



Canterbury Christ Church University

Terms and Conditions for Goods and/or Services

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This Contract is dated [DATE OF LAST SIGNATURE]

PARTIES

- (1) Canterbury Christ Church University, a company registered with company number 4793659 whose registered office is at Rochester House, St George's Place, Canterbury, Kent, CT1 1UT (the "**University**"); and
- (2) [Insert name and registered address of Supplier] (the "**Supplier**").

RECITALS

- (A) The University wishes to obtain Goods and/or Services from the Supplier.
- (B) The Parties have agreed that the Contract between them shall be subject to the Terms set out in this document.
- (C) In order to fulfil its operational needs the University reserves the right to obtain Goods and/or Services from sources of its choice and is not beholden to purchase through this Contract should it choose to exercise this right.

1. Definitions and Interpretation

- 1.1. The following terms and conditions (the "**Terms**") will apply to the Contract between us for the sale or supply of Goods and/or Services to the University except where amended in accordance with these Terms. By accepting an Order from the University the Supplier will be deemed to have read and accepted these Terms.
- 1.2. In this Contract the following words have the meanings set out opposite them:

"**Bribery Act**" means the Bribery Act 2010;

"**Commencement Date**" means [Insert date];

"**Confidential Information**" means any information disclosed to either Party by the other Party concerning the business or affairs of the other Party or of any member of its Group, including information relating to a Party's operations, processes, plans, product or service information, know-how, designs, trade secrets, software, market opportunities and customers (or students as the case may be) or any other information marked as confidential, stated to be confidential, or reasonably understood in the circumstances of disclosure to be confidential;

"**Contract**" means the contract concluded between the University and the Supplier for the supply of Goods and/or Services, which incorporates these Terms [which are referenced on the face of the Order,] together with any other terms and conditions that are expressly referenced on the face of the Order as being applicable to the Order including without limitation all specifications, plans, drawings and other documents;

"**Data Controller**", "**Data Processor**" "**Data Subject** and "**Data Protection Officer**" shall have the same meaning as in the applicable Data Protection Laws;

"Data Protection Laws" means (a) any law, statute, declaration, decree, directive, legislative enactment, order, ordinance, regulation, rule or other binding restriction (as amended, consolidated or re-enacted from time to time) which relates to the protection of individuals with regards to the Processing of Personal Data to which a Party is subject, including the Data Protection Act 2018 ("DPA") and General Data Protection Regulation (GDPR) (EU) 2016/679 and all legislation enacted in the UK in respect of the protection of personal data; and (b) any code of practice or guidance published by the ICO (or equivalent regulatory body) from time to time;

"Deliverables" means all Documents, products and materials developed by the Supplier or its agents, subcontractors, consultants and employees in relation to the Goods and/or Services in any form;

"Document" includes, in addition to any document in writing, any drawing, map, plan, diagram, design, picture or other image, tape, disk or other device or record embodying information in any form;

"EIR" means the United Kingdom Environmental Information Regulations 2004, as may be amended from time to time;

"Environmental Impact Legislation" means:

- (a) Noise at Work Regulations 2006 (updated regulation from EU Directive 89/391/EEC);
- (b) Control of Vibration at Work Regulations 2005 (updated regulation from EU Directive 89/391/EEC);
- (c) The Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations 2004 (also known as ROHS);
- (d) European Union's Energy Using Products Directive 2005 (also known as EUP); and
- (e) United Nations Economic Commission for Europe Policy Statement on Sustainable Timber Resources and all applicable laws and regulations relating to the impact on the environment;

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

“Goods” means any goods, materials or articles agreed in the Order to be supplied to the University from the Supplier (including any part or parts of them);

“Information” has the meaning given under section 84 of FOIA;

“In-put Material” means all Documents, information and materials provided by the University relating to the Supplies, including computer programs, data, reports and specifications;

“Intellectual Property Rights” means all patents, rights to inventions, utility models, copyright and related rights, trademarks, 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), and any other intellectual property rights, in each case whether registered or unregistered and including all applications for (and rights to apply for), and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection in any part of the world;

“MSA” means the United Kingdom Modern Slavery Act 2015, as may be amended from time to time;

“Order” means the University's authorised written instruction to buy the Goods and/or Services, incorporating these Terms shall include paper orders and electronic orders;

“Parties” shall mean the University and the “Supplier” and “Party” shall be construed accordingly in respect of either of them;

“Personal Data” means any personal data (as defined in the Data Protection Laws) Processed by either Party in connection with this Agreement, and for the purposes of this Agreement includes Sensitive Personal Data (as such Personal Data is more particularly described in Appendix **[X]** (*Data Processing Particulars*));

“Process” has the meaning given to it under the Data Protection Laws but, for the purposes of this Contract, it shall include both manual and automatic processing (and **“Process”** and **“Processed”** shall be construed accordingly);

“Prohibited Act” means any of the following:

- (a) to directly or indirectly offer, promise or give any person working for or engaged by the University a financial or other advantage to:
 - (i) induce that person to perform improperly a relevant function or activity;
 - or

- (ii) reward that person for improper performance of a relevant function or activity;
- (b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Contract;
- (c) committing any offence:
 - (i) under the Bribery Act;
 - (ii) under legislation creating offences concerning fraudulent acts; or
 - (iii) at common law concerning fraudulent acts relating to this Contract or any other contract with the University; or
- (d) defrauding, attempting to defraud or conspiring to defraud the University;

“Request for Information” means a request for information or an apparent request under FOIA or the EIR;

“Services” shall mean the services and/or the Goods to be provided by the Supplier under this Contract, as identified in the Order, including any services necessary to make them usable (e.g. delivery, installation and assembly on site for the purposes they are intended to be used);

“Supplies” shall mean the Goods and/or Services being supplied under the Contract;

"Supplier" the person, firm or company (including their employees) to whom the Order is addressed, including any assignee, agents or sub- contractor;

“Supplier’s Team” shall mean any employees, sub-contractors or agents of the Supplier employed or appointed in connection with the Supplies under this Contract;

“University” means Canterbury Christ Church University (registered company number 4793659) whose registered address is Rochester House, St Georges Place, Canterbury, CT1 1UT or any wholly owned subsidiary of the University;

“University Premises” means land or buildings owned or occupied by the University;

"University Property" means anything issued or otherwise furnished in connection with the Contract by or on behalf of the University, including but not limited to documents, papers and other materials (and as set out in clause 20.1);

“VAT” means value added tax chargeable under the Value Added Tax Act 1994 or any similar replacement or additional tax; and

“Waste Legislation” means

- (a) European Union’s Waste, Electrical and Electronic Equipment Directive 2002/96/EC (also known as the WEEE Directive), which shall require the Supplier to hold records of relevant disposal documents for a minimum of three years (eight in the case of hazardous waste);
- (b) Hazardous Waste (England & Wales) Regulations 2005;
- (c) EU Batteries and Accumulators Directive 1991/157/EC;
- (d) Producer Responsibility Obligations (Packaging & Waste) Regulations 2003; and
- (e) The Landfill (England and Wales) (Amendment) Regulations 2004 and all applicable laws and regulations relating to Waste Legislation.

1.3. In this Contract:

- 1.3.1. unless the context otherwise provides, words in the singular include the plural and vice versa, a reference to a person includes a reference to natural persons, corporate bodies and unincorporated bodies (whether or not having separate legal personality), and a reference to one gender includes a reference to the other genders;
- 1.3.2. Clause and schedule headings are for ease of reference only and do not form part of the Contract and will not be taken into account when construing it;
- 1.3.3. a reference to any statute or statutory provision is a reference to that statute or statutory provision as from time to time amended, extended, re-enacted or consolidated (whether before, on or after the date of the Contract), and to all statutory instruments or orders or other subordinate legislation made pursuant to it from time to time; and
- 1.3.4. any words following the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2. Status of the Supplier

- 2.1. In carrying out its duties under this Contract, the Supplier is acting as principal not as the agent in law or a partner of the University. Accordingly, the Supplier shall not say or do anything to represent to any third party that it is acting in the capacity of agent or partner of the University.

- 2.2. Nothing in the Contract will create or be construed as creating a partnership, joint venture, a contract of employment or relationship of employer and employee, or a relationship of principal and agent between the University and the Supplier.

3. Duration of Contract

- 3.1. Each Order by the University from the Supplier is deemed to be an offer by the University to buy Goods and/or Services subject to these Terms and no Order is accepted until the Supplier either expressly by giving notice of acceptance and signing the Contract, or impliedly by fulfilling the Order, in whole or in part accepts the offer. By taking action against this Order the Supplier is deemed to have accepted the Terms.
- 3.2. Subject to the following requirements being met to the satisfaction of the University, the Contract shall commence on the Commencement Date and will continue for a period of [Insert period] (“the **Initial Period**”) unless otherwise terminated earlier in accordance with these Terms or extended by the University by up to [XX] months in accordance with these Terms unless specifically agreed otherwise between the parties at that time.

4. Supply of Goods and Services

- 4.1. Any estimate of demand given to the Supplier by the University is for guidance only and shall not form part of the Contract. The University’s final requirement shall be as identified in its Orders.
- 4.2. The Supplier must perform all Services and supply all Goods in strict accordance with the requirements stipulated in the Order and in accordance with these Terms and shall co-operate with the University in all matters relating to the Supplies. The Supplier must also ensure that all Services are performed in a professional and workmanlike manner and that all Goods and Services:
- 4.2.1. comply with the requirements of all applicable British and EU Quality Standards and specifications;
 - 4.2.2. are free of all defects in design, material and workmanship;
 - 4.2.3. conform to any specifications, samples and drawings submitted to or specified by the University;
 - 4.2.4. are suitable for the University’s intended purpose as communicated by it to the Supplier; and
 - 4.2.5. comply with good industry practice and legal requirements. Prior to delivering the Services the Supplier shall obtain all necessary licences and consents in order for the University to benefit from the Services.

- 4.3. The Supplier will provide the Goods in accordance with and as specified in the Contract to the satisfaction of the University whose decision shall be final and conclusive. The Supplier shall provide the Services, and deliver the deliverables to the University, in accordance with the Contract and shall allocate sufficient resources to the Services to enable it to comply with this obligation.
- 4.4. The University's rights under these Terms are in addition to the statutory conditions implied in favour of the University by the Sale of Goods Act 1979 and the Supply of Goods and Services Act 1982.
- 4.5. The Supplier shall provide the Services to the University or (as directed) the Authorised Recipients in accordance with the Specification and the terms of this Agreement.
- 4.6. The Supplier warrants that the Supplies provided under this Agreement shall:
 - 4.6.1. be provided in accordance with all applicable statutory, regulatory and other legal requirements from time to time in force; and
 - 4.6.2. 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 to the Supplier by the University as a requirement of the University; and
 - 4.6.3. comply with all statutory, regulatory and other legal requirements from time to time in force in connection with their manufacture, packaging, storage, handling and delivery (and the Supplier shall obtain and maintain any licences required in connection with the same); and
 - 4.6.4. ensure that any Services to be supplied under this Agreement are of the quality, sort or description set out in the Order or otherwise agreed in writing between the Parties.
- 4.7. The Supplier shall:
 - 4.7.1. use good quality techniques and standards and execute the Services with the care, skill and diligence required in accordance with best professional practices; and
 - 4.7.2. ensure that members of the Supplier's Team shall be suitably skilled, experienced and qualified to carry out the Services; and
 - 4.7.3. co-operate with the University in all matters relating to the Services.
- 4.8. In respect of any Goods that are transferred to the University under this Agreement, the Supplier warrants that it has full clear and unencumbered title to all such items

and that as at the date on which title passes it will have the full and unrestricted right to transfer all such items to the University.

- 4.9. The University may, on reasonable notice to the Supplier and during normal business hours:
 - 4.9.1. at any time prior to delivery inspect and test the Goods during manufacture, processing or storage at the premises of the Supplier or any third party where the Goods are being manufactured, processed or stored; and/or
 - 4.9.2. inspect and audit the performance of the Services at the premises of the Supplier or any third party where the Services are being carried out off the University's premises.
- 4.10. If following any inspection, testing or audit pursuant to clause 4.10, the University considers that the Goods and/or Services do not conform or are unlikely to conform with the Order or clauses 4.6 to 4.8 (inclusive), the University shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance. Notwithstanding any such inspection, testing or audit, the Supplier shall remain fully responsible for the Goods and/or Services and any such inspection, testing or audit shall not reduce or otherwise affect the Supplier's obligations under this Contract and the University shall have the right to conduct further inspections, testings or audits after the Supplier has carried out its remedial action or to avail itself of any other remedy set out in these Terms.

5. Supplier Obligations

- 5.1. The Supplier will maintain levels of performance which are acceptable to the University, acting reasonably.
- 5.2. The Supplier will maintain levels of pricing and value which are acceptable to the University.
- 5.3. The Supplier will maintain monitoring systems which are acceptable to the University.
- 5.4. The Supplier shall take action to minimise any adverse effect on the environment from the products used in fulfilment of the Contract or from their manufacture, storage and supply, in accordance with legislation and best practice at the time, as set out in the Waste Legislation and Environmental Impact Legislation and any statutory modification or re-enactment thereof.
- 5.5. The Supplier will use all reasonable endeavours to comply with the University's sustainability policy, as amended from time to time, a current version of which is available at <http://www.canterbury.ac.uk/about-us/sustainability/strategies-and-policies.aspx>

- 5.6. The University reserves the right to terminate the Contract at any time (in part or in full) where it considers the Supplier is failing to fulfil its obligations in this clause 5.
- 5.7. The Supplier will ensure that:
- 5.7.1. any Member of the Suppliers Team is equipped with appropriate equipment, including appropriate personal protective equipment (PPE) (as necessary) in order to provide the Supplies safely; and
 - 5.7.2. all such equipment referred to in clause 5.7.1 above, shall meet or exceed the minimum safety standards required by statute at the time of use; and
 - 5.7.3. shall comply fully with the relevant British, European and International Standards and is maintained so that it is safe in use; and
 - 5.7.4. any such equipment referred to in clause 5.7.1 above, is constructed or adapted so as to be suitable for the purpose and location for which it is used or provided.
- 5.8. The Supplier will and will ensure that each member of the Suppliers Team will comply with any and all method statements it supplied to the University as part of its tender submission detailing how it will comply with the above requirements.
- 5.9. The Supplier will introduce and maintain control measures to reduce risks to a minimum and provide adequate information and training (including health and safety training) to all the Suppliers Team.
- 5.10. The Supplier and any relevant member of the Suppliers Team must:
- 5.10.1. maintain an audit trail of waste which is to be available for inspection by the University upon request;
 - 5.10.2. use secure disposal sites, a list of which is to be available for inspection by the University upon request;
 - 5.10.3. use appropriate transport for waste (e.g. secure and of suitable capacity);
 - 5.10.4. hold or use organisations holding appropriate waste licences or exemption certificates, a list of which is to be available for inspection by the University upon request;
 - 5.10.5. retain waste destruction certificates in accordance with the law.

6. Access and Personnel issues

- 6.1. The University reserves the right to refuse to provide premises access to any member of the Supplier's Team whose admission would be, in the reasonable opinion of the University, undesirable.
- 6.2. Where the University deems a person's admission undesirable, the Supplier shall be notified in writing giving reasons for the undesirability. The Supplier shall then, without charge, provide a suitably qualified and acceptable replacement with the minimum of disruption and delay to the Supplies.
- 6.3. If directed by the University, the Supplier shall provide a list of names (and any other reasonable particulars) of persons who may at any time require premises access in connection with the performance of this Contract and their specific contractual involvement.

7. Confidentiality

- 7.1. The Supplier agrees to keep confidential and not to disclose any Confidential Information to any third party without the prior written consent of the University or as expressly permitted by this Contract. To the extent that it is necessary for the Supplier to disclose Confidential Information to its staff, agents or sub-contractors, the Supplier must ensure that such staff, agents or sub-contractors are subject to the same obligations as the Supplier in respect of all Confidential Information.
- 7.2. Clause 7.1 does not apply to information which:
 - 7.2.1. is already public knowledge or becomes publicly available (otherwise than by breaches of these Terms or obligations of confidentiality);
 - 7.2.2. the Supplier can show by written records it was already in its possession, without restriction as to its disclosure, before receiving it from the University; or
 - 7.2.3. is required by law or regulation to be disclosed.
- 7.3. The Supplier will not communicate with representatives of the general or technical press, radio, television or other communications media, with regard to the Contract, unless previously agreed in writing with the University.
- 7.4. Except with the prior written consent of the University, the Supplier will not make use of the Contract or any Confidential Information otherwise than for the purposes of supplying the Goods and/or Services.
- 7.5. The obligations contained in this clause 7 shall survive for a period of two (2) years after the expiry or termination of the Contract.

8. Amendments and Variations

- 8.1. These Terms apply to all the University's purchases. No amendment or variation to, or proposal to amend or vary, these Terms shall be valid or legally binding on either Party unless previously agreed by the Parties in writing and signed by them.
- 8.2. No terms or conditions endorsed upon, delivered with or contained in the Supplier's quotation, acknowledgement or acceptance of order, specification or similar document will form part of the Contract and the Supplier waives any right which it otherwise might have to rely on such terms and conditions.

9. Insurance

- 9.1. During this Contract and for a period of three (3) years afterwards, the Supplier shall with a reputable insurance company maintain the following general liability policies of insurance, and will at the University's request produce the relevant policy/policies together with evidence of payment of the latest premium due:
 - 9.1.1. Public Liability Insurance coverage of not less than ten million pounds sterling (£10,000,000) for any one, or series of claims that may arise; and
 - 9.1.2. Employer Liability Insurance coverage of not less than ten million pounds sterling (£10,000,000) for any one, or a series of claims that may arise; and
 - 9.1.3. Professional Indemnity Insurance coverage of not less than five million pounds sterling (£5,000,000) for any one, or series of claims that may arise.
- 9.2. The Supplier shall ensure that the University's interest is noted on each insurance policy, or that a generic interest clause has been included.
- 9.3. The Supplier shall ensure that any subcontractors also maintain adequate insurance having regard to the obligations under this Contract which they are contracted to fulfil.
- 9.4. The Supplier shall:
 - 9.4.1. do nothing to invalidate any insurance policy or to prejudice the University's entitlement under it; and
 - 9.4.2. notify the University if any policy is (or will be) cancelled or its terms are (or will be) subject to any material change.
- 9.5. The Supplier's liabilities under this Contract shall not be deemed to be released or limited by the Supplier taking out the insurance policies referred to in clause 9.1.

- 9.6. If the Supplier fails or is unable to maintain insurance in accordance with clause 9.1, or fails to provide evidence that it has paid the current year's premiums in accordance with clause 9.3, the University may, so far as it is able, purchase such alternative insurance cover as it deems to be reasonably necessary and shall be entitled to recover all reasonable costs and expenses it incurs in doing so from the Supplier.

10. Liability and Indemnity

- 10.1. The Supplier agrees to indemnify and keep fully indemnified the University from and against all costs, actions, claims, demands, liabilities, expenses, damages and losses (including without limitation consequential losses and loss of profit, and all interest, penalties and legal and other professional costs and expenses) arising out of or in connection with the provision of the Supplies and/or the negligence, default or breach of this Contract by the Supplier.
- 10.2. The provisions of this clause 10 shall survive the termination or expiry of this Contract for any reason.

11. Delivery and Packaging

- 11.1. The Goods will be delivered, carriage paid, to the place named in the Order or to such other place of delivery as is agreed by the University in writing prior to delivery of the Goods. The Supplier shall off-load the Goods at its own risk as directed by the University.
- 11.2. The University reserves the right to remove or add additional delivery points as and when required.
- 11.3. The date for delivery of the Supplies will be specified in the Order, or if no date is specified then delivery of Goods will take place within seven (7) days of the Order and delivery of Services will take place as requested by the University or within a reasonable time.
- 11.4. Time for delivery shall be of the essence.
- 11.5. The Supplier will invoice the University upon, but separately from, despatch of the Goods to the University.
- 11.6. Unless otherwise stipulated by the University in the Order, deliveries will only be accepted in normal business hours at the delivery point specified in the Order unless the University specifies otherwise. If Goods are incorrectly delivered, the Supplier will be held responsible for any additional expense incurred in delivering them to their correct destination and any other losses, direct or indirect, incurred by the University as a result of the incorrect delivery.

- 11.7. If the Supplies are not delivered on the due date then, without prejudice to its other rights, the University reserves the right to:
- 11.7.1. cancel the Contract in whole or in part;
 - 11.7.2. refuse to accept any subsequent delivery of the Supplies which the Supplier attempts to make;
 - 11.7.3. recover from the Supplier any expenditure reasonably incurred by the University in obtaining the Goods in substitution from another supplier; and
 - 11.7.4. claim damages for any additional costs, loss or expenses incurred by the University which are in any way attributable to the Supplier's failure to deliver the Supplies on the due date.
- 11.8. All Goods must be adequately packed for the mode of delivery and type of Goods at no cost to the University and protected against damages or and deterioration in transit and delivered carriage paid. Any information relating to the handling and storage of Goods upon receipt is to be clearly marked on the packaging and accompanying paperwork. In the absence of any provision to the contrary any packaging is non-chargeable and non-returnable. Unless otherwise provided in the Contract the Supplier shall be responsible for the collection and disposal of all returnable packaging at no cost to the University. Each package must:
- 11.8.1. bear the University's Order number and the date of the Order;
 - 11.8.2. include the number of packages and contents;
 - 11.8.3. in the case of part delivery, the outstanding balance remaining due to be delivered;
 - 11.8.4. be accompanied by a readily accessible packing note detailing the contents; and
 - 11.8.5. conform with all applicable export/import regulations.
- 11.9. If the Supplier requires the University to return any packaging material that fact must be clearly stated on the delivery note delivered to the University and will be at the cost of the Supplier.
- 11.10. The Supplier shall furnish such programmes of manufacture and delivery as the University may reasonably require and the Supplier shall give notice to the University as soon as practicable if such programmes are or are likely to be delayed.
- 11.11. Where the University agrees in writing to accept delivery by instalments the Contract will be construed as a single contract in respect of each instalment. Nevertheless

failure by the Supplier to deliver any one instalment will entitle the University at its option to treat the whole Contract as repudiated.

- 11.12. If the Goods delivered to the University are in excess of the quantities ordered the University shall not be bound to pay for the excess and any excess shall be and shall remain at the Supplier's risk and shall be returnable at the Supplier's expense.
- 11.13. Any access to University Premises and any labour or equipment provided by the University in connection with delivery and/or performance under the Order will be provided to the Supplier without acceptance by the University of any liability whatsoever (save in relation to death/personal injury caused by the University's negligence). If access is granted, the Supplier will at all times comply with the reasonable requirements of the University in respect thereof.

12. Acceptance and Defective Goods and Services

- 12.1. The University shall not be deemed to have accepted any Goods until it has had a reasonable time (being at least seven (7) days) to inspect them following delivery, or, in the case of a latent defect in the Goods, until a reasonable time (being at least ninety (90) days) after the latent defect has become apparent.
- 12.2. Without prejudice to any other right or remedy which the University may have, if any Supplies are not supplied in accordance with, or the Supplier fails to comply with, any of the terms of the Contract the University shall be entitled to avail itself of any one or more of the following remedies at its discretion, whether or not any part of the Supplies have been accepted by the University:
 - 12.2.1. to rescind the Order;
 - 12.2.2. to reject the Goods (in whole or in part) and return them to the Supplier at the risk and cost of the Supplier on the basis that a full refund for the Goods so returned shall be paid forthwith by the Supplier;
 - 12.2.3. at the University's option to give the Supplier the opportunity at the Supplier's expense either to remedy any defect in the Goods or Services or to supply replacement Goods and carry out any other necessary work to ensure that the terms of the Contract are fulfilled;
 - 12.2.4. to refuse to accept any further deliveries of the Goods but without any liability to the Supplier;
 - 12.2.5. to carry out at the Supplier's expense any work necessary to make the Goods/Services comply with the Contract; and
 - 12.2.6. to claim such damages for any costs, expenses or losses as may have been sustained in consequence of the Supplier's breach(es) of the Contract.

12.3. The University's rights and remedies under clause 12.2 are in addition to the rights and remedies available to it in respect of the statutory conditions relating to description, quality, fitness for purpose and correspondence with sample implied into this agreement by the Sale of Goods Act 1979.

12.4. The terms of this Agreement shall apply to any repaired or replacement Goods supplied by the Supplier.

12.5. If the Supplier fails to either:

12.5.1. deliver any Goods on the specified date of delivery in accordance with clause 11.1; or

12.5.2. promptly repair or replace rejected Goods.

the University may, without limiting any other right or remedy that the University may have, obtain substitute Goods from a third party contractor, or (if applicable) have the rejected Goods repaired by a third party, and the Supplier shall in either case reimburse the University for the reasonable costs the University incurs in doing so, or alternatively the University may notify the Supplier that it intends to deduct such costs from any sums due to the Supplier under any invoices which the University is then or subsequently in receipt of, in respect of Supplies made pursuant to this Contract.

13. Substitutions

13.1. The Supplier will provide all of the Goods covered by the Order. If the Supplier is unable to provide the exact type of Goods ordered then the Supplier shall advise the University accordingly as soon as the deficit in the supply becomes apparent and shall, with the prior written agreement of the University, provide alternative Goods of equal or better quality at the same prices as the Goods originally ordered.

14. Removal of Rejected Goods

14.1. Rejected Goods are to be removed by and at the expense of the Supplier immediately after notice of rejection is given by the University. If not so taken away, the University may cause Goods to be removed and charge the Supplier with all expenses incurred in connection with such removal, return to the Supplier or disposal, whichever the University in its sole discretion considers appropriate.

15. Risk and Property

15.1. The property and risk in the Goods shall pass to the University when they are delivered (including off-loading and stacking), installed and satisfactorily tested if appropriate, unless payments for the Goods is made prior to delivery, in which case title of the property shall pass to the University once the payment has been made

and risk shall pass when the Goods have been delivered, installed and satisfactorily tested as applicable.

- 15.2. Upon delivery at the premises specified in the Order, all Intellectual Property Rights in such Goods that are produced to the specification or instruction of the University shall be vested in the University.
- 15.3. The University shall have the sole right to determine whether the protection of any Intellectual Property Rights shall be sought.
- 15.4. The Supplier shall promptly communicate to the University all results arising from the fulfilment of the Services for which Intellectual Property Rights may be sought and at the University's expense do all acts and things necessary to enable the University to protect such Intellectual Property Rights in all territories and to assign the same to the University or its nominee.
- 15.5. The Supplier shall ensure that all Intellectual Property Rights, including technical information (including computer programs and programming information) arising out of or deriving from this Contract is held in strict confidence except for any such information which becomes public information other than by breach of this Contract.
- 15.6. This clause 15 will survive the termination of the Contract howsoever arising.

16. Intellectual Property

- 16.1. Nothing in this Contract shall affect either Party's ownership of its Intellectual Property Rights, and no licences of either Party's Intellectual Property Rights are granted by this Contract to the other Party except as expressly stated herein.
- 16.2. The Supplier may only use the University's name, logo, crest or other trademarks of the University with the prior written consent of either the [General Counsel and Clerk to the Governing Body or the Director of Marketing and Communications] or their nominee (or such equivalent officer should a re-organisation occur). The University may make its consent subject to stipulations as to design and format and/or subject to any other terms of use that the University may reasonably stipulate, and the Supplier shall comply strictly with any such stipulations and/or terms of use.

17. Invoices and Payment

- 17.1. The Supplier will ensure that any invoice it submits sets out the University's Order number, the charges (and where not all of the Supplies have been delivered the relevant part of the charges with an appropriate breakdown of the part of the Supplies), the date to which the invoice relates, and its confirmation that the Supplies (or relevant part referred to on the invoice) have been properly delivered.
- 17.2. The University has a 'No PO, No Pay' policy for all suppliers. Therefore all invoices submitted must quote a valid University purchase order number which must be

obtained prior to any goods or services being delivered or any works undertaken. All purchase order numbers consist of seven numbers, starting with 3 (e.g. 3101234).

- 17.3. Any invoice or other request for payment of monies due to the Supplier under the Contract must, if the Supplier is a taxable person, be in the same form and contain the same information as if the same were a tax invoice for the purposes of Regulations made under the VAT Act 1994.
- 17.4. All invoices are to be submitted on completion of the provision of the Supplies to which they relate, should primarily be sent to the following email address: accounts.payable@canterbury.ac.uk. Alternatively, they can also be sent to the following address:

Accounts Payable
Canterbury Christ Church University
Rochester House
St George's Place
Canterbury
Kent
CT1 1UT

- 17.5. The price of the Supplies will be stated in the Order and is in £ (Great British Pounds sterling) and unless otherwise agreed in writing by the University is exclusive of United Kingdom VAT but inclusive of all other charges (including, without limitation, storage, packing, insurance, delivery, installation, expenses and commissioning (as applicable)). These prices represent the total University payment liability under this Contract. All other costs are to be met by the Supplier.
- 17.6. No increase in the price or extra charges will be accepted by the University unless previously agreed by the University in writing. A sole exemption is UK VAT which will be applied at the then current rate.
- 17.7. In consideration of the provision of the Supplies by the Supplier, the University will pay the charges after receiving a correctly submitted invoice as set out in clause 17.1 but unless otherwise stated on the Order, payment will only be made when all the Supplies constituting the Order have been accepted. Payment will normally be made within thirty (30) days of receipt of a correctly submitted invoice, but time for payment is not of the essence of the Contract.
- 17.8. The University may reduce payment in respect of any Supplies that the Supplier has either failed to provide or has provided inadequately, taking into account the cost (if any) to the University of remedying any defects, without prejudice to any other rights or remedies of the University. For the avoidance of doubt this will include the right of the University to pay part of the charges directly to any sub-contractor or agent of the Supplier, in order to remedy any defects or to ensure continuity of service to the University. Written receipt from the relevant sub-contractor or agent shall be sufficient proof of the University's right to set-off that receipted sum against any

sum(s) owing to the Supplier under this Contract. The Supplier is not entitled to suspend deliveries of the Supplies as a result of any sums being outstanding.

- 17.9. If the Supplier believes that payment for a correctly submitted invoice is overdue, the Supplier should in the first instance speak to their usual contact at the University. If the problem is not resolved to the satisfaction of the Supplier, it should contact the University **Accounts Payable Team** - accounts.payable@canterbury.ac.uk setting out the case. The University **Accounts Payable Team** will ensure that the complaint is dealt with by a person who is independent of the main contact and that the Supplier is not treated adversely in future for having made a complaint.
- 17.10. For the purpose of calculating any statutory interest under the Late Payment of Commercial Debts (Interest) Act 1998, the relevant date for the payment of the debt will be deemed to be the last day of a period of thirty (30) days commencing on the day when the University received the invoice, or, if the Supplier had not delivered the Supplies (or part to which the invoice relates) before submitting the invoice, the last day of a period of thirty (30) days commencing on the day when the Supplier delivered the Supplies, (or part to which the invoice relates).
- 17.11. The University will be implementing the use of eMarketplace from August 2012. In order to facilitate this, the Supplier agrees:
- 17.11.1. to register as soon as reasonably practicable on the electronic purchasing system designated by the University; and
- 17.11.2. that invoices from August 2012 issued by the Supplier will be within the electronic purchasing system designated by the University; and
- 17.11.3. that it is able to receive payment by BACS.

Price reviews

- 17.12. Should the Supplier at any time after the expiration of twelve (12) months from the commencement of this Contract wish to supply all or any of the Supplies subject of this Contract at an increased price, it shall give not less than three (3) calendar months' notice in writing of the proposed increased price to the **Nominated Officer** at the University. Such notice shall clearly identify the proposed price in £ (Great British Pounds sterling), rather than percentage or any other measure of movement.
- 17.13. The Supplier's application shall be accompanied by information and records which detail the increases in costs that he has incurred in respect of the Contract since the commencement of the Contract or the implementation of the last price increase (whichever is the most recent). The University cannot consider any application without such supportive information and in its absence shall have to reject the application.
- 17.14. The University reserves the right to:

- 17.14.1. accept an application made in accordance with clause 17.12 above or;
- 17.14.2. where the University does not consider that the information accompanying the application to be supportive of the proposed price for whatever reason, the University may reject the application, in such case the current Contract price shall continue to apply.
- 17.15. In the event of agreement not being reached between the Parties under clause 17.14 in what the University considers to be a reasonable period of time, the University reserves the right (in its sole discretion) to serve not less than thirty (30) days' notice upon the Supplier in order to terminate the Contract. Such notice will not apply to any Supplies already dispatched to the University.
- 17.16. Any price increase accepted by the University in accordance with this clause 17 shall be fixed for a period of twelve (12) months and is subject to these Terms.
- 17.17. Throughout the term of the Contract, the University reserves the right to monitor the market for Goods which are the subject of the Contract. Where it is found that such Goods (of like quality and specification) are available at lower prices than those being paid under this Contract, the Supplier shall be required to review its prices. Should the University (acting reasonably) not be satisfied with the Supplier's response, the University reserves the right to terminate the Contract in respect of some or all of the Goods.

18. Recovery of Sums Due

- 18.1. Whenever under the Contract any sum of money is recoverable from/payable by the Supplier, such sum may be deducted from any amount then due, or which at any time thereafter may become due, to the Supplier under this Contract or any other agreement or arrangement with the University.
- 18.2. Any over-payment by the University to the Supplier whether in respect of the charges or VAT will be a sum of money recoverable from the Supplier pursuant to clause 18.1 above or otherwise.

19. Tax

- 19.1. All sums payable under this Contract are, unless otherwise stated, exclusive of VAT and other duties or taxes. The amount invoiced to the University should be as appropriate in accordance with the Value Added Tax Act 1994, as updated from time to time.
- 19.2. The Supplier is responsible for all income tax, National Insurance, VAT or other payments and liabilities connected with any sum paid by the University to the Supplier.

- 19.3. The Supplier will, if so requested by the University, provide such information as the University, acting reasonably, may require relating to the amount of VAT chargeable.

VAT applicability

- 19.4. Because this Agreement is between Organisations from two EC – member states, European VAT rules will apply. All prices above are therefore exempt from VAT. The Supplier shall ensure all invoices are submitted in the same manner.

20. The University's Property

- 20.1. Materials, equipment, tools, dies, moulds, copyright, design rights or any other forms of Intellectual Property Rights in any form (including drawings, specifications and data) supplied by the University to the Supplier or not so supplied but used by the Supplier specifically in the manufacture of the Goods or supply of Services will at all times be and remain the exclusive property of the University and shall be held by the Supplier in safe custody at its own risk and kept in good condition by the Supplier until returned to the University and must not be disposed of or used other than as authorised by the University in writing.
- 20.2. All University Property shall be deemed to be in good condition when received by or on behalf of the Supplier unless it notifies the University to the contrary within seven (7) days or such other time as is specified in the Contract.
- 20.3. The Supplier undertakes to return any and all University Property on completion of the Contract or any earlier request by the University.
- 20.4. The Supplier shall, except as otherwise provided for in the Contract, repair or replace or, at the option of the University, pay compensation for all loss, destruction or damage occurring to any University Property caused or sustained by the Supplier, or by its employees, agents or sub- contractors, whether or not arising from their performance of the Contract and wherever occurring, provided that if the loss, destruction or damage occurs at the University's Premises or any other premises, this clause shall not apply to the extent that the Supplier is able to show that any such loss, destruction or damage was not caused or contributed to by its negligence or default or the neglect or default of its employees, agents, or sub-contractors.

21. Termination

- 21.1. The University shall be entitled to terminate the Contract, or to terminate the provision of any part of the Supplies, at any time and for any reason by giving to the Supplier not less than thirty (30) days' notice in writing to that effect without prejudice to any rights or remedies of the University for breach of contract. The Contract shall be discontinued and the University shall pay to the Supplier fair and reasonable compensation for work-in-progress at the time of termination but such compensation shall not include loss of anticipated profits or any consequential loss.

- 21.2. The University will be entitled to terminate the Contract, or to terminate the provision of any part of the Supplies, with immediate effect by giving written notice to the Supplier if:
- 21.2.1. the Supplier does or fails to do anything which brings or which might reasonably be expected to bring into disrepute the University, its officers, employees, clients or suppliers (including but not limited to committing an act of fraud, bribery or dishonesty whether or not connected with the provision of the Supplies); or
 - 21.2.2. the Supplier commits a material breach of any of the Terms or the Contract which is incapable of remedy; or
 - 21.2.3. the Supplier commits a series of persistent minor breaches which, when taken together, amount to a material breach; or
 - 21.2.4. any distress, execution or other process is levied upon any of the assets of the Supplier; or
 - 21.2.5. the Supplier repeatedly breaches any of the terms of the Contract (or any other Contract or any other arrangement between the University and the Supplier) in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of the Contract; or
 - 21.2.6. it elects to do so under clauses 17.15 and 17.7; or
 - 21.2.7. the Supplier ceases or threatens to cease to carry on all or substantially the whole of its business; or
 - 21.2.8. a petition is filed, a notice is given, a resolution is passed, or an order is made, for or on connection with the winding up of the Supplier other than for the sole purpose of a scheme for a solvent amalgamation with one or more other companies or the solvent reconstruction of the Supplier; or
 - 21.2.9. 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 fourteen (14) days; or
 - 21.2.10. 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; or
 - 21.2.11. a floating charge holder over the Supplier's assets has become entitled to appoint or has appointed an administrative receiver; or

- 21.2.12. a person becomes entitled to appoint a receiver over the Supplier's assets or a receiver is appointed over its assets; or
 - 21.2.13. any event occurs, or proceeding is taken, with respect to the Supplier in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clauses 21.2.7 to 21.2.12 (inclusive); or
 - 21.2.14. there is a change of control of the Supplier (within the meaning of section 1124 of the Corporation Tax Act 2010).
 - 21.2.15. the financial position of the Supplier deteriorates to such an extent that in the opinion of the University the capability of the Supplier adequately to fulfil its obligations under the Contract has been placed in jeopardy; or
 - 21.2.16. the Supplier fails to pay any undisputed amount due under this Contract on the due date for payment and remains in default not less than thirty (30) days after being notified in writing to make such payment; or
- 21.3. If either Party commits a material breach of the Contract which is either not capable of remedy, or, if it is capable of remedy, the breaching party fails to remedy such breach within thirty (30) days of being notified by the non-breaching party in writing to do so, that non-breaching party shall be entitled to terminate the Contract with immediate effect by notice in writing to the Party and without prejudice to any other rights or remedies of either Party in respect of the breach concerned or any other breach of the Contract.
- 21.4. Termination of the Contract, however arising, is without prejudice to the rights and duties of the Parties accrued prior to termination. The conditions which expressly or impliedly have effect after termination will continue to be enforceable notwithstanding termination.

Effect of Termination

- 21.5. On expiry or termination of the Contract for any reason, the Supplier shall immediately deliver to the University or destroy or erase all Confidential Information and copies of information and data provided by the University to the Supplier for the purposes of the Contract. The Supplier shall certify to the University that it has not retained and has erased from its computer systems where appropriate all Confidential Information or copies of information and data, except for one (1) copy which the Supplier may use for audit purposes only and subject to the confidentiality obligations in this clause 21; and
- 21.6. Notwithstanding clause 21.5, on termination or expiry of this Contract for any reason, the Supplier shall immediately deliver to the University all specifications, programs (including source codes) materials, equipment, property and other documentation comprised in the Deliverables and existing at the date of such

termination, whether or not then complete. All Intellectual Property Rights in such materials shall automatically pass to the University (to the extent that they have not already done so), who shall be entitled to enter the premises of the Supplier to take possession of them. All such specifications, programs, documentation and other material shall be subject to clause 7 of this Contract.

21.7. If the Supplier fails to fulfil its obligations under clause 21.6, then the University may enter the Supplier's premises and take possession of any items which should have been delivered under it. Until they have been returned or repossessed, the Supplier shall be solely responsible for their safe keeping.

21.8. On termination or expiry of this Contract the Supplier shall provide free of charge such assistance as the University may reasonably require in order to ensure a smooth transition to any replacement supplier.

22. Survival of Obligations

22.1. Termination or expiry of this Contract for whatever reason shall not affect the accrued rights of the Parties arising in any way out of this Contract as at the date of termination or expiry and all provisions which are expressly stated or impliedly understood to survive this Contract shall remain in force and effect.

23. Force Majeure

23.1. For the purposes of this Contract, "Force Majeure Event" means an event beyond the reasonable control of either party including but not limited to strikes, lock-outs or other industrial disputes (whether or not involving the workforce of either party), act of God, war or national emergency, riot, civil commotion, fire, explosion, flood, epidemic or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials.

23.2. Neither party shall be liable to the other as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.

23.3. If the Force Majeure Event prevents either party from performing any of its obligations under the Contract for more than four (4) weeks], either party shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the other party.

23.4. The University reserves the right to defer the date of delivery of any Goods or (as applicable) for the provision of any Services, if it is prevented from, or delayed in, carrying on any of its business relevant to the Supplies by acts, events, omissions or accidents beyond its reasonable control.

24. Access, Monitoring, Audit and Information

- 24.1. The University may as often as reasonably necessary during the duration of this Contract and on reasonable notice following the termination (by any means) or expiry of this Contract, conduct an audit for the following purposes:
- 24.1.1. to verify the accuracy of charges levied by the Supplier under this Contract (and proposed or actual variations to them in accordance with this Contract);
 - 24.1.2. to review the integrity, confidentiality and security of any In-put Material or Personal Data;
 - 24.1.3. to review the Supplier's compliance with the Data Protection Laws, FOIA and any other legislation applicable to the Supplies;
 - 24.1.4. to review any records created during the provision of the Supplies;
 - 24.1.5. to review any books of account kept by the Supplier in connection with the provision of the Supplies;
 - 24.1.6. to carry out the audit and certification of the University's accounts;
 - 24.1.7. to carry out an examination pursuant to any relevant legislative or regulatory requirement to which the University is subject of the economy, efficiency and effectiveness with which the University has used its resources;
 - 24.1.8. to verify the accuracy and completeness of any management information delivered or required by this Contract.
- 24.2. The University shall use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Supplier or delay the provision of the Supplies.
- 24.3. Subject to the University's obligations of confidentiality, the Supplier shall on demand provide the University and any relevant regulatory body (and/or their agents or representatives) with all reasonable co-operation and assistance in relation to each audit, including:
- 24.3.1. all information requested by the University within the permitted scope of the audit;
 - 24.3.2. reasonable access to any premises controlled by the Supplier and to any equipment used (whether exclusively or non-exclusively) in the provision of the Supplies; and
 - 24.3.3. reasonable access to the Supplier's Team.

- 24.4. The University shall endeavour to (but is not obliged to) provide at least fifteen (15) days notice of its intention to conduct an audit.
- 24.5. The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this clause 24, unless the audit identifies a material breach of the terms of the Contract by the Supplier in which case the Supplier shall reimburse the University for all the University's reasonable costs incurred in the course of the audit.
- 24.6. If an audit identifies that:
- 24.6.1. the Supplier has failed to perform its obligations under this Contract in any material manner, the Parties (if requested by the University) shall agree and implement a remedial plan. If the Supplier's failure relates to a failure to provide any information to the University about the charges levied under this Contract, then the remedial plan shall include a requirement for the provision of all such information;
 - 24.6.2. the University has overpaid any charges, the Supplier shall pay to the University the amount overpaid within thirty (30) days. The University may deduct the relevant amount from any subsequent charges if the Supplier fails to make this payment; and
 - 24.6.3. the University has underpaid any charges properly due, the University shall pay to the Supplier the amount of the under-payment less the cost of audit incurred by the University if this was due to a default by the Supplier in relation to invoicing within thirty (30) days.

25. Supplier Information

- 25.1. When requested the Supplier is required to use the University's tendering portal and Contract Database to ensure all key contractor documentation is kept up to date and valid during the duration of this Contract in accordance with clause 25.2.
- 25.2. The following documentation is required to be uploaded and maintained up to date on to the In Tend system:
- 25.2.1. Employer Liability Insurance Certificates;
 - 25.2.2. Public Liability Insurance Certificates;
 - 25.2.3. Product Liability Insurance Certificates;
 - 25.2.4. Financial Accounts;
 - 25.2.5. any other reasonable information notified by the University.

26. Supplier's Staff

Acceptance of Suppliers Staff

- 26.1. The University reserves the right to refuse to admit to the University's Premises any person employed by the Supplier or its sub- contractors, whose admission would be undesirable in the reasonable opinion of the University.
- 26.2. If and when requested by the University, the Supplier shall provide a list of the names of all persons who may at any time require admission in connection with the performance of the Services to the University's premises, specifying the role in which each such person is concerned with the Supplier and giving such other particulars as the University may reasonably require.

Removal of Staff for Inappropriate / Offensive / Discriminatory Behaviour

- 26.3. The University regards inappropriate, offensive or discriminatory remarks or behaviour from its staff as gross misconduct and requires the Supplier to adhere to the same standard with the Supplier Team.
- 26.4. If a member of the Supplier's Team behaves in a manner which is or makes remarks which are inappropriate, offensive or discriminatory whilst on the University's Premises, or in the company of University personnel, then the University shall require the immediate removal of the member of the Supplier's Team concerned from the University Premises pending an investigation. If the investigation finds the allegations to be sustained, then the Supplier shall no longer be able to use that member of its Staff to deliver its Contract obligations.
- 26.5. During the term of investigation in clause 26.4 the Supplier will be required to provide a substitute member of the Supplier's Team, who is acceptable to the University and at no extra cost to the University.

Competence of Supplier's Staff

- 26.6. The Supplier and its Staff shall be expected to exercise professional and personal competence in the provision of the Supplies. This shall include adherence to the law. The University reserves the right to reject individual members of the Supplier's Team where it is not satisfied (acting reasonably) with their performance and to require their replacement by the Supplier at no additional cost to the University.
- 26.7. All members of the Supplier's Team must have the relevant qualifications and/or experience to perform their duties and the University reserves the right to be provided with details of the qualifications (including sight of the certificates) of any members of the Supplier's Team who are appointed to work under this Contract.

27. TUPE

- 27.1. The Parties agree to comply with the terms of the Transfer of Undertakings (Protection of Employees) Act 2006.

28. Data Protection

- 28.1. With respect to the Parties' rights and obligations under this Contract, the Parties confirm that they shall comply with their obligations under the Data Protection Laws.
- 28.2. The Supplier shall comply at all times with the Data Protection Laws and shall not perform its obligations under this Contract in such a way as to cause the University to breach any of its applicable obligations under the Data Protection Laws.
- 28.3. The Supplier acknowledges that the University is the Data Controller and the University places great emphasis on confidentiality, integrity and compliance with the Data Protection Act 1998. The University alone shall determine the purposes for which and the manner in which Personal Data is or is not to be processed.
- 28.4. Neither party shall do any act that puts the other party in breach of its obligations set out in this clause 28 and nothing in this Contract shall be deemed to prevent any party from taking the steps it deems necessary to comply with the Data Protection Act or other relevant Data Protection Laws or regulatory provisions.
- 28.5. In the event that the Supplier is acting as Data Processor, the Supplier shall:
 - 28.5.1. at all times comply with obligations equivalent to the obligations of a Data Controller under the provisions of the Seventh Data Protection Principle in the Data Protection Act 1998 and shall take appropriate technical and organisational measures against unauthorised or unlawful Processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data. When considering what measure is appropriate, the Supplier shall have regard to the state of good practice and technical development relating to measures to ensure a level of security appropriate to the harm that might result from such unauthorised or unlawful Processing or accidental loss or destruction, and to the nature of the data to be protected;
 - 28.5.2. Process the Personal Data only in accordance with instructions from the University (which may be specific instructions or instructions of a general nature as set out in this Contract or as otherwise notified by the University to the Supplier during the term of this Contract);
 - 28.5.3. Process the Personal Data only to the extent, and in such manner, as is necessary for the provision of the Supplies or as is required by law or any regulatory body;
 - 28.5.4. implement and provide the University with a written description of the technical and organisational methods employed by the Supplier for Processing Personal Data (within the timescales required by the University);
 - 28.5.5. ensure the reliability of the Supplier's Team by vetting staff appropriately who have access to the Personal Data;

- 28.5.6. not Process the Personal Data outside the European Economic Area without the University's prior written consent and in the event the University consents to a transfer, comply with the obligations of a Data Controller under the Eighth Data Protection Principle set out in Schedule 1 of the Data Protection Act 1998 by providing an adequate level of protection to any Personal Data that is transferred; and any reasonable instructions notified to it by the University;
- 28.5.7. from time to time on reasonable notice of not less than two (2) business days, permit the University or the University's representative (subject to reasonable and appropriate confidentiality undertakings), to inspect and audit the Supplier's data processing activities (and/or those of its agents and approved sub-contractors) and comply with all reasonable requests or directions by the University to enable the University to verify and/or procure that the Supplier is in full compliance with its obligations under this clause 28;
- 28.5.8. carry out regular security audits as may be required to ensure compliance and shall, on request, provide copies of the reports of such audits to the University. If such audits show any non-compliance, the Supplier shall remedy such breaches forthwith at its own expense;
- 28.5.9. immediately inform the University in writing of any breach of this clause 28.
- 28.6. Each party shall notify the other immediately if they become aware of any actual, threatened or potential breach of security of the Personal Data. The Supplier shall, if a breach of security occurs, immediately take all reasonable steps necessary to:
 - 28.6.1. remedy such breach or protect the Personal Data against any breach or threat; and;
 - 28.6.2. prevent an equivalent breach in the future.
- 28.7. Such steps shall include any action or changes reasonably required by the University. If such action is taken in response to a breach that is determined by the University acting reasonably not to be covered by the obligations of the Supplier under this Contract, then the parties shall agree a variation to the Contract.
- 28.8. As soon as reasonably practicable the Supplier shall provide to the University full details (using such reporting mechanisms as may be specified by the University from time to time) of any actual, potential or threatened breach and the steps taken by the Supplier in respect of such breach.
- 28.9. The Supplier agrees to enter into the University's data processing agreement if required by the University.

28.10. If the Supplier receives any Data Subject access request, complaint, notice or communication which relates directly or indirectly to the processing of or access to the Personal Data to either party's compliance with the Data Protection Act 1998, it shall:

28.10.1. immediately notify the University in writing, and

28.10.2. if relating to the processing of the Personal Data in fulfilment of this Contract, the Supplier will provide full co-operation and assistance in relation to any such complaint, notice or communication to allow the University to respond including by:

- (i) providing the University with full details of the complaint or request;
- (ii) complying with a data access request within the relevant timescales set out in the Data Protection Laws and in accordance with the University's instructions;
- (iii) providing the University with any Personal Data it holds in relation to a Data Subject (within the timescales required by the University); and
- (iv) providing the University with any information requested by the University.

28.11. The provisions of this clause 28 apply during the continuance of this Contract and indefinitely after its expiry or termination, however arising.

29. Freedom of Information and Environmental Information

29.1. The Supplier acknowledges that the University is subject to the requirements of the FOIA and the EIR and acknowledges that all information produced in the course of this Contract, or relating to this Contract, may be subject to a Request for Information.

29.2. The University will inform the Supplier promptly of any Request for Information relating to this Contract.

29.3. The Supplier shall itself and shall procure that the Supplier's Team shall:

29.3.1. transfer any Request for Information received by the Supplier or the Supplier's Team to the University as soon as practicable after receipt and in any event within three (3) days of receiving a Request for Information;

29.3.2. provide the University with a copy of any Information related to any Request for Information that is in the Supplier's possession or power in the form that the University reasonably requires within seven (7) days (or such other

period as the University may specify) of the University requesting that Information; and

- 29.3.3. provide all necessary assistance as reasonably requested by the University to enable the University to respond to a Request for Information within the time for compliance set out in section 10 of FOIA or regulation 5 of the Environmental Information Regulations.
- 29.4. The University shall take into account any representation made by the Supplier in relation to the request for information but is not obliged to act in accordance with it.
- 29.5. The parties acknowledge that any information classified and marked as Confidential Information (including commercially sensitive information) is only indicative and that the University may be obliged to disclose Confidential Information
- 29.6. The University shall be responsible for determining at its absolute discretion whether the information requested, in whole or in part:
 - 29.6.1. is exempt from disclosure in accordance with the provisions of the FOIA or the EIR; or
 - 29.6.2. is to be disclosed in response to a Request for Information.
- 29.7. The Supplier acknowledges that the University may, acting in accordance with the Secretary of State for Constitutional Affairs' Code of Practice on the discharge of public authorities' functions under Part 1 of FOIA (issued under section 45 of FOIA, November 2004), be obliged under FOIA or the Environmental Information Regulations to disclose Information:
 - 29.7.1. without consulting with the Supplier, or
 - 29.7.2. following consultation with the Supplier and having taken its views into account,provided always that where clause 29.7.2 applies the University shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Supplier advance notice, or failing that, to draw the disclosure to the Supplier's attention after any such disclosure.
- 29.8. The Supplier shall ensure that all Information produced in the course of this Contract or relating to this Contract is retained for disclosure and shall permit the University to inspect such records as requested from time to time.
- 29.9. The Supplier acknowledges that any lists or schedules provided by it outlining Information are of indicative value only and that the University may nevertheless be obliged to disclose Information in accordance with clause 29.7.

30. Equality and Corporate Social Responsibility

- 30.1. Whilst performing the Contract the Supplier shall use (and shall ensure any third party supplier to the Supplier uses) its reasonable endeavours to conserve energy, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases (including carbon dioxide emissions), volatile organic compounds and other substances damaging to health and the environment.
- 30.2. The Supplier will deliver the Supplies according to the sustainable and environmental standards (if any) specified by the University and to the extent required by the University (if at all), the Supplier will periodically report performance in this respect.
- 30.3. In addition to clause 32, the Supplier acknowledges that the University is subject to equal opportunities legislation and undertakes that it shall not (and shall ensure any third party supplier to the Supplier shall not) unlawfully discriminate for any reason and shall take all reasonable steps to secure the Supplier's personnel (or that of any third party supplier) likewise do not unlawfully discriminate.
- 30.4. The Supplier acknowledges that the University is subject to the MSA and undertakes that it shall not (and shall ensure any third party supplier to the Supplier shall not) breach anti-slavery and anti-human trafficking legislation. If the Supplier becomes aware of any breach of such legislation in its own operations or those of its suppliers, it shall:
 - 30.4.1. immediately notify the University in writing, and
 - 30.4.2. immediately take steps to rectify the breach.

31. Anti-Bribery and Anti-Corruption

- 31.1. The Supplier:
 - 31.1.1. shall not, and shall procure that any members of the Supplier's Team shall not, in connection with this Contract commit a Prohibited Act;
 - 31.1.2. warrants, represents and undertakes that it is not aware of any financial or other advantage being given to any person working for or engaged by or performing services for the University, or that an agreement has been reached to that effect, in connection with the execution of this Contract.
- 31.2. The Supplier shall, if requested, provide the University with any reasonable assistance to enable the University to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with the Bribery Act.

- 31.3. The Supplier shall have an anti-bribery policy (which shall be disclosed to the University) to prevent any member of the Supplier's Team from committing a Prohibited Act and shall enforce it where appropriate.
- 31.4. The Supplier shall comply with the University's anti-bribery and anti-corruption policies as published from time to time on the University's website <http://www.canterbury.ac.uk/university-solicitors-office/policies-and-procedures/anti-bribery-and-fraud.aspx>
- 31.5. If any breach of clause 31.1 is suspected or known, the Supplier must notify the University immediately.
- 31.6. If the Supplier notifies the University that it suspects or knows that there may be a breach of clause 31.1, the Supplier must respond promptly to the University's enquiries, co-operate with any investigation, and allow the University to audit books, records and any other relevant documentation.
- 31.7. The University may terminate this Contract by written notice with immediate effect if the Supplier or any member of the Supplier's Team (in all cases whether or not acting with the Supplier's knowledge) breaches clause 31.1.
- 31.8. Any notice of termination under clause 31.7 must specify:
- 31.8.1. the nature of the Prohibited Act;
 - 31.8.2. the identity of the party whom the University believes has committed the Prohibited Act; and
 - 31.8.3. the date on which this Contract will terminate; and
 - 31.8.4. any termination under clause 31.7 will be without prejudice to any right or remedy which has already accrued or subsequently accrues to the University.

- 31.9. Any dispute relating to:
- 31.9.1. the interpretation of clause 31; or
- 31.9.2. the amount or value of any gift, consideration or commission,
- shall be determined by the University and its decision shall be final and conclusive.
- 31.10. The Supplier will indemnify the University against all costs, claims, charges, demands, liabilities, losses and expense incurred or suffered by the University arising out of any breach by the Supplier of its obligations in this clause 31.
- 31.11. During the Course of this Contract, the Supplier must at the earliest opportunity notify the University of any finding by a Court, Tribunal, or equivalent body, against the Supplier as to an unlawful act being carried out by the Supplier under relevant legislation.

32. Compliance with Statutory Duties and University Policies

- 32.1. The Supplier shall, and shall ensure that the Supplier's Team shall:
- 32.1.1. observe all health and safety rules and regulations including, without limitation, the Health and Safety at Work Act 1974, the Management of Health and Safety at Work Regulations 1999 and any Health and Safety Executive advice and guidance and any other reasonable security requirements that apply at any of the University's premises including the University's Site Regulations which are available at <https://cccu.canterbury.ac.uk/health-and-safety/policies-and-procedures/policies-and-procedures.aspx> as amended from time to time and including the University's right to refuse the Supplier's Team access to the University's premises for health and safety reasons;
- 32.1.2. notify the University as soon as it becomes aware of any health and safety hazards or issues which arise in relation to the provision of the Supplies;
- 32.1.3. obtain, and at all times maintain, all necessary licences and consents and comply with all relevant legislation in relation to the provision of the Supplies; and
- 32.1.4. make good to the University's reasonable satisfaction any damage caused to the University's premises or other property in connection with a breach of this clause 32.1 and generally to indemnify the University against all costs, claims, charges, demands, liabilities, losses and expenses incurred or suffered by the University arising out of any such breach.
- 32.2. Without prejudice to the generality of clause 32.1 the Supplier shall in respect of all persons employed or engaged by it or by any member of the Suppliers Team (whether in performance of this Contract or otherwise) in every factory, workshop

or place situate in the United Kingdom and occupied or used by it for the performance of the Contract comply with the following conditions:

- 32.2.1. not, whether as an employer, or provider of services, discriminate unlawfully against any person on the grounds of their age, disability, gender, gender identity, race, sexual orientation, religion or belief; and
 - 32.2.2. when either providing to or contracting on behalf of the University, work in ways consistent with the University's positive duties, as a public authority, to promote disability, gender and race equality i.e. as if the duties applied to the Supplier; and
 - 32.2.3. indemnify the University against all costs, claims, charges, demands, liabilities, losses and expenses incurred or suffered by the University arising out of any investigation or any proceedings brought under equality legislation due directly or indirectly to any act or omission by the Supplier, its agents, employees or sub-contractors or any breaches of this clause 32; and
 - 32.2.4. specify in any contracts so far as applicable requirements in relation to equality which are consistent with the Supplier's obligations in clauses 32.2.1 and 32.2.2 and include appropriate arrangements (e.g. for involving or consulting people from equality groups relevant to the contract and equality monitoring) to ensure that the contract may be managed and assessed against the Order and the requirements of clauses 32.2.1 and 32.2.2; and
 - 32.2.5. have due regard for its legal obligations under the Health and Safety at Work Act 1974 and any amendments thereto including the requirements relating to safe working practices, use of safety equipment and the conduct of persons employed; and
 - 32.2.6. take all reasonable steps to secure the observance of the provisions of clauses 32.2.1 and 32.2.2 by all members of the Supplier's Team and shall if required notify the University of the names and addresses of all such members.
- 32.3. The Supplier shall in respect of all persons employed by it or other members of the Supplier's Team (whether in performance of this Contract or otherwise) in every factory, workshop or place situate in the United Kingdom and occupied or used by it for the performance of the Contract comply with the conditions set out in the University Sustainable Purchasing Policy a current version of which is available at <http://www.canterbury.ac.uk/about-us/sustainability/strategies-and-policies.aspx> as amended from time to time.
- 32.4. In its provision of the Contract the Supplier and the Suppliers Team must comply with the requirements of the Human Rights Act 1998.

- 32.5. The Supplier shall, and shall ensure that the Supplier's Team shall, permit at any reasonable time staff and authorised representatives of the University, to enter the Supplier or Supplier's Team's premises and to monitor the Supplier or Supplier's Team whilst on University premises to ensure the Supplier or Supplier's Team are complying with the stipulations set out in this clause 32.
- 32.6. The University requires its suppliers to comply with UK immigration legislation and to ensure full compliance with the UK Visas and Immigration Agency's guidance for employers on the prevention of illegal working, in accordance with the Immigration, Asylum and Nationality Act 2006 in respect to all staff engaged by the Supplier and working at the University. The University expects that proper 'right to work checks', including repeat checks for individuals with limited right to work in the UK, will have been carried out for staff engaged by the Supplier and working at or for the University, and that the Supplier complies fully with its record-keeping and reporting responsibilities for any migrant workers sponsored by the Supplier under Tier 2 or Tier 5 of the UK Visas & Immigration Agency's points-based immigration system. The Supplier will, on request, provide the University with such documentation as it may require to verify that the Supplier has complied with the requirements set out above.

33. Dispute Resolution

- 33.1. The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Contract.
- 33.2. If the Parties cannot resolve the dispute pursuant to clause 33.1 within thirty (30) days of the commencement of the negotiations, the Parties shall attempt to settle it by mediation in accordance with the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure ('The **Model Procedure**') and the following provisions of this clause shall then apply:
- 33.2.1. either Party shall give a notice ('the **ADR notice**') to the other requesting mediation in accordance with this sub clause and a copy of the ADR notice shall be sent to CEDR Solve;
- 33.2.2. the 'Model Procedure' shall be amended to take account of any relevant provisions in this Contract or any other additional agreement which the Parties may enter into in relation to the conduct of the mediation; and
- 33.2.3. if there is any question on the conduct of the mediation (including as to the nomination of the mediator) upon which the parties cannot agree within fourteen (14) days from the date of the ADR notice, CEDR Solve will at the request of either Party (and after consultation with the Parties) decide such question.

- 33.3. If the Parties fail to reach an agreement within sixty (60) days of the initiation of the mediation, or such longer period as may be agreed by the Parties, then any dispute or difference between them may be referred to the courts.
- 33.4. The commencement of mediation shall not prevent the parties commencing or continuing court proceedings.
- 33.5. Nothing in this clause 33 shall prevent either Party exercising its right to terminate this contract or to seek interim, interlocutory or other equitable relief without having first followed the procedure referred to in clauses 33.1 and 33.2 above.

34. Publicity

- 34.1. The Supplier shall not exploit publicity in any form in connection with the Contract or the University without obtaining the prior written consent of the University, which shall not be unreasonably withheld.

35. Best Value

- 35.1. The Supplier shall maintain throughout the duration of this Contract an effective and economical programme for quality, planned and developed in a way necessary to satisfy the requirements of this Contract. The Supplier acknowledges that the University is required to make arrangements to secure continuous improvement in the way it exercises procurement activity, having regard to a combination of economy, efficiency and effectiveness. The Supplier shall assist the University to discharge this duty where possible, and agrees to negotiate in good faith and acting reasonably any proposed changes to this Contract in order to assist the University to achieve best value and to pass on any price savings it obtains to the University.

36. Entire Contract

- 36.1. The Contract shall be subject to the Order and the Terms set out in this document. The Contract constitutes the entire agreement and understanding between the Parties relating to the matters contemplated within it, and supersedes all prior written and oral representations, agreements or undertakings between them relating to the subject matter of this Contract, provided that neither party excludes liability for fraudulent misrepresentations upon which the other party has relied, and without prejudice to any rights which have already accrued to either of the parties. No other documents (including parts thereof), terms or variations to the Contract shall apply unless they have been agreed in writing by both parties and in accordance with the processes set out in this document. This exclusion includes any terms routinely issued by the Supplier in their business documentation (including quotations, Purchase Order acknowledgement, Delivery notes and invoices).

37. Rights of Third Parties

- 37.1. It is not intended that the Contract, either expressly or by implication, shall confer any benefit on any person who is not a party to the Contract and accordingly the Contracts (Rights of Third Parties) Act 1999 shall not apply.

38. Notices

- 38.1. Any notice required to be given to a Party under or in connection with this Contract shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or other next working day delivery service providing proof of delivery to the address(es) of the other Party set out in Schedule 1 (or such other address as that Party may have notified to the other Party). Any such notice given to the University shall also be sent by e-mail to the e-mail address of the University's Head of Procurement set out in Schedule 1 (or such other e-mail address as the University may have notified to the Supplier).
- 38.2. Any such notice shall be deemed to have been served: if delivered by hand - at the time of delivery; and if sent by post - upon the expiration of forty eight (48) hours after posting.

39. Assignment and Sub-contracting

- 39.1. The University is entitled to assign any or all of its rights under the Contract, provided that such assignment does not materially increase the burden of the Supplier's obligations under the Contract.
- 39.2. The Supplier shall not assign, bargain, sell, give or sub-contract, mortgage or otherwise dispose of or deal in any manner with any of its rights or obligations arising out of this Contract otherwise than with the prior written consent of the University. Any permitted sub-contracting of any part of this Contract shall not relieve the Supplier of any obligation or duty attributable to it under this Contract.
- 39.3. Where the University has consented to the placing of a sub-contract, the award of such sub-contract shall (unless the University agrees otherwise) be based on fair and open competition and the sub-contract shall include provisions which:
- 39.3.1. preclude any further subcontracting; and
- 39.3.2. require that any payments becoming due thereunder be made within a specified period not exceeding thirty (30) days from receipt of a valid invoice as defined by the sub-contract requirements. The Supplier shall send copies of the sub-contract to the University if requested in writing to do so.

40. Waiver

- 40.1. Any waiver of any right under this Contract is only effective if it is in writing and it applies only to the Party to whom the waiver is addressed and to the circumstances for which it is given.

40.2. No failure to exercise or delay in exercising any right or remedy provided under this Contract or by law constitutes a waiver of such right or remedy, nor shall it prevent or restrict any future exercise or enforcement of such right or remedy.

40.3. No single or partial exercise of any right or remedy under this Contract shall prevent or restrict the further exercise of that or any other right or remedy.

41. Severability

41.1. If any provision of this Contract (or part of a provision) is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.

41.2. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

42. Set-off

42.1. Notwithstanding any other provision in this Contract, the University may at any time without notice to the Supplier set off any liability of the Supplier to the University against any liability of the University to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this Contract. If the liabilities to be set off are expressed in different currencies the University may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the University of its rights under this clause shall not limit or affect any other rights or remedies available to it under this Contract or otherwise.

43. Governing Law

43.1. This Contract and any dispute or claim arising out of or in connection with it or its subject matter (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law. Each Party hereby irrevocably agrees that the English Courts will have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).

Schedule 1 - Addresses for the purpose of notices under these Terms

1 University

1.1 [General Counsel and Clerk to the Governing Body], Canterbury Christ Church University, Rochester House, St Georges Place, Canterbury, CT1 1UT; and

1.2 (by e-mail) alison.sear@canterbury.ac.uk

1.3 Head of Procurement, Canterbury Christ Church University, Rochester House, St Georges Place, Canterbury, CT1 1UT; and

1.4 (by e-mail) Procurement@canterbury.ac.uk

2 Supplier

2.1 **[Insert company name and address]** represented by:

2.2 **[Insert representative name and email address]**.

Signed on behalf of:

Canterbury Christ Church University

Name: _____

Position: _____

Signature: _____

Date: _____

Signed on behalf of:

[Insert Supplier Name]

Name: _____

Position: _____

Signature: _____

Date: _____