if any);
- 1.2.2 references to clauses and Schedules are to the clauses and Schedules of this Agreement, and references to paragraphs are to paragraphs of the relevant Schedule;
- 1.2.3 a reference to a party includes that party’s successors and permitted assignees;
- 1.2.4 a reference to a ‘person’ includes a natural person, corporate or unincorporated body (in each case whether or not having separate legal personality);
- 1.2.5 words in the singular include the plural and vice versa;
- 1.2.6 any words that follow ‘include’, ‘includes’, ‘including’, ‘in particular’ or any similar words or expression shall be construed as illustrative only and shall not limit the sense of any word, phrase, term, definition or description preceding those words;
- 1.2.7 the table of contents, “Recitals” section above and any clause, Schedule or other headings in this Agreement are included for convenience only and shall have no effect on the interpretation of this Agreement;
- 1.2.8 any references to any English legal term for any intellectual property right, action, remedy, method of judicial proceeding, legal document, legal status, court official or any legal concept or thing shall in respect of any jurisdiction other than England be deemed to include what most nearly approximates in that jurisdiction to the English legal term;
- 1.2.9 a reference to any body is:
 - (a) if that body is replaced by another organisation, deemed to refer to that replacement organisation; and
 - (b) if that body ceases to exist, deemed to refer to that organisation which most substantially serves the same purposes as the original body;
- 1.2.10 an obligation to act or do something in “good faith” includes the obligation to:
 - (a) act honestly;
 - (b) to disclose to the other Party any information known to the Party under the good faith obligation, and that is relevant to that “good faith” matter, but that is not known to the other Party;
 - (c) to act rationally; and
 - (d) not to unreasonably withhold or delay a decision (or the documentation of that decision); and
- 1.2.11 a reference to a statute or statutory provision includes:

- (a) any subordinate legislation (as defined in section 21(1), Interpretation Act 1978) made under it; and
- (b) any statute or statutory provision which modifies, consolidates, re-enacts or supersedes it whether such statute or statutory provision comes into force before or after the date of this Agreement.

2. TERM

- 2.1 Notwithstanding the date or dates of signature of this document, this Agreement commences on the Commencement Date and, unless terminated earlier in accordance with the terms of this Agreement, shall continue for the Initial Term and shall terminate at the end of the Initial Term unless it is extended in accordance with clause 2.2 (the “**Term**”).
- 2.2 The University may, by giving notice to the Supplier, extend the period of this Agreement to a date falling no later than the Final Extension Date. Subject to that constraint, the University may extend the period of this Agreement on more than 1 occasion.

3. SUPPLY OF GOODS

- 3.1 The Supplier agrees to supply, and the University agrees to purchase, the Goods on the terms set out in this Agreement.
- 3.2 The Supplier shall ensure that the Goods:
 - 3.2.1 are new (unless expressly agreed otherwise by the parties in writing);
 - 3.2.2 conform with the Specification;
 - 3.2.3 comply with all relevant Applicable Law;
 - 3.2.4 comply with the express terms of this Agreement and any implied conditions, warranties and terms contained in the Sale of Goods Act 1979 and/or the Supply of Goods and Services Act 1982;
 - 3.2.5 are of satisfactory quality (within the meaning of the Sale of Goods Act 1979, s 14) and fit for any purpose held out by the Supplier or made known to the Supplier by the University, expressly or by implication, and in this respect the University relies on the Supplier’s skill and judgment;
 - 3.2.6 are free from defects in design, material and workmanship and remain so for a reasonable period after delivery commensurate to the nature, specification and Price of the Goods;
 - 3.2.7 are manufactured and stored prior to delivery in accordance with Good Industry Practice; and
 - 3.2.8 comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods (including any specific requirements set out in the Specification). The Supplier shall provide all such reasonable assistance to the University to ensure that the University is not in breach of any such requirements and laws in relation to the Goods (including the Environmental Protection Act 1990 and the Waste Electric and Electronic Equipment (WEEE) Regulations 2013).

- 3.3 The Supplier shall ensure that it has and maintains all relevant consents, authorisations, licences, permits and accreditations required to carry out its obligations under this Agreement in respect of the Goods (including in relation to the supply and delivery of the Goods).
- 3.4 The Supplier shall supply to the University all operating manuals and other documentation necessary for the satisfactory operation of the Goods, and in any event all documentation as specified in this Agreement. If, after the delivery date(s) specified pursuant to clause 4.1 (the “**Delivery Date**”), the operating manuals and/or documentation need updating or replacing the Supplier shall be responsible for notifying the University of the availability of such updates or replacements and shall supply them at no additional cost to the University. The Supplier shall provide the operating manuals and other documentation in the media format in which they are available at the appropriate time.
- 3.5 The Supplier agrees to use reasonable endeavours to assign to the University the benefit of any warranty, guarantee or similar right which it has against any third party manufacturer or supplier of the Goods in full or part.
- 3.6 The Supplier is fully responsible for ensuring that all persons involved with the processing and fulfilment of the University’s order are aware of their contribution to product or service conformity, their contribution to product safety, and the importance of ethical behaviour.
- 4. DELIVERY**
- 4.1 The Supplier shall deliver the Goods in accordance with the delivery timescales, delivery dates and delivery instructions (to include as to delivery location and delivery times) set out in Schedule 5 (*Goods*) or as otherwise agreed with the University in writing.
- 4.2 Unless expressly specified otherwise in Schedule 5 (*Goods*), delivery shall be completed when the Goods have been unloaded at the location specified by the University and such delivery has been received by a duly authorised agent of the University (who shall be notified to the Supplier by the University from time to time) or (where applicable) Installation has been completed to the satisfaction of the University. The University shall procure that such duly authorised agent, employee or location representative of the University is at the delivery location at the agreed delivery date and times in order to accept such delivery. Any arrangement by which the Goods are collected by the University in return for a discount on the Price shall be agreed by the parties in writing (where due to an emergency such arrangements cannot be committed to writing prior to collection, the parties shall confirm such arrangements in writing as soon as possible following collection).
- 4.3 The Supplier shall ensure that a delivery note shall accompany delivery of the Goods. Such delivery note shall, at a minimum, contain the University’s purchase order number, the outstanding balance of Goods remaining to be delivered if the Goods are being delivered in instalments (as specified in Schedule 5 (*Goods*)), the name and address of the University, the name and address of the Supplier, a description and quantity of the Goods, and shall show separately any extra agreed charges for containers and/or any other item not included in the Price or, where no charge is made, whether the containers are required to be returned.

- 4.4 Unless otherwise agreed with the University in writing, the Supplier shall be responsible for carriage, insurance, transport, all relevant licences, all related costs, and all other costs associated with the delivery of the Goods to the delivery location and unloading of the Goods at that location. Without prejudice to the generality of the foregoing, unless otherwise agreed with the University in writing, the Supplier shall be responsible for obtaining all export and import licences for the Goods and shall be responsible for any delays to the delivery time due to such licences not being available when required. In the case of any Goods supplied from outside of the United Kingdom, the Supplier shall ensure that accurate information is provided to the University as to the country of origin of the Goods. The Supplier shall ensure that the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition.
- 4.5 The Supplier acknowledges and agrees that any third party carrier engaged to deliver the Goods shall at no time be an agent of the University and accordingly the Supplier shall be liable to the University for the acts and omissions of all third party carriers engaged to deliver the Goods to the University.

5. TITLE AND RISK

- 5.1 Without prejudice to any right or remedy of the University under this Agreement (including any right of rejection) and unless otherwise agreed by the parties in writing, the Supplier shall ensure that title to the Goods shall pass to the University on payment of the Price being made by the University.
- 5.2 Risk of damage to or loss of the Goods shall pass to the University on delivery of the Goods in accordance with clause 4.
- 5.3 If title to the Goods passes to the University prior to delivery in accordance with clause 5.1, then, until such delivery, the Supplier shall hold such Goods as the University's fiduciary agent and bailee and shall at all times keep the Goods separate from those of the Supplier and third parties and ensure such Goods are properly stored, protected and insured against all risks and identified as the University's property.
- 5.4 The University shall be entitled to repossess any of the Goods in which it has title and for such purpose the University and its agents or representatives shall be entitled at any time and without notice to enter upon any premises in which the Goods are stored or kept or reasonably believed so to be.

6. INSTALLATION AND ACCESS

- 6.1 The Supplier acknowledges and agrees that it is the responsibility of the Supplier to determine whether a site visit of the relevant University Premises is required with respect to the Goods and/or Services.
- 6.2 Notwithstanding the foregoing and at the University's request, before or as soon as reasonably practicable following the Commencement Date the Supplier shall:
- 6.2.1 issue an installation report detailing work to be carried out or requirements to be met in order to prepare the relevant University Premises for delivery and/or Installation of the Goods (the "**Installation Report**"). If the Supplier does not notify the University of any such work or requirements, the Supplier shall be

- deemed to have accepted that the relevant University Premises are suitable and shall proceed with delivery and/or Installation of the Goods; or
- 6.2.2 issue a certificate, stating that the relevant University Premises (including the conditions, layout, design and any other factors) are suitable and acceptable for the delivery and/or Installation or use of the Goods and proceed with such delivery and/or Installation.
- 6.3 Where the Supplier has issued an Installation Report to the University, the Supplier shall ensure that such report contains adequate information in sufficient time to enable the University and/or the Supplier (as applicable) to prepare the relevant University Premises for Installation in order to ensure the Long Stop Completion Date is met, and enable the University and/or the Supplier (as applicable) to provide:
- 6.3.1 a suitable supply of electric current and such other mains services as may reasonably be required;
- 6.3.2 all other required electrical and mechanical items and fittings, as specified by the Supplier in the Installation Report and as agreed by the University;
- 6.3.3 such facilities and environmental conditions as specified by the Supplier in the Installation Report and as agreed by the University; and
- 6.3.4 access to and from the relevant University Premises and/or the designated place for delivery and/or Installation of the Goods to enable the delivery, off-loading and placing in position of the Goods (including appropriate access and egress that enables the Supplier to deliver and remove any equipment, tooling or other facilities required for the purposes of undertaking and completing delivery and/or Installation of the Goods) which complies with any specific requirements set out in the Installation Report.
- 6.4 Where the Supplier has issued an Installation Report to the University, the Supplier shall be required to re-examine the relevant University Premises upon notice from the University that any work specified in the Installation Report has been completed or upon the Supplier completing such work (as applicable) and issue a certificate in accordance with clause 6.2.2, or apply the provisions of clause 6.2.1 as appropriate.
- 6.5 Where the Supplier has issued an Installation Report to the University, both parties shall work together and cooperate in good faith to ensure that the tasks identified in the Installation Report are undertaken efficiently and effectively to ensure that the Supplier is able to deliver the Goods on the Delivery Date and, where applicable, to ensure that Installation and testing is undertaken to ensure that the Goods are Installed and ready to operate by no later than the Long Stop Completion Date.
- 6.6 Without prejudice to any other provision of this Agreement, the University shall provide the authorised Supplier Personnel at all reasonable times and with prior agreement, such access to the relevant University Premises (but not necessarily sole access) as may be necessary for the inspection of the relevant University Premises and for the execution of the delivery and/or Installation of the Goods.
- 6.7 The Supplier shall ensure that, in the execution of the delivery and/or Installation of the Goods, it does not interfere with and/or interrupt the operations of the University, its employees or any other contractor employed on the relevant University Premises.

- 6.8 Without prejudice to any other provision of this Agreement, the Supplier shall (and shall ensure that the Supplier Personnel shall):
- 6.8.1 comply at all times with its statutory obligations in respect of health and safety at work and the University's policies, procedures and/or reasonable instructions in respect of health and safety (or otherwise);
 - 6.8.2 comply with any Policies, procedures and/or reasonable instructions of the University at all times when working on the relevant University Premises (including matters in relation to security, working in relation to others on the relevant University Premises, access requirements and egress);
 - 6.8.3 ensure that any Installation and/or other Services which require the attendance of the Supplier on the relevant University Premises be undertaken during the University's standard operational hours unless otherwise agreed by the University; and
 - 6.8.4 leave the Goods and the relevant University Premises in a clean and tidy condition at the end of each visit and upon completion of any Installation (including ensuring the removal and recycling and/or reuse of all packaging).
- 6.9 The work required of the Supplier to complete any Installation shall be as set out in the Installation Plan. In the absence of any Installation Plan, the Supplier shall ensure that any Installation shall be completed in accordance with any dates as may have been agreed by the parties in writing and in any event so that such Installation is completed and the Goods are ready to be used by the University by the Long Stop Completion Date.
- 6.10 Without reducing the scope of any obligations imposed on the Supplier by the terms of this Agreement with regard to the standard of the Installation, the Supplier shall use good quality materials, techniques and standards to execute the Installation with the care, skill and diligence required in accordance with Good Industry Practice.

7. ACCEPTANCE TESTING

- 7.1 At the direction of the University, Acceptance Tests shall take place after Installation of the Goods and/or provision of the relevant Services and shall test compliance of the Goods with the Specification and/or compliance of the Services with the Services Specification (and, in each case, such other requirements as may be agreed between the parties) and shall be as set out in the Test Plan.
- 7.2 The Test Plan shall set out a detailed method and process for undertaking testing of the: (i) Goods to ensure that they comply with the Specification; and/or (ii) the relevant Services to ensure that they comply with the Services Specification, and such plan shall include timescales, resourcing and specific access requirements. The Supplier shall make any amendments to the Test Plan as the University may require from time to time.
- 7.3 Without prejudice to the University's rights and remedies under this Agreement, "**Acceptance**" of the Goods and/or Services shall occur when the Goods and/or Services have passed the Acceptance Tests to the satisfaction of the University. Unless it is expressly specified in this Agreement that an Acceptance Certificate is not required or agreed so by the parties in writing, then as soon as reasonably practicable after the Acceptance Tests appropriate to, or specified for, the Goods and/or Services have been completed and the Goods and/or Services have passed the Acceptance Tests to the

satisfaction of the University, the University shall sign the Acceptance Certificate in respect of the relevant Goods and/or the Services and provide it to the Supplier.

- 7.4 In the event that any Acceptance Tests are failed (including due to any failure to meet the Acceptance Criteria), the defects and/or failures that caused the relevant tests to be failed (“**Defects**”) shall be documented by the Supplier and presented to University for discussion as how best to rectify these.
- 7.5 The Supplier shall remedy all Defects as soon as reasonably practicable in order to ensure that the Goods and/or Services pass the Acceptance Tests on a retest and so that the Goods are Accepted prior to the Long Stop Completion Date.
- 7.6 Without prejudice to the University’s other rights and remedies, if such retest(s) demonstrates that the Goods are still not in accordance with the Specification and/or the Services are still not in accordance with the Services Specification (or, in each case, such other requirements as may be agreed between the parties), the University may, by written notice to the Supplier, elect:
- 7.6.1 to fix a new date for carrying out further tests on the Goods and/or Services on the same terms and conditions as the retest (except that all reasonable costs which the University may incur as a result of carrying out such tests shall be reimbursed by the Supplier). If the Goods and/or Services fail such further tests, the University may elect to proceed under either clauses 7.6.2 or 7.6.3; or
- 7.6.2 to accept the Goods and/or Services subject to a reduction of the Charges and/or Price (as applicable), such reduction to be a mutually agreed reasonable amount, taking into account the circumstances. In the absence of written agreement as to such reduction within 14 days of the date of the notice given by the University in accordance with this clauses 7.6.2, the University shall be entitled to reject the Goods and/or Services in accordance with clause 7.6.3; or
- 7.6.3 to reject the Goods and/or Services as not being in conformity with this Agreement, in which event the University shall be entitled to terminate this Agreement (or part thereof relating to the rejected Services and/or Goods).

For the avoidance of doubt, any or all of clauses 7.6.1, 7.6.2 and 7.6.3 may be used at the University’s sole discretion and do not demonstrate an escalation process to which the University must adhere.

- 7.7 Payment in part or full for the Services and/or Goods does not imply that the University has accepted them. Any approval or acceptance (including any Acceptance) given by the University under this Agreement shall only be confirmation that the relevant matter may appear to be in compliance with the requirements of this Agreement. Such approval shall not be deemed to mean that the University has varied or waived its rights, in connection with its requirements or the terms of this Agreement.

8. INSPECTION, REJECTION AND RETURN

- 8.1 Without prejudice to any other provision of this Agreement, subject to the University providing reasonable written notice to the Supplier, the Supplier shall permit any person authorised by the University to inspect work being undertaken in relation to the Goods and/or the storage facilities used in the storage of the Goods at all reasonable times at the Supplier’s premises or at the premises of any sub-contractor or agent of the Supplier in order to confirm that the Goods are being manufactured and/or stored in

accordance with Good Industry Practice and in conformance with the requirements of this Agreement.

- 8.2 Without prejudice to any other remedies or rights of the University under this Agreement (including clause 8.6) and subject to clause 8.7, the University may, by written notice, reject any Goods in accordance with clause 7.6.3 or otherwise reject Goods found to be damaged or otherwise not in accordance with the requirements of this Agreement (including clause 3.2) (“**Rejected Goods**”). The whole of any delivery may be rejected if a reasonable sample of the Goods in that delivery is found not to conform in all material respects to the requirements of this Agreement.
- 8.3 Without prejudice to any other remedies or rights of the University under this Agreement (including clause 8.5), upon the rejection of any Goods in accordance with clauses 8.2 and/or 8.6, the Supplier shall, at the University’s written request:
- 8.3.1 collect the Rejected Goods at the Supplier’s risk and expense within 10 Business Days of issue of written notice from the University rejecting the Goods; and
- 8.3.2 without extra charge, promptly (and in any event within 20 Business Days or such other time agreed by the parties in writing acting reasonably) supply replacements for the Rejected Goods to the University subject to the University not cancelling its purchase obligations in accordance with clause 8.5.
- 8.4 Risk and title in respect of any Rejected Goods shall pass to the Supplier on the earlier of:
- 8.4.1 collection by the Supplier in accordance with clause 8.3; and
- 8.4.2 10 Business Days following the issue of written notification from the University to the Supplier rejecting the Goods.

If Rejected Goods are not collected within 10 Business Days following the University issuing written notification rejecting the Goods, the University may return the Rejected Goods at the Supplier’s risk and expense and/or charge the Supplier for the cost of storage from the expiry of such 10 Business Days.

- 8.5 Where the University rejects any Goods in accordance with clauses 8.2 and/or 8.6 and the University does not require replacement Goods, the University may by written notice cancel its purchase obligations in relation to such quantity of Rejected Goods and, in such circumstances, the University shall be entitled to:
- 8.5.1 recover from the Supplier any expenditure incurred by the University in obtaining substitute goods from a third party; and
- 8.5.2 to claim damages for any additional costs, loss or expenses incurred by the University arising from the Supplier’s failure to supply Goods in accordance with the requirements of this Agreement.

If the University has paid for such Rejected Goods, the Supplier shall refund such payment to the University within 30 days of the University: (i) cancelling such purchase obligations; and (ii) informing the Supplier that the University does not require replacements for such Rejected Goods.

- 8.6 Without prejudice to any other remedies or rights of the University under this Agreement and subject to clauses 8.7 and 8.8, if at any time following the date of the delivery of any Goods, all or any part of such Goods are found to be defective or

otherwise not in accordance with the requirements of this Agreement (“**Defective Goods**”), the Supplier shall, at the University’s discretion:

- 8.6.1 upon written request and without charge, promptly (and in any event within 20 Business Days or such other time agreed by the parties in writing acting reasonably) remedy the deficiency by repairing such Defective Goods; or
 - 8.6.2 upon written notice of rejection from the University, treat such Defective Goods as Rejected Goods in accordance with clauses 8.2 to 8.5 (inclusive).
- 8.7 The Supplier shall be relieved of its liabilities under clauses 8.2 to 8.5 (inclusive) and/or clause 8.6 to the extent that:
- 8.7.1 the Goods are damaged solely and directly due to any acts or omissions of the University;
 - 8.7.2 there are defects in the Goods solely and directly due to any acts or omissions of the University; and/or
 - 8.7.3 the Goods fail to comply with the requirements of this Agreement solely and directly due to any acts or omissions of the University.
- 8.8 The University’s rights and remedies under clause 8.6 shall cease within a reasonable period of time from the date on which the University discovers or might reasonably be expected to discover that the Goods are Defective Goods or within such other period as may be set out as part of the University’s requirements in this Agreement, if any. For clarity, Goods not used before their expiry date shall in no event be considered Defective Goods following the date of expiry provided that at the point such Goods were delivered to the University they met any shelf life requirements set out in this Agreement.
- 8.9 This Agreement shall extend to any repaired or replacement goods supplied by the Supplier.
- 8.10 The University’s rights under this Agreement are in addition to its rights and remedies implied by statute and common law.

9. UNIVERSITY REMEDIES

- 9.1 Without prejudice to any other rights or remedies of the University under this Agreement, if the Supplier fails to deliver the Goods by the Delivery Date and/or fails to Install the Goods such that the Goods are not ready to be used by the University by the Long Stop Completion Date, the University may:
- 9.1.1 terminate this Agreement with immediate effect by giving written notice to the Supplier;
 - 9.1.2 refuse to accept any subsequent delivery and/or Installation of the Goods which the Supplier attempts to make;
 - 9.1.3 recover from the Supplier any additional costs incurred by the University in obtaining substitute goods and/or services from a third party; and
 - 9.1.4 claim damages for any additional costs, loss or expenses incurred by the University arising from the Supplier’s failure to deliver and/or Install the Goods by such date(s).

10. RECALL

- 10.1 Where the Supplier is required by Applicable Laws, Guidance, and/or Good Industry Practice to order a product recall (“**Requirement to Recall**”) in respect of the Goods, the Supplier shall:
- 10.1.1 taking into consideration the potential impact of the continued use of the Goods (including in respect to service users and the University) as well as compliance by the Supplier with any regulatory requirements, as soon as reasonably practicable notify the University in writing of the recall together with the circumstances giving rise to the recall;
 - 10.1.2 from the date of the Requirement to Recall, treat the Goods the subject of such recall as Defective Goods in accordance with clause 8.6;
 - 10.1.3 consult with the University as to the most efficient method of executing the recall of the Goods and use its reasonable endeavours to minimise the impact on the University of the recall; and
 - 10.1.4 indemnify and keep the University indemnified against, any loss, damages, costs, expenses (including legal costs and expenses), claims or proceedings suffered or incurred by the University as a result of such Requirement to Recall.

11. PACKAGING, IDENTIFICATION AND END OF USE

- 11.1 The Supplier shall comply with all obligations imposed on it by Applicable Laws relevant to the Goods in relation to packaging, identification, and obligations following end of use by the University.
- 11.2 Unless otherwise specified in this Agreement or otherwise agreed with the University in writing, the Goods shall be securely packed in recyclable and/or reusable trade packages of a type normally used by the Supplier for commercial deliveries of the same or similar goods either in retail or in bulk quantities within the United Kingdom, and such packages shall not utilise or include single use plastic.
- 11.3 All Goods that customarily bear any mark, tab, brand, label, serial numbers or other device indicating place of origin, inspection by any government or other body or standard of quality must be delivered with all the said marks, tabs, brands, labels, serial numbers or other devices intact. Without prejudice to the generality of the foregoing, the Supplier shall label all Goods supplied to the University, and the packaging of such Goods, to highlight environmental and safety information as required by Applicable Laws.
- 11.4 Unless otherwise set out in this Agreement or agreed with the University in writing, the Supplier shall collect without charge any returnable containers (including pallets) within 21 days of the date of the relevant delivery. Empty containers not so removed may be returned by the University at the Supplier’s expense or otherwise disposed of at the University’s discretion. The Supplier shall credit the University in full for any containers for which the University has been charged upon their collection or return.

12. PRODUCT INFORMATION

- 12.1 Where requested by the University, the Supplier shall provide the University the Product Information in such manner and upon such media as agreed between the Supplier and the University from time to time for the sole use of the University.
- 12.2 The Supplier warrants that the Product Information is complete and accurate as at the date upon which it is delivered to the University and that the Product Information shall not contain any data or statement which gives rise to any liability on the part of the University following publication of the same in accordance with clauses 12.4 and 12.5.
- 12.3 If the Product Information ceases to be complete and accurate, the Supplier shall as soon as reasonably practicable notify the University in writing of any modification or addition to or any inaccuracy or omission in the Product Information.
- 12.4 The Supplier grants the University a perpetual, non-exclusive, royalty free licence to use and exploit the Product Information and any Intellectual Property Rights in the Product Information for the purpose of illustrating the range of goods and services (including the Goods) available pursuant to the University's contracts from time to time.
- 12.5 The University may reproduce for its sole use the Product Information provided by the Supplier in the University's product catalogue from time to time in electronic format and/or made available on the University's external website and/or made available on other digital media from time to time.
- 12.6 If requested in writing by the University, and to the extent not already agreed as part of the Specification, the Supplier and the University shall discuss and seek to agree in good faith arrangements to use any electronic data interchange system and/or world wide web application and/or other application with such message standards and protocols as the University may specify from time to time.

13. SUPPLY OF SERVICES

- 13.1 During the Term, the Supplier agrees to supply, and the University agrees to purchase, the Services on the terms set out in this Agreement.
- 13.2 The Supplier shall, and shall ensure that the Supplier Personnel shall, at all times and in all respects:
 - 13.2.1 perform the Services in accordance with the terms of this Agreement;
 - 13.2.2 provide the Services in accordance with Good Industry Practice;
 - 13.2.3 comply with all relevant Applicable Law;
 - 13.2.4 if applicable, achieve the Milestones by the Milestone Dates set out in Schedule 6 (*Services*);
 - 13.2.5 comply with the Policies;
 - 13.2.6 co-operate with the University in all matters arising under this Agreement or otherwise relating to the performance of the Services;
 - 13.2.7 provide all information, documents, materials, data or other items necessary for the provision of the Services to the University in a timely manner;

- 13.2.8 inform the University in a timely manner of any matters (including any health, safety or security requirements) which may adversely affect the provision of the Services;
- 13.2.9 ensure that all tools, equipment, materials or other items used in the provision of the Services are suitable for the performance of the Services, in good condition and in good working order;
- 13.2.10 obtain and maintain all necessary licences, permits and consents required to enable it to perform the Services and otherwise comply with its obligations under this Agreement;
- 13.2.11 take reasonable care to ensure that it does not interfere with the operations of the University or any other Affiliate of the University, their employees or any other third party; and
- 13.2.12 obey all lawful and reasonable directions of the University.
- 13.3 The Supplier shall ensure that it has sufficient, suitable, experienced and appropriately qualified Supplier Personnel to provide the Services and perform this Agreement.
- 13.4 In the course of performing the Services, the Supplier shall not, and shall ensure that the Supplier Personnel shall not, do or omit to do anything which may, in the sole opinion of the University, brings the University name, or the name of any University Affiliate, into disrepute or damage its reputation, goodwill or business interests.
- 13.5 The Supplier shall not, without the prior written consent of the University, employ or engage (whether directly or indirectly) (or procure the same) any employee, director or officer of the University or any University Affiliate who is or was directly involved in the Services at any time during the Term and for the 12 month period immediately following the Term. This provision shall not apply if such employee, director or officer is employed as a result of a response by that person to a public advertisement placed in good faith by the Supplier.

14. UNIVERSITY RESPONSIBILITIES

- 14.1 To the extent reasonably necessary for the Supplier to perform its obligations under this Agreement, the University shall provide or procure for the Supplier and/or the Supplier Personnel access to the:
 - 14.1.1 University Materials;
 - 14.1.2 University Systems or parts thereof; and
 - 14.1.3 University Premises or parts thereof.

15. UNIVERSITY SYSTEMS AND PREMISES

- 15.1 Where the Supplier has access to any University Systems or University Premises, the Supplier will access them only for the purposes expressly authorised by the University in writing and will ensure that the Supplier Personnel only access the University Systems and the University Premises to the extent necessary to provide the Services and/or Goods.

- 15.2 Nothing in this Agreement or otherwise shall grant to the Supplier exclusive possession of the University Premises or any part thereof and the University will have access to any part of the University Premises at all times.
- 15.3 The Supplier shall not, and shall ensure the Supplier Personnel shall not, carry out any act or make any omission that has, or could reasonably be expected to have, an adverse impact on:
- 15.3.1 the security of the Services, any of the University Premises or the University Systems;
 - 15.3.2 the business or systems of the University or any Affiliate of the University;
 - 15.3.3 the University's Confidential Information; or
 - 15.3.4 the University Data.
- 15.4 Without prejudice to the Supplier's obligations under this Agreement, the Supplier shall comply, and shall ensure the Supplier Personnel are aware of and shall comply, with the Security Policy and the Supplier's own internal security standards as in force from time to time and as applicable to the Services and/or Goods. Any conflict in the aforementioned standards shall be notified by the Supplier to the University and the University shall confirm to the Supplier in writing which standard shall take precedence.
- 15.5 The Supplier shall advise the University as soon as it is aware (and in any event not later than 24 hours after it becomes aware) of any breach or potential breach of the Security Policy or any other security breach or potential security breach which affects or is likely to affect the Services and/or Goods, any of the University Premises, the University Systems, the business or systems of the University or any Affiliates of the University receiving the Services and/or Goods, or the University's Confidential Information. The Supplier shall, and shall ensure that all Supplier Personnel shall, comply with all instructions of the University in relation to such a security breach or potential security breach.
- 15.6 The Supplier shall:
- 15.6.1 not interfere with the University's right to possession and control of the University Premises. For clarity: (i) the University may make alterations to any part of the building of which the University Premises form part; and (ii) the Supplier shall not alter in any way, or decorate or install, fixed plant in the University Premises unless expressly provided for in this Agreement or agreed otherwise with the University in writing;
 - 15.6.2 without prejudice to the generality of clause 17.1.1, on request from the University, prior to commencing the provision of any Services and/or Goods on any of the University Premises, submit a full risk assessment statement and method statement, to the satisfaction of the University, setting out the approach to be taken by the Supplier in providing any Services and/or Goods, and any other information reasonably requested by the University;
 - 15.6.3 without prejudice to the generality of clause 6.8.4, at the University's request, make good any damage to any of the University Premises caused by the Supplier, the Supplier Personnel or any sub-contractor of the Supplier, taking

- into account any directions of the University in relation to the repairs required; and
- 15.6.4 notify the University of any health and safety hazards in connection with the provision or receipt of the Services (including anything which might cause death or any form of injury to any person) as soon as the Supplier becomes aware, or ought reasonably to have become aware, of that hazard.
- 15.7 The Supplier shall ensure that all Supplier Personnel:
 - 15.7.1 do not cause any loss, damage or injury to any of the University Premises or to the University's employees, directors, officers, contractors, agents or consultants, University Systems or any third parties at any of the University Premises;
 - 15.7.2 do not cause any disruption to the business and other operations carried on at those University Premises by the University or any Affiliate of the University or any third parties;
 - 15.7.3 remove any equipment or other items brought onto any of the University Premises (but not including any Goods) on completion of the Services or otherwise at the request of the University; and
 - 15.7.4 comply with all University Premises rules.
- 15.8 The Supplier shall indemnify the University against any and all loss, costs, damage, liability and expenses suffered by the University due to any loss, damage or injury to any of the University Premises or to the University's employees, directors, officers, contractors, agents or consultants, University Systems or any third parties at any of the University Premises arising from the acts or omissions of the Supplier and/or any Supplier Personnel.
- 16. SUPPLIER EQUIPMENT AND CONSUMABLES**
 - 16.1 The Supplier shall ensure that all equipment and materials used by the Supplier shall comply with the latest relevant British Standard or European equivalent specifications where such exist. The Supplier shall upon request provide to the University's Contract Manager with evidence to prove that such equipment and materials comply with this clause.
 - 16.2 The Supplier shall:
 - 16.2.1 establish effective planned maintenance programmes;
 - 16.2.2 ensure compliance with all regulations covering the inspection and testing of all equipment used at any of the University Premises in the provision of the Services; and
 - 16.2.3 maintain records, open for inspection by the University, of its maintenance testing and certification.
 - 16.3 The University shall be entitled to test and approve any communication equipment, electrical equipment or any other equipment proposed to be used by the Supplier in connection with the provision of the Services and/or Goods before its use on any of the University Premises.

- 16.4 The University reserves the right to inspect equipment used by the Supplier as part of or in connection with the provision of the Services and/or Goods at any time and the Supplier shall comply with any directions of the University as to the manner in which such equipment shall be used.
- 16.5 All of the Supplier's property located on any of the University Premises shall remain at the sole risk and responsibility of the Supplier except that the University shall be liable for the loss of or damage to any of the Supplier's property located on any of the University Premises which is due to the negligent act or omission of the University.
- 16.6 Unless the University specifies otherwise in writing to the Supplier, the Supplier shall provide any consumables to be used in the performance of the Services (including any as specified in the Services Specification).
- 16.7 Unless the University specifies otherwise in writing to the Supplier, the Supplier shall ensure that, at all times, it has sufficient quantities of consumables for the provision of the Services.

17. PERFORMANCE OF THE SERVICES

- 17.1 The Supplier shall (and shall ensure that the Supplier Personnel shall):
- 17.1.1 carry out all risk assessments and ensure safe organisation and implementation of the Services that would ordinarily be expected to be carried out by a provider of goods and services similar to those required under this Agreement acting in accordance with Good Industry Practice;
 - 17.1.2 perform the Services in accordance with any specifications set out in Schedule 6 (*Services*);
 - 17.1.3 meet any timescales specified for the performance of the Services;
 - 17.1.4 ensure that any of the Supplier Personnel who are engaged in the provision of any of the Services shall, if required by the University, attend such meetings at the premises of the University or elsewhere as may be reasonably required by the University; and
 - 17.1.5 provide such reasonable co-operation and information in relation to the Services to such of the University's other suppliers as the University may reasonably require for the purposes of enabling any such person to create and maintain any interfaces that the University may reasonably require.
- 17.2 Services which do not have specified timescales or Milestone Dates shall be performed by the Supplier as soon as possible but, in any event, within a reasonable period of time.
- 17.3 The Supplier shall as soon as reasonably practicable notify the University as soon as it becomes aware:
- 17.3.1 of any events or circumstances which may materially adversely affect or have materially adversely affected the Supplier's compliance with its obligations under this Agreement; and/or
 - 17.3.2 that it has committed any breach of this Agreement.
- The Supplier shall provide information and co-operate with any request that the University may have in relation thereto.

- 17.4 This Agreement will not constitute an exclusive arrangement insofar as the University may: (i) perform itself, or retain third parties to perform, any of the Services or any other services; and (ii) obtain and/or provide itself, or retain third parties to provide, any of the Goods or any other goods. This Agreement shall not create or imply any commitment on the University to purchase any volume of Services and/or Goods from the Supplier.

18. COMPLIANCE WITH SERVICE LEVELS AND OTHER OBLIGATIONS

- 18.1 The Supplier shall provide the Services so as to meet or exceed the Service Levels.

- 18.2 The Supplier shall monitor its performance against the Service Levels and, where so requested by the University, within 10 Business Days after the end of each month shall prepare and submit to the University a report showing in detail its performance against each Service Level in the previous month which shall contain the following information:

18.2.1 for each Service Level, the actual performance achieved over the month, and that achieved over the previous 3 months;

18.2.2 a summary of all service failures that occurred during the month;

18.2.3 which service failures remain outstanding and progress in resolving them; and

18.2.4 trends analysis across the Supplier's performance in respect of the Service Levels,

(each a "**Service Level Report**").

- 18.3 The Supplier shall, at the University's request, provide details of its performance against the Service Levels more frequently than monthly if the University, acting reasonably, has a concern as to Service quality or any other aspect of the Supplier's performance of this Agreement. The parties may also agree more frequent reporting in order to generate data that can be used by both parties to identify and implement opportunities to improve performance.

- 18.4 A failure by the Supplier to monitor the Services or to provide the University with the Service Level Report or other details in accordance with this clause 18 shall be deemed to be a service failure and, to the extent that such failure relates to a Service Level which attracts Service Credits, Service Credits will be payable for the particular Service Level not reported on. The Service Credits payable for any such failure to report shall be the Service Credits that would be payable for that Service Level had the Supplier failed to meet that Service Level. Where the Supplier fails to meet any Service Level for which a Service Credit is attributable, the Supplier shall credit the Service Credits against any Charges due under this Agreement (or at the University's option pay the Service Credits within 30 days).

- 18.5 If the Supplier fails to meet any Service Level, the Supplier shall:

18.5.1 notify the University immediately of such failure;

18.5.2 where the University so requests, provide the University with a remediation plan;

18.5.3 deploy all additional resources and take all remedial action that is necessary to rectify or to prevent the service failure from recurring; and

- 18.5.4 carry out the actions identified in the remediation plan provided pursuant to clause 18.5.2 in accordance with its terms.
- 18.6 Where the University informs the Supplier of any defect in the Supplier's performance of this Agreement the Supplier shall, at the University's option, either:
- 18.6.1 remedy such defect at its own cost immediately (in which case the Supplier shall also be liable to the University for any costs arising out of any damage caused by the Supplier in remedying such defects);
- 18.6.2 pay to the University the costs incurred by the University in having such defect remedied; or
- 18.6.3 refund to the University any fees paid for the defective or non-conforming Services,
- provided that, if the Supplier does not agree that its performance was defective, it may raise the issue as a dispute pursuant to clause 38.
- 18.7 Without limiting the generality of clause 23.11, the University reserves the right to withhold any sums as may be due to the Supplier under this Agreement as are reasonably necessary for:
- 18.7.1 remedying any defect in the Supplier's performance of this Agreement pursuant to clause 18.6.2; or
- 18.7.2 refunding any fees paid by the University pursuant to clause 18.6.3.
- 18.8 At the University's request, the University and the Supplier shall review the Service Levels every 6 months (or more frequently where the University so requests) throughout the Term and make any changes they may agree in writing to reflect changes in the Service requirements.
- 18.9 The Service Credits are a price adjustment and the payment of any Service Credits is without prejudice to the University's other rights and remedies for the Supplier's failure to meet any Service Level and in particular to the right to recover damages.

19. RELIEF EVENTS

- 19.1 The Supplier shall not be in breach of this Agreement (and accordingly shall not be liable to pay Service Credits) to the extent its failure to perform, or its delay in performing, an obligation under this Agreement is as a direct result of the University's failure to perform, or delay in performing, a University Dependency upon which the Supplier's performance is directly dependent (a "**Relief Event**"), provided that the Supplier promptly provides the University with written notice of the Relief Event (and in any event within 2 Business Days from the Relief Event arising and the Supplier or any of its sub-contractors knowing that such Relief Event will adversely affect its compliance with this Agreement (or, if earlier, the date on which they ought reasonably to have known such Relief Event will adversely affect its compliance with this Agreement)) specifying the Relief Event in reasonable detail and its impact on the Supplier.
- 19.2 The Supplier shall use all reasonable endeavours to avoid or mitigate each Relief Event and to perform its obligations under this Agreement notwithstanding the Relief Event. To the extent that any use of all reasonable endeavours would result in the Supplier

incurring additional demonstrable costs or expenses, then the Supplier shall as soon as reasonably practicable notify the University and shall not be obliged to undertake any such reasonable endeavours which would result in the Supplier incurring additional costs or expenses until the University has approved the incurrence of the additional costs or expenses for any such reasonable endeavours.

- 19.3 If the achievement of a Milestone or any other time for performance is delayed as a direct result of a Relief Event, and the delay cannot be mitigated by any contingency period for delay in any implementation plan or other time for performance, and the Supplier complies with clause 19.2, then the relevant Milestone Date or other time for performance shall be extended by a reasonable period, but no longer than the delay resulting from the University's failure to meet the relevant University Dependency. The parties shall agree any such amended date (such agreement not to be unreasonably withheld or delayed) and specify the revised dates in the revised implementation plan or timetable.

20. WARRANTY

- 20.1 The Supplier warrants, represents and undertakes that:

- 20.1.1 it has the right, power and authority to enter into this Agreement and grant to the University the rights (if any) contemplated in this Agreement and to perform the Services;
- 20.1.2 the Services shall be performed and/or the Goods shall be provided in accordance with Good Industry Practice;
- 20.1.3 the Goods and/or the Services and the Deliverables shall comply with all Applicable Laws;
- 20.1.4 the Services and the Deliverables shall conform to the Services Specification;
- 20.1.5 the Goods shall conform to the Specification;
- 20.1.6 neither the provision by the Supplier nor the use in accordance with this Agreement of the Goods and/or the Services and/or any Supplier Materials will infringe the Intellectual Property Rights of any person;
- 20.1.7 the Deliverables (if any) shall be free from defects in material and workmanship and of satisfactory quality within the meaning of the Sale of Goods Act 1979, s 14;
- 20.1.8 the Goods and/or the Services and/or the Deliverables shall be fit for any purpose held out by the Supplier; and
- 20.1.9 there are no actions, suits, proceedings or regulatory investigations pending or threatened against it that might be reasonably expected to have an adverse effect on the performance of its obligations under this Agreement.

- 20.2 Without limiting any other remedies to which it may be entitled, the University may reject any of the Goods and/or the Services and/or the Deliverables that do not comply with clause 20.1 and the Supplier shall, at the University's option, as soon as reasonably practicable remedy, re-perform or refund the Charges and/or Price associated with any such Goods and/or Services and/or Deliverables.

- 20.3 The provisions of this Agreement shall apply to any of the Goods and/or Services and related Deliverables that are remedied, re-performed or redelivered pursuant to any relevant provision of this Agreement.

21. CONTRACT MANAGEMENT AND REPORTING

- 21.1 Each party shall appoint a representative (a “**Contract Manager**”) to act as the main point of contact for the other party in respect of all day-to-day matters relating to the supply of the Goods and/or Services and this Agreement.
- 21.2 Without prejudice to clause 21.1, the Supplier shall ensure that the Supplier’s Contract Manager is dedicated to the co-ordination of the supply of the Goods and/or the management and operation of the Services, the performance of the Supplier’s obligations under this Agreement and the management of the Supplier’s day-to-day relationship with the University.
- 21.3 Where so requested by the University, the Supplier’s Contract Manager shall participate in regular meetings with the University’s Contract Manager in order to monitor and review the performance of this Agreement, the achievement of Service Levels and the provision of the Services and/or Goods. Such meetings shall be minuted by the University’s Contract Manager and copies of those minutes shall be circulated to and approved by both parties.
- 21.4 Prior to each meeting, the University’s Contract Manager shall notify the Supplier’s Contract Manager, and vice versa, of any problems relating to the provision of the Services and/or Goods for discussion at such meeting. At the meeting, the parties shall agree a plan to address such problems. In the event of any problem being unresolved, or a failure to agree on the plan, the procedures set out in clause 38 shall apply. Progress in implementing the plan shall be included in the agenda for the next monthly meeting.
- 21.5 At the University’s request, a review meeting to assess the performance of the Supplier in the delivery of the Services and/or Goods shall be held at 6-monthly intervals throughout the Term (or more frequently where the University so requests). Each meeting shall be attended by senior representatives of the University and of the Supplier, together with the Contract Managers.
- 21.6 At the request of the University, the Supplier shall ensure that its Contract Manager provides a status report with respect to the Services and/or Goods and this Agreement for submission to the University at such intervals and in such form as the University may from time to time require.

22. CHANGE CONTROL PROCEDURE

- 22.1 Where the University or the Supplier sees a need to change this Agreement (or any of the provisions in it, including the Goods and/or Services), whether in order to include an additional service, function or responsibility to be performed by the Supplier for the University under this Agreement or to amend the Goods and/or Services or the Milestones, then the University may at any time request, or the Supplier may at any time recommend, such Change but no proposed changes shall come into effect until a Change Control Notice has been duly signed by both parties.
- 22.2 If the University wishes to make a Change:

- 22.2.1 it shall provide a draft Change Control Notice to the Supplier completed in respect of that Change; or
- 22.2.2 it shall notify the Supplier of that Change, providing as much detail as is reasonably necessary to enable the Supplier to prepare a draft Change Control Notice, and the Supplier shall, within 14 Business Days of receiving such request from the University, provide a draft Change Control Notice to the University in respect of that Change.
- 22.3 If the Supplier wishes to make a Change, it shall provide a draft Change Control Notice to the University.
- 22.4 The Supplier shall review any draft Change Control Notice it receives from the University as soon as reasonably practicable after receipt and will either accept or reject the draft Change Control Notice by giving notice to the University.
- 22.5 The University shall review any draft Change Control Notice it receives from the Supplier as soon as reasonably practicable after receipt and will either accept or reject the draft Change Control Notice by giving notice to the Supplier.
- 22.6 If the University or the Supplier (as applicable) does not respond to a draft Change Control Notice (either to accept or reject it) within 30 days of receipt, that draft Change Control Notice shall be deemed to be null and void and neither party shall be required to take any further action in relation to it.
- 22.7 If the University or the Supplier (as applicable) accepts and agrees such a draft Change Control Notice produced by the other party, the parties shall each sign the draft Change Control Notice, which shall take effect when signed by both parties or such other date as may be specified in the draft Change Control Notice.
- 22.8 If the University or the Supplier (as applicable) rejects the draft Change Control Notice, each party may propose amendments to the draft Change Control Notice by notice to the other party. The parties shall negotiate the draft Change Control Notice in good faith for a maximum period of 30 days from the date of receipt of such notice, or such longer period as the parties may agree.
- 22.9 In calculating any change to the Charges and/or Price in any draft Change Control Notice, the Supplier shall comply with the following principles:
 - 22.9.1 the change in Charges and/or Price, if any, will reflect a reasonable estimate of the change in the Supplier's costs that would be incurred if the draft Change Control Notice was implemented;
 - 22.9.2 any change in the Supplier Personnel time related element of those costs will be calculated using any applicable rates set out in **Error! Reference source not found.** (*Price and Charges*);
 - 22.9.3 only a reasonable mark-up or margin may be applied to any third party costs and/or expenses, and, at the University's request, the Supplier shall as soon as reasonably practicable provide to the University evidence of such mark-up or margin;
 - 22.9.4 any saving or reduction in ongoing costs will be passed on to the University as a reduction in Charges and/or Price; and

- 22.9.5 the Supplier will take reasonable steps to avoid or minimise additional Charges and/or any increase in the Price arising from any Change Control Notice, including making use (where possible and reasonable) of resources already deployed in providing the Services and/or Goods at no additional cost to the University.
- 22.10 Notwithstanding clause 22.9, the cost and expense of compliance with any Change Control Notice made in order to comply with mandatory safety or regulatory requirements or Applicable Laws shall be borne by the Supplier.
- 22.11 Each party shall bear its own costs in relation to the preparation and agreement of Change Control Notices and updates thereto.
- 22.12 Any discussions which may take place between the University and the Supplier in connection with a request or recommendation before the authorisation of a resultant Change shall be without prejudice to the rights of either party.
- 22.13 Until a Change is made in accordance with this clause 22, the University and the Supplier shall, unless otherwise agreed in writing, continue to perform this Agreement in compliance with its terms prior to such Change.

23. CHARGES, PRICE AND PAYMENT

- 23.1 In consideration of the provision of the:
- 23.1.1 Goods by the Supplier in accordance with this Agreement, the University shall pay the amounts fully described in or calculated in accordance with Part 1 of Schedule 7 (*Price and Charges*) (the “**Price**”); and
- 23.1.2 Services by the Supplier in accordance with this Agreement, the University shall pay the amounts fully described in or calculated in accordance with Part 2 of Schedule 7 (*Price and Charges*) (the “**Charges**”).
- 23.2 The Price:
- 23.2.1 shall remain fixed; and
- 23.2.2 is the entire price payable by the University to the Supplier in respect of the provision of the Goods and includes:
- (a) packaging, packing materials, addressing, labelling, loading, insurance, carriage, delivery to and unloading at the delivery location, all appropriate tax and duty (excluding VAT), the costs of all associated documentation and information supplied or made accessible to the University in any media, and any training in relation to the use, storage, handling or operation of the Goods; and
- (b) costs and expenses in relation to supplies and materials used by the Supplier or any third party in the manufacture of the Goods, and any other costs incurred by the Supplier in association with the manufacture and/or supply of the Goods.
- 23.3 In respect of the Services:

- 23.3.1 where Charges are calculated on a time and materials basis:
- (a) the Charges shall be calculated in accordance with the Supplier's standard fee rates for the Supplier Personnel, details of which shall be set out in Part 2 of Schedule 7 (*Price and Charges*);
 - (b) the Supplier shall ensure that the Supplier Personnel complete time sheets accurately recording time spent on the Services, use such time sheets to calculate the Charges covered by each monthly invoice referred to in clause 23.3.1(c), and, if so requested, produce these to the University for accounting purposes; and
 - (c) the Supplier shall invoice the University in accordance with the details set out in Part 2 of Schedule 7 (*Price and Charges*), calculated as provided in this clause 23.3.1; and/or
- 23.3.2 where Charges are calculated on a fixed price basis the total Charges for the Services shall be the amount set out in Part 2 of Schedule 7 (*Price and Charges*) and the Supplier shall invoice the University in accordance with the details set out in or calculated in accordance with Part 2 of Schedule 7 (*Price and Charges*).
- 23.4 The Supplier shall be responsible for all out-of-pocket expenses incurred by it and the Supplier Personnel in the performance of its obligations under this Agreement. For the avoidance of doubt the Supplier shall not be reimbursed separately for these expenses.
- 23.5 The Supplier shall:
- 23.5.1 where Part 1 of Schedule 7 (*Price and Charges*) confirms the payment profile for the Goods, invoice the University in accordance with that payment profile;
 - 23.5.2 where clause 23.5.1 does not apply, invoice the University for Goods for the Price at any time following completion of the delivery of the Goods in compliance with this Agreement;
 - 23.5.3 ensure each invoice contains such information and be addressed to such individual and/or email address as the University may inform the Supplier from time to time;
 - 23.5.4 ensure the correct purchase order number is quoted on all invoices and related correspondence;
 - 23.5.5 ensure that it does not commence the Services and/or delivery of the Goods until it has a valid purchase order number for such Services and/or Goods and the Supplier acknowledges and agrees that, notwithstanding that the parties have entered into this Agreement:
 - (a) the University shall have no commitment to purchase the Services and/or Goods without a purchase order first being put in place; and
 - (b) any work conducted prior to receipt of a valid purchase order from the University shall be at the sole risk, responsibility and cost of the Supplier;
 - 23.5.6 ensure all invoices for the Services take into account any Service Credits which have been accrued in the previous period; and

- 23.5.7 ensure that the wording 'pro forma' is not included on any invoice. The Supplier acknowledges and agrees that any invoice that contains such wording will be deemed illegible and will not be paid by the University.
- 23.6 The University shall pay all undisputed invoices:
- 23.6.1 in full in cleared funds within 30 days of receipt of each invoice; and
- 23.6.2 to the bank account nominated by the Supplier,
- save that the University shall not be responsible for any delay in payment caused by incomplete or illegible invoices.
- 23.7 If the University receives an invoice which it disputes in good faith, the University shall notify the Supplier in writing of such dispute as soon as reasonably practicable and the University may withhold payment of such sums as are in dispute pending resolution of such dispute in accordance with clause 38.
- 23.8 The University shall pay any applicable VAT to the Supplier on receipt of a valid VAT invoice.
- 23.9 All Charges, the Price and all other amounts and fees stated or referred to in this Agreement shall be payable in UK pounds sterling (or such other currency set out in Schedule 7 (*Price and Charges*)).
- 23.10 Where sums due under this Agreement are not paid in full by the due date:
- 23.10.1 the Supplier may, without limiting its other rights, charge interest on such sums at 2 percentage points a year above the base rate of the Bank of England from time to time in force; and
- 23.10.2 interest shall accrue on a daily basis, and apply from the due date for payment until actual payment in full, whether before or after judgment.
- 23.11 The University may retain or set off any sums owed to it by the Supplier under this Agreement which have fallen due and payable against any sums due to the Supplier under this Agreement or any other agreement pursuant to which the Supplier or any Affiliate of the Supplier provides goods and/or services to the University or any Affiliate of the University.
- 23.12 The Supplier acknowledges and agrees that any payment for the Services and/or Goods by the University does not indicate acceptance of such Services and/or Goods by the University and is without prejudice to the rights and remedies of the University under this Agreement.
- 23.13 Where the University so requires, the Supplier shall provide, at the Supplier's cost, a bank guarantee or an on demand performance bond if payments in advance have been agreed between the parties and/or specified in this Agreement. In such circumstances, payment for the related Goods and/or Services shall be made within 30 days of receipt of a correctly rendered invoice. Any retention shall be released in accordance with any implementation, delivery and/or payment plan which is set out in this Agreement.

24. PERSONNEL

- 24.1 The Supplier shall ensure that all Supplier Personnel are and at all times remain properly and sufficiently trained, skilled, qualified and instructed with regard to the duties with respect to the Services which that person has to perform and/or the Goods

which that person has to provide in order to provide the Services and/or Goods in accordance with this Agreement.

- 24.2 The Supplier shall use all reasonable endeavours to ensure continuity of the Supplier Personnel. The Supplier shall replace any Supplier Personnel if the University makes a reasonable request for their replacement (including where in the reasonable opinion of the University any Supplier Personnel: (i) does not comply with the Policies; (ii) presents a security threat; and/or (iii) fails to carry out their duties with reasonable skill and care).
- 24.3 The Supplier shall ensure that all of the Supplier Personnel comply with:
- 24.3.1 any protocols, codes of conduct or procedures agreed between the parties to be applicable which may include the Policies and any occupational health and health and safety requirements, building access and physical security policies, employee conduct requirements and environmental policies which are notified to the Supplier by the University from time to time in writing; and
- 24.3.2 the Supplier's obligations under this Agreement.
- 24.4 The University, its Affiliates and/or the University's contractors (as applicable) may refuse admission to the University's, its Affiliate's and/or the University's contractors' sites (including the University Premises) to any of the Supplier Personnel, or require any such person to leave such sites, at any time and for any reason. If any such member of the Supplier Personnel is required to leave the sites pursuant to this clause, the Supplier shall ensure that they do so as soon as reasonably practicable. If Supplier Personnel are required to leave the sites without good reason this shall be a Relief Event provided the Supplier complies with the provisions of clause 19 (*Relief Events*); otherwise, any action taken by the University under this clause 24.4 shall not relieve the Supplier of any of its obligations under this Agreement. For clarity, 'good reason' where used earlier in this clause 24.4 includes where any Supplier Personnel is, in the sole opinion of University, not a fit and proper person to be on the relevant University Premises.
- 24.5 The Supplier shall comply with, and shall procure that each of its sub-contractors complies with, the University's procedures for vetting personnel in respect of all Supplier's Personnel employed or engaged in the provision of the Services.
- 24.6 The parties agree that no relationship of employer and employee is intended to be created between the University and any Supplier Personnel. The Supplier shall make appropriate PAYE deductions for tax and national insurance contributions from the remuneration which it pays the Supplier Personnel and the Supplier agrees to indemnify the University on demand in respect of all loss, costs, damage, liability and expenses suffered by the University arising from or in connection with any claims or demands which may be made by the relevant authorities against the University or any Affiliate of the University in respect of tax and national insurance contributions relating to the Supplier Personnel.

25. LIMITATION OF LIABILITY

- 25.1 The extent of each party's liability under or in connection with this Agreement (regardless of whether such liability arises in tort, contract or in any other way and

- whether or not caused by negligence or misrepresentation) shall be as set out in this clause 25.
- 25.2 Notwithstanding any other provision of this Agreement, no party's liability under or in connection with this Agreement, whether arising in tort (including negligence), contract or otherwise shall be excluded or limited to the extent that it arises in respect of the following matters:
- 25.2.1 for death or personal injury resulting from a party's negligence; or
 - 25.2.2 for fraud or fraudulent misrepresentation; or
 - 25.2.3 to the extent such exclusion or reduction is not otherwise permitted by law.
- 25.3 Nothing in this Agreement excludes or limits the Supplier's liability to the University in respect of:
- 25.3.1 any liability under the indemnity set out in clause 10.1.4 (*Recall*);
 - 25.3.2 any liability under the indemnity set out in clause 15.8 (*University Systems and Premises*);
 - 25.3.3 any liability under the indemnity set out in clause 24.6 (*Personnel*);
 - 25.3.4 any liability under the indemnities set out in clause 29.1 (*Indemnities*);
 - 25.3.5 any liability under the indemnities set out in clause 35 (*TUPE*);
 - 25.3.6 any breach of clause 32 (*Confidential Information*); or
 - 25.3.7 any breach of Schedule 10 (*Data Protection*) or any liability under the indemnity set out in paragraph 2.16 of Schedule 10 (*Data Protection*).
- 25.4 Subject to clauses 25.2, 25.3, 25.6 and 25.7, the liability of the Supplier under or in connection with this Agreement, whether arising in tort (including negligence), contract or otherwise, shall in no event exceed the greater of the:
- 25.4.1 Charges Connected Cap; or
 - 25.4.2 Value Connected Cap.
- 25.5 Subject to clauses 25.2 and 25.6, the maximum aggregate liability of the University under or in connection with this Agreement, whether arising in tort (including negligence), contract or otherwise, shall in no event exceed an amount equal to the aggregate Charges and Price paid and/or payable by the University under this Agreement.
- 25.6 Subject to clauses 25.2, 25.3 and 25.7, neither party shall be liable under or in connection with this Agreement, whether arising in tort (including negligence), contract or otherwise for any indirect or consequential losses.
- 25.7 The University shall be entitled to recover, and the provisions of clause 25.6 or any other clause of this Agreement shall not be taken as excluding the liability of the Supplier to the University (or any University Affiliate), its employees, directors and officers for, the following non-exhaustive items:
- 25.7.1 any additional operational or wasted management and administrative costs and expenses;

- 25.7.2 the additional cost of procuring goods and/or services which the University obtains or itself provides in substitution for the Goods and/or Services;
- 25.7.3 any fines, penalties or charges imposed by, or agreed with, any regulatory or governmental authority;
- 25.7.4 any compensation that the University (or any University Affiliate) is required to pay to any individuals; and
- 25.7.5 loss of goodwill or damage to the University's reputation.

26. INSURANCE

- 26.1 The Supplier undertakes and agrees to take out and maintain insurance cover throughout the Term, in full force and effect and at its own cost, with a reputable insurer to cover its liabilities under this Agreement to the extent as would be reasonably expected to be taken out and maintained by a reasonable and prudent provider providing the Goods and/or performing the Services and who does not self-insure.
- 26.2 The Supplier shall ensure that the University's interest is noted on each insurance policy, or that a generic interest clause has been included. The Supplier agrees to produce at the University's request evidence of the insurance policy or policies and the relevant renewal receipts for inspection by the University.
- 26.3 The sum insured shall be in accordance with the Insurance Requirements.
- 26.4 The terms of any insurance or amount of cover shall not relieve the Supplier of its liabilities under this Agreement. The Supplier shall not do anything to invalidate any insurance policy or to prejudice the University's entitlement thereunder.
- 26.5 The Supplier undertakes and agrees to maintain the insurance cover required by this clause 26 throughout the Term of this Agreement and for 6 years thereafter.

27. INTELLECTUAL PROPERTY RIGHTS

- 27.1 All Intellectual Property Rights and other ownership rights in the University Materials shall be retained by and vest in the University. All Intellectual Property Rights and other ownership rights in the Supplier Materials shall be retained by and vest in the Supplier.
- 27.2 In consideration of the Charges payable under this Agreement, the Supplier assigns to the University absolutely with full title guarantee, the Supplier's Intellectual Property Rights in the Services and/or the Deliverables and all other materials created by the Supplier pursuant to this Agreement but not, for clarity, any Intellectual Property Rights and other ownership rights in the Supplier Materials (which the Supplier shall retain ownership of).
- 27.3 The University hereby grants to the Supplier a royalty-free, non-transferable, non-sublicensable, revocable, non-exclusive licence to use the Intellectual Property Rights in the University Materials during the Term as necessary for the purposes of providing the Services.
- 27.4 The Supplier hereby grants to the University:
 - 27.4.1 an irrevocable, worldwide, royalty-free, non-exclusive, sub-licensable, licence during the Term to use the Supplier Materials for the purpose of receiving the Services or exercising its rights under this Agreement; and

- 27.4.2 a perpetual, irrevocable, worldwide, royalty-free, non-exclusive, transferable, sub-licensable licence to use any Supplier Materials contained in any Deliverables.
- 27.5 The Supplier irrevocably waives, and shall procure that any relevant sub-contractor and Supplier Personnel shall waive, all current and future moral rights in the copyright in the Services and/or Deliverables arising as a result of the performance of the Services to the extent permitted by the law. The Supplier that neither it nor anyone on its behalf (including any sub-contractor and Supplier Personnel) shall seek to exercise those rights at any time.
- 27.6 Without prejudice to any other provision of this Agreement, the Supplier hereby grants to the University, for the life of the use of Goods by the University, an irrevocable, royalty-free, non-exclusive licence of any Intellectual Property Rights required for the purposes of receiving and using, and to the extent necessary to receive and use, the Goods (including in respect of any associated technical or other documentation and information supplied or made accessible to the University in any media) in accordance with this Agreement.

28. ADDITIONAL TERMS

- 28.1 The additional provisions set out in Schedule 8 (*Additional Terms*), if any, form part of the terms of this Agreement.

29. INDEMNITY

- 29.1 The Supplier shall indemnify the University against all liabilities, costs, expenses, damages and losses (including any direct 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 University as a result of or in connection with any action, demand or claim:
- 29.1.1 (i) that the provision of the Services or the Deliverables or that the University's use of Services, Deliverables and/or the Supplier Materials in accordance with this Agreement infringes the Intellectual Property Rights of any third party; and/or (ii) made against the University for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the manufacture, supply or use of the Goods, each being an "**IPR Claim**";
- 29.1.2 that the University is in breach of any Applicable Laws as a result of any act or omission of the Supplier;
- 29.1.3 made against the University by a third party arising from any defect in the performance of the Services or the provision of the Deliverables caused by the Supplier's breach of this Agreement;
- 29.1.4 made against the University by a third party for death, personal injury or damage to property arising out of or in connection with defects in the Goods, to the extent that the defects in the Goods are attributable to the acts or omissions of Supplier, its subcontractors or the Supplier Personnel; and
- 29.1.5 made against the University by a third party arising out of or in connection with the supply of the Goods, to the extent that such claim arises out of the breach,

negligent performance or failure or delay in performance of this Agreement by the Supplier, its subcontractors or the Supplier Personnel, each being a “**Claim**”.

- 29.2 In the event that the University receives notice of any Claim, it shall:
- 29.2.1 notify the Supplier in writing as soon as reasonably practicable;
 - 29.2.2 not make any admission of liability or agree any settlement or compromise of the Claim without the prior written consent of the Supplier (such consent not to be unreasonably withheld or delayed);
 - 29.2.3 let the Supplier at its request and own expense have the conduct of or settle all negotiations and litigation arising from the Claim at its sole discretion provided that if the Supplier fails to conduct the Claim in a timely or proper manner the University may conduct the Claim at the expense of the Supplier;
 - 29.2.4 take reasonable steps to minimise the losses that may be incurred by it or by any third party as a result of the Claim; and
 - 29.2.5 provide the Supplier with all reasonable assistance in relation to the Claim (at the Supplier’s expense) including the provision of prompt access to any relevant premises, officers, employees, contractors or agents of the University.
- 29.3 Without prejudice to clause 29.1, if any IPR Claim is made or is reasonably likely to be made, the Supplier may at its option:
- 29.3.1 procure for the University the right to continue using and possessing the relevant Deliverables, Supplier Materials and/or Goods; or
 - 29.3.2 modify or replace the infringing part of the Services, Deliverables, Supplier Materials and/or Goods so as to avoid the infringement or alleged infringement, provided that the Services, Deliverables, Supplier Materials and/or Goods remain in conformance to the Services Specification and Specification (as applicable).

30. AUDIT AND RECORD-KEEPING

- 30.1 The Supplier shall, and shall procure any sub-contractors shall, record and maintain in accordance with Good Industry Practice a complete audit trail and maintain records and supporting documentation (including books, documents, manuals, reports (including internal and external audit reports), accounts and all other records, in each case in physical or electronic form) relating to the Services and/or Goods and otherwise relating to the performance of its obligations under this Agreement (the “**Records**”).
- 30.2 The University and its internal and external auditors, inspectors, any Regulatory Body and such other representatives as the University may designate from time to time shall have the right to perform audits and inspections of the Supplier and/or the Records (including of the Supplier’s third-party contracts that are relevant to this Agreement and the Supplier’s Confidential Information) to:
- 30.2.1 verify the accuracy of all Charges, the Price and invoices;
 - 30.2.2 satisfy any requirement of any Regulatory Body; and

- 30.2.3 examine the Supplier's performance of its obligations under this Agreement, including verifying compliance with applicable Service Levels.
- 30.3 The Supplier shall at all reasonable times and upon reasonable prior notice (where the University shall endeavour to provide no less than 5 Business Days' notice) allow the University's representatives access to the Supplier's premises to conduct an inspection and review of the Records and/or the Supplier's procedures and documentation produced pursuant to this Agreement to ensure the accuracy of the Charges and the Price and the Supplier's compliance with its obligations under this Agreement. The Supplier shall provide the University's representatives with all reasonable co-operation, access and assistance in relation to each audit.
- 30.4 The University shall use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Supplier or delay the provision of the Services and/or Goods by the Supplier and that, where possible, individual audits are co-ordinated to minimise any disruption.
- 30.5 During the Term and, as applicable:
- 30.5.1 for a period of at least 2 years thereafter; or
- 30.5.2 for a period of 7 years from the date of creation of any records and supporting documentation set out in clause 30.1; or
- 30.5.3 for the periods required in order to comply with any Applicable Laws, whichever is the longer, the Supplier shall maintain such records and such other records as necessary to show compliance with its obligations under this Agreement.
- 30.6 Subject to clause 30.7, the costs and expenses of each audit shall be borne equally between the parties.
- 30.7 The Supplier shall bear all costs and expenses (including all costs and expenses of the University and any Affiliate of the University) of an audit if such audit reveals:
- 30.7.1 a material breach of this Agreement which has not been remedied by the Supplier in accordance with relevant provisions of this Agreement;
- 30.7.2 a discrepancy of 5% or more of the amount invoiced in respect of the Charges and/or the Price by the Supplier (in which event the Supplier shall pay the costs of the audit to the extent that such audit relates to the Charges and/or the Price, including associated expenses); or
- 30.7.3 fraud relating to the Supplier or the Supplier Personnel in connection with the Services or the performance by the Supplier of its other obligations under this Agreement.
- 30.8 The Supplier shall promptly and fully address in good faith any adverse issues arising from an audit which relate to the Supplier's provision of the Services or the performance by the Supplier of its other obligations under this Agreement including addressing any revealed discrepancies, errors, inaccuracies, or oversights of any kind.
- 30.9 In respect of any overpayments or underpayments becoming apparent from an audit:
- 30.9.1 the Supplier shall reimburse the University within 30 days of a written demand from the University for all undisputed overpayments which are apparent from such audit; and

- 30.9.2 the University shall reimburse the Supplier within 30 days of an invoice from the Supplier for all undisputed underpayments which are apparent from such audit.

31. TERMINATION

- 31.1 Without prejudice to any other remedies or rights of the University under this Agreement, the University may terminate this Agreement in whole or in part:
- 31.1.1 in respect of the supply of the Services, by giving not less than the Termination Notice Period in writing to the Supplier; and
- 31.1.2 in respect of the supply of the Goods, with immediate effect by giving written notice to the Supplier (whether or not the Goods or any of them have been delivered by the Supplier to the University), in which case the University shall pay the Supplier:
- (a) for any Goods delivered to the University prior to the date of issue of termination (where payment has not already been made by the University); and
- (b) fair and reasonable compensation for any work in progress on the Goods at the time of termination, but such compensation shall not include loss of anticipated profits or any consequential or indirect loss.
- 31.2 Without prejudice to any other remedies or rights of the University under this Agreement, the University may, by giving written notice to the Supplier, terminate this Agreement in whole or in part immediately (or at a date specified in the notice of termination) if:
- 31.2.1 the Supplier commits a material breach of this Agreement and such breach is not remediable;
- 31.2.2 the Supplier commits a material breach of this Agreement which is not remedied to the University's satisfaction within 20 Business Days of the Supplier receiving written notice of such breach from the University;
- 31.2.3 the Supplier commits a series of minor breaches which, when taken together, amount to a material breach;
- 31.2.4 the Supplier has committed any act or omission (including in respect of any environmental matters) which causes, or in the opinion of the University is likely to have, a detrimental effect on the reputation or public image of the University;
- 31.2.5 any consent, licence or authorisation held by the Supplier is revoked or modified such that the Supplier is no longer able to comply with its obligations under this Agreement;
- 31.2.6 the Supplier is subject to an Insolvency Event;
- 31.2.7 there is a Change of Control of the Supplier; or
- 31.2.8 the Supplier is in breach of clause 36.2, clause 36.3 or clause 36.4.

- 31.3 The Supplier may, by giving written notice to the University, terminate this Agreement if:
- 31.3.1 the University is subject to an Insolvency Event; or
 - 31.3.2 the University fails to pay an undisputed sum due to the Supplier under this Agreement provided that the Supplier has notified the University of such failure after 30 days from the invoice date and such failure continues for a further 90 days from receipt by the University of such notice of non-payment from the Supplier.
- 31.4 On termination of this Agreement for any reason:
- 31.4.1 the Supplier shall promptly invoice the University for all of the Services properly performed and/or Goods properly delivered but not yet invoiced and/or refund any sums paid in advance for any Services not performed and/or Goods not delivered;
 - 31.4.2 each party shall within 5 Business Days following the date of termination or expiry return any Confidential Information, materials and/or equipment of the other party then in its possession or control provided that each party shall be entitled to maintain copies of the other party's Confidential Information where required in order to comply with Applicable Laws;
 - 31.4.3 the Supplier shall as soon as reasonably practicable provide the University with the Deliverables that have been developed as at the date of termination;
 - 31.4.4 the Supplier shall return to the University all University Data within 5 Business Days following the date of termination or expiry. For the avoidance of doubt, this shall include all University Data and copies thereof that have been backed up and/or archived by or on behalf of the Supplier; and
 - 31.4.5 all rights granted to the Supplier under this Agreement shall immediately cease.
- 31.5 Termination or expiry of this Agreement shall not affect any accrued rights and liabilities of either party at any time up to the date of termination or expiry and shall not affect any provision of this Agreement that is expressly or by implication intended to continue beyond termination. Without prejudice to the generality of the foregoing, the following provisions shall survive the termination or expiry of this Agreement: clause 1 (*Definitions and Interpretation*), clause 3 (*Supply of Goods*), clause 5 (*Title and Risk*), clause 8 (*Inspection, Rejection and Return*), clause 10 (*Recall*), clause 12 (*Product Information*), clause 13.5 (*Non-solicitation*), clauses 15.4 to 15.5 (*Security*), clause 15.8 (*University Premises and Systems Indemnity*), clause 24.6 (*Personnel Indemnity*), clause 25 (*Limitation of Liability*), clause 26 (*Insurance*), clause 27 (*Intellectual Property Rights*), clause 28 (*Additional Terms*), clause 29 (*Indemnity*), clause 30 (*Audit and Record-keeping*), clauses 31.4 to 31.8 (*Termination*), clause 32 (*Confidential Information*), clause 33 (*Freedom of Information*), clause 34 (*University Data and Data Protection*), clause 35 (*TUPE*), clauses 37 (*Assignment and Sub-contracting*) to 50 (*Governing Law and Jurisdiction*), Schedule 1 (*Contract Particulars*), Schedule 2 (*Invitation to Tender*), Schedule 3 (*Supplier's Response to Invitation to Tender*), Schedule 4 (*Specification*), Schedule 8 (*Additional Terms*), Schedule 9 (*Security Policy*), and Schedule 10 (*Data Protection*).

- 31.6 For a reasonable period before and after the end of the Term, including any termination notice period, the Supplier will comply with the University's reasonable directions and will provide any termination assistance reasonably requested by the University to allow the Services to continue and facilitate the orderly transfer of responsibility for the provision of the Services to the University and/or a Replacement Service Provider. Such termination assistance shall be included in the definition of Services under this Agreement and, notwithstanding the surviving clauses listed in clause 31.5, all clauses of this Agreement shall survive to the extent applicable to, and for the duration of, such termination assistance. Such termination assistance may include the following:
- 31.6.1 continuing to perform any or all of the Services requested by the University where practicable for a period or periods requested by the University;
 - 31.6.2 making Supplier Personnel available for knowledge transfer and training meetings and providing access to, and copies of, any documents in the Supplier's control relating to the Services and relevant to the transition; and
 - 31.6.3 implementing any exit plan.
- 31.7 Except where charges for termination assistance are set out in Schedule 7 (*Price and Charges*), the Supplier's charges for termination assistance shall be calculated based on reasonable rates, which shall not exceed the same rates as applied to the same or similar services during the term of this Agreement.
- 31.8 In any of the circumstances in this Agreement in which the University may terminate this Agreement, where both Goods and Services are supplied, the University may instead terminate part of this Agreement in respect of the Goods and/or in respect of the Services, and this Agreement shall continue in respect of the remaining supply.

32. CONFIDENTIAL INFORMATION

- 32.1 Each party shall:
- 32.1.1 not disclose to any person any Confidential Information of the other party except as permitted by clause 32.2 or where disclosure is expressly permitted elsewhere in this Agreement;
 - 32.1.2 maintain the other party's Confidential Information in confidence; and
 - 32.1.3 use the other party's Confidential Information only to perform its obligations or exercise, evaluate or enforce its rights under this Agreement.
- 32.2 Each party may disclose the other party's Confidential Information to its officers, employees, agents, sub-contractors, representatives or advisers who need to know such information only for the purposes of carrying out that party's obligations or exercising, evaluating or enforcing its rights under this Agreement, provided that such persons are subject to equivalent obligations of confidentiality and the disclosing party shall ensure such persons comply with those obligations.
- 32.3 Clause 32.1 shall not apply to any disclosure of information:
- 32.3.1 that was in the possession of the receiving party, without obligation of confidentiality, prior to its disclosure;
 - 32.3.2 that was obtained from a third party without obligation of confidentiality;

- 32.3.3 that was already in the public domain at the time of disclosure otherwise than through a breach of this Agreement;
 - 32.3.4 that was independently developed without access to the other party's Confidential Information; or
 - 32.3.5 required by Applicable Laws, court order or any governmental or regulatory authority, provided that clause 33 shall apply to any disclosure required under the FOIA or the EIRs.
- 32.4 At the written request of the University, the Supplier shall procure that each member of the Supplier Personnel identified in the University's request signs a confidentiality undertaking prior to commencing any work in connection with this Agreement.
- 32.5 The obligations under this clause 32 shall continue in perpetuity after the termination or expiry of this Agreement.

33. FREEDOM OF INFORMATION

- 33.1 The Supplier acknowledges that the University is subject to the requirements of the FOIA and the EIRs and shall assist and co-operate with the University (at the Supplier's expense) to enable the University to comply with these information disclosure requirements.
- 33.2 The Supplier shall and shall procure that its sub-contractors shall:
- 33.2.1 provide all assistance and cooperation as reasonably requested by the University to enable the University to comply with its obligations under the FOIA and EIRs;
 - 33.2.2 transfer any Request for Information to the University as soon as practicable after receipt and in any event within 3 days of receiving a Request for Information; and
 - 33.2.3 provide the University with a copy of all information in its possession or power in the form that the University acting reasonably requires within 7 days (or such other period as the University may specify) of the University requesting that information.
- 33.3 The University shall be responsible for determining at its absolute discretion whether information is exempt from disclosure in accordance with the provisions of the FOIA or the EIRs and is to be disclosed in response to a Request for Information.
- 33.4 The Supplier shall not respond or allow any sub-contractor to respond directly to a Request for Information unless expressly authorised to do so by the University.
- 33.5 The Supplier acknowledges that the University may be required under the FOIA and the EIRs to disclose information (including the Supplier's Confidential Information) without consulting or obtaining consent from the Supplier. The University shall take reasonable steps to notify the Supplier of a 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 the University shall be responsible for determining in its absolute discretion whether any information is exempt from disclosure in accordance with the FOIA and the EIRs.

- 33.6 The Supplier shall ensure that all information produced in the course of this Agreement or relating to this Agreement is retained for disclosure and shall permit the University to inspect such records as requested from time to time.
- 33.7 The Supplier acknowledges that any lists or schedules provided by it outlining Confidential Information are of indicative value only and that the University may nevertheless be obliged to disclose Confidential Information in accordance with clause 33.5.

34. UNIVERSITY DATA AND DATA PROTECTION

- 34.1 The Supplier shall not access, store, copy, disclose, or use University Data except as necessary for the performance by the Supplier of its obligations under this Agreement or as otherwise expressly authorised in writing by the University.
- 34.2 To the extent that University Data is used, processed or stored by the Supplier or any permitted subcontractor of the Supplier ("**Supplier Held University Data**"), the Supplier shall supply an up to date copy of that Supplier Held University Data to the University as soon as reasonably possible (and in any event within 1 Business Day) following a request for such a copy from the University.
- 34.3 The Supplier shall preserve the integrity of Supplier Held University Data and prevent the corruption, unauthorised encryption, alteration or loss of Supplier Held University Data.
- 34.4 The Supplier shall perform secure back-ups of all Supplier Held University Data in accordance with Good Industry Practice and shall ensure that up-to-date back-ups are stored at a separate location from the principal copy. The Supplier shall ensure that such back-ups are available to the University (or to such other person as the University may direct) at all times upon request.
- 34.5 If at any time the Supplier suspects or has reason to believe that University Data has or may become corrupted, lost or sufficiently degraded in any way for any reason, then the Supplier shall notify the University immediately and inform the University of the remedial action the Supplier proposes to take.
- 34.6 Each party shall comply with its respective obligations, and may exercise its respective rights and remedies, under Schedule 10 (*Data Protection*).

35. TUPE - NOT REQUIRED

- ~~35.1 The parties agree that TUPE will not apply on commencement, expiry or termination (whether in whole or in part) of the Services or this Agreement.~~
- ~~35.2 The Supplier shall procure that at no time are any of the Supplier Personnel assigned to the carrying out of the Services. In this clause, "assigned" has the meaning given to it in Regulation 2(1) of TUPE.~~
- ~~35.3 Notwithstanding clause 35.1, if by virtue of the expiry, cessation or termination (whether in whole or in part) at any time of the provision of the Services by the Supplier (or any sub-contractor), it is asserted or established that the contract of employment of any individual shall have effect (or would have had such effect but for the termination of employment of such individual) as if originally made between the University (or a Replacement Service Provider) and the individual concerned (or would have had such~~

effect but for the dismissal of the individual concerned) in all cases as a result of the provisions of TUPE and/or any judicial decision interpreting the same:

~~35.3.1 the University (and/or a Replacement Service Provider) may upon becoming aware of the same, forthwith terminate such contract insofar as it has not already been terminated and the Supplier hereby undertakes to indemnify and keep indemnified the University (and each such Replacement Service Provider) on demand from and against any Employment Liabilities including for the avoidance of doubt any sums payable to or on behalf of such individual in respect of his employment before, on or following such cessation or partial cessation until such termination of employment including Employment Liabilities arising in connection with termination of such employment; and~~

~~35.3.2 the Supplier will indemnify and keep indemnified the University (and each such Replacement Service Provider) on demand from and against any costs, claims, liabilities and expenses (including legal expenses) suffered or incurred by the University (or a Replacement Service Provider) as a result of any failure to comply with Regulation 13 and/or 14 of TUPE.~~

~~35.4 The Supplier acknowledges and agrees that the University shall be entitled to grant an indemnity in favour of each and any Replacement Service Provider to the same extent that the Supplier is undertaking to indemnify the University in terms of clauses 35.3.1 and 35.3.2 and agrees that in the event of a claim on any indemnity in terms of clauses 35.3.1 and 35.3.2 for loss incurred by the University, that loss shall include the amount, if any, which the University has paid or is required to pay to any Replacement Service Provider by virtue of any indemnity granted by the University in its favour in accordance with the provisions of this Clause 35.4.~~

36. COMPLIANCE

36.1 Each party shall, in performing its obligations under this Agreement, comply with all Applicable Laws.

36.2 Anti-Bribery

36.2.1 In performing its obligations under this Agreement, the Supplier shall:

- (a) comply with all applicable laws, statutes, regulations, relating to anti-bribery and anti-corruption including the Bribery Act 2010 (“**Anti-Bribery Requirements**”);
- (b) not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
- (c) have and maintain in place throughout the term of this Agreement its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with the Anti-Bribery Requirements; and
- (d) comply with the University’s anti-bribery statement while performing its obligations under this Agreement.

36.3 Modern Slavery

36.3.1 In performing its obligations under this Agreement, the Supplier shall:

- (a) 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 (“**Modern Slavery Requirements**”);
- (b) 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 United Kingdom; and
- (c) have and maintain throughout the term of this Agreement its own policies and procedures to ensure its compliance with the Modern Slavery Requirements.

36.4 **Criminal Finances Act**

36.4.1 In performing its obligations under this Agreement, the Supplier shall:

- (a) not engage in any activity, practice or conduct which would constitute either:
 - (i) a United Kingdom tax evasion facilitation offence under section 45(5) of the Criminal Finances Act 2017; or
 - (ii) a foreign tax evasion facilitation offence under section 46(6) of the Criminal Finances Act 2017; and
- (b) have and shall maintain in place throughout the term of this Agreement its own policies and procedures to ensure compliance with the Criminal Finance Act 2017 and the prevention of facilitation of tax evasion.

36.5 **Living Wage**

36.5.1 The Supplier agrees to pay all employees, officers, staff, other workers, agents and consultants of the Supplier or its Affiliates who are engaged in the performance of the Services and/or supply of the Goods from time to time not less than the Living Wage and ensure all employees of its sub-contractors performing the Services and/or supplying the Goods are paid not less than the Living Wage for the Term if and for so long as such persons:

- (a) are not apprentices or interns;
- (b) are aged 18 or over;
- (c) work for at least 2 hours in any working day and for at least 8 consecutive weeks in any calendar year; and
- (d) either:
 - (i) work on sites owned or in the control of the University located in the United Kingdom; or
 - (ii) work wholly and directly on behalf of the University in providing Services and/or Goods, from a place of work which is located in the United Kingdom.

- 36.5.2 The Supplier agrees to implement any change to the Living Wage by the LW Implementation Date.
- 36.5.3 The University may request (and the Supplier shall provide the University with) all of the information that the University requires (acting reasonably) to confirm the Supplier's compliance with clauses 36.5.1 and 36.5.2.
- 36.5.4 In the event of non-compliance with clauses 36.5.1 and 36.5.2 by the Supplier, the Supplier shall remedy such non-compliance (taking into account any University representations to resolve such non-compliance) which shall include backdating any applicable payments to the relevant LW Announcement Date. The backdating of payments shall be undertaken entirely at the cost of the Supplier and the Supplier shall have no right to recover such or any other costs of remedying non-compliance from the University. In the event that the Supplier has not resolved the non-compliance within a reasonable time (as determined by the University in its sole discretion), the University shall be entitled to terminate this Agreement

36.6 **Digital Accessibility**

- 36.6.1 If applicable to the Services, Deliverables and/or Goods, to the extent that the Supplier provides any digital products and/or services under or in connection with this Agreement, the Supplier shall comply with all Applicable Laws related to digital accessibility, including the Web Content Accessibility Guidelines 2.2 AA ("**WCAG**"). The Supplier shall ensure that all digital products and services are designed and developed with accessibility in mind, including keyboard accessibility, alternative text for images, and proper colour contrast. The Supplier shall conduct regular accessibility testing and remediation to ensure ongoing compliance with WCAG, provide a process for users to report accessibility issues, and respond to and resolve the same in a timely manner. Upon request, the Supplier must provide documentation demonstrating compliance with WCAG, including accessibility testing reports and remediation plans.
- 36.7 The Supplier shall ensure that any person associated with the Supplier (including any permitted sub-contractor) who is performing the Services and/or providing the Goods in connection with this Agreement does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Supplier in this clause 36 ("**Relevant Terms**"). The Supplier shall be responsible for and ensure the observance and performance by such persons of the Relevant Terms and shall be directly liable to the University for any breach by such persons of any of the Relevant Terms.

37. **ASSIGNMENT AND SUB-CONTRACTING – NOT REQUIRED**

- ~~37.1 The University may at any time assign, sub-contract performance of its obligations under, transfer, mortgage, charge, declare a trust of or deal in any other manner with any or all of its rights under this Agreement, provided that it gives prior written notice to the Supplier.~~
- ~~37.2 The Supplier shall not assign, sub-contract performance of its obligations under, transfer, mortgage, charge, declare a trust of or deal in any other manner with any or~~

~~all of its rights under this Agreement, in whole or in part, without the University's prior written consent (such consent not to be unreasonably withheld or delayed).~~

- 37.3 ~~Where the Supplier sub-contracts any of its obligations under this Agreement, the Supplier shall remain responsible for all acts and omissions of its sub-contractors and the acts and omissions of those employed or engaged by the sub-contractors as if they were its own. An obligation on the Supplier to do or to refrain from doing any act or thing under this Agreement shall include an obligation on the Supplier to ensure that the Supplier Personnel and its sub-contractors also do or refrain from doing such act or thing.~~

38. DISPUTE RESOLUTION

- 38.1 Any dispute arising between the parties out of or in connection with this Agreement shall be dealt with in accordance with the provisions of this clause 38.
- 38.2 The dispute resolution process may be initiated at any time by either party serving a notice in writing on the other party that a dispute has arisen. The notice shall include reasonable information as to the nature of the dispute.
- 38.3 The parties shall use all reasonable endeavours to reach a negotiated resolution through the following procedures:
- 38.3.1 within 7 days of service of the notice, the Contract Managers of the parties shall meet to discuss the dispute and attempt to resolve it; and
- 38.3.2 if the dispute has not been resolved within 7 days of the first meeting of the Contract Managers, then the matter shall be referred to a senior manager of each party. Such senior managers shall meet within 7 days of the date of such referral to discuss the dispute and attempt to resolve it.
- 38.4 The specific format for the resolution of the dispute under clause 38.3.1 and, if necessary, clause 38.3.2 shall be left to the reasonable discretion of the parties, but may include the preparation and submission of statements of fact or of position.
- 38.5 If the parties are unable to resolve a dispute within 14 days of the reference to each party's senior manager pursuant to clause 38.3.2, either party may refer the dispute for mediation pursuant to this clause 38.5, but such referral shall not be a condition precedent to the commencement of any court proceedings, and either party may issue and commence court proceedings prior to or contemporaneously with the commencement of mediation. The following provisions shall apply to any such reference to mediation:
- 38.5.1 the reference shall be a reference under the Model Mediation Procedure ("**MMP**") of the Centre for Effective Dispute Resolution ("**CEDR**") for the time being in force;
- 38.5.2 both parties shall, immediately on such referral, co-operate fully, promptly and in good faith with CEDR and the mediator and shall do all such acts and sign all such documents as CEDR or the mediator may reasonably require to give effect to such mediation, including an agreement in, or substantially in, the form of CEDR's Model Mediation Agreement for the time being in force; and
- 38.5.3 to the extent not provided for by such agreement of the MMP:

- (a) the mediation shall commence by either party serving on the other written notice setting out, in summary form, the issues in dispute and calling on that other party to agree the appointment of a mediator; and
 - (b) the mediation shall be conducted by a sole mediator (which shall not exclude the presence of a pupil mediator) agreed between the parties or, in default of agreement, appointed by CEDR.
- 38.6 If and to the extent that the parties do not resolve any dispute or any issue in the course of any mediation, either party may commence or continue court proceedings in respect of such unresolved dispute or issue.
- 38.7 Nothing in this clause 38 shall prevent either party from instigating legal proceedings where an order for an injunction, disclosure or legal precedent is required.
- 38.8 Without prejudice to the University's right to seek redress in court, the Supplier shall continue to provide the Services and/or Goods and to perform its obligations under this Agreement notwithstanding any dispute or the implementation of the procedures set out in this clause 38.

39. ENTIRE AGREEMENT

- 39.1 This Agreement constitutes the entire agreement between the parties and supersedes all previous agreements, understandings and arrangements between them in respect of its subject matter, whether in writing or oral.
- 39.2 Each party acknowledges that it has not entered into this Agreement in reliance on, and shall have no remedies in respect of, any representation or warranty that is not expressly set out in this Agreement.
- 39.3 Where there is any conflict between the provisions of this Agreement and any other agreement between the Parties related to the subject matter of this Agreement, the terms of this Agreement shall prevail.

40. NOTICES

- 40.1 Notices under this Agreement will be in writing and sent to a party's address as set out on the first page of this Agreement or to the email address set out below. Notices may be given, and will be deemed received:
 - 40.1.1 by first-class post: 2 Business Days after posting;
 - 40.1.2 by hand: on delivery; and
 - 40.1.3 by email to the University Email Address in the case of the University and the Supplier Email Address in the case of the Supplier: on receipt of a delivery return email.

41. ANNOUNCEMENTS

- 41.1 Neither party shall make or authorise any public announcement or communication concerning this Agreement or their relationship with the other party or refer to or use any business name, logo or trade marks whether registered or not of the other party in any promotional or marketing communications, without the prior written approval of the other party.

- 41.2 Each party acknowledges that nothing in this Agreement, either expressly or by implication, constitutes an endorsement of any products or services of the other party (including the Services and/or Goods) and each party agrees not to conduct itself in such a way as to imply or express any such approval or endorsement.

42. FORCE MAJEURE

- 42.1 Provided that it has complied with clause 42.2 and subject to the other provisions of this clause (and, in relation to the Supplier, provided it has complied with its obligations under this Agreement (if any) in relation to business continuity and disaster recovery matters), if a party is prevented, hindered or delayed in or from performing any of its obligations under this Agreement by a Force Majeure Event (the “**Affected Party**”), the Affected Party shall not be in breach of this Agreement or otherwise liable for any such failure or delay in the performance of such obligations.

- 42.2 The Affected Party shall:

42.2.1 as soon as reasonably practicable after the start of the Force Majeure Event, notify the other party in writing of such Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of such Force Majeure Event on its ability to perform any of its obligations under this Agreement;

42.2.2 update the information provided under clause 42.2.1 at least once every week throughout the period during which the performance of its obligations is affected; and

42.2.3 use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations (including, in the case of the Supplier, taking and/or procuring the taking of all steps to overcome or minimise the consequences of the Force Majeure Event in accordance with Good Industry Practice) and to resume full performance as soon as reasonably possible.

- 42.3 A party cannot claim relief if the Force Majeure Event is attributable to that party's deliberate act, neglect or failure to take reasonable precautions against the relevant Force Majeure Event (including, in relation the Supplier, where the consequences of the relevant Force Majeure Event are the result of the Supplier's failure to comply with its obligations under this Agreement (if any) in relation to business continuity and disaster recovery matters).

- 42.4 If under clause 42.1 the Supplier is relieved from performing any obligation, it shall not be entitled to payment for performance of that obligation in respect of the period for which relief is obtained, or the performance of its obligations under this clause 42.

- 42.5 If a Force Majeure Event prevents, hinders or delays the Supplier's performance of its obligations for a continuous period of more than 14 days, then the University may terminate this Agreement by giving 1 week's written notice to the Supplier.

43. FURTHER ASSURANCE

- 43.1 Each party shall (at its own cost) do and execute (or procure to be done and executed) all acts, deeds, documents and things as are reasonably necessary or desirable to give full effect to this Agreement.

44. VARIATION

- 44.1 No variation of this Agreement shall be valid or effective unless it is made in writing, refers to this Agreement and is duly signed or executed by, or on behalf of, each party.

45. NO PARTNERSHIP OR AGENCY

- 45.1 The parties are independent and are not partners or principal and agent and this Agreement does not establish any joint venture, trust, fiduciary or other relationship between them, other than the contractual relationship expressly provided for in it. Neither party shall have, nor shall represent that it has, any authority to make any commitments on the other party's behalf.

46. SEVERANCE

- 46.1 If any provision of this Agreement (or part of any provision) is found to be or becomes illegal, invalid or unenforceable, then the legality, validity and enforceability of any other provision of this Agreement shall not be affected.
- 46.2 If any provision of this Agreement (or part of any provision) is found to be or becomes illegal, invalid or unenforceable but would be legal, valid and enforceable if some part of it was deleted or modified, the provision or part-provision in question shall apply with such deletions or modifications as may be necessary to make the provision legal, valid and enforceable. In the event of such deletion or modification, the parties shall negotiate in good faith in order to agree the terms of a mutually acceptable alternative provision.

47. WAIVER

- 47.1 No failure, delay or omission by either party in exercising any right, power or remedy provided by law or under this Agreement shall operate as a waiver of that right, power or remedy, nor shall it preclude or restrict any future exercise of that or any other right, power or remedy.
- 47.2 No single or partial exercise of any right, power or remedy provided by law or under this Agreement shall prevent any future exercise of it or the exercise of any other right, power or remedy.
- 47.3 A waiver of any term, provision, condition or breach of this Agreement shall only be effective if given in writing and signed by the waiving party, and then only in the instance and for the purpose for which it is given.
- 47.4 The rights and remedies provided by this Agreement are cumulative and, unless otherwise provided in this Agreement, are not exclusive of any right or remedies provided by law or otherwise under this Agreement.

48. THIRD PARTY RIGHTS

- 48.1 Except as expressly provided for in clause 48.2, a person who is not a party to this Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the provisions of this Agreement.
- 48.2 The Affiliates of the University shall have the right to enforce the provisions of this Agreement. This Agreement is entered into by the University for its own benefit and the benefit of each of its Affiliates, and the benefits, rights and remedies of the University

shall unless otherwise stated be deemed to confer such benefits, rights or remedies on the University and each Affiliate.

- 48.3 The University may elect that all losses, liabilities, costs, expenses and damages incurred by or on behalf of any Affiliates (“**Affiliate Losses**”) shall be treated as losses of the University and the University is entitled to recover all Affiliate Losses arising out of or in connection with this Agreement as if the same were incurred by the University.


49. COUNTERPARTS


This Agreement may be executed in any number of counterparts, each of which shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

50. GOVERNING LAW AND JURISDICTION

This Agreement and any dispute or claim arising out of, or in connection with, it, its subject matter or formation (including non-contractual disputes or claims) shall be governed by, and construed in accordance with, the laws of England and Wales. Subject to clause 38, the parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of, or in connection with, this Agreement, its subject matter or formation (including non-contractual disputes or claims).

THIS AGREEMENT has been executed on the date written at the beginning of it.

Signed by Iain Chambers	
for and on behalf of	AMRC Financial Controller
UNIVERSITY OF SHEFFIELD	
Date	20/8/2025

Signed by Peter Drever	
for and on behalf of	Director
Machine Tool Technologies Ltd	
Date 19th AUG 2025	

SCHEDULE 1
CONTRACT PARTICULARS

Commencement Date:	[The date of this Agreement OR insert specific date OR the date of the purchase order]
ITT Issue Date:	Until the Goods/services have been delivered in full, commissioned and training complete, to the satisfaction of the University
ITT Response Date:	Until 31st of March 2026
Initial Term:	The date expiring 3 months after the Delivery Date or such other date as the parties shall agree in writing.
Final Extension Date:	150% per cent of the aggregate Charges and Price paid and/or payable by the University under this Agreement.
Long Stop Completion Date:	The date expiring 3 months after the Delivery Date or such other date as the parties shall agree in writing.
Charges Connected Cap:	150% per cent of the aggregate Charges and Price paid and/or payable by the University under this Agreement.
Value Connected Cap:	£125,000
Insurance Requirements:	<p>The sum insured shall not be less than:</p> <p>(a) Employer's Liability: [ten million pounds sterling (£10,000,000)] for any one occurrence or series of occurrences consequent upon one event or original cause in respect of an employer's liability policy;</p> <p>(b) Public/Products Liability: [ten million pounds sterling (£10,000,000)] for any one occurrence or series of occurrences consequent upon one event or original cause in respect of a public/products liability policy;</p>
Termination Notice Period:	60 days' notice
University Email Address:	amrcprocurement@sheffield.ac.uk
Supplier Email Address:	info@mtt.uk.com

SCHEDULE 2

INVITATION TO TENDER



4473.CYMRU.RH.25
Document 3 - Specif

SCHEDULE 3
SUPPLIER'S RESPONSE TO INVITATION TO TENDER



4473CYMRURH2_ITT 4473CYMRURH2_ITT 4473CYMRURH2_ITT
_Machine Tool Te_4 _Machine Tool Te_4 _Machine Tool Te_4



SCHEDULE 4 SPECIFICATION



4473.CYMRU.RH.25
Document 3 - Specif

SCHEDULE 5
GOODS

Goods:	
Delivery date(s)	
Delivery instructions	
Delivery location	
[Additional specifications/ Special instructions:]	

SCHEDULE 6
SERVICES

Services Specification:	
Installation Plan:	
Test Plan:	
University Premises:	
University Dependencies:	
Performance dates OR Milestones and Milestone Dates:	
Service hours:	
Service Levels and Services Credits:	
Deliverables:	
Acceptance Criteria:	
Key Personnel:	
[Additional specifications/ Special instructions:]	

SCHEDULE 7
PART 1 – PRICE

The Price payable for the Goods shall be as follows:

Please provide as much detail as possible in this column to enable us to evaluate your pricing effectively	Offer Price (excl VAT) in £ sterling
Equipment description hardware/software etc. Ensure that you provide details and pricing for each separate item of equipment supplied. You should follow the order as specified within this document.	£90,886 This price includes all predelivery activities including design, build, testing
Delivery DDP or DAP (inc any shipping, insurance, importation duty etc) (list details)	£1,428
Installation and commissioning (list details)	£30,800
Training (list details)	£1,100
Warranty as requested in specification (List details)	Included
Service and Maintenance (List details)	Not in scope
Technical support arrangements	Not in scope
Software	Included
Hardware and software upgrades	Not in scope
User manuals etc.	Included
Consumables required in a single year period	Included
Any other items required to deliver the full solution not included above e.g. IT, database or networking costs	Included
TOTAL COST (excl VAT) (this price will be used for the evaluation – additional options should be detailed below)	£124,214
Additional options listed in G2 (provide full details)	Quote to be discussed if required.

SCHEDULE 8
ADDITIONAL TERMS

1. SPARE PARTS

- 1.1 The Supplier shall make available to the University, or any nominated third party maintenance source, on request and with reasonable despatch and at reasonable prices, all spares and replacement parts as the University, or nominated third party maintenance source, shall require for the Goods.
- 1.2 The Supplier shall maintain a supply of such spares or replacement parts for a period of 7 years from the Delivery Date.
- 1.3 Such spares or replacement parts shall be required to be fully compatible with, and maintain as a minimum the same levels of performance as, the Goods originally supplied, but need not be identical to those items.
- 1.4 If during this period the Supplier or its sub-contractor intend to discontinue the manufacture of spares or replacement parts for the Goods, the Supplier shall forthwith give notice to the University of such intention, and advise the University of any third party source from which the spares or replacement parts will be available, or to which third party source the Supplier intends to provide drawings, patterns, specifications and other information.
- 1.5 If during the stipulated period of 7 years the Supplier or its sub-contractor either:
- 1.5.1 fails to make available to the University or any nominated third party maintenance service provider, with reasonable despatch and at reasonable prices, all such spares or replacement parts as the University or nominated third party maintenance source shall require for the Goods; or
- 1.5.2 is subject to an Insolvency Event,
- then the Supplier shall so far as it is legally entitled to do so, and if so required by the University, as soon as practicable, deliver to the University or its nominated third party maintenance source, free of charge such drawings, patterns, specifications and other information as referred to in paragraph 1.4, and which the University, or its nominated third party source, shall be entitled to retain for such time only as necessary for the exercise by the University of its rights under this paragraph 1.
- 1.6 The terms and conditions of this Agreement shall apply to any spares or replacement parts supplied to the University in accordance with this paragraph 1.

2. CONSUMABLE SUPPLIES

- 2.1 For the purposes of this paragraph 2, “**Consumables**” means those consumable supplies to be used on or with the Goods, whether from the Supplier or another source deemed appropriate by the University.
- 2.2 The University reserves the right to procure Consumables to be used on or with the Goods from the Supplier or such other source as the University may deem appropriate. The parties agree that the procurement of Consumables from a third party shall not invalidate the University’s rights and remedies under this Agreement, provided that the Consumables meet the minimum standards published by the Supplier or the

manufacturer of the Goods (or where no such standards have been published, the standards generally accepted as being applicable to the Consumables).

- 2.3 In the event that the Supplier shall claim that the use of specific Consumables is adversely affecting the standards of performance of the Goods, it shall be for the Supplier to prove that the consumables do not meet the requisite minimum standards and are affecting the Goods. If the Supplier proves that the consumables do not meet the requisite minimum standards the University shall cease using the consumables concerned and procure alternative consumables which meet the standards required.

3. ADDITIONAL UNIVERSITY REMEDIES

- 3.1 Without prejudice to any other rights or remedies of the University under this Agreement, if the Supplier fails to deliver the Goods by the Delivery Date, the University may proceed with the fulfilment of this Agreement whereupon the University shall have the right to recover from the Supplier any losses which it may have suffered as set out in paragraph 3.2 of this Schedule.
- 3.2 In the event that the University elects to proceed with the fulfilment of this Agreement in accordance with paragraph 3.1 of this Schedule, and the University has suffered a loss then, without prejudice to any other rights or remedies of the University under this Agreement, the University shall have the right to deduct from the Price 100% of the total Price for each week's (or part thereof) delay of delivery of the Goods. Such deductions so made are a genuine pre-estimate of the loss likely to be suffered by the University as a result of the Supplier's failure to provide the Goods by the Delivery Date.
- 3.3 In any event the amount so deducted in accordance with paragraph 3.2 of this Schedule shall not exceed a maximum of [twenty five per cent (25%)] of the total Price.

4. LOANED GOODS

- 4.1 Where Goods or any parts thereof are removed from the University's premises in order to be repaired or replaced in accordance with clause 8 or for any other reason as may be agreed by the parties in writing, the Supplier shall, upon the University's request, either:
- 4.1.1 provide loaned goods of an identical or equivalent specification free of charge for the entire period of time for which the original Goods or parts thereof are removed from the University's premises; or
 - 4.1.2 provide a location, as agreed by the University, where research work can be carried out, and any costs incurred (with the exception of staff salary) will be borne by the Supplier.
- 4.2 Any goods supplied on loan to the University in accordance with paragraph 4.1.1 of this Schedule will remain the property of the Supplier but will be held at the University's risk. The risk shall return to the Supplier immediately upon the loaned goods being removed from use and replaced by the original Goods. The University shall insure the loaned goods against loss or damage whilst they are in use on the University's premises but will not accept any liability for failure or breakdown of such loaned goods due to wear and tear or faulty manufacture. The Supplier must, as soon as reasonably practicable, repair or replace any loaned goods which develop a fault.

5. ATTACHMENTS TO THE GOODS

- 5.1 The University shall have the right to attach to or install onto the Goods any goods (including software) which the University considers to be appropriate and necessary to enable the Goods to be utilised to the fullest extent as required by the University. If the University attaches or installs goods then this shall not have the effect of degrading the performance of the Goods, and shall not relieve the Supplier from meeting its obligations under this Agreement provided that:
- 5.1.1 the goods attached or installed are not specified in the Specification as having the effect of degrading the standards of performance of the Goods;
 - 5.1.2 the Supplier has not otherwise notified the University in writing that the attachment or installation of specific goods will degrade the standards of performance of the Goods; and
 - 5.1.3 the goods have been attached or installed in accordance with the published instructions of the supplier of the goods concerned.
- 5.2 In the event that attachments and/or any installation is made by the University and the Supplier can prove that such attachment or installation is adversely affecting the standard of performance of the Goods, then the Supplier shall be entitled to be reimbursed any associated costs which the Supplier can demonstrate as being reasonably and necessarily incurred in remediating or returning the Goods to the normal standards of performance in accordance with this Agreement.

6. WARRANTY

- 6.1 In this paragraph 6, “**Warranty Period**” means the period applicable to the Goods as defined in paragraph 6.3 of this Schedule.
- 6.2 Without prejudice to any other remedies or rights of the University under this Agreement, the Supplier warrants that it shall make good at its own expense, within the time scales specified in paragraph 6.5 of this Schedule, any defect in or damage to any of the Goods as described in paragraph 6.4 of this Schedule which may develop during the Warranty Period.
- 6.3 Where the Goods are to be utilised immediately, the Warranty Period shall be [12 months] from the Delivery Date and otherwise the Warranty Period shall be [18 months] from such delivery date(s).
- 6.4 Defects covered by this warranty include any failure of the Goods to comply with the Specification and/or fulfil the functions or meet the level of performance specified in this Agreement which arises from:
- 6.4.1 defective materials, including software, firmware, workmanship or design (other than a design furnished or specified by the University for which the Supplier has disclaimed responsibility in writing within a reasonable time after the receipt of the University’s instructions); or
 - 6.4.2 any act or omission of the Supplier done or omitted during the Warranty Period.
- 6.5 The Supplier must respond within a maximum of [8 working hours] to a request from the University to repair any defect in or damage to any of the Goods and must, unless

approved otherwise by the University in writing in advance, effect a repair within a maximum of a further [8 working hours].

- 6.6 If any such damage or defect cannot be remedied within the time scale detailed in paragraph 6.5 of this Schedule, or the Supplier fails to respond and remedy the damage or defect within a reasonable time, the University may proceed to engage a third party to remedy the damage or defect. Any remedial work so undertaken shall be at the Supplier's risk and expense, and any costs incurred by the University under or in connection with this paragraph 6 shall be for the Supplier's account. Should the University exercise its rights under this paragraph 6, the utilisation of a third party shall not affect or invalidate these warranty provisions, or relieve the Supplier of its obligations under this paragraph 6 for the remainder of the Warranty Period, nor the ability of the University to enter into a maintenance agreement with the Supplier, and the Supplier shall be responsible for meeting its obligations thereafter. Should the University exercise its rights under this paragraph 6.6, this shall be without prejudice to any other rights or remedies which the University may have against the Supplier in respect of the Supplier failing to remedy such defect or damage.
- 6.7 Where a defect involves a fault inherent in the design of the Goods, or any part thereof, the Supplier shall, at its own expense, promptly carry out such re-design as may be necessary to prevent a recurrence of the defect, and upon completion shall rectify the fault in the Goods. Any such re-design shall be accomplished in such a manner as to ensure that the performance and operation of the Goods is not adversely affected by virtue of such re-design from the standard as accepted by the University in accordance with this Agreement.
- 6.8 The provisions of this paragraph 6 shall not apply to any defect or damage which arises or develops as a result of any alteration, addition or attachment to the Goods where:
- 6.8.1 the Specification states that the alteration, addition or attachment will degrade the standard of performance of the Goods and/or invalidate this warranty;
 - 6.8.2 the Supplier has otherwise previously notified the University in writing that such specific alteration, addition or attachment will adversely affect the standards of performance of the Goods and/or invalidate this warranty; or
 - 6.8.3 this warranty is invalidated by a negligent act or omission of the University,
- provided always that it shall be for the Supplier to prove that any defect or damage has been caused by the alteration, addition or attachment. Save as set out above, the University shall have the right to make any alteration and/or addition and/or attachment to the Goods, whether such alteration, addition and/or attachment is made by employees of the University, by the Supplier and/or by an appropriately qualified third party source, without reference to the Supplier and the Supplier shall not be relieved of any of its obligations under this paragraph 6.
- 6.9 All remediation under the provision of this warranty shall be provided free of all charges, and shall be carried out at the location specified by the University. Goods shall not be removed from the University's premises for remediation without the permission of the University. Any replacement parts shall have the benefit of this warranty or assume the warranty of the replaced part, whichever is the longer, or as otherwise agreed by the parties in writing.

- 6.10 In circumstances where Goods are authorised to be removed from the University's premises, the Goods shall at all times remain the property of the University, but the risk inherent in the Goods shall pass to the Supplier from the time the Goods are removed from their normal operating environment until they are returned and, where appropriate, reinstalled into the same operating environment, or any other operating environment designated by an authorised officer of the University, appropriate acceptance tests have been concluded where necessary, and acceptance documentation has been signed by the University.
- 6.11 The Supplier shall be solely liable to rectify any loss or damage howsoever caused prior to such acceptance as a matter of urgency and, in any case, within a time scale to be agreed by both parties at the appropriate time.
- 6.12 Where Goods are held at the Supplier's site the Goods must be readily identifiable as the property of the University and the Supplier must keep appropriate records thereof.
- 6.13 This paragraph 6 is not intended to limit any statutory rights which may accrue to the University and this paragraph 6 is in addition to any standard warranty offered by the Supplier or the original manufacturer of the Goods or the person who attaches its brand to the Goods.

7. LOAN OF UNIVERSITY EQUIPMENT

- 7.1 In this paragraph 7, "**Loaned Equipment**" means any equipment loaned by the University to the Supplier for use in the provision of Services by the Supplier.
- 7.2 The Supplier shall satisfy itself that any Loaned Equipment is suitable for the purpose intended.
- 7.3 The Supplier shall be liable for any damage to any Loaned Equipment caused by misdirection or misuse due to negligence on the part of the Supplier or any Supplier Personnel.
- 7.4 The Supplier shall not be relieved from the provision of the Services in accordance with this Agreement due to a defect in, faulty operation or unavailability of any Loaned Equipment.
- 7.5 The University shall have the right to withdraw Loaned Equipment at any time and shall be under no liability whatsoever for failing to lend equipment at any time.
- 7.6 Where equipment and materials are supplied by the University, these will be serviced and maintained by the University.
- 7.7 The Supplier shall ensure that Supplier Personnel inform the Supplier's Contract Manager of any defects appearing in, or losses of, or damage occurring to the Loaned Equipment.
- 7.8 The Supplier shall be liable to pay to the University the cost of any replacement Loaned Equipment necessary as a result of loss or damage caused deliberately or negligently by Supplier Personnel.
- 7.9 As part of the Supplier's maintenance programme performed pursuant to clause 16.2, the Supplier shall provide a weekly report to the University's Contract Manager identifying any Loaned Equipment requiring repair or replacement.

- 7.10 The Supplier shall not repair or replace any Loaned Equipment without the prior written approval of the University's Contract Manager (or such other person as may be nominated by the University from time to time and notified in writing to the Supplier).
- 7.11 If any Loaned Equipment is approved for replacement pursuant to paragraph 7.10 of this Schedule, the Supplier shall replace such Loaned Equipment on a like for like basis. If any such replacement is uneconomical in the reasonable opinion of the Supplier or the relevant Loaned Equipment has been discontinued, the Supplier shall notify the University's Contract Manager (or such other person nominated in accordance with paragraph 7.10) and replace the Loaned Equipment in accordance with the University's instructions.
- 7.12 The Supplier shall include the cost of any Loaned Equipment which has been replaced in accordance with paragraph 7.11 of this Schedule in the invoice next due under this Agreement.
- 7.13 Title to and risk in any replaced Loaned Equipment shall pass to the University upon payment being made by the University to the Supplier in respect of that replaced Loaned Equipment.

8. KEY PERSONNEL

- 8.1 Subject to the prior written approval of the University, the Supplier shall appoint and, at the request of the University, replace without delay any Key Personnel required for the Services. The Supplier shall not vary any Key Personnel without the consent of the University, unless the Key Personnel: (a) resigns; (b) retires; (c) is dismissed due to fraud or gross misconduct; or (d) the Key Personnel suffers a prolonged illness, or any other personal reason requiring immediate release from their employment.
- 8.2 The Supplier shall ensure that all Key Personnel shall devote such time, attention and abilities to the provision of the Services as may be necessary for their due and proper performance.

9. BUSINESS CONTINUITY AND DISASTER RECOVERY

- 9.1 In this Agreement:
- 9.1.1 **"business continuity"** means the capability of an organisation to continue delivery of products or services at acceptable predefined levels following a disruptive incident;
- 9.1.2 **"disaster recovery"** means the strategies and plans for recovering and restoring the organisation's technological infrastructure and capabilities after a serious interruption; and
- 9.1.3 **"Incident"** means a situation that might be, or could lead to, a disruption, loss, emergency or crisis.
- 9.2 The Supplier shall at all times during the Term maintain (through regular updates, testing and exercising as required) appropriate business continuity and disaster recovery plans for its business to ensure the continued provision of the Goods and/or the Services to the standards set out in this Agreement. The Supplier shall provide such

plans to the University upon request, and such plans shall meet the minimum requirements set out in Schedule 13 (*Business Continuity and Disaster Recovery*).

9.3 Each party shall:

- 9.3.1 provide and appoint a suitably qualified and experienced individual or individuals (the “**Business Continuity Representatives**”) who shall be responsible for liaising and maintaining regular contact with the other party’s Business Continuity Representatives for all matters relating to the Supplier’s business continuity and disaster recovery plans and all related matters;
- 9.3.2 provide the other party with the contact details of their Business Continuity Representatives; and
- 9.3.3 notify the other party as soon as reasonably practicable each time the contact details are changed or updated.

9.4 Where a party becomes aware that an Incident affecting the provision of the Goods and/or Services has occurred or that its occurrence can reasonably be expected to take place imminently, that party shall:

- 9.4.1 inform (by the most rapid method of communication reasonably practicable) the other party’s Business Continuity Representatives; and
- 9.4.2 arrange, as soon as reasonably practicable after having informed the other party’s Business Continuity Representatives, a discussion and/or meeting between each party’s Business Continuity Representatives, the outcome of which shall be:
 - (a) a formal declaration of an Incident and agreement and execution of any agreed plan and key personnel to contact; or
 - (b) in the event that the parties agree not to provide the declaration specified above, communication of the current position to each party’s Business Continuity Representatives.

9.5 In the event of an Incident (including those caused by a Force Majeure Event), the Supplier shall invoke, as appropriate, its business continuity and disaster recovery plans.

10. EXIT ASSISTANCE

10.1 Without prejudice to any other provision of this Agreement, the parties shall, in accordance with Good Industry Practice, have in place an exit plan that meets the requirements set out at Schedule 14 (*Exit*) (the “**Exit Plan**”).

10.2 The Supplier shall prepare draft updates to the Exit Plan where necessary in order to reflect any material changes to this Agreement or the manner of performance of the Services.

10.3 Without prejudice to the generality of paragraph 10.2 of this Schedule, the Supplier shall also prepare draft updates to the Exit Plan annually (and provide the draft updates to the University as soon as reasonably practicable) on or around each anniversary of the Commencement Date to reflect any changes to this Agreement or the manner of performance of this Agreement (save where such changes were the subject of periodic updates already provided under paragraph 10.2 of this Schedule). In all cases in respect

of any such change in this Agreement or the manner of performance of this Agreement, an update shall only be required when that change would have a material impact on the Exit Plan.

- 10.4 Each draft update of the Exit Plan shall be subject to the University's written approval (such approval not to be unreasonably withheld or delayed). Where the University, acting reasonably, considers that amendments should be made to a draft update of the Exit Plan, the Supplier shall make changes to the draft update of the Exit Plan to reflect the University's reasonable comments and shall resubmit the draft to the University for approval in accordance with this paragraph. Once a re-drafted Exit Plan is so approved, it shall be the Exit Plan for the purposes of this Agreement. When any draft update is approved, the Exit Plan shall automatically be deemed so updated. When approved, the Exit Plan may not be amended except pursuant to an update under this paragraph 10, or with the agreement of both parties in writing.
- 10.5 The Supplier will ensure that it is at all times able to implement the then most recently agreed Exit Plan.

11. SAAS SPECIFIC TERMS - NOT REQUIRED

Definitions

~~11.1 For the purposes of this paragraph 11:~~

~~11.1.1 "Authorised Users" means the employees, agents and independent contractors of the University or a University Affiliate who are authorised by the University to use the Services;~~

~~11.1.2 "Documentation" means the documentation listed in Schedule 6 (Services) (if any) and any other documentation relevant to this Agreement provided by the Supplier to the University from time to time;~~

~~11.1.3 "Maintenance Services" means the general maintenance of the Platform and the application of Updates and Upgrades;~~

~~11.1.4 "Platform" means~~

~~11.1.5 "Update" means a hotfix, patch or minor version update to any Platform software; and~~

~~11.1.6 "Upgrade" means a major version upgrade of any Platform software.~~

Rights of Use

~~11.2 The Supplier hereby grants to the University a non-exclusive, non-transferrable right to permit the Authorised Users to use the Services and the Documentation (and any Updates and Upgrades) for the business purposes of: (i) the University; and (ii) any University Affiliate (in each case) during the Term.~~

Authorised Users

~~11.3 In relation to the Authorised Users, the University will use reasonable endeavours to ensure that each Authorised User shall keep a secure password for their use of the Services and Documentation.~~

~~11.4 The University shall, and shall use reasonable endeavours to procure all Authorised Users shall, at all times, comply with all provisions of this Agreement.~~

- ~~11.5 — The University shall not knowingly access, store, distribute or transmit any viruses, or any material during the course of its use of the Services that:~~
- ~~11.5.1 — is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;~~
 - ~~11.5.2 — facilitates illegal activity;~~
 - ~~11.5.3 — depicts sexually explicit images;~~
 - ~~11.5.4 — promotes unlawful violence;~~
 - ~~11.5.5 — is discriminatory based on race, gender, colour, religious belief, sexual orientation, or disability; or~~
 - ~~11.5.6 — is otherwise illegal or causes damage or injury to any person or property.~~
- ~~11.6 — The University shall not (except as may be allowed by any Applicable Laws which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under this Agreement):~~
- ~~11.6.1 — attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Platform and/or Documentation (as applicable) in any form or media or by any means;~~
 - ~~11.6.2 — attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human perceivable form all or any part of the Platform;~~
 - ~~11.6.3 — access all or any part of the Services and Documentation in order to build a product or service which competes with the Services and/or the Documentation;~~
 - ~~11.6.4 — use the Services and/or Documentation to provide services to third parties;~~
 - ~~11.6.5 — license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services and/or Documentation available to any third party except the Authorised Users; or~~
 - ~~11.6.6 — attempt to obtain, or assist third parties in obtaining, access to the Services and/or Documentation, other than as provided under this Agreement.~~
- ~~11.7 — The University shall use reasonable endeavours to prevent any unauthorised access to, or use of, the Services and/or the Documentation and, in the event of any such unauthorised access or use, shall promptly notify the Supplier.~~

~~Services~~

- ~~11.8 — The Supplier shall make the Services available 24 hours a day, 7 days a week except as expressly agreed otherwise between the parties in writing (including in respect of any necessary maintenance of the Platform).~~
- ~~11.9 — The Supplier will, as part of the Services and at no additional cost to the University, provide the University with the Maintenance Services.~~
- ~~11.10 — The University acknowledges that the Supplier shall be entitled to modify the features and functionality of the Platform by means of an Update or Upgrade. The Supplier shall ensure that such Updates or Upgrades do not adversely affect the use of the Platform by the University, University Affiliates or Authorised Users.~~

Intellectual Property

~~11.11 — The parties agree that clauses 27.2 and 27.5 shall not apply and shall be replaced by the following:~~

~~11.11.1 — all Intellectual Property Rights in and to the information (including University Data) that is contained in reports, spreadsheets and all other output generated by the University's use of the Services belong to and shall remain vested in the University (or a University Affiliate, as applicable). The Supplier assigns (by way of present and, where appropriate, future assignation) all such Intellectual Property Rights to the University; and~~

~~11.11.2 — except for the rights expressly granted in this Agreement, the University, any University Affiliate and any Authorised Users and their direct and indirect sub-contractors, shall not acquire in any way any title, rights of ownership, or Intellectual Property Rights of whatever nature in the Platform and no Intellectual Property Rights of either party are transferred or licensed as a result of this Agreement.~~

~~11.12 — This paragraph 11 shall survive the termination or expiry of this Agreement.~~

SCHEDULE 9
SECURITY POLICY

1. SPECIFIC SECURITY REQUIREMENTS

- 1.1 The Supplier shall provide adequate security controls on all information systems used to process, store, or transmit University Data, where “adequate security” means the protective measures that are commensurate with the consequences and probability of loss, misuse, or unauthorised access to, or modification of information.
- 1.2 To provide adequate security, the Supplier shall develop, implement, maintain, and provide upon request a “Cybersecurity Plan/ Information Security Management System”.
- 1.3 The Cybersecurity Plan/ Information Security Management System may be based on an approved cybersecurity framework, including the NIST Cybersecurity Framework (CSF), the ISO 27000-series standards, or the Centre for Internet Security (CIS) Controls, but shall include, at a minimum, policies and procedures covering the following areas:
 - 1.3.1 identification of roles and responsibilities;
 - 1.3.2 legal and regulatory requirements;
 - 1.3.3 use of administrator accounts according to the principles of least privilege and separation of duties and not use as their day-to-day business account;
 - 1.3.4 the prompt revocation of credentials upon leaving the Supplier;
 - 1.3.5 enablement of multi-factor authentication where possible;
 - 1.3.6 consideration of the use of a password manager to store password credentials;
 - 1.3.7 user training for users at the point of joining the Supplier then annually or when a significant change to process or technology occurs;
 - 1.3.8 the backing up of data in a secure industry recognised approach and documenting the data backups disposal process;
 - 1.3.9 conducting incident response planning workshops and exercises at regular intervals;
 - 1.3.10 conducting background checks on all personnel who have access to the University Data or University Systems (which shall include as a minimum a basic Disclosure and Barring Service check);
 - 1.3.11 notifying the University of any incidents affecting the University Data and/or University Systems within 1 Business Day of the Supplier becoming aware of such incident;
 - 1.3.12 a vulnerability management programme and mitigation process that is conducted at least annually;
 - 1.3.13 enabling automatic software and application updates where possible; and
 - 1.3.14 performing regular anti-virus and anti-malware scanning.
- 1.4 At the request of the University, the Supplier shall ensure that all Supplier Personnel delivering the Services and/or Goods shall undergo University security training prior to commencement of the Services and/or delivery of the Goods.

- 1.5 All access by Supplier Personnel to University Systems will be provisioned on a least privilege basis and access will be removed where the relevant Supplier Personnel no longer requires access to the University Systems to deliver the Services and/or Goods.
- 1.6 Where the University so notifies the Supplier on or prior to the Commencement Date that this paragraph 1.6 applies, the Supplier shall ensure that any changes to Supplier Personnel providing the Services and/or Goods shall be notified in writing to the University and a suitably qualified alternative shall be provided and must comply with paragraphs 1.4 and 1.5 of this Schedule 7 (*Security Policy*).

2. COMPLIANCE

- 2.1 The University shall be entitled to evaluate the Supplier's cybersecurity efforts by comparing the submitted self-certifications to actual practices. In this respect, the Supplier may submit appropriate third-party documentation of compliance in lieu of University auditor inspection.
- 2.2 Without prejudice to any other provision of this Agreement, the University has the right to audit the Supplier if it believes or becomes aware of issues relating to data and information security that may affect the University. The audit may be conducted by University staff or an appointed third party.

3. CYBERSECURITY REQUIREMENTS FOR INFORMATION TECHNOLOGY RESOURCES

- ~~3.1 The Supplier shall be responsible for information technology ("IT") cybersecurity for all systems that process, store, or transmit University Data, regardless of location. This paragraph 3 is applicable to all or any part of this Agreement that includes information technology resources or services for which the Supplier has physical or electronic access to University Data.~~
- ~~3.2 The Supplier shall establish, implement, and maintain a Cybersecurity Plan/ Information Security Management System. This shall describe the processes and procedures that will be followed to ensure the appropriate security of IT resources that are developed, processed, or used under this Agreement. The Cybersecurity Plan/ Information Security Management System shall comply with Applicable Laws.~~
- ~~3.3 Within 30 days after the Commencement Date, the Supplier shall provide self-certification to the University which shall affirm that the Supplier has implemented the required Cybersecurity Plan/ Information Security Management System and it is in compliance with the requirements stated in this paragraph 3. The self-certification shall be incorporated into this Agreement as a compliance document.~~
- ~~3.4 The Supplier shall ensure that the Supplier Personnel receive annual cybersecurity training, with other specific training being conducted where necessary.~~
- ~~3.5 Without prejudice to any other provision of this Agreement, the Supplier shall afford the University reasonable and timely access to the Supplier's and/or its sub-contractor's facilities, installations, operations, documentation, databases, IT systems and devices, and personnel used in performance of this Agreement, regardless of the location, not more than once annually, except that such access shall be granted at any time in case of a data breach affecting the University.~~
- ~~3.6 Access shall be provided to the extent required, in the University's sole discretion, to conduct an inspection, evaluation, investigation or audit, including vulnerability testing~~

to safeguard against threats and hazards to the integrity, availability, and confidentiality of University Data or to the function of IT systems operated on behalf of the University, and to preserve evidence of computer crime. This information shall be available to the University upon request.

- ~~3.7 — In lieu of an annual audit, the Supplier may provide to the University written documentation of its compliance with the Cybersecurity Plan/ Information Security Management System or the underlying frameworks documented therein, prepared by a third party.~~
- ~~3.8 — The Supplier shall incorporate the substance of this paragraph 3 in all sub-contracts that meet the conditions in paragraph 3.1 of this Schedule 7 (Security Policy).~~
- ~~3.9 — The University shall be entitled to exercise its termination rights under clause 31.2.2 where the Supplier fails to materially comply with the terms of this paragraph 3.~~
- ~~3.10 — Where the University so requests, the Supplier shall carry out and provide evidence of annual penetration tests. Such tests shall be completed within 10 Business Days of the anniversary of the Commencement Date or such other date that the parties agree in writing. Such evidence shall be unredacted (where possible) and shall include whether the tests have passed or failed and if the tests have failed details of where and why the tests failed.~~
- ~~3.11 — Where a penetration test carried out by or on behalf of the Supplier has failed, the Supplier shall undertake remedial action to fix the vulnerability within a reasonable timeframe (and in any event no later than 30 days following completion of the relevant penetration test) and as soon as reasonably practicable thereafter undertake a further penetration test to ensure that the fix has been successful and provide evidence to the University of the retest and the outcome within 6 weeks of the original penetration test.~~
- ~~3.12 — The Supplier shall ensure that all penetration tests are completed by an accredited testing organisation which is either CREST or CHECK accredited.~~
- ~~3.13 — Where the University so requests, the Supplier shall undertake quarterly vulnerability tests and provide evidence to the University of the outcome of such tests within 5 Business Days of undertaking such tests.~~
- ~~3.14 — The Supplier shall ensure that all security related fixes and updates are applied in a reasonable timeframe (with any 'Critical' and/or 'High' findings (or any other material issue type finding) are applied within 14 days of discovery) and provide details to the University of when they will be applied. This requirement applies as a minimum to applications, operating systems, firmware and third party libraries.~~

4. TECHNICAL CONTROLS

- 4.1 Where any University Data is to be deleted or sanitised the Supplier shall, at a minimum, follow ISO27040 as the basis for 'sanitisation' and 'cryptographic erase' following Good Industry Practice.
- 4.2 In respect of the University Data, where data destruction on reusable drives is employed, the Supplier shall ensure secure deletion of the data using industry recognised processes or tools is deployed.
- 4.3 In respect of the University Data, the Supplier shall ensure that data at rest is encrypted to a minimum of AES256 bit.

- 4.4 In respect of the University Data, the Supplier shall ensure that data in transit over public facing infrastructure is protected using industry recognised standards (e.g. https, certificates etc.).
- 4.5 In respect of the University Data, where physical or soft data is required to be destroyed by a third party then the Supplier shall ensure that an ADISA certified organisation is engaged for IT asset disposal services.

SCHEDULE 10
DATA PROTECTION

Part 1 – Operative provisions

1. DEFINITIONS

1.1 In this Schedule:

“Controller”, “Data Subject”, “Personal Data”, “Personal Data Breach”, “processing”, and “Processor” have the meaning given in applicable Data Protection Laws from time to time (and related expressions, including **“process”, “processed”, and “processes”**, shall be construed accordingly);

“Data Loss Event” means any event that results, or may result, in unauthorised access to University Personal Data held by the Supplier and/or actual or potential loss and/or destruction of University Personal Data in breach of this Agreement, including any Personal Data Breach;

“Data Protection Impact Assessment” means an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data;

“Data Protection Legislation” means any Applicable Laws relating to the processing, privacy and/or use of Personal Data, as applicable to either party or the Services, including:

- (a) the UK GDPR;
- (b) the Data Protection Act 2018; and
- (c) all guidance, guidelines and codes of practice issued by any relevant Data Protection Supervisory Authority relating to such laws (in each case whether or not legally binding);

“Data Protection Supervisory Authority” means any regulator, authority or body responsible for administering Data Protection Laws;

“Data Subject Access Request” means a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data;

“Protective Measures” means appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data; ensuring confidentiality, integrity, availability and resilience of 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 such adopted measures;

“Restricted Transfer” means a transfer of Personal Data by the University to the Supplier and/or any onward transfer from the Supplier to a Sub-Processor, in which case where such a transfer would be prohibited under Data Protection Legislation in the absence of the protection for the transferred Personal Data provided by the UK Standard Contractual Clauses or any other applicable mechanism under the UK GDPR;

“Sub-Processor” means any agent, sub-contractor or other third party engaged by the Supplier (or by any other Sub-Processor) for carrying out any processing activities in respect of the University Personal Data;

“UK GDPR” means the General Data Protection Regulation (Regulation (EU) 2016/679) as transposed into UK national law by operation of section 3 of the European Union (Withdrawal) Act 2018 and as amended by the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019;

“UK Standard Contractual Clauses” means as applicable the UK Addendum to the EU Standard Contractual Clauses or the UK International Data Transfer Addendum, as amended or replaced from time to time pursuant to article 46 UK GDPR; and

“University Personal Data” means Personal Data received from or on behalf of the University, or otherwise obtained in connection with the performance of the Supplier’s obligations under this Agreement.

2. DATA PROTECTION TERMS

- 2.1 The parties acknowledge that the University is the Controller and that the Supplier is the Processor for the purposes of processing University Personal Data pursuant to this Agreement.
- 2.2 The Supplier shall, and shall ensure its Sub-Processors and each of the Supplier Personnel shall, at all times comply with all Data Protection Legislation in connection with the processing of University Personal Data and the provision of the Services and/or Goods and shall not by any act or omission cause the University (or any other person) to be in breach of any of the Data Protection Legislation. Nothing in this Agreement relieves the Supplier of any responsibilities or liabilities under Data Protection Legislation.
- 2.3 The Supplier shall notify the University immediately if it considers that any of the University’s instructions infringe the Data Protection Legislation and/or if the Supplier and/or its Sub-Processors are unable to comply with the terms of this Schedule.
- 2.4 The Supplier shall provide all reasonable assistance to the University in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the University, include:
 - 2.4.1 a systematic description of the envisaged processing operations and the purpose of the processing;
 - 2.4.2 an assessment of the necessity and proportionality of the processing operations in relation to the Services and/or Goods;
 - 2.4.3 an assessment of the risks to the rights and freedoms of Data Subjects; and
 - 2.4.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 2.5 The Supplier shall, in relation to any University Personal Data:
 - 2.5.1 process that Personal Data only in accordance with Part 2 of this Schedule or otherwise as documented in writing by the University, unless the Supplier is required to do otherwise by Applicable Laws and, if it is so required, the

Supplier shall promptly notify the University before processing the Personal Data in such a manner unless prohibited by Applicable Laws;

2.5.2 ensure that it has in place Protective Measures which have been reviewed and approved by the University as appropriate to protect against a Data Loss Event having taken account of the:

- (a) nature of the data to be protected;
- (b) harm that might result from a Data Loss Event;
- (c) state of technological development; and
- (d) cost of implementing any measures;

2.5.3 ensure that:

- (a) the Supplier Personnel do not process Personal Data except in accordance with this Agreement (and in particular Part 2 of this Schedule);
- (b) it takes all reasonable steps to ensure the reliability and integrity of any Supplier Personnel who have access to the Personal Data and ensure that they:
 - (i) are aware of and comply with the Supplier's duties under this paragraph;
 - (ii) are subject to appropriate confidentiality undertakings with the Supplier;
 - (iii) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the University or as otherwise permitted by this Agreement; and
 - (iv) have undergone adequate training in the use, care, protection and handling of Personal Data; and

2.5.4 not transfer Personal Data outside of the UK or the EU unless the prior written consent of the University has been obtained and the following conditions are fulfilled:

- (a) insofar as the transfer involves a Restricted Transfer:
 - (i) the Supplier has ensured there are appropriate safeguards in relation to the transfer in accordance with UK GDPR Article 46 between the Supplier and any Sub-Processor to ensure the adequate protection of the transferred Personal Data; and
 - (ii) the Supplier carries out a transfer impact assessment in relation to each Sub-Processor to ensure that the laws and practices in the relevant third country to which the Personal Data is imported do not prevent the Supplier from fulfilling its obligations under this Agreement; and

- (b) the Supplier complies with any reasonable instructions notified to it in advance by the University with respect to the processing of the Personal Data.
- 2.6 The Supplier shall, at the written direction of the University, delete or return University Personal Data (and any copies of it) to the University on termination of this Agreement unless the Supplier is required by Applicable Laws to retain the University Personal Data.
- 2.7 Without prejudice to paragraph 2.8 of this Schedule, the Supplier shall notify the University as soon as reasonably practicable (and in any event no later than 24 hours of receipt or, in the case of paragraph 2.7.6, becoming aware) if it:
 - 2.7.1 receives a Data Subject Access Request (or purported Data Subject Access Request);
 - 2.7.2 receives a request to rectify, block or erase any University Personal Data;
 - 2.7.3 receives any other request, complaint or communication relating to either party's obligations under the Data Protection Legislation;
 - 2.7.4 receives any communication from the Information Commissioner's Office or any other regulatory authority in connection with the University Personal Data;
 - 2.7.5 receives a request from any third party for disclosure of University Personal Data where compliance with such request is required or purported to be required by Applicable Laws; or
 - 2.7.6 becomes aware of a Data Loss Event.
- 2.8 In relation to a Data Loss Event, the Supplier shall notify the University as soon as reasonably practicable (and in any event no later than 24 hours of becoming aware of the Data Loss Event) of the:
 - 2.8.1 nature of the Data Loss Event;
 - 2.8.2 categories and approximate number of Data Subjects and Personal Data concerned;
 - 2.8.3 likely consequences of the Data Loss Event; and
 - 2.8.4 the measures proposed to be taken to address the Data Loss Event and to mitigate its possible adverse effects.

The Supplier's obligation to notify the University of a Data Loss Event shall include the provision of further information to the University in phases, as details become available.
- 2.9 Taking into account the nature of the processing, the Supplier shall provide the University with full assistance in relation to either party's obligations under Data Protection Legislation and any complaint, communication or request made under paragraph 2.7 of this Schedule (and insofar as possible within the timescales reasonably required by the University) including by promptly providing:
 - 2.9.1 the University with full details and copies of the complaint, communication or request;

- 2.9.2 such assistance as is reasonably requested by the University to enable the University to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
 - 2.9.3 the University, at its request, with any Personal Data the Supplier holds in relation to a Data Subject;
 - 2.9.4 assistance as requested by the University following any Data Loss Event; and
 - 2.9.5 assistance as requested by the University with respect to any request from the Information Commissioner's Office, or any consultation by the University with the Information Commissioner's Office.
- 2.10 For the avoidance of doubt, the Supplier shall not make or permit any announcement in relation to the complaints, communications or requests detailed in paragraphs 2.7 and 2.9 of this Schedule without the University's prior written consent.
- 2.11 The Supplier shall maintain complete and accurate records and information to demonstrate its compliance with this Schedule in accordance with Data Protection Legislation.
- 2.12 The Supplier shall allow for audits of its processing activities under this Agreement by the University or the University's designated auditor. The Supplier shall maintain complete, accurate and up to date written records of all categories of processing activities carried out on behalf of the University. Such records shall include all information necessary to demonstrate its and the University's compliance with this Schedule and such other information as the University may reasonably require from time to time. The Supplier shall make copies of such records available to the University promptly (and in any event within 14 days) on request from time to time.
- 2.13 The Supplier shall designate a data protection officer if required by the Data Protection Legislation.
- 2.14 Before allowing any Sub-Processor to process any University Personal Data, the Supplier must:
- 2.14.1 notify the University in writing of the intended Sub-Processor and full details of the intended processing to be undertaken by the Sub-Processor;
 - 2.14.2 carry out adequate due diligence of the Sub-Processor to ensure that it is capable of providing the level of protection for the Personal Data as is required under this Agreement;
 - 2.14.3 obtain the written consent of the University;
 - 2.14.4 enter into a written agreement with the Sub-Processor which provides for, in substance, the same data protection obligations as those set out in this Schedule;
 - 2.14.5 insofar as that contract involves a Restricted Transfer, ensure that:
 - (a) the Supplier has ensured there are appropriate safeguards in relation to the transfer in accordance with UK GDPR Article 46 between the Supplier and any Sub-Processor to ensure the adequate protection of the transferred Personal Data;

- (b) the Supplier carries out a transfer impact assessment in relation to each Sub-Processor to ensure that the laws and practices in the relevant third country to which the Personal Data is imported do not prevent the Supplier from fulfilling its obligations under this Agreement; and
 - (c) provide the University with such information regarding the Sub-Processor as the University may reasonably require.
- 2.15 The Supplier shall remain fully liable for all acts or omissions of any Sub-Processor.
- 2.16 The Supplier will indemnify the University against all losses, claims, demands in each case arising out of or in connection with any breach by the Supplier or any Sub-Processor of any of its obligations under this Schedule (including any failure or delay in performing or negligent performance or non-performance of any of those obligations).
- 2.17 The parties agree to take account of any guidance issued by the Information Commissioner's Office. The University may on not less than 30 Business Days' notice to the Supplier amend this Agreement to ensure that it complies with Data Protection Legislation and any guidance issued by the Information Commissioner's Office.
- 2.18 The Supplier shall perform all its obligations under this Schedule at no cost to the University.

Part 2—Data processing details—Not required

Processing of the University Personal Data by the Supplier under this Agreement shall be for the subject matter, duration, nature and purposes and involve the types of Personal Data and categories of Data Subjects set out in this Part 2 of Schedule 10 (*Data Protection*).

Description	Details
Subject matter of the processing	
Duration of the processing	
Nature and purposes of the processing	
Type of Personal Data	
Categories of Data Subject	
Plan for return and destruction of the data once the processing is complete UNLESS requirement under Applicable Laws to preserve that type of data	

SCHEDULE 11

POLICIES

The Supplier and the Supplier Personnel shall comply with the following Policies:

1. Contractor Information (available at: <https://www.sheffield.ac.uk/efm/help-desk/contractors>)
2. Equal Opportunities Policy (available at: <https://www.sheffield.ac.uk/govern/equal-opportunities-policy>)
3. Modern Slavery Statement (available at: <https://www.sheffield.ac.uk/procurement/modern-slavery>)
4. Sustainability Policies (available at: <https://www.sheffield.ac.uk/sustainability/policies>)
5. Supplier Code of Conduct (available at <https://www.sheffield.ac.uk/procurement/suppliers-information#Code>)

SCHEDULE 12
TEMPLATE CHANGE CONTROL NOTICE

Template change control notice to be completed for changes to the Services, Goods and/or Agreement:

Change Control Notice to the Purchase of Goods and Services Agreement between University of Sheffield and [insert Supplier name] dated [insert date]	
Change Title: [insert]	
Change Control Notice No.: [insert number]	Effective date of change: [insert date]
1. Reason for change [describe why the change is being made]	
2. Description of change [describe and detail what will be changed (including any change to the specification, price, timetable etc.)]	
3. Impact analysis <ul style="list-style-type: none"> Service Levels: Charges: Services timetable: Personnel: Working arrangements: Other: [set out in detail the impact, if any, of the change on the above matters]	
4. Amendments to the Agreement [clearly identify which parts of the Agreement will be amended, including clause or Schedule numbers; the affected text, whether it is being deleted, replaced or added to; the new text; any other amendments needed to the Agreement]	
5. Timetable and responsibilities for implementing the change [set out who will do what, by when]	
6. Other relevant information [set out any other relevant information]	
Signed by a signatory, duly authorised on behalf of University of Sheffield	Signed by a signatory, duly authorised on behalf of [insert Supplier name]
Signature	Signature

Print Name	Print Name
Title.....	Title.....
Date	Date.....

SCHEDULE 13
BUSINESS CONTINUITY AND DISASTER RECOVERY

1. BUSINESS CONTINUITY AND DISASTER RECOVERY PLANS

- 1.1 The Supplier shall maintain appropriate business continuity and disaster recovery plans to ensure that it:
- 1.1.1 has up-to-date and fit-for-purpose business continuity plan(s) and if required, associated disaster recovery plan(s) for the Goods and/or Services that it provides;
 - 1.1.2 identifies in the business continuity plan(s) the priority and time critical activities for the Goods and/or Services that it provides and contains suitable back up arrangements for them;
 - 1.1.3 identifies a defined structure to respond to Incidents, including a process for invoking any such plan(s);
 - 1.1.4 ensures that the Supplier Personnel are aware of such plan(s), their roles in them and are trained appropriately;
 - 1.1.5 identifies dependencies including single points of failure and third party involvement required as part of such plan(s); and
 - 1.1.6 reviews such plan(s) and conducts exercises to assess the effectiveness of its arrangements.

SCHEDULE 14

EXIT

1. EXIT PLAN

- 1.1 The Supplier acknowledges that the purpose of the Exit Plan is to help the University achieve the following objectives:
 - 1.1.1 facilitate a seamless, orderly, secure, timely and efficient wind down and/or transition from the Services; and
 - 1.1.2 for this to be done in in a manner to ensure minimal disruption to the University,(together, the “**Exit Objectives**”).
- 1.2 The content of the Exit Plan shall:
 - 1.2.1 set out all planning assumptions on which the Exit Plan is based;
 - 1.2.2 include an agreed list of meetings to be held during the exit period (and beyond, if agreed by the parties), together with an agreed list of recurring agenda items;
 - 1.2.3 include a statement of the strategy, management processes and controls to be used by the Supplier in the implementation of the Exit Plan, including the key roles, personnel and responsibilities of the Supplier’s exit management team;
 - 1.2.4 include a milestone plan in the Exit Plan for the key activities to be completed, the transitional services that are to be provided by the Supplier and the responsibilities and obligations of each party (including any dependencies on the University);
 - 1.2.5 include sufficient planning information to enable the parties to agree that the Exit Plan is achievable within the required timescales;
 - 1.2.6 support the achievement of the Exit Objectives; and
 - 1.2.7 set out the procedure and processes for transferring (including to a Replacement Service Provider) the University Data and migrating any other data.