

**CONTRACT TO SUPPLY**

**Services (with staff on site)**

**at**

**The University of Bradford**

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## **Section 1 Parties to the Contract**

**THIS CONTRACT** is made on the following date: [insert date]

**BETWEEN**

**(1) The University of Bradford** of Richmond Road, Bradford, BD7 1DP (“**the** **University**”) and

**(2) Supplier Name** Registered in England and Wales Company Registration No.[insert Registration No] the Registered Office of which is at [insert address of the Supplier] (“**the Supplier**”);

**IT IS HEREBY AGREED** between the University and the Supplier that:

1. This Contract constitutes the entire agreement between the parties in respect of the Services.
2. So long as the Supplier shall supply the Services in accordance with thisContract and to the satisfaction of the University, the University shall pay the Supplier the Contract Sum in accordance with the terms of the Contract.

## **Section 2 Conditions of Contract**

* 1. **Definitions and Interpretations**
  2. The following definitions shall be used for the purposes of interpreting this Contract and all documents relating thereto (and other definitions that are not applicable to all Sections shall be stated in the Section where the definition is first used and shall apply only to that Section and subsequent Sections as appropriate) except where the context requires otherwise:

“**Additional Services**” means any services which are not within the scope of the Services but which the University requests that the Supplier performs from time to time;

“**Approved**” or “**Approval**” means approved in writing;

“**Change of Control**” means the direct or indirect acquisition of either the majority of the voting stock, or of all, or substantially all of the assets, of the Supplier by another entity in a single transaction or a series of transactions.

“**Charging Rate**” means as defined in **Section 5** (Schedule of Prices);

“**University’s Representative**” shall mean the Signatory of this Contract/Purchase Order or his/her nominated representative;

“**Commencement Date**” shall be [insert commencement date];

“**Conditions**” means these Conditions of Contract (including the Schedules attached hereto);

“**Contract**” shall comprise the following documents (the “**Contract Documents**”) which shall be read as one document and which, in the event of conflict or contradiction between Sections, shall be given precedence in the order listed:

1. Section 1 – Parties to Contract, entire agreement and appointment
2. Section 2 – Conditions of Contract
3. Section 3 – Service Level Agreement
4. Section 4 – Specification
5. Section 5 – Schedule of Prices;

“**Supplier’s Representative**” shall mean the named person responsible to the Supplier for the management of the Service;

“**Contract Period**” shall mean the period from the Commencement Date up to [insert contract end date] unless extended at the option of the University in accordance with **Clause 2.10.2** or terminated by the University in accordance with this Contract;

“**Contract Sum**” shall mean subject to **Clause 2.35**, the price calculated in accordance with **Section 5** (Schedule of Prices)

“**Contract Year**” means each 12-month period from the Commencement Date during the Contract Period;

“**Current Supplier**” shall mean; the outgoing service provider whom the Supplier is replacing under this agreement.

**“Data Breach”** shall mean any act or omission that (i) compromises the security,

confidentiality or integrity of the Personal Data that Supplier Processes for and on

behalf of the University (including, by way of example, the unauthorised loss or disclosure of any such Personal Data by Supplier); (ii) compromises the physical, technical, administrative or organisational safeguards put in place by the Supplier that relate to the protection of the security, confidentiality or integrity of such Personal Data (including any breach of the IT and data security requirements); or (iii) causes the University or Supplier to be in breach of data protection Law (in particular the General Data Protection Regulation);

“**Data Controller**” has the meaning set out in the DPA up to and including 24th May 2018 and has the meaning of “Controller” set out in the GDPR from 25th May 2018;

“**Data Protection Particulars**” means, in relation to any Processing under this Contract:

1. the subject matter and duration of the Processing;
2. the nature and purpose of the Processing;
3. the type of Personal Data being Processed; and
4. the categories of Data Subjects.

“**Data Subject**” has the meaning set out in the DPA up to and including 24th May 2018 and from 25th May 2018 has the meaning set out in the GDPR;

“**DPA**” means the Data Protection Act 2018 and the rules and regulations made or having effect under it;

“**Equipment**” shall mean all equipment required by the Supplier in order to fulfil his obligation under the Contract;

“**FOIA**” shall mean the Freedom of Information Act 2000;

**“GDPR”** meansRegulation (EU) 2016/679 of the European Parliament and of the Council of 27th April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) OJ L 119/1, 4.5.2016;

“**Information**” has the meaning given to it in **Clause 2.38**;

“**Monthly Contract Sum**” shall mean 1/12th of the Contract Sum;

“**Personal Data**” has the meaning set out in the DPA up to and including 24th May 2018 and from 25th May 2018 has the meaning set out in the GDPR. For the Purposes of this Contract, Personal Data shall include Sensitive Personal Data;

“**Processing**” has the meaning set out in the DPA up to and including 24th May 2018 and has the meaning set out in the GDPR from 25th May 2018, and “Process” and “Processed” shall be construed accordingly;

“**Processor**” has the meaning of “Data Processor” as set out in the DPA up to and including 24th May 2018 and has the meaning set out in the GDPR from 25th May 2018;

“**Review Date**” means the date of the annual review of the Contract, to take place on an agreed date, as more particularly detailed in the Specification;

“**Sensitive Personal Data**” means Personal Data that reveals such categories of data as are listed in Article9(1) of the GDPR;

“**Service Level Agreement**” shall mean the document detailing the service levels the Supplier must perform to as set out in **Section 3**;

“**Services**” shall mean the services to be performed under this Contract as detailed in the Specification;

“**Site**” means the location of the University where the Supplier is to perform the Services as set out in the Specification or as advised by the University from time to time;

“**Specification**” shall mean the specification detailing the Services to be provided as set out in **Section 4**;

“**Staff**” shall mean personnel Approved in advance by the University provided by the Supplier to execute the Service;

**“Sub-processor”** any third Party appointed to process Personal Data on behalf of that Processor related to this Agreement;

“**Termination Date**” means the date of termination or expiry of this Contract;

“**TUPE**” means the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended or re-enacted from time to time and including any subordinate legislation enacted thereunder;

“**Variations**” shall mean an executed variation in compliance with the requirements of **Clause 2.30**;

“**Variation to Contract Form**” means the form set out in Annex A to this Contract.

* 1. References to any enactment, order, regulation or other similar instrument shall be construed as a reference to the enactment, order, regulation or instrument as amended by any subsequent enactment, order, regulation or instrument.
  2. The interpretation and construction of this Contract shall be subject to the following provisions:

1. The headings in this Contract are for the convenience of the parties only and do not affect its interpretation.
2. Words importing the singular meaning include where the contact so admits the plural meaning and vice versa.
3. Where the contract so admits words denoting the masculine gender includes the feminine and neuter genders and words denoting natural persons include Universitys and firms and all such words shall be construed interchangeably in that manner.
4. Reference to a Condition, Clause, Schedule or a Section is to a Condition, Clause, Schedule or a Section of this Contract.
   1. The word “**indemnify**” in this Contract shall mean to indemnify, keep indemnified and hold harmless the indemnified party from and against all costs (including the costs of enforcement), expenses, liabilities (including any tax liability), injuries, direct, indirect or consequential loss, pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss, damages, claims, demands, proceedings or legal costs (on a full indemnity basis) and judgement which the indemnified party incurs or suffers and “**indemnity**”, “**indemnities**” and “**indemnifies**” have a corresponding meaning.
   2. The word “**month**” means calendar month.
5. **The Services**
   1. From the Commencement Date and throughout the Contract Period the Supplier shall provide the Services upon the terms and subject to the conditions of this Contract, and subject thereto the University shall pay the Contract Sum.
   2. The Supplier shall provide the Services strictly in accordance with and subject to the provisions of the Specification including, without limitation, as to description and frequency and in particular, but without prejudice to the generality of the foregoing, the Supplier shall:
      1. Perform the Services in accordance with and to all and any standards specified in the Contract Documents in relation to the whole or part of the services and if no standard is specified the standard shall be the standard specified in clause **2.2.2.2**.
      2. Promptly and diligently comply with and perform its obligations under this Contract with all proper skill, care and diligence and in accordance with good industry practice for services of the same nature of the Services.
      3. Ensure that all materials which the Supplier supplies to the University, are owned by it and are free from defects in materials, design and workmanship.
      4. Ensure that all materials and Equipment used in the performance of the Services where appropriate comply with any relevant British Standard specification and where required to be Approved under the terms of the Specification, are approved by the University’s Representative.
      5. Perform the Services during the hours stated in the Specification or as otherwise agreed in writing with the University.
      6. Do all such acts and things and employ and deploy such Staff, persons, resources, equipment and assets as may be required to procure the uninterrupted provision of the Services to the University in accordance with the terms of this Contract.
   3. The Supplier warrants and represents to the University that it has full power and authority to enter into and to carry out the provisions of this Contract and has the capacity and resources available to it to perform the Services.
   4. Nothing in this Agreement shall imply any relationship of agency or partnership between the University and Supplier in relation to the provision of the Services.
6. **Transfer of The Services**
   1. Prior to the Commencement Date and thereafter, the Supplier shall provide all such assistance and cooperation (at its own cost) as is necessary to procure that the transfer of the Services from the provision by the Current Supplier to the Supplier shall be implemented in such a way to ensure a seamless transfer from the Current Supplier to the Supplier with no reduction in service or quality.
7. **Service of Notice**
   1. Any notice or other communication which the University is required to give under this Contract shall be sufficiently given if sent by recorded or registered post or by facsimile to the last known address of the Supplier, or if delivered by hand to an authorised representative of the Supplier or the Supplier’s Representative.
8. **Conditions Affecting Execution Of The Service**
   1. The Supplier shall be deemed to have satisfied himself as regards the means of communication with and access to the University, the nature of the Services, the Site, the risk of injury or damage to property in the University or to the occupiers of such property, the conditions under which the Services may be carried out, the supply of, and conditions affecting labour, the condition of the existing plant and machinery and generally to have obtained its own information on all matters affecting the execution of the Services and the prices tendered therefore.
   2. No claim by the Supplier for additional payment shall be allowed on the grounds of any misunderstanding or misapprehension in respect of any such matter set out in clause **2.5.1** or otherwise or on the grounds of any allegation or fact that incorrect information was given to him by any person whether in the employment of the University or not, or of the failure on its part to obtain correct information nor shall the Supplier be relieved from any risks or obligations imposed on or undertaken by the Supplier under this Contract on any such grounds.
   3. In the case of any information provided by the University, the University makes no representations as to the accuracy of that information and shall accept no responsibility for representations or omissions in any document or other instruction provided by the University.
9. **Supply Of Staff**
   * 1. The Supplier shall, unless specified elsewhere, supply Staff to the standards required to fulfil the Services in accordance with the Specification or good industry practice. The Supplier shall keep the turnover of staff to a minimum including providing additional Staff to cover sick leave, holiday and maternity lease and the Supplier shall supply sufficient extra competent Staff for any Additional Services or work covered by a Variation.
     2. When directed by the University, the Supplier shall provide a list of the names and addresses of all persons (if any) who it is expected may require admission in connection with the Contract to the Premises, specifying the capacities in which they are concerned with the Contract and giving such other particulars as the University may reasonably require.
     3. Except with the proper written consent of the University, the Supplier shall not vary any terms and conditions of employment of any employee or any policy collective agreement applicable to any employee then assigned by the Supplier or its sub-Suppliers to the discharge of the Contract (provided always that this provision shall not affect the right of the Supplier to give effect to any pre-existing contractual obligation to any such employee) nor remove or replace any particular employee so assigned (unless requested by such employee or upon the resignation of such employee in which case the Supplier shall replace such person with another person of similar skills, qualifications and experience) after the University has served notice of the termination of the Contract or after the Supplier shall have otherwise become aware of the proposed termination or re-tendering of this Contract.
     4. TheSupplier’s employees and those (if any) of the Supplier’s sub-Suppliers or agents engaged within the boundaries of any of the University’s Premises, shall comply with such rules, regulations and requirements (including those relating to security arrangements) as may be in force from time to time for the conduct of personnel when at that establishment, and when outside that establishment.
     5. The University’s decision as to whether any person is to be refused access to any Premises occupied by or on behalf of the University shall be final and conclusive and where DBS clearance is specified, this shall be a condition of contract.
     6. The Supplier shall replace any of its employees who, the University shall have reasonably decided (and notified to the Contactor in writing), have failed to carry out their duties with reasonable skill and care. Following the removal of any of the Supplier’s employees for any reason, the Supplier shall ensure such person is replaced promptly with another person with the necessary training and skills to meet the requirements of the Contract.
     7. The Supplier shall bear the cost of or costs arising from any notice, instructions or decision of the University under this clause 2.6.
     8. The Supplier shall take all reasonable steps to ensure that any employees, servants or agents of the Supplier and any sub-Suppliers, their employees, servants or agents, employed in the execution of the Contract are entitled to obtain employment in the United Kingdom and are not claiming any benefit payable to persons registered as unemployed.
     9. Where the appointed Supplier Representative leaves the employment of the Supplier the University must be informed immediately of interim arrangements made.
     10. The Supplier shall ensure that all employees, servants or agents delivering the Services or attending the Premises are subject to a valid enhanced disclosure check undertaken through the Disclosure and Barring Service including a check against the adults' barred list or the children's barred list, as appropriate; and shall monitor the level and validity of the checks under this clause 2.6.10 for each individual.
     11. The Supplier warrants that at all times for the purposes of this Contract it has no reason to believe that any employees, servants or agents are barred from the activity in accordance with the provisions of the Safeguarding Vulnerable Groups Act 2006 and any regulations made thereunder, as amended from time to time.
     12. The Supplier shall not employ or use the services of any person who is barred from, or whose previous conduct or records indicate that he or she would not be suitable to carry out the Services or who may otherwise present a risk to any persons.
10. **Transfer of Undertakings (Protection Of Employment) (TUPE)**
    * 1. The Supplier shall indemnify and keep indemnified the University against any loss incurred by the University connected with or arising from any claim or proceedings by any trade union, elected employee representative or staff association made against the University in respect of any or all of the Supplier’s staff or employees or any other employee of the Supplier or its sub-Suppliers and which arises from or is connected with any failure by the Supplier to comply with its legal obligations in relation thereto whether under Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 or TUPE.
      2. The Supplier shall indemnify and keep indemnified the University against any loss incurred by the University connected with or arising from the contract of employment or any policy applicable to, or any collective agreement in respect of any of the Supplier’s staff or any other person at any time employed by (or engaged as a consultant by) the Supplier or its sub-Suppliers made against the University at any time for breach of such contract, policy or redundancy, pay, sex, race or disability discrimination, equal pay, unlawful deductions, loss of earnings, industrial or personal injury or otherwise relating to their employment by the Supplier and which results from any act, fault or omission of the Supplier or such other person was employed by the Supplier, save to the extent that the liability arises from any wrongful act by the University or its employees.
      3. The Supplier shall indemnify and keep indemnified the University against any loss incurred from any change or proposed change to the terms and conditions of employment of any or all of the Supplier’s staff or any other employee of the Supplier or its sub-Suppliers where such change is or is proposed to be effected following the transfer of any such person pursuant to the agreement and in respect of any loss incurred by the University arising from the employment or proposed employment of any such person otherwise than on terms the same as those enjoyed by any such person immediately prior to such transfer.
      4. Except with the proper written consent of the University, the Supplier shall not vary any terms and conditions of employment of any employee or any policy collective agreement applicable to any employee then assigned by the Supplier or its sub-Suppliers to the discharge of the Contract (provided always that this provision shall not affect the right of the Supplier to give effect to any pre-existing contractual obligation to any such employee) nor remove or replace any particular employee so assigned (unless requested by such employee or upon the resignation of such employee in which case the Supplier shall replace such person with another person of similar skills, qualifications and experience) after the University has served notice of the termination of the Contract or after the Supplier shall have otherwise become aware of the proposed termination or re-tendering of this agreement, any Contract or the provision by it of the Goods and Services.
      5. If by virtue of TUPE there is on commencement of the provision of the Services transferred to the Supplier any Transferring Employee, the University shall:
    1. promptly provide to the Supplier in writing, such information pertaining to such Transferring Employees as the Supplier may require (including, without limitation, their identity, contract of employment, salary, length of service, bonus, commission, benefits, periods of notice and pension rights) (“TUPE Information”);

* 1. warrant that the TUPE Information provided by the University to the Supplier shall be complete and accurate in all material respects.
  2. indemnify the Supplier from and against all losses, damages, liabilities, expenses, costs, actions, awards, penalties, fines and proceedings which the Supplier may suffer or incur arising out of or in connection with any claim or threatened claim or other legal recourse by all or any employees of the University in respect of:

1. any matter concerning or arising from the employment or termination of employment with the University before the date of transfer;
2. any act or omission of the University;
3. any claim for breach of contract, unlawful deduction of wages, or any claim under the Equality Act 2010 arising as a result of the Supplier continuing, in good faith, to pay the employees and provide benefits under the same terms and conditions provided by the University before the date of transfer.

2.7.6 The provisions of **Section 8 Pensions)** will apply to any Transferring Employee entitled to continuous membership of the Local Government Pension Scheme.

1. **Provision of Equipment and Materials**
   1. The Supplier shall provide all Equipment and materials and all other items necessary for the execution of the Services. The Supplier shall provide for haulage or carriage thereof to the University and the removal of such Equipment when no longer required.
   2. Notwithstanding clause **2.8.1** above, the Supplier shall use due skill care and attention in the use of any equipment owned or licensed to the University and will indemnify the University against all loss and damage (including consequential and economic loss and damage, loss of profit, pure economic loss, loss of business, depletion of goodwill and like loss) resulting from any damage to or misuse of the such Equipment for which the Supplier or its employees or subcontractors may be responsible.
2. **Care and Diligence**

Subject to clause **2.2.2**:

* 1. The Supplier shall perform the Services in accordance with the terms of this Contract and with due skill, care and diligence and good industry practice using the most efficient and cost-effective means and methods.
  2. In performing the Services, the Supplier shall comply with all applicable legal requirements and the University’s requirements set out in the Specification or as otherwise notified to the Supplier from time to time and Conditions including (without limitation) insurer’s requirements.
  3. The Supplier shall carry out the Services in such a way as to ensure that the activities of the University are not disturbed or disrupted.

1. **Contract Period**
   1. The Contract Period shall be from the Commencement Date up to [insert Contract end date], unless terminated earlier in accordance with this Contract. The Supplier shall provide the Services from the Commencement Date and throughout the Contract Period.
   2. The University may, prior to the last day of the Contract Period, extend the Contract for a further period or periods of any duration, but in any case, the total duration of any extensions shall not exceed 12 months from the last day of the Contract Period.
   3. If no Contract Period is stated in the Contract or Purchase Order, then unless specified otherwise, the Supplier should assume that this Order is a one-off requirement.
2. **Re-tendering and Hand-Over**
   1. Within twenty-one (21) days of being so requested by the University, the Supplier shall provide and thereafter keep updated, in a fully indexed and catalogued format, all the information necessary to enable the University to issue invitations to tender for the future provision of the Services.
   2. Where, in the opinion of the University, TUPE is likely to apply to the Contract on its termination or expiration, the information to be provided by the Supplier under 2.7.1 shall include, as applicable, accurate information relating to the employees who would be transferred under the same terms of employment under TUPE, including in particular (but not limited to): -
      * 1. the number of employees who would be transferred, but with no obligation on the Supplier to specify their names; and
        2. in respect of each of those employees, their dates of birth, sex, salary, length of service, hours of work and rates, and any other factors affecting redundancy entitlement, any specific terms applicable to those employees individually and any outstanding claims arising from their employment; and
        3. the general terms and conditions applicable to those employees, including probationary periods, retirement age, periods of notice, current pay agreements and structures, special pay allowances, working hours, entitlement to annual leave, sick leave, maternity and special leave, injury benefit, redundancy rights, terms of mobility, any loan or leasing agreements, and any other relevant collective agreements, facility time arrangements and additional employment benefits.
      1. The Supplier shall indemnify the University against any claim made against the University at any time by any person in respect of the liability incurred by the University arising from any deficiency or inaccuracy in infomration, which the Supplier is required to provider under clauses 2.7.1 and 2.7.2.
      2. The Supplier shall co-operate fully with the University during the handover arising from the completion or early termination of the Contract. This co-operation, during the setting up operations period of the replacement Supplier (if any), shall extend to allowing full access to, and providing copies of all documents, reports, summaries and other information necessary in order to achieve and effective transition.
3. **Invoicing**
   1. All invoices should be sent by the Supplier to the University to:

[finance-creditors@bradford.ac.uk](mailto:finance-creditors@bradford.ac.uk)

* 1. Invoices for the Contract Sum shall be submitted by the Supplier to the University monthly in arrears, in accordance with the following:
     1. One invoice for the Monthly Contract Sum. The invoice shall show a monthly total at the bottom of the invoice and clearly state the Contract Purchase Order Number and the Contract Identification Number. An additional separate invoice shall be submitted by the Supplier per Purchase Order for all Additional Services and clearly stating the Purchase Order Number.
     2. Alternative Payment Arrangements may be set out in the Purchase Order
  2. Where the Supplier submits an invoice to the University in accordance with clause **2.12**, the University will consider and verify that invoice in a timely fashion;
  3. The University shall pay the Supplier any sums due under such an invoice no later than a period of 30 days from the date on which the University has determined that the invoice is valid and undisputed;
  4. Where the University fails to comply with clause **2.12.3** and there is an undue delay in considering and verifying the invoice, the invoice shall be regarded as valid and undisputed for the purposes of clause **2.12.4** after a reasonable time has passed;
  5. Where the Supplier enters into a Sub-Contract, the Supplier shall include in that Sub-Contract:
     1. Provisions having the same effect as clauses **2.12.3**, **2.12.4** and **2.12.5** of this Contract; and

* + 1. A provision requiring the counterparty to that Sub-Contract to include in any Sub-Contract which it awards provisions having the same effect as clauses **2.12.3**, **2.12.4** and **2.12.5** of this Contract.
    2. In clause **2.12.6**, “Sub-Contract” means a contract between two or more suppliers, at any stage of remoteness from the University in a subcontracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Contract.

1. **Returns**
   1. Without prejudice to **Clause 2.42**, the Supplier shall report in writing each calendar month to the University’s Representative in a format to be approved by the University, providing all relevant information as may be requested by the University from time to time. The Supplier warrants that such reports shall be accurate and complete.
2. **Correspondence**
   1. All correspondence by the Supplier to the University shall be sequentially numbered and sent to the designated University’s Representative.
   2. The Supplier is required to inform the University’s Representative prior to the Commencement Date (or if details change) of the contact name, address, telephone (including mobile telephone) and facsimile numbers and e-mail address of the Supplier’s Representative.
3. **Supplier’s Contract Representative**
   1. The Supplier’s Representative shall be the duly authorised representative of the Supplier for all purposes connected with this Contract and accordingly any information, instruction or other communication given and/or addressed to the Supplier’s Representative shall be deemed to have been given or made to the Supplier. The Supplier shall not change the Supplier’s Representative without the prior Approval of the University (not to be unreasonably withheld).
   2. The Supplier shall inform the University’s Representative from time to time of the identity of any person proposed to be authorised to act for any period as deputy for the Supplier’s Representative before the start of such period. Any person proposed to be authorised to act as deputy for the Supplier’s Representative shall first be Approved by the University.
4. **Programme**
   1. The Supplier shall provide no less than one month prior to the Commencement Date, a detailed programme indicating the operations that shall be performed during the Contract Period in order to fulfil the obligations of the Contract. The details of such programme (which shall be attached to the Specification) shall require the approval of the University and thereafter shall form an integral part of this Contract.
5. **Performance Monitoring**
   1. The Supplier’s Representative shall attend monthly performance monitoring meetings called by the University’s Representative at which a Monthly Contract Review Report shall be submitted by the Supplier, as defined in the Service Level Agreement.
   2. The University will measure the Supplier’s performance against the Key Performance Indicators and the associated thresholds as defined in the Service Level Agreement.
   3. If the Supplier fails to meet the KPI thresholds in any one month it shall be deemed to be in default of the Contract and the University may without prejudice to its other rights and remedies invoke any of the provisions set out in **Clause 0**.
   4. The Supplier shall use all reasonable endeavours to reduce the costs of providing the Services per Contract year and shall put in place within 28 days following the Commencement Date and subject to the approval of the University a plan illustrating how such savings could be achieved.
6. **Use of The Site**
   1. The University shall ensure that the Supplier, its Staff, employees, agents or sub-Suppliers are allowed reasonable access to the Site solely for the provision of the Services.
   2. The University may allow the Supplier, its Staff, employees, agents or sub-Suppliers to use, during the period of performance of the Services but subject always to such facilities being available, it’s catering and toilet facilities, car parks and any other facilities subject to the University’s prior agreement and subject to the Supplier abiding by all regulations applicable to such facilities. Car parking spaces that are made available to the Supplier shall be available on a first come first served basis.
   3. The University shall allow the Supplier, its Staff, employees, agents or sub-Suppliers reasonable use of the installed telephone system solely in connection with the performance of the Services.
   4. The University shall ensure that sufficient light and heat are provided on the Site as are reasonably required for the performance of the Service.
   5. The Supplier shall not use any part of the University or Site for any purpose other than for carrying out the Services.
   6. The Supplier shall produce a written disaster recovery plan to ensure the Services are not affected, such plan to be provided to the University by no later than the Commencement Date and to be subject to approval by the University. Any subsequent amendments to such disaster recovery plan must be approved in advance by the University.
   7. The Supplier acknowledges that smoking, sleeping or the use of televisions and personal audio equipment is not permitted within the University or Site. The Supplier shall ensure that all Staff, employees and those of its sub-Suppliers comply with this restriction.
   8. Any Staff or sub-Supplier of the Supplier found to be, or suspected to be, under the influence of drugs or alcohol shall be instructed by the Supplier to immediately leave the University.
   9. If areas of the University or Site are placed at the disposal of the Supplier for use as offices, workshops or stores, the Supplier shall give a written receipt for all fittings, fixtures and contents therein and shall deliver up the areas, including the fittings and other items, to the University’s Representative in a clean state and complete in every respect at the date of termination of this Contract or as soon thereafter as is deemed by the University’s Representative to be reasonable.
   10. The Supplier shall not allow Staff or sub-Suppliers to bring guests, family or animals into the University.
   11. Nothing in this Contract is intended by either party to create a relationship of landlord and tenant at the Site.
7. **Transport**
   1. The Supplier shall ensure that Suppliers’ and sub-Suppliers’ vehicles carry their names in the form of identifying stickers.
8. **Access to Site**
   1. The University shall grant the Supplier access to use the Site solely for the purposes of the provision of the Services.
   2. The University shall be entitled at its discretion to change the location of any Site or reduce or increase the number of Sites on notice to the Supplier provided that, where possible, it gives a minimum of 3 months prior notice to the Supplier, the University assesses the direct financial implications (if any) of the change on the Supplier and the University approves the change as a Variation.
   3. The Supplier will (and will ensure that its Staff and sub-Suppliers) comply with the University’s security and personnel policies in force and notified to the Supplier in writing from time to time and will establish and maintain such other security measures and procedures as are reasonably practicable to provide for the safe custody of the University’s Information (as that term is defined in **Clause 2.41**) and data in its possession and to prevent unauthorised access to or use of the University’s Information and data in its possession.
   4. The Supplier, its Staff, employees, sub-Suppliers and agents, shall obey at all times the lawful orders of any authorised representative of the University, and the requirements of all applicable rules and regulations.
   5. The Supplier shall be responsible for observance by itself, its Staff and its sub-Suppliers, of all applicable health and safety precautions necessary for the protection of such persons and otherwise visiting the Sites including, without limitation, all precautions required under any legislation.
9. **Parking**
   1. To the extent that car parking spaces are made available by the University to the Supplier, the parking of the Supplier’s vehicles and those of its Staff shall be confined within public parking areas or those specifically provided. The Supplier shall inform its sub-Suppliers of these restrictions and ensure that they comply with them.
10. **Police Advice or Instructions**
    1. The Supplier shall at all times observe any Police regulations, advice or instructions including those regarding the loading and unloading of vehicles on the public highway or on any road or other access way coming under the jurisdiction of the University and the Contract Sum is deemed to include for strict compliance therewith.
11. **Working Clothes**
    1. The Supplier’s shall ensure that its Staff and sub-Suppliers wear uniforms and protective working clothes of an acceptable standard as appropriate to their duties. Any working clothes shall be in a clean and presentable condition.
    2. The working clothes shall be Approved by the Supplier and the University’s Representative who has the authority to ask for the removal of any person not wearing the accepted clothing.
    3. The name of the Supplier shall be attached to or marked on the clothes and shall be clearly visible.
12. **Security Procedures**
    1. The Supplier shall ensure that all Staff and sub-Suppliers, who may require access to the Site in connection with the Services are provided with an identity document issued by the University through the University’s Representative and this shall be visible at all times.
    2. The Supplier’s Representative shall ensure that all security requirements are met, including obtaining the necessary documents for Supplier Staff and sub-Suppliers and vehicles, the safe custody of those documents and their ultimate recovery and return on completion of this Contract. The Supplier’s Representative shall also be responsible for complying with any additional security requirements which may arise during the Contract Period. The Supplier shall familiarise the Staff and its sub-Suppliers with the security arrangements within the University and the Site.
    3. The Supplier shall not employ any individual who does not have the right to work in the United Kingdom. The Supplier shall comply with all relevant legislation, including (without limitation) the Asylum and Immigration Act 1996 and the code of practice (Comprehensive Guidance for United Kingdom Employees on Changes to the Law on Prevent Illegal Working) or such other act or regulations in force and provide evidence in writing to the University of its compliance. The Supplier shall provide evidence in writing to the University that each member of Staff has the right to work in the United Kingdom within seven (7) days of the Commencement Date and, thereafter, on the employment of new Staff to work on the Sites, but no more frequently than once each week. The Supplier shall indemnify the University for any breach of this Clause.
13. **Equal Opportunities Policy**
    1. The Supplier shall comply with the University’s Equal Opportunities Policy, a copy of which can be obtained from the University. The Supplier shall provide a copy of its Equal Opportunities Policy and monitoring processes.
14. **General**
    1. The failure or delay of either party at any time to enforce any provision of the Contract shall in no way affect its right thereafter to require complete performance by the other party, nor shall the waiver of any breach of any provision be taken or held to be a waiver of any subsequent breach of any provision or be a waiver of the provision itself.
    2. All intellectual property rights produced from or arising as a result of the performance of the Contract, so far as not already vested, are hereby assigned by the Supplier to the University and shall become the absolute property of the University. The Supplier shall do all that is reasonably necessary to ensure that such rights vest in the University by the execution of appropriate instruments or the making of agreements with third parties.
    3. In the event that any term, condition, provision of a Clause of this Contract shall be nullified or made void in whole or in part by any statute, regulation or order or by the decision or order of any Court having jurisdiction, the remaining terms conditions and provisions and the remainder of the affected provision shall remain in full force and effect.
    4. Except as expressly stated otherwise, an entity which is not expressly a party to this Agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 ("**the Act**") to enforce any term of this Contract and the provisions of the Act shall be expressly excluded from this Agreement.
    5. The Supplier shall act as an independent Supplier for the purposes of this Contract and nothing in this Contract shall and no action taken by the parties pursuant to this Contract shall constitute or be deemed to constitute a partnership, association, joint venture or other co-operative entity between the University and the Supplier and neither party is authorised to act as agent for the other.
    6. Neither the Supplier nor any of the Supplier's employees, agents or sub-Suppliers are authorised to incur any expenditure on behalf of or for the account of the University, or to pledge the credit of the University, or to hold itself out as an authorised signatory of the University, without the University's prior written consent.
    7. The rights and remedies provided in this Contract are cumulative and not exclusive of any rights or remedies otherwise provided by Law.
    8. Each party warrants to the other that the signatory or signatories to this Contract are duly authorised and empowered to execute this Contract on its behalf and so as to bind it to the terms of this Contract.
    9. This Contract may be executed in any number of counterparts, each of which, when executed shall be an original, and all the counterparts together shall constitute one and the same instrument.
    10. This Contract together with the documents referred to herein set out the entire agreement between the parties in relation to the subject matter hereof and supersede any previous agreement relating to the subject matter of this Contract, whether written or oral. Each party acknowledges and agrees that, except where otherwise specified, in entering into this Contract it places no reliance on any representation or warranty in relation to the subject matter of this Contract, nor shall have any remedy in relation to the subject matter of the same, save as expressly set out in this Contract. The only remedy available to either party for breach of such warranties or representations shall be for breach of contract under the terms of this Contract. Nothing in this Clause or in this Contract shall operate to exclude or restrict any remedy or liability for fraud or fraudulent misrepresentation.
15. **Standards of Materials**
    1. Materials and Equipment used by the Supplier shall be strictly in accordance with the latest relevant British Standard specification, where such exists, shall be to the satisfaction of the University.
    2. The Supplier shall maintain in a safe, serviceable and clean condition all materials and Equipment and their places of storage within the confines of the Site.
    3. The University’s Representative may at any time inspect, examine and test any materials or Equipment intended to be used in or on the Services, or to request that the Supplier provides such product data sheets or declarations as the University’s Representative deems appropriate.
16. **Transfer and Sub-Letting**
    1. The Supplier shall not assign, sub-let, sub-contract, transfer or otherwise dispose of this Contract or any part thereof without the prior written Approval of the University.
    2. The Supplier shall manage the changeover of any sub-Suppliers to ensure there is no break or disruption to services.
17. **Overtime, Shift Working and Night Work**
    1. If the University’s Representative instructs work to proceed outside the hours stated in the Specification, the cost if any, shall be reimbursed to the Supplier at the rates detailed in **Section 5** Schedule of Prices).
    2. The Supplier shall comply with the current Working Time Directive Regulations.
18. **Variations**
    1. The Contract shall be subject to adjustment only when a Variation to Contract Form has been signed by the University’s Representative.
    2. The Supplier shall notify the University of any occurrence it considers should give rise to the issue of a Variation to Contract Form within five (5) working days of the event first becoming known to the Supplier. The notification shall be fully supported with detailed time and cost implications.
    3. The Supplier shall not add to, or omit, from the levels of Staff necessary to provide the Services as set out in the Specification, except in pursuance of a Variation to Contract Form.
    4. The value of all additions and omissions agreed by the University on a Variation to Contract Form shall be added to or deducted from the Contract Sum and divided equally in the next twelve months or the remaining number of months of the calendar year.
    5. Any instruction issued orally varying the terms of the Contract shall have no effect until confirmed by the University by a Variation to Contract Form within 24 hours following such instruction.
    6. The Supplier shall forthwith comply with any Variation to Contract Forms issued by the University’s Representative.
    7. Should the Supplier fail to commence to carry out, within 14 (fourteen) working days of the date of issue, any reasonable instructions issued in accordance with this Condition on receipt of a Variation to Contract Form, the University’s Representative may issue a written notice requesting compliance. If the Supplier fails to comply with the instructions directed by the University’s Representative within 7 (seven) working days of receipt of such a notice the University may, notwithstanding its rights of termination, have the instructions carried out by his own employees or other Suppliers. Any excess costs incurred by the University shall be recoverable from the Supplier subject to the addition of a reasonable percentage (subject to a minimum 10%) to cover the University’s supervision and establishment charges.
    8. The value of all variations, additions and omissions shall be ascertained by valuation in accordance with rates contained in **Section 5** Schedule of Prices).
    9. Should the University’s Representative issue a Variation to Contract Form and a dispute arise regarding the valuation of the work under the Variation then **Clause 2.54** shall apply.
    10. The University may instruct the Supplier to carry out Additional Services from time to time.
19. **Other Suppliers**
    1. Other Suppliers and/or the University’s or other companies’ labour will work at the Site from time to time and the Supplier may in such cases, be required to work in close co-operation therewith and shall, as far as is reasonably practicable, avoid any disturbance thereto.
20. **Price**
    1. The amount payable to the Supplier for the provision of the Services (excluding any Variations of Contract) in accordance with this Contract for the first Contract Year shall be the sum set out in **Section 5** Schedule of Prices) and entitled “Contract Sum”.
    2. The price payable to the Supplier for the provision of the Services shall be subject to review in accordance with **Clause 2.35** upon each Review Date in respect of the Contract Year commencing on such Review Date.
    3. Variations will be valued and paid as **Clause 2.30**.
    4. The Charging Rates will be subject to review in accordance with Clause 2.35 upon each Review Date in respect of the twelve-month period commencing on such Review Date.
    5. Without limitation the Contract Sum and the Charging Rate are inclusive of all items and matters set out in this Contract/Purchase Order and addendums.
    6. The Contract Sum and Charging Rates are exclusive of VAT, but inclusive of all other costs, charges and expenses whatsoever.
21. **Value Added Tax**
    1. The University shall pay to the Supplier, in addition to the Contract Price, where applicable, a sum equal to the Value Added Tax chargeable on the value of the Service provided in accordance with this Contract.
    2. The Supplier shall, if so requested by the University, furnish such information as may reasonably be required by the University as to the amount of Valued Added Tax chargeable on the Service in accordance with the Contract and payable by the University to the Supplier in addition to the Contract Price. Any overpayment by the University to the Supplier shall be a sum of money recoverable from the Supplier for the purposes of **Clause 2.34**, Recovery of Sums Due.

1. **Recovery of Sums Due**
   1. Whenever under this Contract, any sum of money shall be recoverable from or payable by the Supplier, the same may be deducted from any sum then due, or which at any time thereafter may become due, to the Supplier under this Contract or under any other Contract with the University.
2. **Review of Price and Charging Rates**
   * 1. The Contract Sum and the Charging Rates shall be reviewed on the first Review Date and each subsequent Review Date during the Contract Period by the University and the Supplier. If the parties are unable to reach agreement as to the revised Contract Sum and Charging Rates to apply during that Contract Year within one month following such Review Date then, the Contract Sum and Charging Rates then in force under the terms of this Contract shall be increased in accordance with the yearly increase figures stated in **Section 5** (Schedule of Prices).
3. **Unlawful Discrimination**
   1. The Supplier shall not unlawfully discriminate within the meaning and scope of the provisions of any enactment or regulation relating to the employment or recruitment of Staff or personnel.
   2. The Supplier shall take all reasonable steps to secure the observance of the provisions of **Clause 2.36.1** by all Staff or agents of the Supplier and all sub-Suppliers employed in the execution of the Contract.
4. **Corrupt Gifts and Payment of Commission**
   1. The Supplier shall not offer or give, or agree to give, to any employee or representative of the University, any gift or consideration of any kind as an inducement or reward for doing or refraining from, or for having done, any act in relation to the obtaining or execution of this Contract or any other contract with the University, or for showing or refraining from showing favour or disfavour to any person in relation to this Contract or any other contract with the University. The Supplier’s attention is drawn to the criminal offences created by the Bribery Act 2010.
   2. Any breach of this Condition by the Supplier or by anyone employed by him or acting on his behalf (whether with or without his knowledge), shall entitle the University to terminate this Contract and recover from the Supplier the amount of any loss resulting from such determination and/or recover from the Supplier the amount or value of any such gift, consideration or commission, as the University shall think fit.

1. **Confidentiality and Data Protection** 
   * 1. Other than by statute, each party shall treat the Contract and any information it may have obtained or received in relation thereto or arising out of or in connection with the performance of the Contract or its negotiation or relating to the business or affairs of the other as private and confidential and neither party shall publish or disclose the same or any particulars thereof without the prior written consent of the other or as may be permitted under the later provision of this Clause.
     2. The obligations expressed in this **Clause 2.38** shall not apply to any information which:
2. is or subsequently comes into the public domain otherwise than by breach of this Clause
3. is already in the possession of the receiving party without an accompanying obligation of confidentiality
4. is obtained from a third party who is free to divulge the same
5. is independently and lawfully developed by the recipient or its Sub-Supplier(s) outside the scope of this agreement
   * 1. So far as it may be necessary for the performance of the Supplier for the operation and maintenance of the subject matter of the Contract, each party may divulge any information to be kept confidential under this **Clause 2.38** to their employees, agents and sub-Suppliers on a “need to know” basis but undertake that they will take all steps necessary to ensure compliance by such employees, agents, and sub-Suppliers with the obligations as to confidentiality expressed in this Clause, including without limitation incorporating such clauses into their own Agreements with such persons, and will be responsible to the other party for any failure by any employee, agent or sub-Supplier to comply with such obligations whether such employee, agent or sub-Supplier was aware of them or not.
     2. All intellectual property rights in all works or supplies provided under this Contract which are written or produced on a bespoke or customised basis, including, without limitation, all future such rights when the said works are created, shall be owned by the University and the Supplier shall ensure that it executes all documents necessary to affect such ownership. Where the Supplier provides existing intellectual property right protected material to the University under this Contract it shall disclose this to University, warrants it has the right to do so and shall fully indemnify and hold University harmless against all loss or liability arising from any third party intellectual property rights claims arising both from such existing material and in relation to any such bespoke work. Except as provided above both parties retain ownership of their pre-existing intellectual property rights protected material.
     3. Both parties agree to provide an irrevocable worldwide royalty free license to the other party for the use of all intellectual property specifically for the delivery of the services. This license will expire upon the termination of this Contract.
     4. Both parties represent and warrants to each other that any intellectual property utilised for the delivery of the services will not infringe any Intellectual Property Rights of any third party
     5. Both parties shall indemnify and hold each Indemnified Party against all losses, claims, demands, charges, fees (including legal and other professional costs), payments, royalties, damages, costs and expenses of any kind arising from the infringement or alleged infringement of any Intellectual Property Rights owned or controlled by a third party arising out of or in connection with the provision of the Services.
     6. The parties acknowledge that the University is the Data Controller and the Supplier is the Processor. The only Processing of Personal Data that the Supplier is authorised to do is listed in **Error! Reference source not found.**) of this Contract.
     7. The Supplier shall Process Personal Data only to the extent, and in such a manner, as is necessary for the purposes specified in the Specification and in accordance with the University’s written instructions from time to time and shall not Process Personal Data for any other purpose. If the Supplier is required by Law to Process Personal Data otherwise than in accordance with this Clause, immediately inform the University of the legal requirement before Processing Personal Data (unless prohibited from doing so by Law).
     8. The Supplier shall provide all reasonable assistance to the University in the preparation of any data protection impact assessment, as defined in the GDPR, prior to commencing any Processing. Such assistance may, at the discretion of the University, include:
6. a systematic description of the envisaged Processing operations and the purpose of the Processing;
7. an assessment of the necessity and proportionality of the Processing operations in relation to the Specification;
8. an assessment of the risks to the rights and freedoms of Data Subjects; and

the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

* + 1. The Supplier will not Process Personal Data or disclose Personal Data to any party who carries on business, outside the EEA except with the University's prior written consent and where such consent is given, take such actions and enter into such agreements as the University may require to ensure that such transfer or disclosure complies with Law.
    2. The Supplier will keep a record of any Processing of Personal Data it carries out under the Contract.
    3. The Supplier shall not disclose Personal Data to any person except under this Contract or with your written consent.
    4. The Supplier shall ensure that access to Personal Data is limited to:

1. those employees who need access to Personal Data to meet the Supplier's obligations under this Contract; and
2. in the case of any access by any employee, such part or parts of Personal Data as is strictly necessary for performance of that employee's duties.
   * 1. The Supplier shall ensure that employees that require access to Personal Data:
3. are informed of the confidential nature of Personal Data;
4. have undertaken training in Law relating to handling Personal Data; and
5. are aware both of the Supplier's duties and their personal duties and obligations under Law and this Contract.
   * 1. The Supplier shall ensure that all persons authorised to Process Personal Data are under an appropriate contractual or other legal obligation of confidentiality in respect of Personal Data.
     2. The Supplier shall not disclose Personal Data to any Data Subject or to a third party other than at the request of the University or as provided for in this Contract.
     3. The Supplier shall, taking into account the nature of the Processing, implement appropriate technical and organisational measures against unauthorised or unlawful Processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data that have been reviewed and approved by the University as appropriate having taken account of the:
6. nature of the Personal Data to be protected;
7. harm that might result from a Data Breach;
8. state of technological development; and
9. cost of implementing any measures.
   * 1. Appropriate technical and organisational measures including 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, taking reasonable steps to ensure the reliability of its employees with access to personal Data and regularly assessing and evaluating the effectiveness of such measures adopted.
     2. The Supplier shall, upon becoming aware, immediately and in any event within 24 hours notify the University of any Data Breach and shall work together with the University to provide the University with full co-operation and assistance, including to investigate the Data Breach (including by (i) assisting with any investigation launched by the University; (ii) facilitating interviews with the Supplier’s employees and others involved in the matter; and (iii) making available all relevant records reasonably required by the University to investigate the Data Breach or otherwise comply with Law or the requests of any competent regulatory authority in relation to the Data Breach or its investigation).
     3. The Supplier shall not engage another Processor to Process Personal Data except with the University's prior specific written authorisation and, where such authorisation is given, enter into a contract with the Processor that imposes the same contractual obligations set out in this Clause on that Processor, and remain liable for any Processor that it engages in accordance with the terms of this Clause.
     4. The Supplier shall assist and fully co-operate with the University to enable it to comply with its obligations as a Data Controller under and in accordance with Law including in relation to the security of Processing, data subject right requests, reporting personal Data Breaches to the supervisory authority and conducting data privacy impact assessments. The Supplier shall notify the University within 24 hours if it receives a request from a Data Subject to exercise its rights under Law or any communication from a Data Subject, the Information Commissioner or any other regulatory authority in connection with Personal Data Processed under this Contract.
     5. The Supplier shall promptly comply with any request from the University requiring the Supplier to amend, transfer or delete Personal Data. At the University's request, the Supplier shall provide to the University a copy of all Personal Data held by it in the format and on the media reasonably specified by the University.
     6. The Supplier shall at any time on the request of the University, return all Confidential Information and/or data (including any Personal Data that the Supplier Processes for and on behalf of the University) to that University and/or permanently delete the same from its systems, including any back-up copies.
     7. The Supplier shall at the University's option, delete or return to the University all Personal Data on termination of the Agreement and delete any existing copies of Personal Data except to the extent that the University is required to retain Personal Data by Law.
     8. The Supplier shall make available to the University all information necessary to demonstrate our compliance with the obligations under this Clause and allow for and contribute to audits, including inspections, conducted by the University or another auditor mandated by the University.
     9. The Supplier shall immediately inform the University if, in its opinion, an instruction from the University infringes Law.
     10. The Supplier shall, in connection with this Agreement, comply in all respects with Law relating to data protection and have established procedures to ensure continued compliance with Law. The Supplier shall comply with its obligations as a Processor under and in accordance with Law.
     11. The Supplier shall only collect any Personal Data in a form which is fully compliant with Law which will contain a data protection notice informing the data subject of the identity of the Data Controller, the identity of any data protection representative it may have appointed, the purposes or purpose for which their Personal Data will be Processed and any other information which is necessary having regard to the specific circumstances in which the data is, or is to be, Processed to enable Processing in respect of the Data Subject to be fair and compliant under Law.
     12. The University may, at any time on not less than 30 working days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme.

* + 1. The parties agree to take account of any guidance issued by the Information Commissioner's Office. The University may on not less than 30 working days' notice to the Supplier amend this Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office.
    2. The Supplier shall Process Personal Data in performing the Services as notified by the University only for as long as required and for no longer than the term of this Contract.
    3. The Supplier warrants that it shall;

1. Process the Personal Data in compliance with Law; and
2. take appropriate technical and organisational measures against Data Breach.
   * 1. The Supplier agrees to indemnify and keep indemnified and defend at its own expense the University against all costs, claims, damages or expenses incurred by the University or for which the University may become liable due to any failure by the Supplier or its employees or agents to comply with any of its obligations under this Clause.
   1. **United Kingdom Modern Slavery Act 2015**
      1. In performing its obligations under this Contract, the Supplier shall comply fully with the Modern Slavery Act 2015.
      2. The Supplier in contracting with the University confirms that all parts of its business and supply chains where there is a risk of slavery and human trafficking taking place has been rigorously assessed, and that it will demonstrate to the University upon demand the steps it has taken to assess and manage that risk.
      3. Where slavery or human trafficking or the risk of slavery or human trafficking is suspected or confirmed, the Supplier must immediately cease using those elements of their supply chains where such activities are under review.
      4. The Supplier shall immediately notify the University of any such findings and at the sole discretion of the University, acknowledges that the University has the right to immediately terminate the contract where any impact to the reputation of the University is proven.
   2. **Freedom of Information Act** 
      1. The Supplier acknowledges and agrees that the University is subject to the FOIA and insofar as the Supplier acts as agent for the University and holds records and information in relation thereto shall:
         1. comply with the University’s instructions and directions, including any publication scheme, policies and codes of practice issued by the University from time to time in relation to FOIA;
         2. subject to **Clause 2.40.1** otherwise to comply with FOIA;
         3. promptly and properly comply with any valid lawful access requests pursuant to the University’s publication scheme from time to time;
         4. promptly notify and keep informed (with full supporting details if requested) the University of all and any access requests, all complaints and investigations in relation to the FOIA (whether by an individual, the Office of the Information Commissioner or otherwise) and to deal with the same in accordance with the University’s instructions from time to time.
      2. The Supplier agrees to and hereby indemnifies the University for losses incurred or suffered as a result of a direct or indirect breach of this **Clause 2.40** and/or due to the negligence of the Supplier in relation thereto. This indemnity shall survive termination of this Contract.
   3. **Use of Documents, Information, etc.**
      1. Except with the prior written consent of the University, the Supplier shall not disclose this Contract or any provision thereof or any matters relating thereto to any person other than a person employed by the Supplier in carrying out this Contract or any sub-Supplier, supplier or other person concerned with the same. Such disclosure shall be made in confidence and shall extend so far only as may be necessary for the purposes of this Contract.
      2. Except with the prior written consent of the University, the Supplier shall not make use of this Contract or any information issued or furnished by or on behalf of the University, otherwise than for the purposes of this Contract.
      3. Any specifications, plans, drawings or other documents or IT equipment, software or hardware issued by or on behalf of the University for the purposes of this Contract remain the property of the University and shall be returned to the University immediately on the Termination Date.
      4. Nothing in this Agreement shall grant to the Supplier any right, title or interest in any intellectual property owned or controlled by the University.
      5. If, at the University’s absolute discretion, the Supplier or any of its staff are given access to the University’s IT systems (including without limitation the University’s intranet) the Supplier warrants that it shall and shall procure that such staff shall only use such systems and any information accessed for the strict purpose of providing the Services and shall keep the same confidential and shall not disclose information accessed to any third party without the express written consent of the University.
   4. **Right of Audit**
      1. The Supplier shall keep full and proper records and all the documents relating to the transactions affecting the Services. The University shall have, at all reasonable times, access to and the right to reproduce the Supplier’s and its sub-Suppliers books, documents, correspondence, instructions, receipts, vouchers and memoranda of any description including that stored on microfilm or in computers which shall be made available in legible form together with any other information (such as codes) needed for its comprehension. (hereinafter referred to collectively as ‘the Documents’), plus access to the Suppliers personnel and Staff and their records relating to the Services undertaken under this Contract for the purpose of auditing and verifying costs of the Services and for any other reasonable purposes. The Supplier, or its sub-Suppliers shall preserve the Documents for seven (7) years after the Termination Date.

* 1. **Advertising**
     1. The Supplier shall not publish or reproduce or arrange any press releases in connection with this Contract without prior written consent of the University.
  2. **Rates of Wages, Hours and Conditions**
     1. The Supplier shall ensure that it provides the services in accordance with the meaning and scope of the provisions of any enactment or regulation relating to the employment or recruitment of Staff or personnel.
  3. **Supplier’s Responsibilities and Indemnification**
     1. Subject to **Clause 2.46**, the Supplier shall be responsible for all damage to or loss of property (including destruction) and injury to or death of any person arising out of or in consequence of this Contract and shall indemnify and keep indemnified the University and all its respective employees, agents, Suppliers and invitees against all claims proceedings, damages, costs and expenses in respect of any such damage, loss, injury or death save to the extent that the Supplier shall not be responsible for any damage, loss or injury to or death of any person caused by the negligence or wilful act or omission of the University.
     2. The Supplier shall in all matters arising in the performance of the Services at all times observe, perform and comply with all statutory and other obligations, regulations and by-laws applicable to the performance of the Services (including without limitation Health, Hygiene and Safety regulations) and shall keep the University and all its respective employees, agents, Suppliers and invitees indemnified from and against all costs, claims, expenses and damages arising from any breach of any such obligations, regulations or by-laws or arising from the negligence or wilful default of the Supplier.
     3. Without prejudice to the generality of the foregoing the Supplier shall observe, perform and comply with all the relevant provisions of the Fire Precautions Act 1971, Health & Safety at Work Act 1974, Control of Pollution Act 1974, Provision and Use of Work Equipment Regulations 1998, Control of Major Accident Hazard Regulations 1999, Control of Substances Hazardous to Health Act, the Public Health Acts, any amendments or re-enactment thereof and/or any other relevant legislation and good working practice.

* 1. **Limitation of Liability**
     1. The following provisions set out the parties’ entire liability (including any liability for the acts and omissions of their respective employees, agents or sub-Suppliers) to each other in respect of:
        1. any breach of their respective contractual obligations under this Contract; and
        2. any representation, statement or tortuous act or omission, including negligence, arising under or in connection with this Contract.
     2. Any act or omission on the part of either party or its employees, agents or sub-Suppliers shall be known as an “**Event of Default**”.
     3. Notwithstanding any other provision in this Contract the Supplier accepts unlimited liability for:
        1. death or personal injury caused by the negligence of the Supplier, and
        2. any breach of its obligations implied by section 2 of the Supply of Goods and Services Act 1982; and
        3. fraud committed by the Supplier.
     4. Notwithstanding any other provision in this Contract the University accepts unlimited liability for:
        1. death or personal injury caused by the negligence of the University; and
        2. any breach of its obligations implied by section 2 of the Supply of Goods and Services Act 1982; and
        3. fraud committed by the University.
     5. The University will be under no liability to the Supplier whatsoever (whether in contract, tort (including negligence), breach of statutory duty, restitution or otherwise) for any indirect or consequential loss, pure economic loss, loss of profits, loss of business, loss of contract, depletion of goodwill and like loss and including contractual damages suffered by the Supplier and/or payable by the Supplier to a third party.
     6. Subject to **Clause 2.46.4** the University’s liability for each Event of Default shall not exceed the value of this Contract over one Contract Year, save that such limitation will not apply in respect of any liability of the University for the Charges.
     7. The parties each confirm that all exclusions and limitations of liability set out in this **Clause 2.46** are fair and reasonable having regard to the value and term of this Contract.
  2. **Supplier’s Insurances**
     1. The Supplier shall carry and maintain in force for the duration of this Contract, the following insurance’s:
        1. **Public/Products** **Liability Insurance** – unless the University shall have approved in writing other arrangements satisfactory to the University, the Supplier or any of its sub-Suppliers shall, from the Commencement Date until the Termination Date, insure against the Suppliers liability in respect of any loss or damage arising from any Public and/or Product liability. Such insurance’s shall be effected with a reputable insurer. The Supplier shall produce to the University’s Representative, the policy and/or satisfactory evidence of insurance cover at least 12 weeks prior to Commencement Date and, annually during the Contract Period and, from time to time as may be required. All monies received under such policy shall be applied in or towards the loss or damages but this provision shall not affect the Suppliers liabilities under this Contract.
        2. The Supplier shall, prior to the Commencement Date insure against its liability for damage or injury occurring during the Contract Period to any person (including any employee of the University) or to any property. Such insurance shall be effective for an amount not being less than £5,000,000 (five million pounds), with a reputable insurer. The Supplier shall from time to time, when so required by the University, produce the policy and the receipts for the premiums or other satisfactory evidence of insurance cover.
        3. **Employers Liability Insurance** – the Supplier shall insure and shall keep insured with a reputable insurer, for an amount not being less than £5,000,000 (five million pounds) in respect of the Supplier’s liability arising from personal injury to or death of any person under a contract of service or apprenticeship with the Supplier or any sub-Supplier. The Supplier shall from time to time when so required by the University produce the policy and the receipts for the premiums or satisfactory evidence of insurance cover. The terms of any such policy shall also include the provision to indemnify the University as mentioned in **Clause 2.45** provided always that in respect of such persons in such manner that the University is indemnified under the policy but the Supplier shall require such sub-Supplier to produce to the University when required, the policy, the receipt for premiums or other such satisfactory evidence of the insurance cover.
        4. **Professional Indemnity Liability Insurance** – the Supplier shall insure and shall keep insured with a reputable insurer, for an amount not being less than £2,000,000 (two million pounds) in respect of the Supplier’s Professional Indemnity liability. The Supplier shall from time to time when so required by the University produce the policy and the receipts for the premiums or satisfactory evidence of insurance cover.

* 1. **Default**
     1. If the Supplier fails to comply with any of its obligations under this Contract at any time, including (without limitation) failure to meet the Key Performance Indicators as defined in the Service Level Agreement (“**Default**”), then without prejudice to any other right or remedy which the University may possess in respect of such a failure the University may do one or more of the following:
        1. Without prejudice to the provisions of **Clauses 2.50** issue a default notice (“**Default Notice**”) to the Supplier requiring the Supplier to remedy such Default within such time as may be specified in the Default Notice by providing, or providing again (as the case may be) without further charge to the University any part of the Services to which such failure relates.
        2. Without terminating this Contract in whole or part itself provide or procure the provision of any part of the Services to which such Default relates until such time as the Supplier’s Representative shall have provided to the satisfaction of the University’s Representative that such part of the Services will once more be provided by the Supplier to the specified standard or at the University’s option until such later time as the University’s Representative may specify as being reasonable in all the circumstances.
        3. Without terminating the whole of this Contract, terminate any aspect of the Services to which the Default relates, and thereafter itself provide or procure the provision of the said Services and without terminating the whole of this Contract in whole or part deduct from any monthly Contract Sum payable to the Supplier such proportion thereof as is fair and reasonable having regard to the period of the relevant Default and to the terms of this Contract.
     2. The remedies of the University under **Clause 2.48.1** may be exercised successively in respect of any Default by the Supplier. Where the Supplier fails to remedy the Default as defined in the Default Notice, or fails to remedy the Default within the time allowed, the University will be entitled (without prejudice to any other rights and remedies it may have) to levy a charge (a “monetary default”) for each Default Notice. The valuation of a monetary default in a Default Notice will reflect the genuine value of the work that the Supplier has contracted to do but has not done, or has not done in the satisfactory manner. Where a monetary default has been levied and the Supplier has rectified the Default but then, within a short time, fails to maintain the standard of service, the University shall immediately without prejudice to its other rights and remedies be entitled to levy further monetary default(s).
     3. As part of a monetary default the University may charge the Supplier the cost of any services provided or procured by it under **Clauses 2.48.1.2 and 2.48.1.3** together with an administration charge equal to 10% of the cost of such services to the Supplier which represents a genuine pre-estimate of the additional management time and costs to the University in procuring the Services due to a default by the Supplier.

* 1. **Disclosure**
     1. Provided that disclosure is not prevented by Stock Exchange regulations the Supplier, whether a company as defined in the Companies Act 1985 or a partnership as defined in the Partnership Act 1890 shall immediately inform the University in writing of any proposal or negotiations which will, result in control of the Supplier’s affairs passing to another company or other individuals. The University shall treat any information given by the Supplier under this condition in confidence.
  2. **Termination**
     1. This Contract may be terminated by notice in accordance with Clause **2.50.4**, and may be terminated earlier:
        1. immediately by the University if the Supplier, having been given written notice by the University’s Representative that the Service is not in accordance with this Contract due to material or persistent breach (persistent breach meaning more than 3 Default Notice issued within a consecutive 60 day period), fails within 30 days to correct the matters, in which circumstances the University may by notice in writing forthwith terminate this Contract without compensation to the Supplier;
        2. immediately by the University if the Supplier being a company, summons a meeting of its creditors, makes a proposal for a voluntary arrangement, becomes subject to any voluntary arrangement, is unable to pay its debts within the meaning of section 123 Insolvency Act 1986, has a receiver, manager, administrator or administrative receiver appointed over any of its assets, undertakings or income, has passed a resolution for its winding-up (save for the purpose of a voluntary reconstruction or amalgamation), is subject to a petition presented to any Court for its winding up (save for the purposes of a voluntary reconstruction or amalgamation), is subject to a petition presented to any Court for its administration, has a provisional liquidator appointed, has a proposal made for a scheme of arrangement under section 425 Companies Act 1985 or is the subject of a notice to strike off the register at Companies House or it is subject to an administration order in which circumstances the University may by notice in writing forthwith terminate this Contract without compensation to the Supplier;
        3. immediately by the University if the Supplier ceases or threatens to cease to trade;
        4. immediately by the University if the University is notified of any proposed change under Clause 0or if there is a Change of Control of the Supplier provided that the University serves notice of termination within three months of the date on which the Supplier informs the University (by written notice of the Change of Control or on which the University otherwise becomes aware of the Change of Control);
        5. upon the University serving 6 (six) months’ notice to the Supplier where the contract has been subject to a substantial modification which would have required a new procurement procedure in accordance with Regulation 72(9) of the Public Contracts Regulations 2015;
        6. immediately by the University where the Supplier has, at the time of contract award, been in one of the situations referred to in Regulation 57(1) of the Public Contracts Regulations 2015, including as a result of the application of Regulation 57(2) of the same, and should therefore have been excluded from the procurement procedure;
        7. immediately by the University where the contract should not have been awarded to the Supplier in view of a serious infringement of the obligations under the Treaties and the Public Contracts Directive that has been declared by the Court of Justice of the European Union in a procedure under Article 258 of TFEU.
     2. Any termination under this Contract shall not prejudice or affect any right of action or remedy which shall have accrued or shall accrue thereafter to the University. On termination, the University may hold and retain all monies due or thereafter to become due to the Supplier or those claiming under him by this Contract until all monies becoming due to the University have been covered. Any excess monies shall then be paid to the Supplier.
     3. For a period of six (6) months following any termination of the Contract (other than pursuant to **clause 2.50.4**), the University may, cover the Services and recover from the Supplier the costs (if any) incurred by the University either by itself, or by employing other Suppliers to carry out the Services that are in excess of that which would have become payable under this Contract. In calculating such excess cost there shall also be added a reasonable administration charge to cover the University’s supervision and establishment charges.
     4. The University shall in any event at any time be entitled to terminate this Contract on the giving of three (3) months’ written notice of such termination to the Supplier. The Supplier shall not be entitled to any payment by way of compensation, damage or otherwise following such termination but shall, for the avoidance of doubt, so long as the Supplier shall supply the Services in accordance with thisContract, be entitled to receive payment due for the three (3) month notice period.
  3. **Effect of Termination**
     1. Any termination of this Contract for any reason shall not affect any accrued rights or liabilities of either party, nor the coming into force, or the continuance in force, of any provision of this Contract which is expressly or by implication intended to come into or continue in force on or after such termination.
     2. Upon the termination of this Contract:
        1. the Supplier shall remain liable for and shall indemnify the University against all wages, holiday pay, employment benefit, costs, redundancy costs and unfair dismissal costs and awards in respect of all employees and former employees of the Supplier, save in the case of those employees who become employed by the University with effect from the Termination Date when the Supplier’s indemnity shall apply only in respect of such employees insofar as and to the extent that such wages, pay, costs and awards arise on or in respect of any date or period before the Termination Date;
        2. without limitation to the foregoing, the Supplier shall take all such steps as shall be necessary to agree with the University a plan for the orderly hand-over of the Services to the University (or its nominee), and will supply any information the University reasonably requires (including but not limited to information relating to employees employed by the Supplier to perform the Services and the terms and conditions on which such employees are employed), such that the Services can be carried on with the minimum of interruption and inconvenience to the University and to effect such handover;
        3. with effect from the Termination Date, and until such time as the plan for the handover of the Services pursuant to **Clause 2.11** has been fully implemented, the Supplier agrees to continue the provision of the Services to the University in accordance with the terms and conditions of this Contract, except that it shall be entitled to be paid for such Services and all other actions necessary to implement **Clause 2.11** at its then prevailing time and materials charges. Such charges shall be payable by the University within thirty (30) days of the University receiving a valid invoice for such Services containing a break-down of the Staff, charging rates and the materials and their costs incurred in connection with this Clause;
        4. not later than seven days after the Termination Date the Supplier shall remove the Supplier’s materials, Equipment and its Staff from all Sites and shall cease to use the University’s facilities;
        5. immediately following the Termination Date the Supplier shall promptly deliver up to the University all property supplied by it together with all work performed up to and including the Termination Date and all materials incorporating any Information (as defined in **Clause 2.40.1.2**), and will destroy any Information contained in any materials prepared by the Supplier. If the Supplier fails to return or destroy (as the case may be) any such property, work or materials, the University shall be entitled, and is licensed, to enter the Supplier’s premises and seize and destroy the same.
     3. Subject as otherwise provided in this Contract, or subject to any rights or obligations which have accrued prior to termination, neither party shall have any further obligation to the other under this Contract.
  4. **Approvals**
     1. No approvals, comments, instructions, consents or advice or indication of satisfaction given by or from the University nor any enquiry or inspection which the University may make or have carried out for its benefit or on its behalf shall operate to reduce, extinguish, exclude, limit or modify the Suppliers obligation to fulfil its duties and obligations under this Contract.
  5. **Waiver**
     1. The failure of either party at any time to enforce any provision of this Contract shall in no way affect its right thereafter to require complete performance by the other party, nor shall the waiver of any breach of any provision be taken or held to be a waiver of any subsequent breach of any provision or be a waiver of the provision itself.

* 1. **Force Majeure**
     1. In the event of any act of God, hostilities, riot, civil commotion, public demonstration, terrorist act or any other circumstances (whether or not of a similar nature to any of the foregoing) beyond the reasonable control of either party (“Force Majeure Event”), neither party shall be deemed to be in breach of this Contract or otherwise liable to the other party in any manner whatsoever for any failure or delay in performing its obligations under this Contract.
     2. If a party’s performance of its obligations under this Contract is affected by Force Majeure Event, upon service of a notice of suspension by the party affected on the other party the obligation of the affected party to perform its obligations shall forthwith be suspended until the party affected serves notice on the other party that such circumstances have ceased and the other party shall not be liable to make payments under this Contract in respect of the period of such suspension. In circumstances where formal notice is impracticable the Supplier shall use its reasonable endeavours to notify the University of the suspension as soon as possible by whatever means.
     3. If the Force Majeure Event in question prevails for a continuous period in excess of one month after the date on which the Force Majeure Event begins, the party not in default may give notice in writing to the defaulting party to terminate this Contract. This notice to terminate must specify the termination date, which must not be less than 15 days after the date on which the notice to terminate is given. Once a notice to terminate has been validly given, this Contract will terminate on the termination date set out in the notice.
  2. **Disputes**
     1. All disputes or differences not otherwise resolved as set out in **Clause 2.48 (Default),** which shall at any time arise between the Supplier and the University in respect of the construction or effect of this Contract, or the rights, duties and liabilities of the parties hereunder, or any matter or event connected with or arising out of this Contract (a **‘Relevant Event’**) shall in the first instance be referred for resolution between the Supplier’s Representative and the University Representative. If the Supplier’s Representative and University Representative cannot resolve the dispute to the satisfaction of each party within 14 days of the matter being referred to them, the dispute shall be referred to the Supplier’s managing director and the University’s Principal for resolution. If the managing director and the Principal cannot resolve the dispute to the satisfaction of each party within 14 days of the matter being referred to them, the dispute shall be referred to such independent third party (the ‘**Third Party’**) as the Supplier and the University shall jointly nominate.
     2. If the Supplier and the University fail to nominate a Third Party within 14 days of the date of occurrence of the Relevant Event, then the Third Party shall be nominated at the request of either the University or the Supplier by the President for the time being of the Chartered Institute of Arbitrators.
     3. The Third Party (whether appointed under **Clause 2.54.1 or 2.54.2**) shall act as an expert and not as an arbitrator whose decision (including as to costs) shall, except in the case of manifest error, be final and binding upon the Supplier and the University.
  3. **Law and Jurisdiction**
     1. This Contract (and all matters, including any non-contractual obligations, arising under or in connection with it) shall be governed by, and construed in accordance with the provisions of English law as interpreted in an English Court.
     2. Nothing in Clause **2.55** shall prevent either Party applying to court for injunctive or other interim relief and to this extent the parties submit to the non-exclusive jurisdiction of the English courts.
     3. No person other than a contracting party may enforce any provision of this Contract by virtue of the Contracts (Rights of Third Parties) Act 1999.
  4. **Health and Safety**
     1. The Supplier shall comply with all applicable Health & Safety regulations. The Supplier is required to read and comply with all University Health & Safety instructions (verbal and written) including the University Health & Safety Manual.
     2. Prior to commencement of this Contract, the Supplier shall inspect the Site and submit a report of its findings and recommendations with regard to Health & Safety matters within the Suppliers areas of responsibility, to the University’s Representative.
     3. The University shall inform the Supplier prior to occupation of the University of any rules, practices and procedures relating to Health and Safety or fire and security operated in respect of the University and shall provide the Supplier with copies of such rules, practices and procedures where they are contained in writing and the Supplier shall comply with the same.
     4. The Supplier must undertake to provide Staff with all relevant training to enable them to complete their tasks safely and efficiently. All appropriate courses will be undertaken at the Suppliers cost.
     5. The Supplier shall ensure that all vehicles and Equipment used or operated by its Staff, employees, agents or sub-Suppliers in provision of the Services, but belonging to the University or a third party connected with the University shall comply with all statutory and legal requirements.
     6. The University will not be held accountable or liable for and shall not be under an obligation to insure against damage or loss to the personal property or Goods belonging to the Supplier or to his staff, arising from a break-in, theft or vandalism.
     7. Each party shall inform the other as soon as reasonably practical of all accidents, dangerous occurrences or incidents of disease which occur on the premises and of which that party is aware, in compliance with the University’s safety policy.
     8. The Supplier shall safeguard and take all necessary precautions against damage by fire or explosion when the execution of the Services involves the presence of flame or sparks.
     9. Petroleum products and other inflammable or vaporising liquids, gases, solids and hazardous chemicals shall only be used by the Supplier in accordance with the regulations applicable thereto. When equipment and vessels containing those items are not in use they shall be removed by the Supplier, together with their contents, to a safe place for storage.
  5. **Energy Management and Environmental Protection**
     1. The Supplier is responsible for ensuring compliance with the following:
* Policy Statement on Green Housekeeping issued by the Department of the Environment
* ISO14001
* Carbon Trust Standards
* The Environmental Protection Act 1990
* The non-use of CFC based products or other pollutant materials
* Environmental Technology Best Practice Programme
* The Environmental Policy of the University.
  + 1. The Supplier must ensure that the most economic use is made of lighting facilities during the operations of the Services, taking into account safety standards and practical working requirements. Unless specified by the University lights should not be left switched on in unoccupied rooms and corridors where operatives are not working.

**ANNEX A:** **VARIATION TO CONTRACT FORM**

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| --- | --- |
| Site Address: | Contract:  Contract For |
| Supplier: | Job Reference: |
| Issue Date: |
| Instruction No. |

|  |  |  |  |
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| The Contract Sum will be adjusted where  applicable in accordance with the terms  of the Contract. | | Omit | Add |
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| Signature of Supplier’s Representative: |  |  |  |
| Contract Sum |  |  |
| Value of previous instructions |  |  |
| Signature of University’s Representative: | Sub-total |  |  |
| Value of this instruction |  |  |
| Adjusted Total |  |  |

## 

## **Section 3 Service Level Agreement**

[To be agreed at award of contract or inserted from the ITT where applicable]

Otherwise, Service Levels must comply with the Specification agreed (either verbally or in writing) between the Supplier and the University prior to placement of the Purchase Order.

## **Section 4 Specification**

[To be inserted from the Tender Document]

Otherwise, Goods and related Services must comply with the Specification agreed (either verbally or in writing) between the Supplier and the University prior to placement of the Purchase Order.

## **Section 5 Schedule of Prices**

[Completed Pricing Schedule to be inserted from the Suppliers Tender Submission]

Otherwise, Pricing for the Goods and related Services must comply with the Prices agreed (either verbally or in writing) between the Supplier and the University prior to placement of the Purchase Order.

## **Section 6 Data Protection Particulars**

|  |  |
| --- | --- |
| The subject matter and duration of the Processing | *The parties will Process Personal Data in the context of: [●] [describe the relevant services and describe how long the personal data will be processed for- will this be determined by time period or for as long as the purpose continues? Consider longevity of the contract and if the personal data will need to be retained post termination of the contract.]* |
| The nature and purpose of the Processing | *The Processing will be for the purposes of: [●] [describe what processing of the personal data will take place and for what purpose e.g. for the provision of IT services to individual students, record of usernames etc…]* |
| The type of Personal Data being Processed | *The Personal Data will include:*  *[●] [e.g. Names, e-mail addresses, postal address, ip address, username and related password, student ID number, national insurance number.]* |
| The categories of Data Subjects | *The Data Subjects will include:*  *[●] [e.g. Suppliers, students, employees etc…]* |

## **Section 7 Supplier’s Tender Response**

[insert tender submission]

## **Section 8 TUPE: Pensions**

# Interpretation

# 

# In this Section 8 the following expressions shall have the following meanings:

‘**Administering Authority**’**:** means the [insert relevant administering authority] acting in its capacity as the administering authority of the [insert relevant LGPS Fund] for the purpose of the LGPS Regulations.

‘**Admission Agreement**’: means an admission agreement entered into in accordance with Part 3 of Schedule 2 of the LGPS Regulations by the Administering Authority and the Supplier.

‘**Admission Body**’: means an admission body for the purposes of Part 3 of Schedule 2 of the LGPS Regulations.

‘**Cessation Date**’: means any date on which the Supplier ceases to be an Admission Body as referred to in clause 2.1 of this Section 8 other than as a result of the termination of this Contract or because it ceases to employ any Eligible Employees.

‘**Commencement Date**’: means the date on which the Contract commences.

‘**Eligible Employees**’: means the Transferring Employees who are active members of or eligible to join the LGPS on the Commencement Date for so long as they are employed in connection with the Services.

‘**LGPS**’: means the Local Government Pension Scheme established pursuant to regulations made by the Secretary of State in exercise of powers conferred by sections 7 and 12 of, and Schedule 3 to the Superannuation Act 1972 (as amended from time to time).

‘**LGPS Regulations**’: means the Local Government Pension Scheme Regulations 2013 (as amended from time to time).

‘**Transferring Employee**’: means an employee whose employment compulsorily transfers to the Supplier by the operation of TUPE or for any other reason, as a result of the award of this Contract,

# Pensions

## Where the Supplier employs any Eligible Employees from the Commencement Date the Supplier shall procure that it shall become an Admission Body. The Supplier shall before the Commencement Date execute an Admission Agreement which will have effect from and including the Commencement Date.

## Without prejudice to the generality of this clause 2 of Section 8, the Supplier hereby indemnifies the University and/or any future Supplier and, in each case, their sub-Suppliers on demand from and against any direct loss suffered or incurred by it or them which arises from any breach by the Supplier of the terms the Admission Agreement to the extent that such liability arises before or as a result of the termination or expiry of this Contract (howsoever caused).

## Without prejudice to the generality of the requirements of this clause 2 of Section 8, the Supplier shall procure that it shall as soon as reasonably practicable obtain any indemnity or bond required in accordance with the Admission Agreement.

## The University shall have the right to set off against any payments due to the Supplier under this Contract an amount equal to any overdue employer and employee contributions and other payments (and interest payable under the LGPS Regulations) due from the Supplier under the Admission Agreement.

## If the Supplier employs any Eligible Employees from the Commencement Date and:

#### The University, and the Supplier are both of the opinion that it is not possible for the Supplier to become an Admission Body; or

#### if for any reason after the Commencement Date the Supplier ceases to be an Admission Body other than on the date of termination or expiry of this Contract or because it ceases to employ any Eligible Employees;

## then the provisions of clauses 2.1 to 2.4 of this Section 8 (inclusive) shall not apply and the provisions of clause 2.6 of this Section 8 shall apply.

## 

## Where this clause 2.6 of Section 8 applies pursuant to clause 2.5, the following shall apply:

## The Supplier shall not later than the Commencement Date or the Cessation Date (as the case may be) nominate to the University in writing an occupational pension scheme which it proposes shall be “the Supplier Scheme” for the purposes of this clause 2.6. Such pension scheme must be:

#### established within three (3) months or as soon as reasonably practicable of the Commencement Date or Cessation Date (as the case may be);

#### reasonably acceptable to the University (such acceptance not to be unreasonably withheld or delayed);

#### registered under section 153 of the Finance Act 2004; and

#### certified by the Government Actuary’s Department or an actuary nominated by the University in accordance with relevant guidance produced by the Government Actuary’s Department as providing benefits which are broadly comparable to those provided by the LGPS.

#### The Supplier undertakes to the University (for the benefit of the University itself and for the University as agent and trustee for the benefit of the Eligible Employees) that it shall procure that:

#### the Eligible Employees shall by three (3) months before the Commencement Date or the Cessation Date (as the case may be) or, alternatively, by such date as is agreed between the parties acting reasonably, be offered membership of the Supplier Scheme with effect from and including the Commencement Date or Cessation Date (as the case may be);

#### the Supplier Scheme shall provide benefits in respect of the Eligible Employees’ periods of service on or after the Commencement Date or Cessation Date (as the case may be) which the Government Actuary’s Department or an actuary nominated by the University in accordance with relevant guidance produced by the Government Actuary’s Department shall certify to be broadly comparable to the benefits which the Eligible Employees would have been entitled to under the LGPS had they continued in membership of the LGPS;

#### if the Supplier Scheme is terminated, a replacement pension scheme shall be provided with immediate effect for those Eligible Employees who are still employed by the Supplier. The replacement scheme must comply with this clause 2.6 of Section 8 as if it were the Supplier Scheme;

#### before the Commencement Date or Cessation Date (as the case maybe) the Supplier shall use its best endeavours to ensure that the trustees of the Supplier Scheme shall comply with the provisions of clauses 2.6(a) to 2.6(b)(iii) (inclusive), clause 2.7(a) 2.7(c) and 2.7(d) of this Section 8; and

#### where the Supplier Scheme has not been established at the Commencement Date or Cessation Date (as the case may be), the Eligible Employees shall be provided with benefits in respect of death-in-service which are no less favourable than the death-in-service benefits provided by the LGPS immediately before the Commencement Date or Cessation Date (as the case may be). Such benefits will continue to be provided until death-in-service benefits are provided by the Supplier Scheme.

#### Where this clause 2.6 of Section 8 applies, as soon as reasonably practicable and in any event no later than 20 working days after the establishment of the Supplier Scheme or the commencement of membership of the Eligible Employees in the Supplier Scheme, the Supplier must provide the Eligible Employees with the option to transfer their accrued LGPS benefits to the Supplier Scheme on terms to be provided by the University. Such terms will also apply to any subsequent bulk transfers on termination or expiry of this contract.

## The Supplier undertakes to the University (for the benefit of the University itself and for the University as agent and trustee for the benefit of the Eligible Employees) that:

#### all information which the University or the Administering Authority or their respective professional advisers may reasonably request from the Supplier for the administration of the LGPS or concerning any other matters raised in clauses 2.5 to 2.6 (inclusive) of this Section 8 or this clause 2.7 shall be supplied to them as expeditiously as possible;

#### it shall not without the consent in writing of the University (which shall only be given subject to the payment by the Supplier of such reasonable costs as the University or the Administering Authority may require) consent to instigate, encourage or assist any event which could impose on the LGPS a cost in respect of any Eligible Employee greater than the cost which would have been payable in respect of that Eligible Employee had that consent, instigation, encouragement or assistance not been given;

#### until the Commencement Date, it shall not issue any announcements (whether in writing or not) to the Eligible Employees concerning the matters stated in clauses 2.1 to 2.4 of Section 8 (inclusive) without the consent in writing of the University and the Administering Authority (not to be unreasonably withheld or delayed); and

#### it shall not take or omit to take any action which would materially affect the benefits under the LGPS or under the Supplier Scheme of any Eligible Employees who are or will be employed in connection with the Services without the prior written agreement of the University (not to be unreasonably withheld or delayed) provided that the Supplier will be so entitled without the requirement of consent to give effect to any pre-existing contractual obligations to any Eligible Employees.

## Where the Supplier is an Admission Body, the Supplier shall award benefits (where permitted) to the Eligible Employees under the LGPS in circumstances where the Eligible Employees would have received such benefits had they still been employed by their former Scheme employer (as defined in the LGPS Regulations).

## Where the award of benefits in clause 2.8 of Section 8 is not permitted under the LGPS or the Supplier is not an Admission Body, the Supplier shall award benefits to the Eligible Employees which are identical to the benefits the Eligible Employees would have received under the LGPS in circumstances where the Eligible Employees would have received such benefits had they still been employed by their former Scheme employer (as defined in the LGPS Regulations).

## Under clauses 2.8 and 2.9 of Section 8, where such benefits are of a discretionary nature, they shall be awarded on the basis of the former Scheme employer’s (as defined in the LGPS Regulations) written policy in relation to such benefits at the time of the Commencement Date (which the University shall provide on request). Where the payment of such benefits is not, for whatever reason, possible, the Supplier shall compensate the Eligible Employees in a manner which is broadly comparable or equivalent in cash terms.

## The Supplier hereby indemnifies the University and/or successor supplier and, in each case, their sub-Suppliers from and against any losses suffered or incurred by it or them which arises from claims by Eligible Employees of the Supplier and any sub-Suppliers or by any trade unions, elected employee representatives or staff associations in respect of all or any such Eligible Employees which losses:

#### relate to pension rights in respect of periods of employment on and after the Commencement Date until the termination or expiry of this Contract; or

#### arise out of the failure of the Supplier to comply with the provisions of this clause 2 of Section 8 before the date of termination or expiry of this Contract.

## Save on expiry or termination of this Contract, if the employment of any Eligible Employee transfers to another employer (by way of a transfer under TUPE or otherwise) the Supplier shall:

#### consult with and inform those Eligible Employees of the pension provisions relating to that transfer; and

#### procure that the employer to which the Eligible Employees are transferred (the “New Employer”) complies with the provisions of this clause 2 of Section 8 provided that references to the “Supplier” will become references to the New Employer, references to “Commencement Date” will become references to the date of the transfer to the New Employer and references to “Eligible Employees” will become reference to the Eligible Employees so transferred to the New Employer.

## Where a sub-Supplier employs any Transferring Employees, the Supplier shall procure that the sub-Supplier shall deal with the provision of pension benefits in accordance with this clause 2 of Section 8 as though references in this clause 2 to the Supplier were references to the sub-Supplier and references to the “Commencement Date” were references to the date of transfer to the sub-Supplier. The Supplier shall indemnify and keep indemnified the University against breach by the Supplier or sub-contactor of this clause 2.13 of Section 8.

## The Supplier shall:

#### maintain such documents and information as will be reasonably required to manage the pension aspects relating to the Admission Agreement and the Supplier Scheme during the term of the Contract and the onward transfer of any person engaged or employed by the Supplier in the provision of the Services on the expiry or termination of this Contact (including without limitation identification of the Eligible Employees);

#### promptly (not exceeding one calendar month) provide the University with such documents and information mentioned in clause 2.14(a) above which the University may reasonably request during the term of and in advance of the expiry or termination of this Contract; and

#### fully co-operate (and procure that the trustees of the Supplier’s Scheme shall fully co-operate) with the reasonable requests of the University relating to any administrative tasks necessary to deal with the pension aspects of any onward transfer of any person engaged or employed by the Supplier in the provision of the Services on the expiry or termination of this Contract.

## The provisions of this clause 2 of Section 8 (Pensions) may be directly enforced by an Eligible Employee against the Supplier and the parties agree that the Contracts (Rights of Third Parties) Act 1999 will apply to the extent necessary to ensure that any Eligible Employee will have the right to enforce any obligation owed to him or her by the Supplier under this clause 32 in his or her own right under section 1(1) of the Contracts (Rights of Third Parties) Act 1999.

## Further, the Supplier must ensure that the Contracts (Rights of Third Parties) Act 1999 will apply to any sub-contract to the extent necessary to ensure that any Eligible Employee will have the right to enforce any obligation owed to them by the Sub-Supplier in his or her own right under section 1(1) of the Contracts (Rights of Third Parties) Act 1999.

This Contract is entered into on the date hereof: \_\_\_\_\_

[in lieu of date, this will be date of Purchase Order issue]

**SIGNED on Behalf of Bradford University (The University):**

Authorised Signatory:

Date:

Name:

Designation:

**SIGNED on behalf of [insert name of Supplier] (The Supplier) by (Director/Secretary).**

Authorised Signatory:

Date:

Name:

Designation:

*[Remove if not applicable: If these Conditions of Contract are applied in relation to a Purchase Order, then the issue of that Purchase Order by the University and its Acceptance by the Supplier shall constitute official agreement of the Contract terms].*