



TERMS AND CONDITIONS FOR THE PURCHASE OF GOODS

1 Contract Formation

- 1.1 These terms and conditions apply to each Binding Order between the University and the Supplier for the supply of Goods to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 1.2 Each Purchase Order shall constitute an offer by the University to purchase the goods in accordance with these terms and conditions.
- 1.3 The Purchase Order shall be deemed to be accepted, and an individual contract formed ("**Binding Order**"), on the earlier of:
 - 1.3.1 the Supplier issuing a written acceptance of the Purchase Order;
 - 1.3.2 the Supplier verbally confirming its acceptance of the Purchase Order to the University; or
 - 1.3.3 the Supplier doing any act consistent with fulfilling the Purchase Order.

2 The Goods

- 2.1 The Supplier shall ensure that the Goods:
 - 2.1.1 are new (unless expressly agreed otherwise);
 - 2.1.2 correspond with their description, any sample provided and any applicable Specification (to include, without limitation, the provisions of the University's requirements set out in the Specification and the Supplier's response to such requirements);
 - 2.1.3 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for any purpose held out by the Supplier or made known by the Supplier to the University expressly or by implication, and in this respect the University relies on the Supplier's skill and judgment;
 - 2.1.4 be free from defects in design, material and workmanship and remain so for a reasonable period after delivery commensurate to the nature, specification and Price of the Goods;
 - 2.1.5 are manufactured and stored prior to delivery in accordance with Good Industry Practice;
 - 2.1.6 comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods.
- 2.2 The Supplier shall ensure that it has and maintains all relevant consents, authorisations, licences and accreditations required to supply and deliver the Goods prior to the delivery of any Goods to the University.
- 2.3 The Supplier agrees to use reasonable endeavours to assign to the University upon request the benefit of any warranty, guarantee or similar right which it has against any third party manufacturer or supplier of the Goods in full or part.

3 Delivery

- 3.1 The Supplier shall deliver the Goods in accordance with any delivery timescales, delivery dates and delivery instructions (to include, without limitation, as to delivery location and delivery times) set out in the Purchase Order or as otherwise agreed with the University in writing. If no such date is specified or agreed then the Supplier shall deliver the Goods during Normal Working Hours within 28 days of the date of the Purchase Order.
- 3.2 Delivery shall be completed when the Goods have been unloaded at the location specified by the University and such delivery has been received by a duly authorised agent, employee or location representative of the University. The University shall procure that such duly authorised agent, employee or location representative of the University is at the delivery location at the agreed delivery date and times in order to accept such delivery. Any arrangement by which the Goods are collected by the University in

return for a discount on the Price shall be agreed by the Parties in writing (where due to an emergency such arrangements cannot be committed to writing prior to collection, the Parties shall confirm such arrangements in writing as soon as possible following collection). Where the University collects the Goods, collection is deemed delivery for the purposes of these Terms and Conditions.

- 3.3 The Supplier shall ensure that a delivery note shall accompany each delivery of the Goods. Such delivery note shall, as a minimum, contain the University's Purchase Order number, the name and address of the University, the name and address of the Supplier, a description and quantity of the Goods, and shall show separately any extra agreed charges for containers and/or any other item not included in the Price or, where no charge is made, whether the containers are required to be returned.
- 3.4 Unless otherwise agreed with the University in writing, the Supplier shall be responsible for carriage, insurance, transport, all relevant licences, all related costs, and all other costs associated with the delivery of the Goods to the delivery location and unloading of the Goods at that location. Without limitation to the foregoing provision of this Clause 3.4, unless otherwise agreed with the University in writing, the Supplier shall be responsible for obtaining all export and import licences for the Goods and shall be responsible for any delays to the delivery time due to such licences not being available when required. In the case of any Goods supplied from outside the European Union, the Supplier shall ensure that accurate information is provided to the University as to the country of origin of the Goods.
- 3.5 All third party carriers engaged to deliver the Goods shall at no time be an agent of the University and accordingly the Supplier shall be liable to the University for the acts and omissions of all third party carriers engaged to deliver the Goods to the University.

4 Passing of risk and ownership

Title to and risk in the Goods shall pass to the University when the Goods are delivered to the University.

5 Inspection, rejection, return and recall

- 5.1 Subject to reasonable written notice, the Supplier shall permit any person authorised by the University, to inspect work being undertaken in relation to the Goods and/or the storage facilities used in the storage of the Goods at all reasonable times at the Supplier's premises or at the premises of any subcontractor or agent of the Supplier in order to confirm that the Goods are being manufactured and/or stored in accordance with Good Industry Practice and in compliance the requirements of these Terms and Conditions and any Specification.
- 5.2 Without prejudice to the provisions of Clause 5.6 and subject to Clause 5.7, the University may by written notice reject any Goods found to be damaged or otherwise not in accordance with the requirements of these Terms and Conditions and any Specification ("**Rejected Goods**"). The whole of any delivery may be rejected if a reasonable sample of the Goods in that delivery is found not to conform in all material respects to the requirements of these Terms and Conditions and any Specification.
- 5.3 Without prejudice to the provisions of Clause 5.5, upon the rejection of any Goods in accordance with Clauses 5.2 and/or 5.6, the Supplier shall, at the University's written request:
- 5.3.1 collect the Rejected Goods at the Supplier's risk and expense within ten (10) Business Days of issue of written notice from the University rejecting the Goods; and
- 5.3.2 without extra charge, promptly (and in any event within twenty (20) Business Days or such other time agreed by the Parties in writing acting reasonably) supply replacements for the Rejected Goods to the University subject to the Supplier's risk and expense and/or charge the Supplier for the cost of storage from the expiry of ten (10) Business Days from the date of notification of rejection.
- 5.4 Risk and title in respect of any Rejected Goods shall pass to the Supplier on the earlier of: (a) collection by the Supplier in accordance with Clause 5.3; or (b) immediately following the expiry of ten (10) Business Days from the University issuing written notification rejecting the Goods. If Rejected Goods are not collected within ten (10) Business Days of the University issuing written notification rejecting the Goods, the University may return the Rejected Goods at the Supplier's risk and expense and/or charge the Supplier for the cost of storage from the expiry of ten (10) Business Days from the date of notification of rejection.

- 5.5 Where the University rejects any Goods in accordance with Clauses 5.2 and/or 5.6 and the University does not require replacement Goods, the University may by written notice cancel its purchase obligations in relation to such quantity of Rejected Goods. Should the University have paid for such Rejected Goods the Supplier shall refund such payment to the University within thirty (30) days of the University cancelling such purchase obligations and informing the Supplier that the University does not require replacements for such Rejected Goods.
- 5.6 Without prejudice to any other provisions of these Terms and Conditions or any other warranties or guarantees applicable to the Goods supplied and subject to Clauses 5.7 and 5.8, if at any time following the date of the delivery of any Goods, all or any part of such Goods are found to be defective or otherwise not in accordance with the requirements of these Terms and Conditions ("**Defective Goods**"), the Supplier shall, at the University's discretion:
- 5.6.1 upon written request and without charge, promptly (and in any event within twenty (20) Business Days or such other time agreed by the Parties in writing acting reasonably) remedy the deficiency by repairing such Defective Goods; or
- 5.6.2 upon written notice of rejection from the University, treat such Defective Goods as Rejected Goods in accordance with Clauses 5.2 to 5.5 (inclusive).
- 5.7 The Supplier shall be relieved of its liabilities under Clauses 5.2 to 5.5 (inclusive) and/or Clause 5.6 to the extent only that the Goods are damaged, there are defects in the Goods and/or the Goods fail to comply with the requirements of these Terms and Conditions to the extent due, in each case, to any acts or omissions of the University.
- 5.8 The University's rights and remedies under Clause 5.6 shall cease within a reasonable period of time from the date on which the University discovers or might reasonably be expected to discover that the Goods are Defective Goods or within such other period as may be set out as part of the University's requirements in the Specification, if any. For the avoidance of doubt, Goods not used before their expiry date shall in no event be considered Defective Goods following the date of expiry provided that at the point such Goods were delivered to the University they met any shelf life requirements set out in the Purchase Order or any Specification.
- 5.9 Where the Supplier is required by Law, Guidance, and/or Good Industry Practice to order a product recall ("**Requirement to Recall**") in respect of the Goods, the Supplier shall:
- 5.9.1 promptly (taking into consideration the potential impact of the continued use of the Goods, service users and the University as well as compliance by the Supplier with any regulatory requirements) notify the University in writing of the recall together with the circumstances giving rise to the recall;
- 5.9.2 from the date of the Requirement to Recall treat the Goods the subject of such recall as Defective Goods in accordance with Clause 5.6;
- 5.9.3 consult with the University as to the most efficient method of executing the recall of the Goods and use its reasonable endeavours to minimise the impact on the University of the recall; and
- 5.9.4 indemnify and keep the University indemnified against, any loss, damages, costs, expenses (including legal costs and expenses), claims or proceedings suffered or incurred by the University as a result of such Requirement to Recall.

6 Price and payment

- 6.1 The Price shall be calculated as set out in the Purchase Order or Specification.
- 6.2 Unless otherwise agreed, the Price:
- 6.2.1 shall remain fixed; and
- 6.2.2 is the entire price payable by the University to the Supplier in respect of the provision of the Goods and includes, without limitation:

- 6.2.2.1 packaging, packing materials, addressing, labelling, loading, delivery to and unloading at the delivery location, all appropriate tax and duty (excluding VAT), any installation costs and associated works, the costs of all associated documentation and information supplied or made accessible to the University in any media, and any training in relation to the use, storage, handling or operation of the Goods;
- 6.2.2.2 any royalties, licence fees or similar expenses in respect of the making, use or exercise by the Supplier of any Intellectual Property Rights, and any licence rights granted to the University in accordance with Clause 7; and
- 6.2.2.3 costs and expenses in relation to supplies and materials used by the Supplier or any third party in the manufacture of the Goods, and any other costs incurred by the Supplier in association with the manufacture, supply or installation of the Goods.

6.3 Unless otherwise agreed:

- 6.3.1 where the Purchase Order and/or Specification confirms that the payment profile for the Goods is monthly in arrears, the Supplier shall invoice the University, within fourteen (14) days of the end of each calendar month, the Price (plus any applicable VAT thereon) in respect of the Goods supplied in the preceding calendar month;
- 6.3.2 where Clause 6.3.1 does not apply, the Supplier shall invoice the University for Goods for the Price (plus any applicable VAT thereon) at any time following completion of the supply of those Goods in compliance with these Terms and Conditions and any Specification;
- 6.3.3 each invoice shall be a valid VAT invoice and shall contain such information and be addressed to such individual as the University may inform the Supplier from time to time. Invoices shall show the VAT calculations as a separate line item.

6.4 The University shall pay each undisputed invoice received in accordance with Clause 6.3 within thirty (30) days of receipt of such invoice at the latest.

6.5 The University reserves the right to deduct any monies due to the Supplier from the University from any monies due to the University from the Supplier.

7 Intellectual property

Unless specified otherwise in any Specification, the Supplier hereby grants to the University, for the life of the use of Goods by the University, an irrevocable, royalty-free, non-exclusive licence of any Intellectual Property Rights required for the purposes of receiving and using, and to the extent necessary to receive and use, the Goods (to include any associated technical or other documentation and information supplied or made accessible to the University in any media) in accordance with these Terms and Conditions and any Specification.

8 Cancellation of Binding Orders

8.1 The University may cancel any Binding Order in whole or in part at any time before delivery with immediate effect by giving the Supplier written notice, whereupon the Supplier shall discontinue all work on the Binding Order. The Customer shall pay the Supplier fair and reasonable compensation for any work in progress on the Goods at the time of termination of that Binding Order but such compensation shall not include loss of anticipated profits or any consequential or indirect loss.

9 Packaging, identification and end of use

9.1 The Supplier shall comply with all obligations imposed on it by Law relevant to the Goods in relation to packaging, identification, and obligations following end of use by the University.

9.2 Unless otherwise specified in any Specification or otherwise agreed with the University in writing, the Goods shall be securely packed in trade packages of a type normally used by the Supplier for commercial deliveries of the same or similar goods either in retail or in bulk quantities within the United Kingdom.

9.3 All Goods that customarily bear any mark, tab, brand, label, serial numbers or other device indicating place of origin, inspection by any government or other body or standard of quality must be delivered with

all the said marks, tabs, brands, labels, serial numbers or other devices intact. Without prejudice to the generality of the foregoing, the Supplier shall label all Goods supplied to the University, and the packaging of such Goods, to highlight environmental and safety information as required by applicable Law.

- 9.4 Unless otherwise set out in any Specification or agreed with the University in writing, the Supplier shall collect without charge any returnable containers (including pallets) within twenty one (21) days of the date of the relevant delivery. Empty containers not so removed may be returned by the University at the Supplier's expense or otherwise disposed of at the University's discretion. The Supplier shall credit the University in full for any containers for which the University has been charged upon their collection or return.

10 Electronic product information

- 10.1 Where requested by the University, the Supplier shall provide the University the Product Information in such manner and upon such media as agreed between the Supplier and the University from time to time for the sole use of the University.
- 10.2 The Supplier warrants that the Product Information is complete and accurate as at the date upon which it is delivered to the University and that the Product Information shall not contain any data or statement which gives rise to any liability on the part of the University following publication of the same in accordance with Clauses 10.4 and 10.5.
- 10.3 If the Product Information ceases to be complete and accurate, the Supplier shall promptly notify the University in writing of any modification or addition to or any inaccuracy or omission in the Product Information.
- 10.4 The Supplier grants the University a perpetual, non-exclusive, royalty free licence to use and exploit the Product Information and any Intellectual Property Rights in the Product Information for the purpose of illustrating the range of goods and services (including, without limitation, the Goods) available pursuant to the University's contracts from time to time. Subject to Clause 10.5, no right to illustrate or advertise the Product Information is granted to the Supplier by the University, as a consequence of the licence conferred by this Clause 10.4.
- 10.5 The University may reproduce for its sole use the Product Information provided by the Supplier in the University's product catalogue from time to time in electronic format and/or made available on the University's external website and/or made available on other digital media from time to time.
- 10.6 If requested in writing by the University, and to the extent not already agreed as part of any Specification, the Supplier and the University shall discuss and seek to agree in good faith arrangements to use any Electronic Trading System.

11 Records retention

- 11.1 Subject to any statutory requirement, the Supplier shall keep secure and maintain for at least six (6) years, or such longer period as may be agreed between the Parties, full and accurate records of all matters relating to the Goods.
- 11.2 The University shall have the right to audit the Supplier's compliance with these Terms and Conditions and any Specification. The Supplier shall permit or procure permission for the University or its authorised representative during normal business hours having given advance written notice of no less than five (5) Business Days, access to any premises and facilities, books and records reasonably required to audit the Supplier's compliance with its obligations under these Terms and Conditions and any Specification.

12 Notice

- 12.1 Any notice required to be given by either Party shall be in writing and shall be delivered by hand or sent by prepaid first class recorded delivery or by email to the person referred to in the Purchase Order or such other person as one Party may inform the other Party in writing from time to time or to a director of the relevant Party at the head office, main UK office or registered office of such Party.
- 12.2 A notice shall be treated as having been received:

- 12.2.1 if delivered by hand within normal business hours when so delivered or, if delivered by hand outside normal business hours, at the next start of normal business hours; or
- 12.2.2 if sent by first class recorded delivery mail on a normal Business Day, at 9.00 am on the second Business Day subsequent to the day of posting, or, if the notice was not posted on a Business Day, at 9.00 am on the third Business Day subsequent to the day of posting; or
- 12.2.3 if sent by email, if sent within normal business hours when so sent or, if sent outside normal business hours, at the next start of normal business hours provided the sender has either received an electronic confirmation of delivery or has telephoned the recipient to inform the recipient that the email has been sent.

13 Assignment, novation and subcontracting

- 13.1 The Supplier shall not, except where Clause 13.2 **Error! Reference source not found.** applies, assign, subcontract, novate, create a trust in, or in any other way dispose of the whole or any part of the contract between the University and the Supplier without the prior consent in writing of the University. If the Supplier subcontracts any of its obligations, every act or omission of the subcontractor shall be deemed to be the act or omission of the Supplier and the Supplier shall be liable to the University as if such act or omission had been committed or omitted by the Supplier itself.
- 13.2 Any consent given by the University for the Supplier to subcontract any of its obligations shall not impose any duty on the University to enquire as to the competency of any authorised subcontractor. The Supplier shall ensure that any authorised subcontractor has the appropriate capability and capacity to perform the relevant obligations and that the obligations carried out by such subcontractor are fully in accordance with those obligations.
- 13.3 Where the University pays the Supplier's undisputed invoices earlier than thirty (30) days from receipt in accordance with any applicable government prompt payment targets, the Supplier shall use its reasonable endeavours to pay its relevant subcontractors within a comparable timeframe from receipt by the Supplier of such undisputed invoices from its subcontractors.
- 13.4 The University shall upon written request have the right to review any subcontract entered into by the Supplier in respect of the provision of the Goods and the Supplier shall provide a certified copy of any subcontract within five (5) Business Days of the date of a written request from the University. For the avoidance of doubt, the Supplier shall have the right to redact any confidential pricing information in relation to such copies of subcontracts.
- 13.5 The University may at any time transfer, assign, novate, subcontract or otherwise dispose of its rights and obligations under these Terms and Conditions or any part thereof and the Supplier warrants that it will carry out all such reasonable further acts required to effect such transfer, assignment, novation, subcontracting or disposal.

14 Prohibited Acts

- 14.1 The Supplier warrants and represents that:
 - 14.1.1 it has not committed any offence under the Bribery Act 2010 or Criminal Finance Act 2017 or done any of the following ("**Prohibited Acts**"):
 - 14.1.1.1 offered, given or agreed to give any officer or employee of the University any gift or consideration of any kind as an inducement or reward for doing or not doing or for having done or not having done any act in relation to the obtaining or performance of this or any other agreement with the University or for showing or not showing favour or disfavour to any person in relation to this or any other agreement with the University; or
 - 14.1.1.2 in connection with this Contract paid or agreed to pay any commission other than a payment, particulars of which (including the terms and conditions of the agreement for its payment) have been disclosed in writing to the University; and
 - 14.1.2 it has in place adequate procedures to prevent bribery and corruption, as contemplated by section 7 of the Bribery Act 2010.



14.2 If the Supplier or its Staff (or anyone acting on its or their behalf) has done or does any of the Prohibited Acts or has committed or commits any offence under the Bribery Act 2010 or Criminal Finance Act 2017 with or without the knowledge of the Supplier in relation to this or any other agreement with the University:

14.2.1 the University shall be entitled:

14.2.1.1 to terminate this Contract and recover from the Supplier the amount of any loss resulting from the termination;

14.2.1.2 to recover from the Supplier the amount or value of any gift, consideration or commission concerned; and

14.2.1.3 to recover from the Supplier any other loss or expense sustained in consequence of the carrying out of the Prohibited Act or the commission of the offence under the Bribery Act 2010 or Criminal Finance Act 2017;

14.2.2 any termination under Clause 14.2.1.1 shall be without prejudice to any right or remedy that has already accrued, or subsequently accrues, to the University.

15 Confidentiality

15.1 In respect of any Confidential Information it may receive directly or indirectly from the other Party ("Discloser") and subject always to the remainder of this Clause 15, each Party ("Recipient") undertakes to keep secret and strictly confidential and shall not disclose any such Confidential Information to any third party without the Discloser's prior written consent provided that the provisions of this Clause 15 shall not apply to any Confidential Information:

15.1.1 which is in or enters the public domain other than by breach of this Clause 15 or other act or omissions of the Recipient;

15.1.2 which is obtained from a third party who is lawfully authorised to disclose such information without any obligation of confidentiality;

15.1.3 which is authorised for disclosure by the prior written consent of the Discloser;

15.1.4 which the Recipient can demonstrate was in its possession without any obligation of confidentiality prior to receipt of the Confidential Information from the Discloser; or

15.1.5 which the Recipient is required to disclose purely to the extent to comply with the requirements of any relevant stock exchange.

15.2 Nothing in this Clause 15 shall prevent the Recipient from disclosing Confidential Information where it is required to do so by judicial, administrative, governmental or regulatory process in connection with any action, suit, proceedings or claim or otherwise by applicable Law, including the Freedom of Information Act 2000 ("**FOIA**"), Codes of Practice on Access to Government Information, on the Discharge of Public Authorities' Functions or on the Management of Records ("**Codes of Practice**") or the Environmental Information Regulations 2004 ("**Environmental Regulations**").

15.3 Provided the University makes clear the confidential nature of such information and that it must not be further disclosed except in accordance with Law or this Clause 15.3, the University may disclose the Supplier's Confidential Information to the following third parties:

15.3.1 any consultant, contractor or other person engaged by the University receiving such information;

15.3.2 any relevant party for the purpose of the examination and certification of the University's accounts; or

15.3.3 any relevant party for any examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the University has used its resources.

15.4 The Supplier may only disclose the University's Confidential Information, and any other information provided to the Supplier by the University in relation to the provision of the Goods, to the Supplier's Staff or professional advisors who are directly involved in the performance of or advising on the Supplier's

obligations under these Terms and Conditions. The Supplier shall ensure that such Staff are aware of and shall comply with the obligations in this Clause 15 as to confidentiality and that all information, including Confidential Information, is held securely, protected against unauthorised use or loss and, at the University's written discretion, destroyed securely or returned to the University when it is no longer required. The Supplier shall not, and shall ensure that the Staff do not, use any of the University's Confidential Information received otherwise than for the purposes of performing the Supplier's obligations under these Terms and Conditions.

15.5 For the avoidance of doubt, save as required by Law, the Supplier shall not, without the prior written consent of the University (such consent not to be unreasonably withheld or delayed), announce that it has been appointed as a Supplier to the University and/or make any other announcements about these Terms and Conditions.

15.6 Clause 15 shall remain in force:

15.6.1 without limit in time in respect of Confidential Information which comprises Personal Data, Sensitive Personal Data or which relates to national security; and

15.6.2 for all other Confidential Information for a period of three (3) years after the final delivery of Goods to the University under these Terms and Conditions.

16 Data protection

16.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Controller and the Contractor is the Processor. The only processing that the Contractor is authorised to do is listed in Schedule A of this document by the Customer and may not be determined by the Contractor.

16.2 The Contractor shall notify the Customer immediately if it considers that any of the Customer's instructions infringe the Data Protection Legislation.

16.3 The Contractor shall provide all reasonable assistance to the Customer in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Customer, include:

- (a) a systematic description of the envisaged processing operations and the purpose of the processing;
- (b) an assessment of the necessity and proportionality of the processing operations in relation to the Services;
- (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
- (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

16.4 The Contractor shall, in relation to any Personal Data processed in connection with its obligations under this Agreement:

(a) process that Personal Data only in accordance with Schedule A of this document, unless the Contractor is required to do otherwise by Law. If it is so required the Contractor shall promptly notify the Customer before processing the Personal Data unless prohibited by Law;

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

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

(c) ensure that :

(i) the Contractor Personnel do not process Personal Data except in accordance with this Agreement (and in particular Schedule A);

(ii) it takes all reasonable steps to ensure the reliability and integrity of any Contractor Personnel who have access to the Personal Data and ensure that they:

- (A) are aware of and comply with the Contractor's duties under this clause;
- (B) are subject to appropriate confidentiality undertakings with the Contractor or any Sub-processor;
- (C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Customer or as otherwise permitted by this Agreement; and
- (D) have undergone adequate training in the use, care, protection and handling of Personal Data; and
- (d) not transfer Personal Data outside of the EU unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:
 - (i) the Customer or the Contractor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Customer;
 - (ii) the Data Subject has enforceable rights and effective legal remedies;
 - (iii) the Contractor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Customer in meeting its obligations); and
 - (iv) the Contractor complies with any reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;
- (e) at the written direction of the Customer, delete or return Personal Data (and any copies of it) to the Customer on termination of the Agreement unless the Contractor is required by Law to retain the Personal Data.

16.5 Subject to clause 16.6, the Contractor shall notify the Customer immediately if it:

- (a) receives a Data Subject Access Request (or purported Data Subject Access Request);
- (b) receives a request to rectify, block or erase any Personal Data;
- (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
- (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement;
- (e) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law;
- or
- (f) becomes aware of a Data Loss Event.

16.6 The Contractor's obligation to notify under clause 16.5 shall include the provision of further information to the Customer in phases, as details become available.

16.7 Taking into account the nature of the processing, the Contractor shall provide the Customer with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 16.5 (and insofar as possible within the timescales reasonably required by the Customer) including by promptly providing:

- (a) the Customer with full details and copies of the complaint, communication or request;
- (b) such assistance as is reasonably requested by the Customer to enable the Customer to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
- (c) the Customer, at its request, with any Personal Data it holds in relation to a Data Subject;
- (d) assistance as requested by the Customer following any Data Loss Event;
- (e) assistance as requested by the Customer with respect to any request from the



Information Commissioner's Office, or any consultation by the Customer with the Information Commissioner's Office.

16.8 The Contractor shall maintain complete and accurate records and information to demonstrate its compliance with this clause. This requirement does not apply where the Contractor employs fewer than 250 staff, unless:

- (a) the Customer determines that the processing is not occasional;
- (b) the Customer determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and
- (c) the Customer determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.

16.9 The Contractor shall allow for audits of its Data Processing activity by the Customer or the Customer's designated auditor.

16.10 The Contractor shall designate a data protection officer if required by the Data Protection Legislation .

16.11 Before allowing any Sub-processor to process any Personal Data related to this Agreement, the Contractor must:

- (a) notify the Customer in writing of the intended Sub-processor and processing;
- (b) obtain the written consent of the Customer;
- (c) enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause 16 such that they apply to the Sub-processor; and
- (d) provide the Customer with such information regarding the Sub-processor as the Customer may reasonably require.

16.12 The Contractor shall remain fully liable for all acts or omissions of any Sub-processor.

16.13 The Customer 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 (which shall apply when incorporated by attachment to this Agreement).

16.14 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Customer may on not less than 30 Working Days' notice to the Contractor amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.

17 Freedom of Information and Transparency

17.1 The Supplier shall assist and cooperate with the University to enable it to comply with its disclosure obligations under the FOIA, Codes of Practice and Environmental Regulations. The Supplier agrees:

- 17.1.1 that these Terms and Conditions and any recorded information held by the Supplier on the University's behalf for the purposes of any Binding Order are subject to the obligations and commitments of the University under the FOIA, Codes of Practice and Environmental Regulations;
- 17.1.2 that the decision on whether any exemption to the general obligations of public access to information applies to any request for information received under the FOIA, Codes of Practice and Environmental Regulations is a decision solely for the University;
- 17.1.3 that where the Supplier receives a request for information under the FOIA, Codes of Practice and Environmental Regulations and the Supplier itself is subject to the FOIA, Codes of Practice and Environmental Regulations it will liaise with the University as to the contents of any response before a response to a request is issued and will promptly (and in any event within two (2) Business Days) provide a copy of the request and any response to the University;

- 17.1.4 that where the Supplier receives a request for information under the FOIA, Codes of Practice and Environmental Regulations and the Supplier is not itself subject to the FOIA, Codes of Practice and Environmental Regulations, it will not respond to that request (unless directed to do so by the University) and will promptly (and in any event within two (2) Business Days) transfer the request to the University;
- 17.1.5 that the University, acting in accordance with the Codes of Practice issued and revised from time to time under both section 45 of FOIA, and regulation 16 of the Environmental Regulations, may disclose information concerning the Supplier and these Terms and Conditions; and
- 17.1.6 to assist the University in responding to a request for information, by processing information or environmental information (as the same are defined in FOIA and the Environmental Regulations) in accordance with a records management system that complies with all applicable records management recommendations and codes of conduct issued under section 46 of FOIA, and providing copies of all information requested by the University within five (5) Business Days of that request and without charge.
- 17.2 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, Codes of Practice and Environmental Regulations, the content of these Terms and Conditions is not Confidential Information.
- 17.3 Where any information is held by any subcontractor of the Supplier in connection with these Terms and Conditions, the Supplier shall procure that such subcontractor shall comply with the relevant obligations set out in Clause 17, as if such subcontractor were the Supplier.
- 18 Information Security**
- 18.1 Without limitation to any other information governance requirements set out in Clauses 15 to 17 (inclusive), the Supplier shall:
- 18.1.1 notify the University forthwith of any information security breaches or near misses (including without limitation any potential or actual breaches of confidentiality or actual information security breaches) in line with the University's information governance Policies; and
- 18.1.2 fully cooperate with any audits or investigations relating to information security and any privacy impact assessments undertaken by the University and shall provide full information as may be reasonably requested by the University in relation to such audits, investigations and assessments.
- 19 General**
- 19.1 Each of the Parties is independent of the other and nothing contained in these Terms and Conditions shall be construed to imply that there is any relationship between the Parties of partnership or of principal/agent or of employer/employee nor are the Parties hereby engaging in a joint venture and accordingly neither of the Parties shall have any right to act on behalf of the other nor to bind the other by agreement or otherwise.
- 19.2 Failure or delay by either Party to exercise an option or right conferred by these Terms and Conditions shall not of itself constitute a waiver of such option or right.
- 19.3 The delay or failure by either Party to insist upon the strict performance of any provision, term or condition of these Terms and Conditions or to exercise any right or remedy consequent upon such breach shall not constitute a waiver of any such breach or any subsequent breach of such provision, term or condition.
- 19.4 Any provision of these Terms and Conditions which is held to be invalid or unenforceable in any jurisdiction shall be ineffective to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable the remaining provisions of these Terms and Conditions and any such invalidity or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provisions in any other jurisdiction.

- 19.5 The rights and remedies provided in these Terms and Conditions are cumulative and not exclusive of any rights or remedies provided by general law, or by any other contract or document. In this Clause 19.5, right includes any power, privilege, remedy, or proprietary or security interest.
- 19.6 A person who is not the University or the Supplier shall have no right to enforce any terms of these Terms and Conditions which confer a benefit on such person. No such person shall be entitled to object to or be required to consent to any amendment to the provisions of these Terms and Conditions.
- 19.7 These Terms and Conditions, any variation in writing signed by an authorised representative of each Party and any document referred to (explicitly or by implication) in these Terms and Conditions or any variation to these Terms and Conditions, contain the entire understanding between the Supplier and the University relating to the supply of the Goods to the exclusion of all previous agreements, confirmations and understandings and there are no promises, terms, conditions or obligations whether oral or written, express or implied other than those contained or referred to in these Terms and Conditions. Nothing in these Terms and Conditions seeks to exclude either Party's liability for fraud.
- 19.8 These Terms and Conditions, and any dispute or claim arising out of or in connection with them or their subject matter (including any non-contractual claims), shall be governed by, and construed in accordance with, the laws of England and Wales.
- 19.9 The Parties irrevocably agree that the courts of England and Wales shall have non-exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with these Terms and Conditions or their subject matter.
- 19.10 All written and oral communications and all written material referred to under these Terms and Conditions shall be in English.

Terms and Conditions of Purchase: Definitions and Interpretation

1 Definitions

1.1 In these Terms and Conditions the following words shall have the following meanings unless the context requires otherwise:

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| University | means the University of Sheffield |
| Binding Order | means any order which has been placed by the University and accepted by the Supplier for the supply of Goods under these Terms and Conditions and shall constitute a binding contract between the Parties in accordance with Clause 1 |
| Business Day | means any day other than Saturday, Sunday, Christmas Day, Good Friday or a statutory bank holiday in England and Wales |
| Codes of Practice | shall have the meaning given to it in Clause 15.2 |
| Confidential Information | means information, data and material of any nature, which either Party may receive or obtain in connection with the conclusion and/or operation of these Terms and Conditions including any procurement process which is: (a) Personal Data or Sensitive Personal Data (b) designated as confidential by either party or that ought reasonably to be considered as confidential (however it is conveyed or on whatever media it is stored); and/or (c) Policies and such other documents which the Supplier may obtain or have access to through the University's intranet |
| Contract Front Sheet | if any, means the contract front sheet attached to these Terms and Conditions which sets out the ongoing obligations of the Supplier and the University in connection with the long term supply of Goods |
| Contractor Personnel | means all directors, officers, employees, agents, consultants and contractors of the Contractor and/or of any Sub-Contractor engaged in the performance of its obligations under this Agreement |
| Controller | takes the meaning given in the GDPR |
| Data Loss Event | any event that results, or may result, in unauthorised access to Personal Data held by the Contractor under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach |
| Data Protection Impact Assessment | an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data |
| Data Protection Legislation | 1.The GDPR, the LED and any applicable national implementing Laws as amended from time to time 2.the DPA 2018 (subject to Royal Assent) to the extent that it relates to processing of personal data and privacy; 3.all applicable Law about the processing or personal data and privacy |
| Data Protection Officer | takes the meaning given in the GDPR |
| Data Subject | takes the meaning given in the GDPR |
| Data Subject Access Request | a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data |
| Defective Goods | has the meaning given under Clause 5.6 |
| DPA 2018 | Data Protection Act 2018 |

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| Electronic Trading System(s) | means such electronic data interchange system and/or world wide web application and/or other application with such message standards and protocols as the University may specify from time to time |
| Environmental Regulations | shall have the meaning given to the term in Clause 15.2 |
| FOIA | shall have the meaning given to the term in Clause 15.2 |
| GDPR | the General Data Protection Regulation (<i>Regulation (EU) 2016/679</i>) |
| Good Industry Practice | means the exercise of that degree of skill, diligence, prudence, risk management, quality management and foresight which would reasonably and ordinarily be expected from a skilled and experienced supplier engaged in the manufacture and/or supply of goods similar to the Goods under the same or similar circumstances as those applicable to this Contract, including in accordance with any codes of practice published by relevant trade associations |
| Goods | means goods of the type and nature set out in the Contract Front Sheet (if any) Specification (if any) or the Purchase Order that the Supplier is required to supply to the University pursuant to a Binding Order |
| Guidance | means any applicable guidance, direction or determination and any policies, advice or industry alerts which apply to the Goods, to the extent that the same are published and publicly available or the existence or contents of them have been notified to the Supplier by the University |
| Intellectual Property Rights | means all patents, copyright, design rights, registered designs, trademarks, know-how, database rights, confidential formulae and any other intellectual property rights and the rights to apply for patents and trademarks and registered designs |
| Law | means: (a) any applicable statute or proclamation or any delegated or subordinate legislation or regulation; (b) any applicable European Union directive, regulation, decision or law; (c) any enforceable community right within the meaning of section 2(1) European Communities Act 1972; (d) any applicable judgment of a relevant court of law which is a binding precedent in England and Wales; (e) requirements set by any regulatory body; and (f) any applicable code of practice, in each case as applicable in England and Wales |
| LED | Law Enforcement Directive (<i>Directive (EU) 2016/680</i>) |
| Normal Working Hours | [INSERT NORMAL HOURS DURING WHICH YOU WOULD ACCEPT DELIVERIES] |
| Party | means the University or the Supplier as appropriate and Parties means both the University and the Supplier |
| Personal Data | takes the meaning given in the GDPR |
| Personal Data Breach | takes the meaning given in the GDPR |
| Policies | means the policies, rules and procedures of the University as notified to the Supplier from time to time |
| Price | means the price exclusive of VAT that is payable to the Supplier by the University as set out in the Specification and/or Purchase Order for the full and proper performance by the Supplier of its obligations under each Binding Order |
| Process | has the meaning given to it under the Data Protection |

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| | Legislation and, for the purposes of this Contract, it shall include both manual and automatic processing. Processing and Processed shall be construed accordingly |
| Processor | takes the meaning given in the GDPR |
| Product Information | means information concerning the Goods as may be reasonably requested by the University and supplied by the Supplier to the University in accordance with Clause 10 for inclusion in the University's product catalogue from time to time [DN: will you have a product catalogue? What will it be used for?] |
| Protective Measures | appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the measures adopted by it. |
| Purchase Order | means a the purchase order issued by the University to the Supplier referring to these Terms and Conditions and specifying the Goods to be supplied by the Supplier |
| Rejected Goods | has the meaning given under Clause 5.2 |
| Requirement to Recall | has the meaning given under Clause 5.9 |
| Sensitive Personal Data | means sensitive personal data as defined in the Data Protection Act 1998 |
| Specification | means, taken together, in the following order of priority: <ul style="list-style-type: none"> (a) any detail relating to the specification of the Goods set out in the Contract Front Sheet (if any); (b) any written statements of the University's requirements relating to the Goods as provided by the University to the Supplier; (c) any written statements of the Supplier provided to the University confirming how it will meet such requirements; and (d) the statement of the prices for the Goods, whether or not such University and Supplier statements are in a single document or separate documents and as amended and/or updated in accordance with these Terms and Conditions |
| Sub-processor | any third Party appointed to process Personal Data on behalf of the Contractor related to this Agreement |
| Supplier | means the supplier named on the Purchase Order |
| Terms and Conditions | means these terms and conditions for the purchase of goods together with any other documents (if any) which the University and the Supplier have expressly agreed shall form a contract between them in connection with the supply of the Goods by the Supplier, and shall include, for the avoidance of doubt, the Contract Front Sheet (if any) |
| VAT | means value added tax chargeable under the Value Added Tax Act 1994 or any similar, replacement or extra tax |

- a. References to any statute or order shall include any statutory extension, modification or re-enactment, and any order, regulation, bye-law or other subordinate legislation.
- b. References to any legal entity shall include any body that takes over responsibility for the functions of such entity.

- c. References to a day or to the calculation of time frames are references to a calendar day unless expressly specified as a Business Day.
- d. Words denoting the singular shall include the plural and vice versa.
- e. Where a list of one or more items follows the word “including” or “includes” then such list is not to be interpreted as an exhaustive list. Any such list shall not be treated as excluding any item that might have been included in such list having regard to the context of the contractual term in question. General words are not to be given a restrictive meaning where they are followed by examples intended to be included within the general words.
- f. Where there is a conflict between the Supplier’s statements set out in the Specification and any other part of these Terms and Conditions, such other part of these Terms and Conditions shall prevail.

SCHEDULE A – Processing, Personal Data and Data Subjects

Please complete the following Schedule. This information will be, at the discretion of the University, accepted as per your submission, or used as a basis for further negotiation before mutual acceptance can be agreed.

If you or the solution you are proposing will not be receiving, collecting, processing or storing any personal data (with the definition that personal data is anything that can be used to identify individuals), please declare here :

We, or our proposed solution will / will not be receiving, collecting, processing or storing personal data (delete as applicable)

If you have answered that you will be, please complete the table below :

| Description | Details <i>[guidance given in brackets]</i> |
|--|---|
| Subject matter of the processing | <i>[This should be a high level, short description of what the processing is about i.e. its subject matter]</i> |
| Duration of the processing | <i>[Clearly set out the duration of the processing including dates]</i> |
| Nature and purposes of the processing | <i>[Please be as specific as possible, but make sure that you cover all intended purposes. The nature of the processing means any operation such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means) etc. The purpose might include: employment processing, statutory obligation, recruitment assessment etc]</i> |
| Type of Personal Data | <i>[Examples here include: name, address, date of birth, NI number, telephone number, pay, images, biometric data etc]</i> |
| Categories of Data Subject | <i>[Examples include: Staff (including volunteers, agents, and temporary workers), customers/ clients, suppliers, patients, students, members of the public, users of a particular website etc]</i> |
| Plan for return and destruction of the data once the processing is complete UNLESS requirement under union | <i>[Describe how long the data will be retained for, how it be returned or destroyed]</i> |



The
University
Of
Sheffield.

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| or member state law to preserve that type of data | |
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