

TERMS & CONDITIONS - PURCHASE OF GOODS

1. DEFINITIONS

1.1 In these conditions: -

1.1.1 “Commencement Date” means the date provided in clause 3.1 of these Conditions;

1.1.2 “Conditions” means these terms and conditions;

1.1.3 “Contract” means these Conditions together with

(a) Appendix A - Specification

(b) Appendix B - Pricing Schedule

(c) Providers Tender Return

1.1.4 “Defective Goods” means goods which are found to contain a manufacturing fault or otherwise not meeting the requirements detailed in this Contract;

1.1.5 “Goods” means the goods supplied under the Contract and referred to in the Purchase Order;

1.1.6 “Intellectual Property Rights” means patents, rights to inventions, copyright and related rights, trademarks and service marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

1.1.7 “Mandatory Policies” means the Trust’s business policies and codes set out at the end of these Conditions, the content of which are made available to the provider by accessing the appropriate hyperlink;

1.1.8 “The Trust” means Nexus Multi Academy Trust;

1.1.9 “Purchase Order” means the Trust’s order for the supply of Goods, as set out in the Trust’s Purchase Order form;

1.1.10 “Party” means each of the Trust or the provider and “Parties” means both of them; and

1.1.11 “provider” means the company or entity from whom the Trust purchases the Service(s).

2. INTERPRETATION

2.1 A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.

2.2 Any words following the terms including, include, in particular, for example 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.

2.3 A reference to writing or written includes email

3. BASIS OF CONTRACT

3.1 The Purchase Order constitutes an offer by the Trust to purchase the Goods in accordance with these Conditions which are deemed accepted upon any act by the provider consistent with fulfilling the Purchase Order, at which point and on which date the Contract shall come into existence.

3.2 These Conditions apply to the Contract to the exclusion of any other terms that the provider seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

3.3 No variation of these conditions shall be effective unless agreed in writing and signed by both the Trust and the provider (or their authorised representatives).

4. SUPPLY OF GOODS

4.1 The provider shall from the Commencement Date supply the Goods:

4.1.1 in cooperation with the Trust and in compliance with any instructions given by the Trust from time to time;

4.1.2 with the best skill care and diligence and in accordance with best practice;

4.1.3 In accordance with the Providers Tender return

4.1.4 in conformance to all descriptions, standards and specifications provided by the Trust from time to time and that delivery of the Goods shall be fit for any purpose the Trust expressly or impliedly makes known to the provider;

4.1.5 in accordance with all licences and consents and shall maintain in force such licences and consents for the duration under which Goods are provided to the Trust;

4.1.6 in accordance with all applicable laws, regulations, regulatory policies, guidelines or industry codes which may apply from time to time in providing the Goods;

4.1.7 in accordance with the Mandatory Policies; and

4.1.8 in a professional and courteous manner.

4.2 The Goods shall be supplied in such quantities, at such times and in such a manner as the Trust may direct in the Contract.

4.3 The provider shall comply with the Supply of Goods and Services Act 1982.

4.4 Goods shall be supplied of the type and quality specified in the Contract and, where relevant, must comply with supplies previously approved by the Trust.

4.5 Within the meaning of the Supply of Goods and Services Act 1982, the provider shall ensure that the Goods shall be supplied free from defect and be of satisfactory quality, fit for their intended purpose and shall comply with the standards and requirements set out in the Contract.

4.6 The Provider must provide to the Trust a warranty for the Goods of at least 90 days from Delivery against all obvious defects and all manufacturer warranties covering the Goods must be assignable to the Trust on request and for free.

4.7 If during the supply of Goods, the provider becomes aware of any quality, performance and/or safety related reports, notices, alerts or other communications which has or may have an impact on the safety, performance or function of the Goods the provider shall promptly inform the Trust of the same and provide a copy of the same. the Trust shall have absolute discretion to decide what subsequent action it takes in response to any matter brought to its attention under this clause. For the avoidance of doubt, this includes any product recalls which the provider becomes aware of.

5. DELIVERY

5.1 The provider shall deliver the Goods in accordance with any delivery timescales, delivery dates and instructions set out in the Appendix A - The Specification or as otherwise agreed with the Trust in writing.

5.2 Risk and title of the goods shall pass to the Trust on delivery.

5.3 Delivery shall be completed when the Goods have been unloaded at the location specified by the Trust and such delivery has been received by a duly authorised agent, employee or location representative of the Trust.

5.4 The provider shall not commence provision of any delivery of Goods without a Purchase Order. The provider shall provide a delivery note quoting the Purchase Order number and giving details of the goods delivered. The provider shall clearly set out on each invoice (as applicable) the number corresponding to the Purchase Order for the Goods. The Trust shall have no obligation to pay any invoice which does not set out the correct corresponding Purchase Order number.

5.5 Any arrangement by which the Goods are collected by the Trust in return for a discount on the price shall be agreed by the Parties in writing. Where the Trust collects the Goods, collection is deemed delivery for the purposes of the Contract.

5.6 Unless otherwise set out in the Contract or agreed with the Trust in writing, the provider shall be responsible for carriage, insurance, transport, all relevant licenses, all related costs, and all other costs associated with the delivery of the Goods to the delivery location and unloading of the Goods at that location.

5.7 Subject to clause 5.8, the provider may not assign or sub-contract the Contract in whole or in part to any third party without the Trust's prior written agreement. Should the provider breach the terms of this provision, it shall remain liable to the Trust as if it had delivered the Goods and as provided in these Conditions.

5.8 The provider may sub-contract the delivery of Goods. Such sub-contracting should be immediately notified in advance and in writing to the Trust. All sub-contractors engaged to deliver the Goods shall at no time be an agent of the Trust and accordingly the provider shall be liable to the Trust for the acts and omissions of all sub-contractors engaged to deliver the Goods.

6. INSPECTION

6.1 The Trust (or its authorised representative(s)) shall have the right to inspect the Goods at the point of delivery.

6.2 If the Goods delivered are not of the specified quantity, quality or type, or if they fail to comply with any sample previously provided by the provider, then the Trust will either:

6.2.1 reject delivery of all goods; or

6.2.2 reject delivery of part of the goods affected by the error.

6.3 In cases where the Trust exercises their rights referred to in clause 6.2.1, the Trust shall not be liable to make any payment to the provider.

6.4 In cases where the Trust exercise their rights referred to in clause 6.2.2, the Trust shall only be liable for payment corresponding to the part of the Goods which were accepted on delivery.

6.5 Where delivery has already been made in full before inspection, and rejection of the Goods therefore takes place at a later date, upon the rejection of any Goods the provider shall at the Trust's written request:

6.5.1 collect the rejected Goods at the provider's risk and cost within ten (10) Business Days of issue of written notice from the Trust rejecting the Goods; and

6.5.2 at the provider's cost, promptly (and in any event within twenty (20) business days or such other time agreed by the Parties in writing acting reasonably) supply replacements for the rejected Goods to the Trust subject to the Trust not cancelling the Contract (see "termination" and "cancellation" sections below).

6.6 Where delivery is rejected in full or in part in accordance with clause 6.2 above, the provider shall be responsible for all risks, costs and expenses associated with the re-delivery of the Goods in accordance with the Purchase Order.

6.7 As relevant and proportionate to the Goods in question (for instance in cases where Goods are redelivered over a period of time), the provider shall permit any person authorised by the Trust, to inspect work being undertaken in

relation to the Goods supplied. Where the Trust identifies any failure to adhere to the Contract, clauses 6.2 to 6.6 shall be invoked.

6.8 Risk and title in respect of any rejected Goods shall pass to the provider on the earlier of:

6.8.1 collection by the provider in accordance with clause 6.5 of this document; or

6.8.2 immediately following the expiry of ten (10) business days from the Trust issuing written notification rejecting the Goods.

6.9 If rejected Goods are not collected within ten (10) business days of the Trust issuing written notification rejecting the Goods, the Trust may return the rejected Goods at the provider's risk and costs and/or charge the provider for the cost of storage from the expiry of ten (10) business days from the date of notification of rejection.

6.10 Where the provider is required by law, guidance, and/or good industry practice to order a product recall in respect of the Goods (Requirement to Recall), the provider shall:

6.10.1 promptly (taking into consideration the potential impact of the continued use of the Goods by the Trust as well as compliance by the provider with any regulatory requirements) notify the Trust in writing of the recall together with the circumstances giving rise to the recall;

6.10.2 from the date of the requirement to recall treat the Goods the subject of such recall as Defective Goods in accordance with clause 10;

6.10.3 consult with the Trust as to the most efficient method of executing the recall of the Goods and use its reasonable endeavours to minimise the impact on the Trust of the recall; and

6.10.4 indemnify and keep the Trust indemnified against, any loss, damages, costs, expenses (including without limitation legal costs and expenses), claims or proceedings suffered or incurred by the Trust as a result of such requirement to recall.

7. TERMINATION

7.1 Without limiting or affecting any other right or remedy available to it, the Trust may terminate the Contract in whole or in part by written notice to the provider with immediate effect if the provider:

7.1.1 for any reason by giving to the provider no less than thirty days' notice to that effect.

7.1.2 is in material breach of any obligation under the Contract which is not capable of remedy;

7.1.3 repeatedly breaches any of the terms and conditions of the Contract in such a manner as to reasonably justify the opinion that

its conduct is inconsistent with it having the intention or ability to give effect to the terms and conditions of the Contract;

7.1.4 is in material breach of any obligation which is capable of remedy, and that breach is not remedied within 30 days of the provider receiving written notice specifying the breach and requiring it to be remedied (see also section "dispute resolution" below);

7.1.5 undergoes a change of control;

7.1.6 the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent

restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;

7.1.7 the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or

7.1.8 fails to comply with the Mandatory Policies or its legal obligations in the fields of environmental, social or labour law.

8. CONSEQUENCES OF TERMINATION

8.1 Upon expiration, cancellation or termination of the Contract, the Supplier shall:

8.1.1 provide all reasonable assistance to Nexus and any incoming supplier of Goods including provision of information reasonably requested in order to transition the supply of Goods; and

8.1.2 return or provide all requested documents, information and data to Nexus as soon as reasonably practicable and if requested by Nexus to do so provide certification as to its compliance with this clause 19.

9. CANCELLATION

9.1 Without limiting or affecting any other right the Trust may have, the Trust shall by providing written notice to the provider have the right to cancel the order for the Goods, or any part of them, which have not yet been delivered to the Trust.

9.2 Without limiting or affecting any other right the Trust may have, if the Trust cancels the order for Goods, the Trust shall pay such charges or that part of the charges for Goods which have been delivered to the Trust. For the avoidance of doubt, the Trust shall not be liable for any consequential loss or loss of anticipated profits associated with invoking this clause.

10. FORCE MAJEURE

10.1 Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control. If the period of delay or non-performance continues for 3 months, the party not affected may terminate the Contract by giving 30 days' written notice to the affected party. For the avoidance of doubt, an event arising under clause 4.6 of these Conditions shall amount to an act of force majeure.

11. DEFECTIVE GOODS

11.1 Without prejudice to any other provisions of the Contract or any other warranties or guarantees applicable to the Goods supplied, if at any time following the date of the delivery of any Goods, all or any part of such Goods are found to be Defective or otherwise not in accordance with the requirements of this Contract (“Defective Goods”), the provider shall:

11.1.1 upon written request and without charge, promptly (and in any event within twenty (20) business days or such other time agreed by the Parties in writing acting reasonably) remedy the deficiency by repairing such Defective Goods; or

11.1.2 upon written notice of rejection from the Trust, treat such Defective Goods as Rejected Goods in accordance with clause 6 above.

12. DATA PROTECTION AND REQUESTS FOR INFORMATION

12.1 The provider shall adhere to all Data Protection legislation (GDPR)

12.2 The provider shall be responsible for ensuring that appropriate safeguards are in place to protect the Trust’s data (in particular that of its staff and students if applicable) and ensure that it is kept safe. The provider shall not disclose any data to a third party without first having sought the written permission from the Trust. All legal liability in respect of the provider’s handling of the Trust’s data rests with the provider.

12.3 Where relevant, the provider shall provide any information/data requested by the Trust in relation to its supply of Goods, no less than 30 days after request. This includes but is not limited to any information which may be required for re-tendering the Contract.

12.4 If there are any incidents that in any way relate to or involve the use of the Goods by the Trust, the provider shall cooperate fully with the Trust in relation to the Trust’s application of the Policies on reporting and responding to all incidents, including serious incidents requiring investigation, and shall respond promptly to any reasonable and proportionate queries, questions

and/or requests for information that the Trust may have in this context in relation to the Goods.

13. CONFIDENTIALITY

13.1 Each Party shall:

13.1.1 treat all Information it receives as confidential, safeguard it accordingly and not disclose it to any other person without the prior written permission of the disclosing party; and

13.1.2 not use or exploit the disclosing party's confidential information in any way except for the purposes of performing the Services.

13.2 Notwithstanding clause 12.1, each Party may disclose confidential information which it receives from the other Party:

13.2.1 where disclosure is required by applicable law or by a court of competent jurisdiction;

13.2.2 to its auditors or for the purposes of regulatory requirements;

13.2.3 on a confidential basis, to its professional advisers;

13.2.4 to the police, where a Party has reasonable grounds to believe that the other party is or has been involved in an activity that may constitute a criminal offence;

13.2.5 to the Serious Fraud Office where a Party has reasonable grounds to believe that the other Party is involved in activity that may constitute a criminal offence under the Bribery Act 2010;

13.2.6 where the provider receives information from the Trust: to personnel engaged by it to provide goods or services on a strict need to know basis to enable performance of the provider's obligations under these Conditions and provided that the provider procure that any person to whom it discloses confidential information pursuant to this clause shall observe the provider's confidentiality obligations under this clause

13.2.7 where the Trust receives information from the provider: on a confidential basis to officers, employees, agents, consultants and contractors (including third party contractors or sub-contractors) of the Trust; or

13.2.8 to the extent that the Trust (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions.

14. FREEDOM OF INFORMATION

14.1 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the Freedom of Information Act 2000 (FOIA) the provider hereby gives its consent for the Trust to publish the Contract in its entirety to the general public (but with any information that is exempt from disclosure in accordance with the FOIA

redacted) including any changes to the Contract agreed from time to time. the Trust may consult with the provider to inform its decision regarding any redactions but shall have the final decision in its absolute discretion whether any of the content of

the contract is exempt from disclosure in accordance with the provisions of the FOIA.

15. INSURANCE

15.1 During the term of the Contract and for a period of seven (7) years thereafter, the provider shall maintain in force, with a reputable insurance company, professional indemnity insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract and shall, on the Trust's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

16. PROVIDERS WARRANTIES

16.1 The provider warrants:

16.1.1 that it will comply with all laws, guidance, policies (including the Mandatory Policies) in the supply of the Goods;

16.1.2 it will promptly notify the Trust of any health and safety hazard which has arisen, or the provider is aware may arise, in supplying the Goods and take all necessary steps to ensure the health and safety of any persons likely to be affected by any such health and safety hazards;

16.1.3 that it will fully and promptly respond to all requests for information and/or requests for answers to questions regarding this Contract, the Goods, any complaints and any disputes at the frequency, in the timeframes and in the format as may reasonably be requested by the Trust from time to time;

16.1.4 that all information included within the provider's responses to any documents issued by the Trust as part of the procurement relating to the award of this Contract and all accompanying materials is accurate;

16.1.5 there are no pending or threatened actions or proceedings before any court or administrative agency which would materially adversely affect the financial condition, business or operations of the provider;

16.1.6 there are no material agreements existing to which the provider is a party which prevent the provider from entering into or complying with this Contract; and

16.1.7 that it has the ability, expertise and capacity to fulfil its obligations under this contract.

16.2 The provider further warrants that it understands that the Trust is entering into this Contract on the specific warranties detailed in clause 16.1 above.

17. INDEMNITY

17.1 The provider shall indemnify the Trust against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Trust arising out of or in connection with:

17.1.1 any claim brought against the Trust for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the receipt, use or supply of the Services (excluding any materials owned or controlled by the Trust); and

17.1.2 any claim made against the Trust by a third party for death, personal injury or damage to property arising out of or in connection with the Goods, to the extent that the defects in the Goods are attributable to the acts or omissions of the Provider, its employees, agents or subcontractors;

17.1.3 any claim made against the Trust by a third party arising out of or in connection with the supply of the Goods, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Provider, its employees, agents or subcontractors;

18. PRICE AND PAYMENT

18.1 The price for the Goods is set out in the Appendix B - The Pricing Schedule

18.2 Unless otherwise stated in the Purchase Order the price:

18.2.1 shall remain fixed during the term; and

18.2.2 is, subject to clause 18.3, the entire price payable by the Trust to the provider in respect of their fulfilment of this Contract (including but not limited to, import taxes, charges, packaging, loading and delivery, royalties, license fees or similar expenses).

18.3 The Contract price is exclusive of VAT, which, if properly chargeable, the Trust shall only pay at the prevailing rate subject to receipt from the provider of a valid and accurate VAT invoice. Such VAT invoices shall show the VAT calculations as a separate line item.

18.4 the Trust shall pay undisputed and correctly raised invoices within thirty (30) days of receipt of the same.

18.5 The provider's invoice for supply of Goods shall clearly set out where payment is to be made (which shall be by BACS and includes the provider's bank account number, sort-code, email address of where to send the remittance advice note and contact telephone number).

19. TERM

19.1 The Contract term shall commence on the Commencement Date and, unless terminated earlier in accordance with clause 7 (Termination) or clause 8 (Cancellation), shall continue for the term provided in the Purchase Order.

20. DISPUTE RESOLUTION

20.1 In the case of a dispute, the Parties may escalate the dispute to an appropriate senior representative of each Party.

20.2 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.

20.3 The Trust shall write to the provider to notify them that the Contract (and, where applicable, payment) is in dispute and provide details of the issues to be addressed.

20.4 The provider will provide a response and address all issues including, where relevant, providing a timeline of when any failures will be corrected/fixed within (thirty) 30 days (or otherwise as reasonably instructed by the Trust) of receipt of the letter referred to in clause 20.3.

20.5 In resolving the dispute, consideration will be given as to whether mediation would be appropriate subject to agreement by the Parties.

20.6 If the parties fail to reach an agreement within one (1) month of the Trust providing written notification of the dispute as per clause 20.3 above, either Party may exercise any remedy it has under applicable law.

21. GOVERNING LAW AND JURISDICTION

21.1 This Contract and any dispute or claim (including not-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and interpreted in accordance with the laws of England and Wales.

21.2 Each Party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual

disputes or claims) arising out of or in connection with this Contract or its subject matter or formation.

22. AUDIT

22.1 The Trust reserves the right to conduct an audit of the Providers arrangements for accounting for all payments made under this contract, and for this purpose the Provider hereby agrees to provide reasonable information, assistance and co-operation in connection with such audit. The Provider shall provide to the Trust (or the Trust's authorised representative) all such records or documents as the Trust may reasonably require for the

purpose of any audit and, if required and subject to reasonable written notice, access to the provider's premises during normal working hours.

23. MODERN SLAVERY

23.1 In performing its obligations under the contract, the Provider shall:

23.1.1 comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including but not limited to the Modern Slavery Act 2015; and

23.1.2 not engage in any activity, practice or conduct that would constitute an offence under sections 1, 2 or 4, of the Modern Slavery Act 2015 if such activity, practice or conduct were carried out in the UK; and

23.1.3 ensure that each of its direct subproviders and providers shall comply with the Anti-slavery policy and with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including but not limited to the Modern Slavery Act 2015.

24. GIFTS AND PAYMENT

24.1 The Provider shall not offer or give, or agree to give, to any member, employee or representative of the Trust any gift or consideration of any kind as an inducement or reward for doing or refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of this or any other contract with the Trust or for showing or refraining from showing favour or disfavour to any person in relation to this or any such contract.

24.2 Without prejudice the Provider shall comply with the Bribery Act 2010 and the Criminal Finances Act 2017, any subordinate legislation made under those Acts and all other applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption.

25. EQUALITY AND NON-DISCRIMINATION

25.1 The Provider shall not, unlawfully discriminate directly or indirectly against any person on the basis of within the meaning of any relevant legislation or any statutory modification or re-enactment thereof relating to discrimination in employment whether by age, disability, gender reassignment, race, ethnic or national origin, colour, creed, disability, political belief, membership of or activities as part of a trade union, social or economic class, sex or gender, sexual orientation, marital or parental civil partner status, pregnancy or maternity or other family circumstance or any other ground not relevant to good employment practice. The provider shall take all reasonable steps endeavours to ensure the observance of these provisions by all servants, employees or agents of the provider and all sub-providers or sub-contractors employed in the execution of the contract

APPENDIX C: TERMS & CONDITIONS - PURCHASE OF SERVICES

1. DEFINITIONS

1.1 In these conditions: -

1.1.1 “Commencement Date” means the date provided in clause 2.1 of these Conditions;

1.1.2 “Conditions” means these terms and conditions;

1.1.3 “Contract” means these Conditions together with

(a) Appendix A - Specification

(b) Appendix B - Pricing Schedule

(c) Providers Tender Return

1.1.4 “Intellectual Property Rights” means patents, rights to inventions, copyright and related rights, trademarks and service marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

1.1.5 “Mandatory Policies” means the Trust’s business policies and codes set out at the end of these Conditions, the content of which are made available to the provider by accessing the appropriate hyperlink;

1.1.6 “The Trust” means Nexus Multi Academy Trust;

1.1.7 “Purchase Order” means the Trust’s order for the supply of Services, as set out in the Trust’s Purchase Order form;

1.1.8 “Services” means the service(s) to be provided under the Contract;

1.1.9 “Party” means each of the Trust or the provider and “Parties” means both of them; and

1.1.10 “provider” means the company or entity from whom the Trust purchases the Service(s).

2. INTERPRETATION

2.1 A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.

2.2 Any words following the terms including, include, in particular, for example 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.

2.3 A reference to writing or written includes email.

3. BASIS OF CONTRACT

3.1 The Purchase Order constitutes an offer by the Trust to purchase the Services in accordance with these Conditions which are deemed accepted upon any act by the provider consistent with fulfilling the Purchase Order, at which point and on which date the Contract shall come into existence.

3.2 These Conditions apply to the Contract to the exclusion of any other terms that the provider seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

3.3 No variation of these conditions shall be effective unless agreed in writing and signed by both the Trust and the provider (or their authorised representatives).

4. SUPPLY OF SERVICES

4.1 The provider shall from the Commencement Date provide the Services as laid out in Appendix A - The specification:

4.1.1 in cooperation with the Trust and in compliance with any instructions given by the Trust from time to time;

4.1.2 with reasonable skill, care and diligence and in accordance with best practice in the provider's industry, profession or trade;

4.1.3 by using personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number as well as providing all equipment, tools and vehicles necessary to ensure that the provider fulfils its obligations under these Conditions;

4.1.4 in conformance to all descriptions, standards and specifications provided by the Trust and that delivery of the Services shall be fit for purpose;

4.1.5 using the best quality goods, materials, standards and techniques and, to the extent that the Services include any

product of workmanship, installation and/or design and ensure such work product shall be free from defects arising therefrom;

4.1.6 in accordance with all licences and consents and shall maintain in force such licences and consents for the duration under which Services are provided to the Trust;

4.1.7 in accordance with all applicable laws, regulations, regulatory policies, guidelines or industry codes which may apply from time to time in providing the Services;

4.1.8 in accordance with the Mandatory Policies; and

4.1.9 in a professional and courteous manner.

4.2 The provider shall comply with the Supply of Goods and Services Act 1982.

4.3 If during performance of the Services the provider becomes aware of any quality, performance and/or safety related report, notice, alert or other communication which has or may have an impact on the safety, performance, function or carrying out of the Services the provider shall promptly inform the Trust of the same and provide a copy of the same. the Trust shall have absolute discretion to decide what subsequent action it takes in response to any matter brought to its attention under this clause 4.3.

4.4 The provider shall provide the Services in accordance with any timescales, dates and instructions set out in the Purchase Order or as otherwise agreed with the Trust in writing.

4.5 The provider shall not commence provision of any Services prior to being provided with a Purchase Order. The provider shall clearly set out on each invoice (as applicable) the number corresponding to the Purchase Order for the Services.

the Trust shall have no obligation to pay any invoice which does not set out the correct corresponding Purchase Order number.

4.6 The provider may not assign or sub-contract the Contract in whole or in part to any third party without the Trust's prior written agreement. Should the provider breach the terms of this provision, it shall remain liable to the Trust as if it had performed the Services and as provided in these Conditions.

5. INSPECTION

5.1 the Trust (or its authorised representative(s)) shall have the right to inspect the provision of the Services at regular intervals and for the duration under which the provider provides the Services.

5.2 the Trust hereby reserves the right to withhold payment for any Services which are not to the reasonable standard and specification requested under these Conditions.

6. TERMINATION

6.1 Without limiting or affecting any other right or remedy available to it, the Trust may terminate the Contract in whole or in part by written notice to the provider with immediate effect if the provider:

6.1.1 for any reason by giving to the provider no less than thirty days' notice to that effect.

6.1.2 is in material breach of any obligation under the Contract which is not capable of remedy;

6.1.3 repeatedly breaches any of the terms and conditions of the Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms and conditions of the Contract;

6.1.4 is in material breach of any obligation which is capable of remedy, and that breach is not remedied within 30 days of the provider receiving written notice specifying the breach and requiring it to be remedied (see also section "dispute resolution" below);

6.1.5 undergoes a change of control;

6.1.6 the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent

restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;

6.1.7 the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or

6.1.8 fails to comply with the Mandatory Policies or its legal obligations in the fields of environmental, social or labour law.

7. CONSEQUENCES OF TERMINATION

7.1 Where the Trust terminates the Contract under clause 6.1.2 or 6.1.3 or 6.1.4 all of the following apply:

7.1.1 the Provider is responsible for the Trusts reasonable costs of procuring replacement Services for the rest of the term of the Contract;

7.1.2 the Trusts payment obligations under the terminated Contract stop immediately;

7.1.3 accumulated rights of the Parties are not affected;

7.1.4 the Provider must, at no cost to the Trust, give all reasonable assistance to the Trust and any incoming Provider and cooperate fully in the handover and re-procurement;

8. CANCELLATION

8.1 Without limiting or affecting any other right the Trust may have, the Trust shall by providing written notice to the provider have the right to cancel the Services, or any part of them, provided that such provision of Services has not yet commenced.

8.2 Without limiting or affecting any other right the Trust may have, if the Trust cancels the Services under clause 7.1 and the provider has either commenced provision of the Services or has irrevocably committed financial resources which are not capable or being recovered, the Trust shall pay such charges or that part of the charges for those Services received at the date upon which notice to cancel was provided to the provider. The provider shall have a duty to mitigate fully any losses which may be incurred as a consequence of such cancellation. For the avoidance of doubt, the Trust shall not be liable for any consequential loss or loss of anticipated profits associated with invoking this clause 7.2.

9. FORCE MAJEURE

9.1 Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control. If the period of delay or non-performance continues for 3 months, the party not affected may terminate the Contract by giving 30 days' written notice to the affected party. For the avoidance of doubt, an event arising under clause 4.3 of these Conditions shall amount to an act of force majeure.

10. DATA PROTECTION AND REQUESTS FOR INFORMATION

10.1 The provider shall adhere to all Data Protection legislation including General Data Protection Regulation 2018 and the Data Protection Act 2018 and enter into a data sharing agreement where required.

10.2 The provider shall be responsible for ensuring that appropriate safeguards are in place to protect the Trust's data (in particular that of its staff and students if applicable) and ensure that it is kept safe. The provider shall not disclose any data to a third party without first having sought the written permission from the Trust. All legal liability in respect of the provider's handling of the Trust's data rests with the provider.

10.3 Where relevant, the provider shall provide any information/data requested by the Trust in relation to its provision of Service, no less than 30 days after request. This includes but is not limited to any information which may be required for re-tendering the contract.

10.4 The provider shall provide any information requested by the Trust and required under regulation 13 of The Transfer of Undertakings (Protection of Employment) Regulations 2006. The provider shall be liable to the Trust for, and shall indemnify and keep the Trust indemnified against any loss, damages, costs, expenses (including without limitation legal costs and expenses), claims or proceedings that arise or result from any breach of this obligation.

10.5 If there are any incidents that in any way relate to or involve the Trust's use of the Service provided by the provider, the provider shall cooperate fully with the Trust in relation to the Trust's application of the policies on reporting and responding to all incidents, including serious incidents requiring investigation, and shall respond promptly to any reasonable and proportionate queries, questions and/or requests for information that the Trust may have in this context in relation to the Service provided.

11. CONFIDENTIALITY

11.1 Each Party shall during provision of the Services:

11.1.1 treat all information it receives as confidential, safeguard it accordingly and not disclose it to any other person without the prior written permission of the disclosing party; and

11.1.2 not use or exploit the disclosing party's confidential information in any way except for the purposes of performing the Services.

11.2 Notwithstanding clause 11.1, each Party may disclose confidential information which it receives from the other Party:

11.2.1 where disclosure is required by applicable law or by a court of competent jurisdiction;

11.2.2 to its auditors or for the purposes of regulatory requirements;

11.2.3 on a confidential basis, to its professional advisers;

11.2.4 to the police, where a Party has reasonable grounds to believe that the other party is or has been involved in an activity that may constitute a criminal offence;

11.2.5 to the Serious Fraud Office where a Party has reasonable grounds to believe that the other Party is involved in activity that may constitute a criminal offence under the Bribery Act 2010;

11.2.6 where the provider receives information from the Trust: to personnel engaged by it to perform the Services on a strict need to know basis to enable performance of the provider's obligations under these Conditions and provided that the provider procure that any person to whom it discloses confidential information pursuant to this clause 10 shall observe the provider's confidentiality obligations under this clause 11.2;

11.2.7 where the Trust receives information from the provider: on a confidential basis to officers, employees, agents, consultants and contractors (including third party contractors or sub-contractors) of the Trust; or

11.2.8 to the extent that the Trust (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions.

12. FREEDOM OF INFORMATION

12.1 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the Freedom of Information Act 2000 the provider hereby gives its consent for the Trust to publish the Contract in its entirety to the general public (but with any information that is exempt from disclosure in accordance with the FOIA redacted) including any changes to the Contract agreed from time to time. the Trust may consult with the provider to

inform its decision regarding any redactions but shall have the final decision in its absolute discretion whether any of the content of the Contract is exempt from disclosure in accordance with the provisions of the FOIA.

13. INTELLECTUAL PROPERTY

13.1 All Intellectual Property Rights in or arising out of or in connection with the Services shall be owned by the Trust.

13.2 To the extent that ownership of Intellectual Property Rights does not vest in the Trust under clause 13.1, the provider grants the Trust, or shall procure the direct grant to the Trust of, a fully paid-up, worldwide, non-exclusive, royalty-free perpetual and irrevocable license to copy and modify any tangible or intangible work product provided pursuant to the Services for the purpose of receiving and using the Services.

13.3 All Intellectual Property Rights of the Trust are the exclusive property of the Trust and nothing in these Conditions or the Contract grants or shall grant any right or licence, express or implied, in or to such Intellectual Property Rights to the provider.

14. INSURANCE

14.1 During the term of the Contract and for a period of 7 years thereafter, the provider shall maintain in force, with a reputable insurance company,

professional indemnity insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract and shall, on the Trust's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

15. PROVIDERS'S WARRANTIES

15.1 The provider warrants:

15.1.1 that it will comply with all laws, guidance, and policies (including the Mandatory Policies) in providing the Services;

15.1.2 shall operate to a standard that complies with the Health and Safety Act 1974 as amended.

15.1.3 it will promptly notify the Trust of any health and safety hazard which has arisen, or the provider is aware may arise, in providing the Services and take all necessary steps to ensure the health and safety of any person likely to be affected by any such health and safety hazard;

15.1.4 that it will fully and promptly respond to all requests for information and/or requests for answers to questions regarding this Contract, the Goods, any complaints and any disputes at the frequency, in the timeframes and in the format as may reasonably be requested by the Trust from time to time;

15.1.5 that all information included within the provider's responses to any documents issued by the Trust as part of the procurement relating to the award of this Contract and all accompanying materials is accurate;

15.1.6 there are no pending or threatened actions or proceedings before any court or administrative agency which would materially adversely affect the financial condition, business or operations of the provider;

15.1.7 there are no material agreements existing to which the provider is a party which prevent the provider from entering into or complying with this Contract;

15.1.8 that it has the ability, expertise, capacity, licences and permissions to enter into and perform its obligations under the Contract, and that the Contract is executed by its duly authorised representative.

15.1.9 that, in the case of a transfer of Services, it will provide such assistance and information to the Trust as it may reasonably request to facilitate a smooth and efficient handover of the

transferring employees to any provider (including attendance at any meetings with transferring employees, trade unions and employee representatives); and

15.1.10 The provider further warrants that it understands that the Trust is entering into this Contract on the specific warranties detailed in clause 14.1 above.

16. LIABILITY AND INDEMNITY

16.1 Each Party's total aggregate liability under or in connection with the Contract (whether in tort, contract or otherwise) is no more than 125% of the Charges paid or payable by the Provider.

16.2 No Party is liable to the other for:

16.2.1 any indirect losses;

16.2.2 loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect).

16.3 In spite of clause 16.1, neither Party limits or excludes any of the following:

16.3.1 (a) its liability for death or personal injury caused by its negligence, or that of its employees, agents or subcontractors;

16.3.2 (b) its liability for bribery or fraud or fraudulent misrepresentation by it or its employees; (c) any liability that cannot be excluded or limited by Law.

16.4 In spite of clause 16.1, the Provider does not limit or exclude its liability for any indemnity given under clauses 16.7.1 to 16.7.3.

16.5 Each Party must use all reasonable endeavours to mitigate any loss or damage which it suffers under or in connection with the Contract, including any indemnities.

16.6 If more than one Provider is Party to the Contract, each Provider Party is fully responsible for both their own liabilities and the liabilities of the other Providers.

16.7 The Provider shall keep the Trust indemnified against all liabilities, costs, expenses, damages and losses (including but not limited to any direct and indirect losses) suffered or incurred by the Trust as a result of or in connection with:

16.7.1 any claim made against the Trust for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the supply or use of the Services, to the extent that the claim is attributable to the acts or omissions of the Provider, its employees, agents or subcontractors;

16.7.2 any claim made against the Trust by a third party for death, personal injury or damage to property arising out of or in connection with Service, to the extent that the defects in the Service are attributable to the acts or omissions of the Provider, its employees, agents or subcontractors; and

16.7.3 any claim made against the Trust by a third party arising out of or in connection with the supply of the Service, to

the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Provider, its employees, agents or subcontractors

17. PRICE AND PAYMENT

17.1 The price for the Services is set out in Appendix B - The pricing schedule and the Purchase Order

17.2 Unless otherwise stated in the Purchase Order the contract price;

17.2.1 shall remain fixed for the duration under which the Service are provided; and

17.2.2 is subject to clause 17.3, the entire price payable by the Trust to the provider in respect of their fulfilment of this Contract (including but not limited to, import taxes, charges, packaging, loading and delivery, royalties, license fees or similar expenses).

17.3 The Contract price is exclusive of VAT, which, if properly chargeable, the Trust shall only pay at the prevailing rate subject to receipt from the provider of a valid and accurate VAT invoice. Such VAT invoices shall show the VAT calculations as a separate line item.

17.4 Unless otherwise stated in the Purchase Order, full payment for the Services will be on completion and subject to inspection of the Services to the Trust's reasonable satisfaction as provided under clauses 17.6 to 17.11 of these Conditions.

17.5 A Provider invoice is only valid if it:

17.5.1 includes all appropriate references including the purchase order number and other details reasonably requested by the Trust;

17.5.2 includes a detailed breakdown of Services which have been delivered.

17.6 If there is a dispute between the Parties as to the amount invoiced, the Trust shall pay the undisputed amount. The Provider shall not suspend the provision of the Services.

17.7 The Trust shall within five (5) Working Days notify the Provider, setting out in reasonable detail the reasons for disputing the invoice, and in particular identifying which elements are disputed and which are not disputed.

17.8 If the Trust contests an invoice due to noncompliance to clause 4 and the

Parties have not resolved the matter within twenty 20 Working Days of the date of notification under clause 4.5 the Trust may refer the matter to dispute resolution under clause 19 (Dispute Resolution) and following the resolution of any dispute referred to dispute resolution, where applicable the Trust shall pay any amount agreed or determined to be payable in accordance with clause 17 within 30 days of resolving the dispute. For the avoidance of doubt the Provider shall not entitle to receive interest on any such settled amount.

17.9 The Trust may retain or set-off payment of any amount owed to it by the Provider if notice and reasons are provided.

17.10 The Provider must ensure that all subcontractors are paid, in full, within 30 days of receipt of a valid, undisputed invoice. If this doesn't happen, the Trust can publish the details of the late payment or non-payment.

17.11 The provider's invoice for Services shall clearly set out where payment is to be made (which shall be by BACS and includes the provider's bank account number, sort-code, email address of where to send the remittance advice note and contact telephone number).

18. TERM

18.1 The Contract term shall commence on the Commencement Date and, unless terminated earlier in accordance with clause 6 (Termination) or clause 8 (Cancellation) shall continue for the term provided in the Purchase Order or until the purpose for which the Services are being provided have been satisfied.

19. DISPUTE RESOLUTION

19.1 In the case of a dispute, the Parties may escalate the dispute to an appropriate senior representative of each Party.

19.2 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.

19.3 the Trust shall write to the provider to notify them that the Contract (and, where applicable, payment) is in dispute and provide details of the issues to be addressed.

19.4 The provider will provide a response and address all issues including, where relevant, providing a timeline of when any failures will be corrected/fixed, within 30 days of receipt of the letter referred to in clause 19.3.

19.5 In resolving the dispute, consideration will be given as to whether mediation would be appropriate to agreement by the Parties.

19.6 If the parties fail to reach an agreement within one month of the Trust providing written notification of the dispute as per clause 19.3 above, either party may exercise any remedy it has under applicable law.

20. GOVERNING LAW AND JURISDICTION

20.1 This Contract and any dispute or claim (including not-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and interpreted in accordance with the laws of England and Wales.

20.2 Each Party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Contract or its subject matter or formation.

21. AUDIT

21.1 The Trust reserves the right to conduct an audit of the Providers arrangements for accounting for all payments made under this contact, and for this purpose the Provider hereby agrees to provide reasonable information, assistance and co-operation in connection with such audit. The Provider shall provide to the Trust (or the Trust's authorised representative) all such records or documents as the Trust may reasonably require for the purpose of any audit and, if required and subject to reasonable written notice, access to the provider's premises during normal working hours.

22. MODERN SLAVERY

22.1 In performing its obligations under the contract, the Provider shall:

22.1.1 comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including but not limited to the Modern Slavery Act 2015; and

22.1.2 not engage in any activity, practice or conduct that would constitute an offence under sections 1, 2 or 4, of the Modern Slavery Act 2015 if such activity, practice or conduct were carried out in the UK; and

22.1.3 ensure that each of its direct sub providers and providers shall comply with the Anti- slavery policy and with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including but not limited to the Modern Slavery Act 2015.L

23. GIFTS AND PAYMENT

23.1 The Provider shall not offer or give, or agree to give, to any member, employee or representative of the Trust any gift or consideration of any kind as an inducement or reward for doing or refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of this or any other contract with the Trust or for showing or refraining from showing favour or disfavour to any person in relation to this or any such contract.

23.2 Without prejudice the Provider shall comply with the Bribery Act 2010 and the Criminal Finances Act 2017, any subordinate legislation made under those Acts and all other applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption.

24. EQUALITY AND NON-DISCRIMINATION

24.1 The Provider shall not, unlawfully discriminate directly or indirectly against any person on the basis of within the meaning of any relevant legislation or any

statutory modification or re-enactment thereof relating to discrimination in employment whether by age, disability, gender reassignment, race, ethnic or national origin, colour, creed, disability, political belief, membership of or activities as part of a trade union, social or economic class, sex or gender, sexual orientation, marital or parental civil partner status, pregnancy or maternity or other family circumstance or any other ground not relevant to good employment practice. The provider shall take all reasonable steps endeavours to ensure the observance of these provisions by all servants, employees or agents of the provider and all sub-providers or sub-contractors employed in the execution of the contract

25. TUPE

25.1 (Use if TUPE does not apply,) Both parties agree that the contract is not a contract for the provision of services where TUPE regulations 2006 apply in the event of a change in service provider.

25.2 (Use if TUPE Applies) Where the Transfer of Undertakings (Protection of Employment) Regulations 2006, apply in respect of the award of the Contract the undertaking concerned (or any relevant part of the undertaking) shall transfer to the Provider on the commencement of the contract. For 9 months before the contract expires the Provider shall give to the Trust all employee information necessary for TUPE. The Provider shall allow the Trust use the information for the purposes of TUPE and of re-tendering. The Provider will cooperate with the re tendering of the contract by allowing the body to whom the new contract is awarded ("the Transferee") to communicate with and meet the affected employees and/or their representatives.

25.3 The Provider agrees to indemnify the Trust fully and to hold it harmless at all times from and against all actions, proceedings, claims, expenses, awards, costs and all other liabilities whatsoever in any way connected with or arising from or relating to the provision of information above.

25.4 The Provider agrees to indemnify the Trust from and against all actions, proceedings, claims, expenses, awards, costs and all other liabilities (including legal fees) in connection with or as a result of any claim or demand by any employee or other employee or person claiming to be an employee on any date upon which the contract is terminated and/or transferred to any third party ("Relevant Transfer Date") arising out of their employment or its termination whether such claim or claims arise before or after the Relevant Transfer Date.