

Terms and Conditions for the Supply of Goods and Services

1) Interpretation:

1.1 In these conditions (Conditions) the following words shall have the following meanings:

Contract means the contract formed between the Supplier and the School upon the Supplier's acceptance of the Order and governed by these Conditions;

Confidential Information means the contents of the Contract and any information which is disclosed by one party to the other in connection with the Contract or that is otherwise manifestly of a confidential nature, other than information which: (i) is in the public domain at the time it was disclosed (without the recipient being in breach of any obligation of confidentiality); (ii) is given to the recipient by a third party in circumstances where the receiving party has no reason to believe that there has been a breach of an obligation of confidentiality owed to the disclosing party; (iii) was already known (or had been independently generated) by the recipient prior to its receipt or disclosure; or (iv) is approved for release in writing by an authorised representative of the disclosing party;

Data Protection Legislation means the General Data Protection Regulation (**GDPR**), the Data Protection Act 2018, the Privacy and Electronic Communications Regulations 2003 and all other applicable laws, enactments, regulations, orders, standard and other similar instruments relating to data protection and privacy, each as may be amended or superseded from time to time;

Deliverables means any document, report, other material, data or information provided by the Supplier as part of the Services (but excluding Goods);

Delivery has the meaning given in clause 5.4;

Delivery Address means the delivery address stated in the Order;

Goods means the materials, merchandise or other goods as set out in the Order;

IPR means any and all trade marks, service marks, copyright, moral rights, rights in design, know-how, confidential information, rights in computer software (including the object and source codes) and all or any other intellectual property rights whether or not capable of registration and whether subsisting in the United Kingdom or any other part of the world together with all goodwill relating thereto;

Key Personnel means the persons (if any) listed as the key personnel in the Order;

Order means the School's order for Goods and/or Services as set out in the School's purchase order and any ancillary documents referred to in the purchase order;

Policies has the meaning given in clause 10.2;

Price means the total charge for the Goods and/or Services as set out in the Order;

Purchasing Consortium means London Universities Purchasing Consortium or such other purchasing consortium as the School may notify to the Supplier from time to time;

School means London Business School or such other company within the London Business School group of companies;

School Materials means any documents or other materials, data or other information provided by the School to the Supplier relating to the provision by the Supplier of the Goods and/or Services;

Service Levels means the specific standards set out in the Order (and including any KPIs) to which the Services are to be provided;

Services means the services to be provided by the Supplier (including any Deliverables) as set out in the Order and any supporting documents or correspondence;

Supplier means any person, firm or company who accepts the Order;

Tender means any tender document, quotation or similar document submitted by the Supplier to the School in relation to the provision of the Goods and/or Services; and

TUPE means the Transfer of Undertakings (Protection of Employment) Regulations 2006.

- 1.2 In the Contract, unless the context otherwise states or requires: (i) words importing the singular include the plural and vice versa; (ii) any words following the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; (iii) a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time; (iv) a reference to one gender includes a reference to the other gender; and (v) clause headings do not affect the interpretation of the Contract.
- 1.3 If there is any ambiguity or inconsistency in or between the documents comprising the Contract the priority given to the documents is in accordance with the following sequence:
- a) the Order;
 - b) these Conditions;
 - c) any other document forming part of the contract as incorporated as part of or pursuant to the Order.

2) Orders

- 2.1 The Order constitutes an offer by the School to purchase the Goods and/or Services subject to these Conditions, which shall apply to the Contract to the exclusion of all other terms and conditions (whether previously issued by the School or appearing on any documentation issued by or on behalf of the Supplier). These Conditions can only be varied by written agreement between the School and the Supplier, each acting by an authorised representative.
- 2.2 Without prejudice to clause 2.1, the Supplier acknowledges that the School will be entering into the Contract on the basis of the Tender (if any) submitted to the School and warrants that any Tender is accurate and complete in all material aspects and is not misleading.
- 2.3 An Order is accepted when the Supplier either expressly gives notice of acceptance or by way of implication. If the Supplier intends to reject the Order it must inform the School of such rejection within two (2) working days (as defined in the Companies Act 2006) of receipt of the Order.
- 2.4 If the Goods and/or Services are to be provided in instalments, the Contract shall be treated as single and not severable; provided that failure to deliver any one instalment in accordance with the Contract shall entitle the School to exercise the rights under clause 9.

3) Price and Payment

- 3.1 The Price for the Goods and/or Services shall (unless stated otherwise in the Order) be:

- (a) exclusive of any applicable Value Added Tax (**VAT**) (which shall be payable by the School in addition, subject to receipt of a valid VAT invoice); and
 - (b) inclusive of all charges for packaging, freight, carriage, insurance, delivery of the Goods and/or any Deliverables at the Delivery Address and inclusive of all charges for insurance and all expenses incurred by the Supplier in carrying out the Services and any duties, tariffs, taxes or levies (other than VAT).
- 3.2 The Price may not be increased without the School's express prior written consent given by the relevant and authorised budget holder.
- 3.3 Provided the Goods and/or Services have been supplied in accordance with the provisions of the Contract, the School shall pay the Price within thirty (30) days of the date of receipt of a valid invoice addressed as specified in the Order. Invoices shall be valid only if they quote the Order number¹, date of the Order, department and individual requesting the Order. Subject to any agreement to the contrary set out in the Order (or agreed in advance in writing by each of the parties), a separate invoice must be raised in respect of each Order.
- 3.4 The School may set off against the Price any sums owed to it by the Supplier.
- 3.5 The School is entitled to all discounts or special terms negotiated by or granted to the Purchasing Consortium, and other public bodies having power to negotiate on behalf of universities. The School, which is a charity as well as an educational establishment, will also be entitled to all discounts provided by the Supplier to charities or educational establishments. The Supplier shall ensure that the Price invoiced to the School reflects each of the above forms of discount whenever they apply.
- 3.6 If the services performed by the Supplier exceed those Services set out in or required by the Order or the goods provided by the Supplier exceed the quantity of those Goods set out in the Order, the School shall not be bound to pay for the excess goods and/or services.
- 3.7 If a party fails to make any payment due to the other party under the Contract by the due date for payment then the defaulting party shall pay interest on the overdue amount at the rate of 2% per annum above HSBC's base rate from time to time. Such interest shall accrue on a daily basis from the due date until the date of the actual payment of the overdue amount whether before or after judgment. The defaulting party shall pay the interest together with the overdue amount. This clause shall not apply to payments that the defaulting party disputes in good faith.

4) Quality of Goods

- 4.1 The Supplier shall ensure that, in relation to the Goods supplied to the School, the:
- (a) quantity, quality and description of the Goods shall be as specified in the Order and comply with any pattern, sample or specification given by the School, or, where no such pattern, sample or specifications are given, be of the best in their respective kind;
 - (b) Goods are of satisfactory quality (within the meaning of the Sale of Goods Act 1979), free from defects and fit for the purpose(s) held out by the Supplier or made known to the Supplier by the School;
 - (c) Goods comply with all laws, statutes, orders, regulations and codes of practice that apply to such Goods and, in particular, to such matters as concern the safety and health and welfare of all persons into whose hands the Goods may come and/or be used;
 - (d) Goods are properly packed and secured in such manner as to ensure that they are delivered in good condition; and

¹ Which, for the avoidance of any doubt, is the 'purchase order' (or PO) number stated on the Order

(e) Goods are supplied in accordance with the School's policies, including its environmental policy, as in place from time to time.

- 4.2 The Supplier warrants to the School that, in addition to the terms implied into the Contract by statute from time to time and without prejudice to clause 4.1 above, the Goods (and/or their importation, use or resale) will not infringe the rights of any third party, including the IPR of any other person.
- 4.3 To the extent reasonably required, the Supplier hereby grants to the School, or (where the Supplier is not the holder of the applicable rights) undertakes to procure the grant to the School of, an irrevocable, worldwide, royalty-free licence of all IPR required in connection with, and for the use of, the Goods.
- 4.4 The Supplier shall comply with all applicable regulations or other legal requirements concerning the manufacture, packaging and delivery of the Goods and shall obtain and maintain in force all licences, permissions, authorisations and permits needed to supply the Goods in accordance with the terms of the Contract.
- 4.5 The Supplier shall permit the School on reasonable notice and within ordinary business hours to inspect and test the Goods during manufacture, processing or storage at the premises of the Supplier or any third party prior to despatch, and the Supplier shall provide the School with all facilities required for such inspection and testing.
- 4.6 If as a result of inspection or testing the School is not satisfied that the Goods will comply in all respects with the Contract and the School so informs the Supplier within thirty (30) days of inspection or testing, the Supplier shall take such steps as are necessary to ensure compliance and if such steps are not taken to the School's satisfaction, the School may withdraw its Order without any liability to the Supplier.

The School shall be entitled, on reasonable notice, to carry out (either itself or through its professional advisers) an audit of the books and records of the Supplier to the extent that they relate to the supply (including manufacture) of the Goods.

5) Delivery and acceptance of Goods

- 5.1 The Supplier shall ensure that the Goods are securely packaged and clearly addressed to the person who requested the Order, and otherwise comply with any instructions given to the Supplier in relation to such Order.
- 5.2 The Supplier shall ensure that each delivery of Goods is accompanied by a delivery note stating the Order number, quantity and exact description of each article of Goods supplied and the name and department of the individual who requested the Order.
- 5.3 The Supplier must ensure a signature acknowledging receipt of the Goods by an authorised member of the School's staff is obtained on delivery.
- 5.4 The Goods shall be delivered to the Delivery Address during the time slot specified on the Order or, where no time slot is specified, during the School's ordinary business hours (9.00 a.m.–5.00 p.m.) on the date stated in the Order or, where the date of delivery is to be fixed after the placing of the Order, on the date agreed by the School and the Supplier in writing. Time is of the essence for delivery of the Goods under the Contract meaning that late delivery entitles the School to reject the Goods, terminate the Contract, and claim damages. "**Delivery**" shall take place at the Delivery Address when all of the Goods have been unloaded from the vehicle(s) of the Supplier or any carrier appointed by the Supplier and a signature acknowledging receipt of the Goods by an authorised member of the University's staff is obtained.
- 5.5 The School shall be entitled to reject any of the Goods delivered which are not in accordance with the Contract. Notwithstanding the provisions of clauses 5.3 or 5.4, the School shall not be deemed to

have accepted any of the Goods until it has had a reasonable time to inspect them following Delivery or, if later, within a reasonable time after any latent defect in the Goods has become apparent.

- 5.6 Notwithstanding clause 3.6, if the Goods delivered to the School are either in excess of or below the quantities set out in the Order, the School may in its sole discretion elect to reject the Goods in their entirety or, as applicable, the excess quantity and, accordingly, the School shall not be bound to pay for the Goods (if rejected in their entirety) or any excess Goods which shall be and shall remain at the Supplier's risk and shall be returnable at the Supplier's expense.
- 5.7 The Supplier shall be responsible for collecting any rejected Goods or any Goods delivered which are in excess of the quantity set out in the Order at the Supplier's risk and expense, and the Supplier shall reimburse any costs incurred by the School in respect of storage or otherwise. If the Supplier delivers less than the quantity of Goods ordered and the School accepts Delivery, the Supplier shall make a pro rata adjustment to the invoice for the Goods and the Price shall be construed accordingly.
- 5.8 The School shall not be obliged to safeguard or return to the Supplier any packaging or packing materials for the Goods, whether or not any of the Goods are accepted by the School.
- 5.9 The Supplier shall not deliver the Goods by instalments except with the prior written consent of the School.
- 5.10 If the School cannot take Delivery for any reason, the Supplier shall store the Goods free of charge and rearrange Delivery at no additional cost to the School.

6) Risk and Title in Goods

- 6.1 Risk of damage to or loss of the Goods shall pass to the School upon Delivery in accordance with the Contract. Pending such Delivery the Supplier shall maintain sufficient insurance cover against risk of loss or damage to the Goods.
- 6.2 Title to and property in the Goods shall pass to the School upon Delivery, unless payment (whether in whole or in part) is made prior to Delivery in which case, without prejudice to the terms of clause 6.1, title and property shall pass to the School once payment (or the first instalment of it) has been made.

7) Quality of Services

- 7.1 The School shall at its own expense provide the Supplier with any School Materials reasonably requested by the Supplier to enable the Supplier to provide the Services in accordance with the Contract.
- 7.2 The Supplier shall perform the Services in accordance with the particulars set out in the Order and the requirements of these Conditions. Time is of the essence in relation to any performance or delivery dates for the Services (including for the provision of any Deliverables) as may specified in the Order or that may otherwise be agreed by the parties.
- 7.3 The Supplier warrants that it is entitled to enter into the Contract and that (without prejudice to the statutory terms implied in the favour of the School by the Supply of Goods and Services Act 1982 and any other statute) it shall ensure that the Services are performed at all times:
- (a) with all reasonable skill and care and in accordance with the generally recognised commercial practices and standards prevailing in the industry for similar services from time to time and in such way that the applicable Service Levels (if any) are met or exceeded;
 - (b) by suitably qualified and experienced personnel;

- (c) in full cooperation with the School (or any third party on the School's behalf, or that the School otherwise notifies), truthfully, accurately, loyally and in good faith towards the School;
 - (d) in accordance with all applicable laws, rules and regulations (including, where relevant, any World Trade Organisation agreements and European Community directives governing tendering and contractual procedures, and any derivative and implementing UK laws) and that any necessary licences and consents are in place before the performance of the Services commences;
 - (e) without doing any act or thing, or by omitting to do something, which does, or might reasonably be expected to, damage the reputation of the School;
 - (f) in accordance with any health and safety or other codes of conduct issued by the School and any other reasonable directions or instructions of the School; and
 - (g) in accordance with the School's policies, including its environmental policy, as in place from time to time.
- 7.4 The Supplier shall ensure that it and (if applicable) its personnel shall have sufficient resources and time to perform the Services promptly and in accordance with the Contract.
- 7.5 The Supplier shall notify the School in writing of any actual, potential or possible conflict of interests on its part in contracting with the School for the provision of the Services, as soon as it becomes aware of the same, or suspects that the same may have arisen.
- 7.6 The Supplier shall have sole responsibility for the wages, taxes, national insurance contributions, etc payable to the personnel howsoever engaged in the provision of the Services (whether employees or third party contractors) and hereby indemnifies the School against any liabilities relating to their employment or engagement (including any liabilities under TUPE).
- 7.7 Where specified in the Order and/or otherwise reasonably required by the School, the Supplier shall provide regular reports to the School summarising the extent to which the Supplier has met the Service Levels and any other details so required by the School.
- 7.8 The Supplier shall ensure that the Key Personnel (if any) named in the Order or, if no Key Personnel are named, the same team of personnel perform the Services throughout the duration of the Contract unless agreed otherwise in advance in writing by the School.
- 7.9 The Supplier shall ensure that all personnel attending the School shall, on arrival, present themselves and sign in at the *Security Reception* in the Plowden Building or comply with such other security arrangements as the School may specify from time to time. All personnel must receive authorisation from an authorised member of the School's staff before entering the School's premises or commencing any work on the School's premises.
- 7.10 The Supplier shall procure that (on each day on which the Services are performed or at such intervals as the School may specify from time to time) its personnel provide two (2) copies of a written statement of the work completed by the Supplier over the relevant period to an authorised member of the School's staff and that the statements are signed by the authorised member of the School's staff to acknowledge receipt. One copy shall be left with the School. The fact that the statement has been signed to acknowledge receipt shall not constitute acceptance of the Services or affect the rights of the School under the Contract (including in particular but not limited to the School's rights under clauses 9 and 11).
- 7.11 While on the School's premises, the Supplier shall comply with the requirements of the Health and Safety at Work etc Act 1974 and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to personnel working at the School in the performance of its obligations under the Contract, including any health and safety measures implemented by the School in respect of the Suppliers' personnel and other persons working there. The Supplier shall ensure that its health and safety policy statement (as required by the Health and Safety at Work etc Act 1974) is made available to the School on request.

- 7.12 The School shall be entitled, on reasonable notice, to carry out (either itself or through its professional advisers) an audit of the books and records of the Supplier to the extent that they relate to the performance of the Services.
- 7.13 Where contracting in his/her individual capacity in order to provide Services, the Supplier shall meet the basic definition of self-employment in that:-
- (a) if the Supplier is unable or unwilling to perform the Services personally the Supplier shall arrange at the Supplier's own expense for a substitute to perform the Services on the Supplier's behalf, subject to the School's prior written agreement to such arrangement and the Supplier warranting that the substitute is suitable to perform the Services;
 - (b) the Supplier will be in business on his/her own account and accept full responsibility for its success and failure;
 - (c) the Supplier will not work exclusively for the School;
 - (d) the Supplier will provide his/her own tools to carry out the Services or pay the School to use its tools;
 - (e) the Supplier's provision of the Services is on an ad hoc basis, and not necessarily recurring by nature;
 - (f) the Supplier will have control over how and when he/she performs the Services, within overall deadlines and quality standards set by the Contract; and
 - (g) for the avoidance of any doubt, the Contract constitutes a contract for the provision of goods and/or services and not a contract of employment and accordingly the Supplier shall be fully responsible for and shall indemnify the School for and in respect of:
 - (i) any income tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made in connection with either the performance of the Services or any payment or benefit received by any individuals in respect of the provision of the Services, where such recovery is not prohibited by law. The Supplier shall further indemnify the School against all reasonable costs, expenses and any penalty, fine or interest incurred or payable by the School in connection with or in consequence of any such liability, deduction, contribution, assessment or claim; and
 - (ii) any liability arising from any employment-related claim or any claim based on worker status (including reasonable costs and expenses) brought by any individual engaged in the provision of the Services against the School arising out of or in connection with the provision of the Services (including any claims under TUPE).

8) Rights in Deliverables

The Supplier hereby:

- (a) warrants that it is or shall be the sole and unencumbered owner of all IPR in any Deliverables and that nothing in the performance of the Services or the provision of the Deliverables (or any exploitation thereof by the School) will infringe any right whatsoever of any third party, including the IPR of any third party;
- (b) irrevocably assigns to the School with full title guarantee the IPR, whether vested, contingent or future, in any Deliverables for the full period thereof, including any extensions or renewals, and including all rights of action accrued at the date of this assignment or which may accrue hereafter;

- (c) undertakes to do all acts and execute all documents which may be necessary to confirm the title of the School to the IPR so assigned;
- (d) warrants that it has not, and shall not, grant or assign any rights of any nature in any Deliverables to any third party whatsoever in any part of the world;
- (e) warrants that the IPR in any Deliverables is assigned to the School free of all moral rights; and
- (f) warrants that it has all the applicable permissions and licenses and has fulfilled any other relevant requirements required to copy and provide to the School any third party documentation or information in whatever format provided as part of the Services, and that any such documentation shall be appropriately labelled as such where not immediately identifiable.

9) Remedies for Goods and/or Services not supplied in accordance with the Contract

9.1 Without prejudice to any other right or remedy that the School may have (including, but not limited to, rights under the Contract, the Sale of Goods Act 1979 and/or the Sale of Goods and Services Act 1982), if any Goods or Services (including Deliverables) are not supplied in accordance with the Contract, then the School shall be entitled (at its sole discretion and without liability to the Supplier) to avail itself of any one or more of the following remedies at its discretion, whether or not any part of the Goods and/or Services have been accepted by the School:

- (a) to rescind the Contract (namely, treat the Contract as if it is not and has never been in force);
- (b) to reject the Goods (in whole or in part) and return them to the Supplier at the risk and cost of the Seller on the basis that a full refund for the Goods so returned shall be paid forthwith by the Supplier on demand and as a debt;
- (c) at the School's option (and on such terms as the School may specify) to give the Supplier the opportunity at the Supplier's expense either to remedy any defect in the Goods and/or Services or to supply replacement Goods and carry out any other necessary work to correct the Supplier's failure(s);
- (d) to refuse to accept any further deliveries of the Goods and to refuse to accept the provision of any further Services by the Supplier and to require immediate repayment of all sums previously paid by the School under the Contract;
- (e) to carry out/contract a third party to carry out at the Supplier's expense any work necessary to make the Goods comply with the Contract or to purchase substitute goods; and to make the Services comply with the Contract or to purchase substitute services from elsewhere and to hold the Supplier accountable for any losses and additional costs incurred; by the School;
- (f) to claim such damages as may have been sustained in consequence of the Supplier's breach(es) of the Contract.

9.2 Without prejudice to either clause 5.4 or 7.2, time shall be of the essence in relation to the Supplier performing its obligations under the Contract and for the avoidance of doubt, if the Goods or Deliverables are not delivered or the Services are not performed by the time(s) specified in the Order (or, where no specific time is specified, within a reasonable timeframe, such reasonable timeframe being determined by the School in its discretion, acting reasonably, with reference to the nature of the supply in question and the School's need for such supply, as may be communicated by the School to the Supplier), the School shall be entitled to reject the delivery of the Goods and/or Deliverables or the performance of the Services carried out after such date and the Supplier shall be liable for any loss, damage or expense incurred by the School as a result of the failure to deliver the Goods, Deliverables and /or Services in accordance with the Contract.

10) Liability

- 10.1 The Supplier shall indemnify the School in full against all liabilities, losses, damages, costs and expenses (including legal expenses) awarded against or incurred or paid by the School as a result of or in connection with any breach of any warranty or default by the Supplier in the performance of any of its obligations under the Contract.
- 10.2 The Supplier shall maintain in force (and ensure that any subcontractors maintain) with reputable insurance companies at least the following insurance policies covering the potential liabilities of the Supplier under the Contract (**Policies**):
- (a) employer liability insurance for not less than £5 million per claim; and
 - (b) public liability insurance for not less than £10 million per claim; and
 - (c) product liability insurance for not less than £5 million for claims arising from any single event and not less than £10 million in aggregate for all claims arising in any year; and
 - (d) professional liability insurance for not less than £5 million per claim, and on the School's written request, the Supplier shall provide details of the cover provided under the Policies.
- 10.3 The Supplier shall do nothing to invalidate any of the Policies.

11) Cancellation & Termination

- 11.1 The School reserves the right to cancel or suspend the Contract (without any liability to the Supplier) if the Supplier is in breach of any other contract between the parties incorporating these Conditions.
- 11.2 The School shall have the right at any time and for any reason (without any liability to the Supplier) to terminate the Contract in whole or in part by giving the Supplier written notice whereupon all work under the Contract or the performance of obligations pursuant to it shall be discontinued and the School shall pay to the Supplier fair and reasonable compensation for evidenced work-in-progress (if any) at the time of termination but such compensation shall not include loss of anticipated profits or any consequential loss.
- 11.3 The School shall have the right at any time by giving notice in writing to the Supplier to terminate the Contract (in whole or in part) forthwith (without any liability to the Supplier) if:
- (a) the Supplier commits a material breach of any of the terms and conditions of the Contract;
 - (b) the Supplier repeatedly breaches any of the terms and conditions of the Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms and conditions of the Contract;
 - (c) any distress, execution or other process is levied upon any of the assets of the Supplier;
 - (d) the Supplier suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
 - (e) the Supplier commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;
 - (f) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Supplier;

- (g) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Supplier;
- (h) a floating charge holder over the assets of the Supplier has become entitled to appoint or has appointed an administrative receiver;
- (i) a receiver is appointed over the assets of the Supplier;
- (j) a creditor or encumbrancer of the Supplier attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the Supplier's assets and such attachment or process is not discharged within fourteen (14) days;
- (k) any event occurs, or proceeding is taken, with respect to the Supplier in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clauses 11.3 (d) to (j) (inclusive); or
- (l) the Supplier suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business; or
- (m) the financial position of the Supplier deteriorates to such an extent that in the opinion of the School the capability of the Supplier adequately to fulfill its obligations under the Contract has been placed in jeopardy.

11.4 The termination of the Contract, however arising, will be without prejudice to the rights and duties of the School accrued prior to termination. The conditions which expressly or impliedly have effect after termination will continue to be enforceable notwithstanding termination.

12) Freedom of Information Act 2000 (FOIA)

12.1 The Supplier acknowledges that the School is subject to the requirements of the FOIA and the Environmental Information Regulations 2004 (**EIR**) and shall assist and cooperate with the School to enable the School to comply with its information disclosure obligations under the same.

12.2 The Supplier shall and shall ensure that its employees, agents, sub-contractors and any other representatives shall:

- (a) transfer any request for Information (as defined within the FOIA) under the FOIA or the EIR (a **Request for Information**) to the School as soon as practicable after receipt and in any event within two business days of receiving a Request for Information;
- (b) provide the School with a copy of all Information in its possession or power in the form that the School requires within five business days (or such other period as the School may specify) of the School requesting that Information; and
- (c) provide all necessary assistance as reasonably requested by the School to respond to a Request for Information within the time for compliance set out in section 10 of FOIA or regulation 5 of EIR.

12.3 The School shall be responsible for determining whether any Information:

- (a) is exempt from disclosure in accordance with the provisions of FOIA or EIR; and/or
- (b) is to be disclosed in response to a Request for Information.

12.4 The Supplier acknowledges that the School may be obliged under the FOIA or EIR to disclose Information, in some cases even where that Information is commercially sensitive, provided that the School take reasonable steps, where appropriate, to give the Supplier advanced notice, or failing

that, to draw the disclosure to the Supplier's attention as soon as practicable after any such disclosure.

13) General

13.1 Performance. The School may perform any of its obligations or exercise any of its rights under the Contract itself or through any other member within the group of companies of which the School is part and any act or omission of any such other member shall be deemed to be the act or omission of the School.

13.2 Confidentiality. The parties each undertake to keep confidential and not to disclose to any third party, or to use themselves other than to fulfill their obligations under the Contract, any Confidential Information in any form directly or indirectly belonging or relating to the other.

The Supplier agrees not to use the School's name or any trade mark or logo of the School or the existence of this Contract in any publicity materials or advertising without the express prior written consent of the School.

13.3 Data Protection. The Supplier will comply at all times with the Data Protection Legislation and with the obligations in Schedule 1.

13.4 Discrimination. The Supplier shall not unlawfully discriminate either directly or indirectly on such grounds as race, colour, ethnic or national origin, disability, sex or sexual orientation, religion or belief, or age and without prejudice to the generality of the foregoing the Supplier shall not unlawfully discriminate within the meaning and scope of the Equality Act 2010, the Human Rights Act 1998 or other relevant or equivalent legislation, or any statutory modification or re-enactment thereof.

13.5 Advertising & Announcements. The logo and name of the School, its members, its constituent institutions and departments shall not be used by the Supplier in advertising for any purpose without the School's express prior written consent. Nor shall the Supplier issue or release any statement or other make any other announcement about or howsoever relating to the Contract or its relationship with the School, except only with the School's express prior written consent.

13.6 Notices. Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to the other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving notice.

13.7 Assignment. The Supplier shall not, without the prior written consent of the School, assign, sub-license, sub-contract or otherwise transfer to any third party any of its rights or obligations under the Contract. The School shall be entitled to assign its rights and/or obligations under the Contract.

If the School has consented to the Supplier sub-contracting or otherwise transferring the performance of any part of the Contract to a third party (**sub-contractor**), the Supplier shall at all times remain primarily responsible and liable for all acts and omissions of its sub-contractors and the acts and omissions of those employed or engaged by the sub-contractors as if they were its own. An obligation on the Supplier to do, or to refrain from doing, any act or thing shall include an obligation on the Supplier to procure that its employees, staff and agents and sub-contractors' employees, staff and agents also do, or refrain from doing, such act or thing. The Supplier shall also remain primarily responsible and liable for all taxes, liabilities and other payments in connection with the Price paid to the Supplier under the Contract and agrees to keep the School indemnified on a continuing basis in relation to the same. This indemnity will survive the termination of the Contract.

13.8 Third Party Rights. Subject to clause 13.1 above, both parties agree that no term of the Contract will be enforceable by any third party by virtue of the Contracts (Rights of Third Parties) Act 1999.

- 13.9 Severance. In the event that any provision (including any distinct sub-condition) of the Contract is held to be illegal, invalid, void or unenforceable, it shall be severed from the remaining provisions of the Contract, which shall continue in full force and effect.
- 13.10 Waiver. Failure or neglect by either party to enforce any provision of the Contract shall not be construed nor shall be deemed to be a waiver of that party's rights under the Contract and shall not prejudice that party's rights to take subsequent action.
- 13.11 Force Majeure. The School shall not be liable to the Supplier for any loss, damage or expense incurred by the Supplier by reason of the failure of the School to accept the goods and services due to any circumstances outside its reasonable control.
- 13.12 Entire Agreement. The Contract constitutes the entire agreement between the parties in relation to the purchase by the School of the Goods and/or Services. It supersedes any prior agreements, representations, arrangements or undertakings in relation to such subject matter, provided that nothing in this clause shall exclude or limit liability for fraudulent misrepresentation.
- 13.13 Anti-Bribery.
In performing its obligations under the Contract the Supplier shall:
- (i) comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010;
 - (ii) not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
 - (iii) comply with any anti-bribery policy of the School as communicated by the School to the Supplier, and as amended by notification to the Supplier from time to time;
 - (iv) have and maintain throughout the term of the Contract its own policies and procedures including adequate procedures under the Bribery Act 2010, to ensure compliance with the obligations of this clause 13.13;
 - (v) promptly report to the School any request or demand for any undue financial or other advantage of any kind received by the Supplier in connection with the performance of this Contract,
 - (vi) the School may terminate the agreement with immediate effect by giving written notice to the Supplier if the Supplier commits a breach of clause 13.13.
- 13.14 Compliance with Anti-Slavery and Human Trafficking Laws. In performing its obligations under the Contract, the Supplier shall comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including but not limited to the Modern Slavery Act 2015 and any anti-slavery policy of the School, and include in contracts with its direct subcontractors and suppliers provisions which are at least as onerous as those set out in these Conditions. The School shall be entitled to terminate the Contract immediately and to recover from the Supplier the amount of any loss resulting from a breach of this Clause 13.14.
- 13.15 Law & Jurisdiction. The Contract shall be governed by and interpreted in accordance with English law and the parties hereby submit to the exclusive jurisdiction of the English courts.
- 13.16 Headings. The headings of the conditions and sub-conditions of these Conditions are used for convenience only and shall not affect the interpretation of the Contract.

Schedule 1 – Data Protection

- 1 If at any point in performing its obligations under the Contract the Supplier gains access to any personal data (as defined in the Data Protection Legislation) of which the School is the data controller (also as defined in the Data Protection Act Legislation), then the Supplier shall be a data processor in relation to such personal data and the Supplier undertakes:
 - (a) to only carry out processing of any such personal data on the School's written instructions from time to time, unless such processing is required by any law (other than contract law) to which the Supplier is subject, in which case the Supplier shall (to the extent permitted by law) inform the School of that legal requirement before carrying out the processing;
 - (b) immediately notify the School if it considers that the School's instructions are in breach of the GDPR or other EU Member State laws;
 - (c) not to modify, amend or alter the contents of such personal data unless directed to do so in writing by the School;
 - (d) not to disclose or permit the disclosure of any such personal data to any third party (including a data subject) unless specifically authorised in writing by the School;
 - (e) to take and/or implement all appropriate technical and organisational measures against unauthorised or unlawful processing of such personal data, and against accidental loss, alteration or destruction of, or damage to, such personal data, and ensure the security of such data at all times (and the Supplier shall promptly inform the School if any personal data are lost, altered or destroyed or becomes damaged, corrupted or unusable and shall (at its own expense) take such steps as the School may reasonably require to restore the personal data to its original condition);
 - (f) only use and process such personal data in accordance with the Contract and in compliance with the provisions of the Data Protection Legislation, and only then to the extent absolutely necessary for and in connection with the provision of the Service to the School, and for no other purpose whatsoever;
 - (g) only transfer such personal data to countries outside of the Economic European Area that ensure an adequate level of protection for the personal data and the rights of the data subject and in any event only with the express prior written authorisation of the School which may be granted subject to such conditions as the School deems necessary in its sole discretion; and
 - (h) on termination of the Contract or any earlier termination of the Supplier's right or obligation to process personal data, and as otherwise directed by the School, the Supplier shall either:
 - (i) destroy the personal data and all copies thereof;
 - (ii) transfer the personal data to the School or such other third party as the School may direct; or
 - (iii) archive the personal data subject to agreement on terms of archiving including costs.
- 2 Without prejudice to Schedule 1, the Supplier shall not engage any third party to carry out processing in connection with the Contract on behalf of the School without the School's prior written consent, and only then on terms which replicate those set out in this Schedule 1. The Supplier shall remain liable to the School for any acts or omissions of its sub-processors.
- 3 If the Supplier receives any complaint, notice or communication which relates directly or indirectly to the processing of personal data or to compliance by it or the School with the Data Protection Legislation (including requests from data subjects for the exercising of their statutory rights), it shall promptly notify the School and shall provide the School with full co-operation and assistance in relation to any such complaint, notice or communication.

- 4 The Supplier shall provide all reasonable assistance to the School, having regard to the nature of processing and the information available to the Supplier, in order to assist the School to comply with its obligations under the Data Protection Legislation (including the notification of a personal data breach to the Information Commissioner and to the data subject(s) affected, and the preparation of data protection impact assessments, where appropriate).
- 5 The Supplier shall keep and provide to the School on request a record of the Supplier's use of the personal data and processing activities and shall make available to the School all information necessary to demonstrate compliance with the Supplier's data processing obligations set out in the Contract, and that it is competent to process personal data in accordance with the Data Protection Legislation.
- 6 The Supplier shall take reasonable steps to ensure the reliability of all its employees or other representatives who have access to the personal data and shall ensure that all such persons:
 - (i) are informed of the confidential nature of the personal data before they gain access to it;
 - (ii) comply with the obligations set out in this Schedule 1;
 - (iii) have committed themselves to confidentiality obligations or are under an appropriate statutory obligation of confidentiality; and
 - (iv) have undertaken training in the requirements of the Data Protection Legislation.
- 7 The Supplier shall not publish, disclose or divulge any of the personal data to any third party (including for the avoidance of doubt a data subject) unless directed to do so in writing by the School);
- 8 If the Supplier becomes aware of a breach of the personal data it shall notify the School without undue delay on becoming aware of such a breach.
- 9 The Supplier agrees to indemnify (and keep indemnified) the School against all costs, expenses and liabilities arising from the Supplier's breach of its obligations under Schedule 1.
- 10 Where applicable, the types of personal data and categories of data subject which may be processed under this agreement, the nature and purpose of that processing and the duration of that processing are set out in the Order.