

**Terms and conditions of purchase of services (including related goods) by
St Joseph's College Limited**

These Terms and Conditions of Purchase apply to the exclusion of any other terms that the Supplier seeks to impose or incorporate and govern the Supplier's provision of Services (and related Goods) to the College and are incorporated into the Contract.

1) Interpretation

a) In the Terms and Conditions, the following definitions apply:

Acceptance Criteria: any criteria with which any Goods or Deliverables must comply as set out in the Purchase Order or the Specification, or evidenced by written agreement between the parties or agreed between the parties by e-mail or by telephone (whether or not such criteria are referred to as "Acceptance Criteria").

Applicable Law: the laws of England and Wales and the European Union and any other laws or regulations, regulatory policies, guidelines or industry codes which apply to the provision of the Services and/or the Goods from time to time.

Business Day: a day (other than a Saturday, Sunday or a public holiday) when banks in London are open for business.

Charges: the charges for the Services (and any Goods) referred to in clause 15) and set out in the Purchase Order.

Child Protection Policy: means the College's child protection policy as amended from time to time.

College: St Joseph's College, Birkfield, Belstead Road, Ipswich, Suffolk IP2 9DR.

Commencement date: has the meaning set out in clause 2)a).

Confidential Information: all information of a confidential nature (however recorded or preserved) disclosed or made available, directly or indirectly, by the College or its Representatives to the Supplier or its Representatives, including any information which is marked confidential or private and any information relating to the College's members, customers, clients, suppliers, business, strategy, plans, intentions, market opportunities, operations, processes or Intellectual Property Rights.

Contract: the contract between the College and the Supplier for the provision of the Services (and any Goods) comprising the Purchase Order and the Terms and Conditions.

Controller: As defined under any Data Protection Law.

Data Protection Law: a) the DPA 2018, the GDPR, the Electronic Communications Data Protection Directive (2002/58/EC), the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2426/2003), any other applicable law concerning data protection, privacy or confidentiality and any subordinate or related legislation; (b) any replacement to, addition to, or amendment of, any of the foregoing; and (c) any other applicable laws concerning data protection, confidentiality or privacy which may come into force from time to time including any such applicable laws in any relevant jurisdiction. In this definition, "relevant jurisdiction" includes any jurisdiction in which Personal Data relating to this Contract are Processed.

Data Subject: an individual who falls under the definition of data subject under any Data Protection Law.

Deliverables: all products of the Services (whether tangible or not), including Documents and data (and drafts of either) and the media on which they are recorded.

Delivery Location: the address specified by the College in the Purchase Order where the Goods are to be delivered or the Services performed. Where no address is specified, the Goods shall be delivered to and the Services shall be performed at St Joseph's College, Birkfield, Belstead Road, Ipswich, Suffolk IP2 9DR.

Document: includes any document in hard or electronic copy.

DPA 2018: the Data Protection Act 2018.

Excepted Hours: the periods from 8am to 9am, 12pm to 2pm and 4pm to 5.30pm on a Business Day.

Goods: the goods (or any part of them) provided, or to be provided, by the Supplier under the Contract as set out in the Purchase Order and/or Specification or otherwise provided as part of the Services, in all cases whether or not manufactured or produced by the Supplier and including Deliverables to the extent that they comprise anything tangible or in physical form.

GDPR: Regulation (EU) 2016/679 of the European Parliament and the Council of 27 April 2016, otherwise known as the General Data Protection Regulation.

Intellectual Property Rights: all intellectual property rights, whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world including all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, rights in confidential information (including know-how and trade secrets).

Materials: shall have the meaning given in clause 4)a)iv).

Personal Data: any information which falls within the definition of "personal data" under any Data Protection Law.

Processing, Processed and Process: as described in the GDPR.

Purchase Order: the written order from the College for Services (and any Goods) incorporating or attached to the Terms and Conditions.

Premises: any premises owned, leased to, controlled or occupied by the College or its Representatives which are made available for use by the Supplier or its Representatives for the delivery or performance of the Services (and any Goods).

Relevant Party: shall have the meaning specified in clause a).

Representatives: employees, officers, agents, advisors, sub-contractors, suppliers or other representatives.

Request for Information: a request for Information or an apparent request under GDPR.

Schedule: any of the following schedules (if used): Schedule 1- Special clauses of Contract; Schedule 2 - Specification.



Services: the services, including without limitation any Deliverables, provided, or to be provided, by the Supplier under the Contract as set out in the Purchase Order and/or Specification.

Specification: in relation to Goods, any description of them (including any relevant plans or drawings and any description incorporated by reference), and in relation to Services, any description of them (including any Deliverables to be produced) set out in Schedule 2.

Supplier: the person, firm or company to whom the Purchase Order is addressed.

Terms and Conditions: these terms and conditions.

Variation: shall have the meaning given in clause 6(a).

- b) In the Terms and Conditions, the following rules of interpretation apply:
 - i) a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
 - ii) a reference to a party includes its successors or permitted assigns;
 - iii) a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted;
 - iv) any phrase introduced by 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; and
 - v) a reference to **writing** or **written** includes faxes and emails.
- c) In the event of any inconsistency or conflict between any Purchase Order and the Terms and Conditions, the Terms and Conditions shall prevail.
- d) In the event of any inconsistency or conflict between any Schedule and the Terms and Conditions, the Schedule shall prevail.

2) Formation of Contract

- a) The Contract shall come into existence and take effect on the College's issue of a Purchase Order for the Services and shall remain in full force and effect until either:
 - i) the parties have discharged all their obligations under it (at which point it shall expire); or
 - ii) it is terminated in accordance with the Terms and Conditions.
- b) These Terms and Conditions apply to the supply of the Services (and any Goods) to the exclusion of any other terms that the Supplier may seek to impose or incorporate (including any standard trading terms of the Supplier), or which are implied by trade, custom, practice or course of dealing.
- c) All of the Terms and Conditions shall apply to the supply of both Goods and Services except where application to only one or the other is specified or relevant.

3) Supplier's warranties

- a) The Supplier shall from the Commencement date provide the Services (and any Goods) specified in the Purchaser Order and in any Specification in accordance with the Terms and Conditions.
- b) The Supplier warrants that:
 - i) it will meet any dates set out in the Purchase Order or Specification for the delivery of the Goods or the performance of the Services or (where no dates are so specified) then the Supplier shall deliver the Goods and perform the Services within a reasonable time;
 - ii) the Services (and any Goods) will comply in all respects with all Applicable Law;
 - iii) the design, construction and quality of any Goods and the method and quality of performance of the Services will also comply with any Applicable Law;
 - iv) it has and will maintain all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract;
 - v) it will not do or omit to do anything which may cause the College to lose any licence, consent or permission upon which it relies for the purposes of conducting its business or affairs;
 - vi) its Representatives will behave in a polite and courteous manner at all times when on the Premises;
 - vii) the Services (and any Goods) will conform as to their quantity, quality and description with the Purchase Order or Specification, including with all Acceptance Criteria;
 - viii) the Services (and any Goods) will be fit for any purpose and meet any standard or performance levels set out in the Purchase Order or Specification or which can reasonably be expected for Services and/or Goods of the type in question;
 - ix) the Services (and any Goods) will conform to any literature or description supplied by the Supplier to the College prior to the issue of the Purchase Order;
 - x) it will perform the Services with all reasonable care, skill and diligence and in accordance with best practice in the Supplier's industry, profession or trade;
 - xi) it will use personnel to provide the Services who are suitably skilled and experienced, and in sufficient numbers to ensure that it fulfils all of its obligations in accordance with the Contract;
 - xii) it will use the best quality goods, tools, materials, standards and techniques in performing the Services;
 - xiii) it will provide the Products and perform the Services in accordance with the best practices and standards in the industry for services of this type, and with all applicable legislation from time to time in force;(without prejudice to the generality of the foregoing warranties) the Goods will:
 - (1) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979);
 - (2) be of sound materials and workmanship;
 - (3) be free from defects in design, materials and workmanship;
 - (4) be equal in all respects to the examples, samples, patterns or specifications provided or given by the College; and
 - (5) comply with all applicable statutory and regulatory requirements relating to their manufacture, labelling, packaging, storage, handling and delivery;
 - xiv) its Representatives will comply with all of the College's policies and procedures, signs, notices and other instructions either displayed at the Premises or notified to the Supplier (or its Representatives) from time to time and relating to the use of the Premises or any part of them or any equipment or facilities at the Premises;



xv) it shall not do anything (or omit to do anything) that would put it or the College in breach of any Applicable Law (including the Bribery Act 2010);
xvi) in performing its obligations under this Agreement, it shall and (if applicable) shall ensure that each of its Representatives shall comply with the Modern Slavery Act 2015;

4) Supplier's general undertakings

- a) The Supplier undertakes to:
 - i) provide at its expense and risk all equipment, tools, materials, machines and vehicles and such other items as are required to provide the Services (and any Goods);
 - ii) co-operate with the College and any third party nominated by the College in all matters relating to the Contract;
 - iii) comply with all reasonable instructions of the College;
 - iv) hold all materials, equipment and tools, drawings, specifications and data supplied by the College to the Supplier ("**Materials**") in safe custody at its own risk, maintain the Materials in good condition until returned to the College, and not dispose of or use the Materials other than in accordance with the College's written instructions or authorisation;
 - v) use all reasonable endeavours to transfer to the College the benefit of any warranty or guarantee given by the manufacturer of any Good of which the Supplier is not the manufacturer;
 - vi) promptly remove from the Premises any rubbish generated and any of its equipment, tools, materials, machines and vehicles and any other items used in connection with the delivery of the Goods or the performance of the Services and leave the Premises in a clean and tidy condition, failing which the College may dispose of them and make good the Premises at the expense of the Supplier; and
 - vii) notify the College as soon as practicable of any health and safety or other hazards at the Premises of which it becomes aware.

5) Supplier's undertakings: staff

- a) The Supplier undertakes to comply with the College's Child Protection Policy and related safeguarding policies and procedures as notified to the Supplier from time to time.
- b) The Supplier undertakes to follow the safeguarding measures set out in the Safeguarding Vulnerable Groups Act 2006, the Education (Independent School Standards) Regulations 2014, and the Boarding Schools national Minimum Standards and all relevant statutory guidance, all as amended from time to time when recruiting or authorising staff to work on the Premises in the provision of the Goods and/or Services.
- c) The Supplier confirms that it will carry out the following checks on each person recruited to perform any of the Supplier's obligations under these Terms and Conditions or any Purchase Order before they attend the Premises:
 - i) verification of identity against an official document containing a photograph of the person, such as a passport or photo card driving licence;
 - ii) verification of medical fitness;
 - iii) receipt of an enhanced certificate from the Disclosure and Barring Service (DBS Certificate) which the College considers to be satisfactory;
 - iv) a clear check of the Children's Barred List;
 - v) receipt of two satisfactory written references and confirmation that there are no concerns about the person working with or around children;
 - vi) verification of qualifications that are a legal requirement for the post;
 - vii) verification of their right to work in the United Kingdom;
 - viii) confirmation that the person is not subject to a direction under section 142 of the Education Act 2002 which renders them unable or unsuitable to work at the Premises;
 - ix) verification of employment history together with an explanation of any gaps; and
- x) where the person has lived outside the United Kingdom and where obtaining a DBS Certificate is not sufficient to establish their suitability to work with or around children, confirmation that an overseas criminal records check or other appropriate check has been carried out.
- d) The Supplier agrees to provide the College with written confirmation that the checks specified in clause 5) have been completed on each Representative before they can attend the Premises.
- e) The Supplier agrees to provide the College with written confirmation that the checks specified in clause 5) have been completed on each Representative before they can attend the Premises.
- f) The Supplier agrees and undertakes to provide the College with a copy of the DBS Certificate received for all Representatives before they can attend the Premises so that the College may reasonably determine whether the person to whom the DBS Certificate relates is suitable to attend the Premises.
- g) The Supplier undertakes to allow a person authorised by the College to inspect the records it retains in respect of each of the Representatives attending the Premises on reasonable notice for the purposes of confirming that all of the checks in clause 5) have been properly completed.
- h) The Supplier undertakes to immediately notify the Client if:
 - i) any Representative is or becomes barred from working with children or adults;
 - ii) any of the Representative is the subject of a referral to the DBS or any successor body;
 - iii) any Representative is arrested, charged or convicted of any criminal offence the circumstances of which could have an impact on the welfare of children or adults;
 - iv) any Representative receives a police caution, reprimand or warning the circumstances of which could have an impact on the welfare of children or adults;
 - v) it becomes aware of any circumstances relating to any Representative that may reasonably be considered to pose a safeguarding risk to children or adults; or
 - vi) there is any change in the circumstances of any of the Representative that affects their right to work in the UK.



- i) If the Supplier provides a notification to the College under clause 5), the Supplier agrees to provide the College with all information relevant to the notification so that the College may determine whether the person who is the subject of the notification remains suitable to attend the Premises.
- j) The Supplier undertakes and agrees to take such further steps as the College reasonably requires to enable the College to comply with its statutory or regulatory obligations to safeguard and promote the welfare of children and, upon request, will provide the College with such evidence as the College requires in order to demonstrate that such steps have been taken.
- k) The Supplier warrants that at all times for the purposes of this Contract it has no reason to believe that any Representative is barred from working with children or adults under the provisions of the Safeguarding Vulnerable Groups Act 2006 and any regulations made thereunder, as amended from time to time.
- l) The Supplier shall take all steps reasonably required of it by the College in order to assist the College with making any referral to the DBS that the College is required to make due to the removal of Representatives from regulated activity in circumstances which trigger the duty to make a referral under the Safeguarding Vulnerable Groups Act 2006 as amended from time to time.
- m) Breach of this clause 5) shall be considered to be a material breach of the Agreement and shall result in immediate termination.
- 6) Variation of the Services**
- a) The College reserves the right on giving written notice to the Supplier from time to time to require changes to the Services (including by way of the removal of Services, the addition of new Services, or increasing or decreasing the Services or specifying the order in which the Services are to be performed or the locations where the Services are to be provided) for any reason whatsoever. Such a change is hereinafter called a "Variation".
- b) In the event of a Variation the Charges may also be varied. Such variation in the Charges shall be calculated by the College and agreed in writing with the Supplier. For the avoidance of doubt, no extra charges shall be effective unless agreed in writing by both parties.
- c) If the parties are unable to promptly agree any variation to the Charges in respect of a Variation, the Charges shall be specified by the College, acting reasonably, and shall be such amount as properly and fairly reflects the nature and extent of the Variation in all the circumstances.
- d) The Supplier shall provide such information as may be reasonably required to enable such varied price to be calculated.
- 7) Supplier's personnel**
- a) The College reserves the right:
- i) to refuse to admit to the Premises and to require the Supplier to replace with another suitably qualified person any Representative of the Supplier whose admission would in the reasonable opinion of the College be undesirable; and
- ii) to request the replacement of any Representative of the Supplier who in the College's reasonable opinion is not suitably qualified or experienced to perform the Services.
- b) Where any Representative of the Supplier is named on the Purchase Order or in the Specification as fulfilling a specific role in connection with the performance of the Services, the Supplier will use all reasonable endeavours to ensure that the named Representative continues to fulfil the specified role and will not replace him or her without the College's written consent, such consent not to be unreasonably withheld.
- c) If reasonably so requested by the College and subject to compliance by both parties with Data Protection Law, the Supplier shall promptly provide a list of the names and addresses of all persons who may at any time require admission to the Premises in connection with the delivery of the Goods and performance of the Services, specifying the role in which each such person is concerned with the Supplier and giving such other particulars as the College may require.
- 8) Delivery of Goods (excluding Deliverables)**
- a) The Supplier undertakes:
- i) to deliver the Goods to the Delivery Location during the College's normal working hours, but not during the Excepted Hours, on a Business Day and by the date specified in clause 3)b)i); and
- ii) to ensure that the Goods are packed and secured in such a manner as to reach the Delivery Location in good condition under normal conditions of transport.
- b) Each delivery of Goods must be accompanied by a delivery note which shows the date of the Purchase Order, the Purchase Order number (if any), the type and quantity of the Goods (including the code number of the Goods (where applicable)), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered.
- c) The Supplier must not deliver the Goods in instalments unless it has the College's prior written consent to do so in which case the Goods must be invoiced, and may be paid for, separately.
- d) Delivery of the Goods shall be completed when the Goods have been unloaded at the Delivery Location and a College Representative has inspected the Goods and confirmed that he is satisfied with the unloading. However, such confirmation shall not be deemed to be confirmation that the Goods conform with the Contract and is without prejudice to any right of rejection which may accrue to the College under clause 9).
- e) If for any reason the College is unable to accept delivery of the Goods at the time when they are due and ready for delivery the Supplier shall use all reasonable endeavours to store the Goods, safeguard them and take all reasonable steps to prevent their deterioration until their actual delivery, and the College shall be liable to the Supplier for the reasonable costs (including insurance) of his so doing.
- 9) Testing and acceptance of Goods and Deliverables**
- a) All Goods and Deliverables must meet any relevant Acceptance Criteria.
- b) The College may test Goods (excluding Deliverables) for conformity with Acceptance Criteria at any time during the period of 15 Business Days following their delivery under clause 8)d).



- c) The College may test Deliverables at any time during the period of 15 Business Days following notification by the Supplier of completion of the Services (or relevant part of the Services) and production at the Premises of the Deliverables.
- d) If any Goods or Deliverables fail to meet their Acceptance Criteria the College will notify the Supplier accordingly specifying the non-conformity.
- e) In the case of Goods (excluding Deliverables) which fail to meet the Acceptance Criteria the College may either:
 - i) opt to reject them, in which case clause 12) will apply; or
 - ii) request the Supplier to remedy the non-compliance at its own expense either at the Premises or elsewhere and redeliver the Goods to the College within 15 Business Days of the College's notification under clause d), following which the College shall have a further 15 Business Days in which to re-test the Goods for conformity with the Acceptance Criteria.
- f) In the case of Deliverables which fail to meet the Acceptance Criteria the College will request the Supplier to remedy the non-compliance at its own expense within 15 Business Days of the College's notification under clause d), following which the College shall have a further 15 Business Days in which to re-test the Goods for conformity with the Acceptance Criteria.
- g) If any Goods (including Deliverables) fail to meet the Acceptance Criteria on re-testing under clauses e)ii) or f), the College may reject them and exercise its rights under clause 12).

10) Risk in Goods

- a) Risk in the Goods (excluding Deliverables) shall pass to the College on completion of delivery in accordance with clause 8)d).
- b) Risk in Deliverables shall pass to the College on acceptance under clause 9).

11) Title to Goods

- a) Title to the Goods shall pass to the College on payment of the Charges for them.

12) The College's remedies

- a) If:
 - i) the Supplier fails to deliver the Goods and/or perform the Services by any date required under the Terms and Conditions; or
 - ii) the Supplier fails to comply with its warranties set out in clause 3) (whether or not the College has exercised any of its rights under clause 8); or
 - iii) clause 9)e)i) applies; or
 - iv) clause 9)g) applies
 - v) the College may exercise any of the rights set out in clause b).
- b) The rights referred to in clause a) are:
 - i) to refuse to accept any subsequent performance of the Services which the Supplier attempts to make;
 - ii) to refuse to accept any delivery of Goods which the Supplier attempts to make;
 - iii) to reject any Goods (in whole or in part) whether or not title has passed and to return them to the Supplier at the Supplier's own risk and expense;
 - iv) to recover from the Supplier any costs incurred by the College in having a third party provide substitute Goods and/or Services or in performing the Services itself;
 - v) where the College has paid in advance for Services that have not been performed by the Supplier and/or Goods which have not been delivered by the Supplier, to have such sums refunded by the Supplier immediately;
 - vi) to claim damages for any additional costs, loss or expenses incurred by the College which are attributable to the Supplier's failures set out in clause a);
 - vii) to terminate the Contract with immediate effect by giving written notice to the Supplier.
- c) The rights set out in clause b) are cumulative and the exercise by the College of any one of them shall not preclude it from exercising any other.
- d) The College's rights under this clause 12) are in addition to its rights and remedies implied by statute and at common law.

13) The College's obligations

- a) The College will:
 - i) provide the Supplier with reasonable access to the Premises at reasonable times during Business Days, but not during the Excepted Hours, for the purpose of providing the Services or delivering the Goods;
 - ii) where appropriate, provide reasonable access to facilities on the Premises; and
 - iii) provide such information as the Supplier may reasonably request in connection with the provision of the Goods and/or the Services provided that the College (acting reasonably) considers such information necessary for the purpose of providing the Goods and/or the Services.

14) Liability

- a) In this clause 14), a reference to the College's liability for any act or omission is a reference to any liability whatsoever which the College might have for the act or omission, the consequences arising from the act or omission, and any direct, indirect or consequential loss, damage, costs or expenses resulting from the act or omission or consequences arising from the act or omission, whether the liability arises under the Contract, in tort or otherwise, and even if it results from the College's negligence or from negligence for which the College would otherwise be liable.
- b) The College is not in breach of the Contract, and does not have any liability for anything, to the extent that its apparent breach or liability is attributable to the Supplier's breach of the Contract.
- c) Subject to clause e) the College shall not have any liability for:
 - i) any indirect or consequential loss or damage;



- ii) any loss of business, rent, profit or anticipated savings whether direct or indirect unless it has expressly assumed such liability;
 - iii) any damage to goodwill or reputation;
 - iv) loss, theft, damage or destruction to any equipment, tools, machinery, vehicles or other equipment brought onto the Premises by the Supplier or its Representatives; or
 - v) any loss, damage, costs or expenses suffered or incurred by any third party.
- d) Subject to clause e), the College's total liability shall be limited to the Charges it has paid or is due to pay to the Supplier under the Contract.
- e) Nothing in the Contract restricts the College's liability for:
- i) death or personal injury resulting from negligence for which it is responsible; or
 - ii) its fraud (including fraudulent misrepresentation).

15) Charges and payment

- a) The Charges for the Services (and any Goods) and the date or dates on which they are payable are set out in the Purchase Order or in any Schedule; and
- i) (in the case of Goods) shall be inclusive of any costs of packaging, insurance and carriage;
 - ii) (in the case of Services) shall include all costs and expenses of the Supplier directly or indirectly incurred in connection with their performance; and
 - iii) unless otherwise specified shall be inclusive of any amounts in respect of valued added tax chargeable from time to time (VAT).
- b) Unless otherwise provided in the Purchase Order, the Supplier may invoice the Charges at any time on or after whichever is the later of acceptance of all of the Goods or completion of all of the Services.
- c) Invoices must include the Purchase Order number and sufficient supporting information to enable the College to identify the Services (and any Goods) for which payment is claimed.
- d) Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the College, the Supplier shall provide a valid VAT invoice.
- e) Where Charges for the Services are based on the cost of time and materials at rates set out in the Purchase Order, the Supplier shall maintain and provide to the College complete and accurate records of the time spent and materials used in providing them and attach such records to the relevant invoice.
- f) Subject to compliance by the Supplier with the foregoing provisions of this clause 15), the College shall pay the Charges as invoiced within a period of 30 days from the last day of the month in which the invoice was received.
- g) The Supplier shall not be entitled to assert any credit, set-off or counterclaim against the College in order to justify withholding payment of any amount in whole or in part. The College may, without limiting its other rights or remedies, set off any amount owing to it by the Supplier against any amount payable by the College to the Supplier.

16) Intellectual property rights

- a) The Supplier warrants that:
- i) the Supplier has all Intellectual Property Rights, permissions, licences and consents necessary to carry out its obligations under the Contract and shall not carry out its obligations in breach of any Intellectual Property Rights, permission, licence or consent; and
 - ii) in respect of the Goods and Deliverables, the Supplier has full clear and unencumbered title to all such items, and that at the date of delivery of such items to the College, it has full and unrestricted rights to transfer full title to all such items to the College.
- b) Unless otherwise provided in the Purchase Order, the Supplier grants to the College, with full title guarantee and free from all third party rights, all Intellectual Property Rights in the products of the Services, including all Deliverables.
- c) The Supplier shall, promptly at the College's request, do (or procure to be done) all such further acts and things and execute (or procure the execution of) all such other documents as the College may from time to time require for the purpose of securing for the College the full benefit of the Contract, including all right, title and interest in and to the Intellectual Property Rights assigned or licensed to the College in accordance with the Contract.
- d) The College reserves to itself or its licensors all the College Materials and any Intellectual Property Rights in them and the Contract shall not operate to vest in the Supplier any rights in the College Materials other than a licence, for the duration of the Contract, to use them to the extent necessary to enable the Supplier to carry out its obligations under the Contract.

17) Indemnity

- a) The Supplier shall indemnify, and shall keep indemnified, the College in full against all costs, expenses, damages and losses (whether direct or indirect), including any interest, fines, legal and other professional fees and expenses, awarded against or incurred or paid by the College as a result of or in connection with:
- i) any claim made against the College for death, personal injury or damage to property arising out of, or in connection with, any non-compliance of the Goods or Services with the Contract;
 - ii) any claim made against the College arising out of, or in connection with, the supply of the Goods or Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Supplier;
 - iii) any claim made against the College arising out of, or in connection with, the negligence of the Supplier or its Representatives whilst on, entering, or leaving the Premises;
 - iv) any claim made against the College for infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the College's use of the Goods or Services;
 - v) all damage to the College's property or the Premises caused by the Supplier (including any damage or destruction to, corruption of, or loss of data held by the College);
 - vi) any breach of Data Protection Law by the Supplier or its Representatives; and
 - vii) any claim made against the College by a third party resulting from, or arising out of any breach by the Supplier of its obligation under clauses 16) or 19).



18) Insurance

- a) For the duration of the Contract and for a period of six years thereafter, the Supplier shall maintain in force, with a reputable insurance company, insurance to provide a level of cover sufficient for all risks which may be incurred by the Supplier under the Contract, including death or personal injury, or loss of or damage to property.
- b) The insurance required under clause 18) shall include as a minimum:
 - i) employer's liability insurance with a limit of indemnity of not less than [ten] million pounds [(£10,000,000)] per claim;
 - ii) public liability insurance with a limit of indemnity of not less than [ten] million pounds [(£10,000,000)] per claim;
 - iii) professional indemnity insurance with a limit of not less than [ten] million pounds [(£10,000,000)] per claim; and
 - iv) product liability insurance with a limit of not less than [ten] million pounds [(£10,000,000)] per claim.
- c) The Supplier shall, at the request of the College, produce to the College a valid certificate of insurance and such other written documentation as is necessary to demonstrate that the Supplier has complied with its obligations under this clause 18).
- d) The Supplier shall not do or permit anything, or make any omission, which might cause any insurance to be voided.
- e) The terms of any insurance or the amount of cover shall not relieve the Supplier of any liabilities incurred in connection with the Contract.
- f) The Supplier shall inform the College in writing whenever there is any change to the insurance referred to in this clause 18) (including any change in the scope or level of cover or the identity of the insurer).

19) Confidentiality

- a) Subject to clause b), the Supplier shall not acquire any rights of ownership or use in any Confidential Information originating from or provided by the College.
- b) The Supplier undertakes:
 - i) to restrict disclosure of Confidential Information to such of its Representatives as need to know it for the purpose of discharging the Supplier's obligations under the Contract, and shall ensure that all such Representatives are subject to obligations of confidentiality corresponding to those set out in this clause 19).
 - ii) that the Supplier and its Representatives shall use Confidential Information only for the purposes of performing their respective obligations under the Contract;
 - iii) that any person employed or engaged by the Supplier in connection with the Contract shall not, in the course of such employment or engagement, disclose any Confidential Information to any third party without the prior written consent of the College;
 - iv) to take all necessary precautions to ensure that all Confidential Information is treated as confidential and not disclosed (save as aforesaid) or used other than as permitted by this clause 19); and
 - v) that, without prejudice to the generality of the foregoing, neither the Supplier nor any of its Representatives shall use the Confidential Information for the solicitation of business from the other or from any third party.
- c) The provisions of clause 19) shall not apply to any information which:
 - i) is or becomes public other than by breach of this clause 19) or
 - ii) is in the possession of the Supplier without restriction on disclosure before the date of receipt from the disclosing person; or
 - iii) is independently developed by the Supplier without access to the Confidential Information; or
 - iv) must be disclosed pursuant to a statutory, legal or parliamentary obligation placed upon the party making the disclosure.

20) Termination

- a) Without limiting its other rights or remedies, the College may terminate the Contract with immediate effect by giving written notice to the Supplier if:
 - i) the Supplier commits a material or persistent breach of the Contract and (if such a breach is remediable) fails to remedy that breach within 10 Business Days of receipt of written notice of the breach;
 - ii) 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 (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
 - iii) 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 other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of the Supplier with one or more other companies or the solvent reconstruction of the Supplier;
 - iv) 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 (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the Supplier with one or more other companies or the solvent reconstruction of the Supplier;
 - v) the Supplier (being an individual) is the subject of a bankruptcy petition order;
 - vi) 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 its assets and such attachment or process is not discharged within 14 days;



- vii) 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 (being a company);
- viii) a floating charge holder over the assets of the Supplier (being a company) has become entitled to appoint or has appointed an administrative receiver;
- ix) a person becomes entitled to appoint a receiver over the assets of the Supplier or a receiver is appointed over the assets of the Supplier;
- x) the Supplier becomes the subject of administration or an administration order (in each case whether or not the out of court procedure is used);
- xi) 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 clause ii) to clause x) (inclusive);
- xii) the Supplier suspends or threatens to suspend, or ceases or threatens to cease to carry on, all or a substantial part of its business; or
- xiii) the Supplier (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.

21) Consequences of termination

- a) On expiry or termination of the Contract or any part of it for any reason the following shall apply:
 - i) where the Services are terminated, the Supplier shall immediately deliver to the College all Deliverables, whether or not then complete, and return all the College Materials to the College. If the Supplier fails to do so, then the College may, without limiting its other rights or remedies, enter the Supplier's premises and take possession of the Deliverables and/or the College Materials. Until they have been delivered or returned, the Supplier shall be solely responsible for their safe-keeping and will not use them for any purpose;
 - ii) the accrued rights and remedies of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.
- b) The following clauses shall survive expiry or termination and shall continue in full force and effect: 1) (Interpretation), 2)b) and 2)c)(Formation of Contract), 3) (Supplier's warranties), 4) (General undertakings), 7) (Supplier's personnel), 9) (Testing and acceptance of Goods and Deliverables), 10) (Risk in Goods), 11) (Title to Goods), 12) (The College's remedies), 13) (The College's obligations), 14) (Liability), 15) (Charges and payment), 16) (Intellectual property rights), 17) (Indemnity), 18) (Insurance), 19) (Confidentiality), 21) (Consequences of termination), 22) (Publicity), 23) (Conflict of interest), 1) (Corruption), 24) (Audit), 25) (Discrimination), 1) (Human Rights), 26) (Data Protection), 1) (Freedom of information), 27) (Transfer of services), 28) (Notice), 29) (Severance), 30) (Waiver and accumulation of remedies), 31) (Variations), 32) (Assignment or sub-contracting), 33) (Law and jurisdiction) and 34) (Rights of third parties) and any other clause which expressly or by implication has effect after expiry or termination shall continue in full force and effect.

22) Publicity

- a) The Supplier shall not make any press announcements or publicise the existence or terms of the Contract without the College's prior written consent and shall ensure the observance of the provisions of this clause 22) by its Representatives.
- b) The College shall be entitled to publicise the Contract (or any information concerning it) for any reason without any obligation to give notice to the Supplier.

23) Conflict of interest

- a) The Supplier shall take all appropriate steps to ensure that neither it nor any of its Representatives is placed in a position where (in the reasonable opinion of the College) there is or may be an actual, perceived or potential conflict between, on the one hand, the pecuniary or personal interests of the Supplier or its Representatives and, on the other hand, such persons' duties owed to the College under the provisions of the Contract.
- b) The Supplier must disclose to the College full details of any actual or potential conflict of interest in writing and comply with any reasonable instructions of the College in connection with their resolution.

24) Corruption

- a) The Supplier undertakes to:
 - i) comply with all applicable laws and 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 United Kingdom;
 - iii) comply with the College's anti corruption policies disclosed to the Supplier from time to time;
 - iv) ensure that any of its Representatives associated with the supply of the Goods and/or the Services comply with this clause 24); and
 - v) immediately notify the College if a foreign public official becomes an officer or employee of the Supplier or acquires a direct or indirect interest in the Supplier.
- b) For the purposes of clause a), the meaning of "foreign public official" and whether a person is "associated" with another person shall be determined in accordance with sections 6(2), 6(5), 6(6) and 8 of the Bribery Act 2010.
- c) The College shall be entitled to terminate the Contract forthwith and to recover from the Supplier the amount of any loss resulting from such termination if the Supplier or a Supplier's Representative:
 - i) offers or agrees to give any person working for or engaged by the College or any Public Body any favour, gift or other consideration, which could act as an inducement or a reward for any act or failure to act connected to the Contract, or any other agreement between the Supplier and the College or any Public Body, including its award to the Supplier and any of the rights and obligations contained within it;



- ii) has entered into the Contract if it has knowledge that, in connection with it, any money has been, or will be, paid to any person working for or engaged by the College or any Public Body by or for the Supplier, or that an agreement has been reached to that effect, unless details of any such arrangement have been disclosed in writing to the College before the Contract is entered into;
 - iii) breaches the undertaking set out in clause a); or
 - iv) gives any fee or reward the receipt of which is an offence under Section 117(2) of the Local Government Act 1972.
- d) For the purposes of clause c), "loss" shall include, but shall not be limited to:
- i) the College's costs in finding a replacement Supplier;
 - ii) direct, indirect and consequential losses; and
 - iii) any loss suffered by the College as a result of a delay in its receipt of the Goods and/or Services.

25) Audit

- a) The Supplier shall keep and maintain until six years after the Contract has come to an end, or for such longer period as may be specified by the College in writing from time to time:
 - i) all Information relating to the Contract.
 - ii) full and accurate records of the following:
 - (1) the Services provided under the Contract;
 - (2) all Charges paid by the College; and
 - (3) such other information as the College specifies in writing from time to time.
- b) The Supplier shall on request afford the College, the College's Representatives or the College's auditors such access to such information or records (including the information referred to in clauses a)i) and a)ii)) as may (in the reasonable opinion of the College) be required by the College in order to comply with its legal obligations.

26) Discrimination

- a) The Supplier shall not unlawfully discriminate within the meaning and scope of any law, enactment, order, or regulation relating to discrimination (whether in age, race, gender, religion, disability, sexual orientation or otherwise) in the provision of the Goods and/or the Services.
- b) The Supplier shall take all reasonable steps to secure the observance of clause a) by all of its Representatives employed in the performance of the Contract.
- c) The Supplier shall:
 - i) have appropriately trained staff available to deal with racial issues or complaints and monitor the same and the manner of dealing therewith. Such information shall be passed to the College on a regular basis as agreed with the College; and
 - ii) actively endeavour to achieve a workforce representative of the ethnic diversity of the area.

27) Data Protection Law

- a) The Supplier shall comply at all times with Data Protection Law and shall not do anything or perform its obligations under or in connection with the Contract in such a way as to cause the College to breach any of its obligations under Data Protection Law.
- b) The parties may process names, job titles and business contact information including addresses, telephone numbers and email addresses for each other's employees and representatives in connection with the administration of this Contract.
- c) Further information on how the College uses Personal Data, can be found in the College's privacy notice on the Colleges website. The Supplier shall provide a copy of this notice to its Representatives.
- d) Each party shall comply with Data Protection Law in connection with its Processing of Personal Data in connection with the Contract.
- e) Subject to the other sub-clauses of this clause 26), each party shall, where Processing Personal Data as a Controller, be responsible for its own compliance with Data Protection Law.
- f) Each party shall ensure that it has a lawful basis for supplying Personal Data to the other and that such sharing complies with Data Protection Law.
- g) Where the Supplier, pursuant to its obligations under the Contract, is required to process Personal Data on behalf of the College, the parties shall use all reasonable endeavours to agree a data processing agreement prior to any such processing of personal data.

28) Transfer of services

- a) Where the College intends to continue to procure services equivalent to any or all of the Services after termination or expiry of the Contract, either by performing them itself or by the appointment of a replacement supplier, the Supplier shall, on receipt of written notice served by the College, use all reasonable endeavours to ensure the seamless transition of the Services to the College or a replacement supplier and to ensure that the transition is effected with the minimum of disruption to the College within the time period set out in the College's written notice (the Transition Period).
- b) The Supplier shall co-operate fully during the Transition Period and provide full access to all data, documents, manuals, working instructions, report and any information, whether held in electronic or written form, which the College (acting reasonably) considers necessary.

29) Notice

- a) Any notice to be served on either of the parties to the Contract by the other shall be sent by pre-paid recorded delivery or first class post or fax or by e-mail to the business address or fax number of the relevant party as detailed in the Contract, or such other address or fax number as notified by one party to the other in writing from time to time.

30) Severance

- a) If any provision of the Contract is declared by any judicial or other competent authority to be void, voidable, illegal or otherwise unenforceable, or indications to that effect are received by either of the parties from



any competent authority the parties shall amend that provision in such reasonable manner as achieves the intention of the parties without illegality or at the discretion of the College it may be severed from the rest of the Contract which shall remain in full force and effect unless the College in its reasonable discretion decides that the effect of such a declaration is to defeat the original intention of the parties, in which event the College shall be entitled to terminate the Contract on service of 10 Business Days' written notice on the Supplier.

31) Waiver and accumulation of remedies

- a) The rights and remedies provided by the Contract may be waived only in writing by the relevant Representative in a manner that expressly states that such waiver is intended for, and such waiver shall only be operative with regard to, the specific circumstances referred to.
- b) Unless a right or remedy of the College is expressed to be an exclusive right or remedy, the exercise of it by the College is without prejudice to the College's rights and remedies in equity (including, without limitation, specific performance or injunctive relief), law or under or in connection with the Contract. Any failure to exercise, or any delay in exercising, a right or remedy by either party shall not constitute a waiver of that right or remedy, or of any other rights or remedies.
- c) The College's rights and remedies under the Contract are cumulative and may be exercisable at any time and, unless otherwise specified in the Terms and Conditions, are not exclusive of any right or remedies provided at law, in equity or otherwise.

32) Variations

- a) Subject to clause 5), neither the College nor the Supplier shall be bound by any variation, waiver of, or addition to the Contract (including the Specification) unless evidenced in writing and signed by an authorised Representative on their behalf.

33) Assignment or sub-contracting

- a) The Supplier shall not assign or transfer its rights or obligations under the Contract or any part thereof to any third party without the College's prior written consent.
- b) The Supplier shall not sub-contract the performance of the Services or any part of them without the College's prior written consent and any such consent shall not relieve the Supplier of any of its obligations under the Contract.
- c) Where the Supplier enters into a sub-contract with a third party in connection with the Contract, it shall cause a term to be included in such sub-contract that requires payment to be made of undisputed sums by the Supplier to the sub-contractor within a specified period not exceeding 30 days from the receipt of a valid invoice.

34) Law and jurisdiction

- a) The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be construed and be subject to English law and the exclusive jurisdiction of the English Courts.

35) Rights of third parties

- a) No person other than the College or the Supplier shall have any rights under the Contract and accordingly the Contracts (Rights of Third Parties) Act 1999 shall not apply.