



University of
St Andrews

Terms and conditions for the purchase of goods and services

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1 INTRODUCTION

The University of St. Andrews, a charity registered in Scotland with registered number SC013532 and having its office at the Old Burgh School, Abbey Walk, St. Andrews, Fife, KY16 9LB (“the University”) wishes to purchase the Goods and/or Services from the Supplier and the Supplier hereby agrees to provide such Goods and/or Services in accordance with these Conditions.

2 DEFINITIONS

2.1 In these Conditions, the following words shall have the following meanings:

“**Authorised**” means signed by an Authorised Officer;

“**Authorised Officer**” means a University employee authorised, either generally or specifically, by the University to sign the Purchase Order;

“**Business Days**” means any day from Monday to Friday inclusive (excluding all public, statutory and bank holidays);

“**Commencement Date**” means the date of commencement of the Contract as specified in the Purchase Order or otherwise agreed between the parties;

“**Conditions**” means these terms and conditions;

“**Confidential Information**” means all information of a confidential or proprietary nature (whether in oral, written or electronic form) belonging or relating to the University, its business affairs, finances, activities and IPR;

“**Contract**” means the Purchase Order and the Supplier’s acceptance of the Purchase Order, incorporating these Conditions together with any applicable Order Amendments;

“**Deliverables**” means those deliverables created, developed or otherwise resulting from the provision of the Services, including, without limitation, those more particularly described in the Purchase Order;

“**Goods**” means any goods agreed in the Contract to be purchased by the University from the Supplier (including any part or parts of them) and, for the purposes of the Conditions, any Deliverables;

“**IPR**” means all patents, rights to inventions, trade marks, registered designs (and any applications for any of the foregoing), copyright (including rights in software, such as object and source code), database right, unregistered design right, moral rights, rights in and to trade names, business names, domain names, product names and logos, databases, inventions, discoveries, know-how, trade secrets and any other intellectual or industrial property rights in each and every part of the world together with all applications, renewals, revisions and extensions;

“**Order Amendment**” means the University’s Order Amendment or series of Order Amendments, each Order Amendment having precedence over any earlier Order Amendment;

“**Packaging**” means any type of packaging used by the Supplier to package the Goods or materials used in the Services;

“**Price**” means the price, exclusive of value added tax (“VAT”), payable by the University to the Supplier under the Contract for the full and proper performance by the Supplier of the Contract;

“**Purchase Order**” means the University’s Authorised written request (including any requests issued electronically) to purchase the Goods and/or Services from the Supplier, which shall be deemed to incorporate these Conditions;

“**Resultant IP**” means all IPR created, developed or otherwise resulting directly or indirectly from the provision of the Goods and Services including, without limitation, IPR in any Deliverables;

“**Supplier**” means the company, partnership, business or individual who/which accepts the University’s Purchase Order and supplies the Goods and/or Services;

“**Supplier IP**” means all IPR owned by the Supplier, or to which the Supplier has rights, prior to the Commencement Date and which is or should be made available by the Supplier in order to enable the University to receive the Goods, and/or the Services or make use of the Deliverables;

“**Services**” means the services to be supplied by the Supplier to the University under the Contract, as described in the Purchase Order or as otherwise agreed between the parties in writing from time to time; and

“**University IP**” means any and all IPR belonging to the University, or which the University has a right to use, and which are made available by the University in order to enable the Supplier to provide the Goods and Services.

2.2 Condition headings are for ease of reference only and shall not affect the construction or interpretation of any condition.

2.3 Words importing the singular shall include the plural and vice versa and words denoting any gender shall include all genders.

Reference to statutes, any statutory instrument, regulation, or order shall be construed as a reference to such statute, statutory instrument, regulation, or order as amended or re-enacted from time to time.

3 APPLICATION OF TERMS

3.1 Unless otherwise Authorised in writing by the University, these Conditions are the only conditions upon which the University is prepared to purchase Goods and/or Services from the Supplier.

3.2 These Conditions together with the Purchase Order and any applicable Order Amendments shall constitute the whole agreement between the University and the Supplier and shall govern the Contract to the entire exclusion of all other terms and conditions (including the Supplier’s terms and conditions or those implied by trade, custom or practice).

- 3.3 The University's Purchase Order shall be deemed to be accepted by the Supplier and the Contract shall be formed once the Supplier has communicated acceptance to the University or (if earlier) the Supplier delivers the Goods to the University or performs the Services.
- 3.4 No terms or conditions endorsed on, delivered with or contained in the Supplier's acceptance of the Purchase Order or other document shall form part of the Contract.
- 3.5 The Contract supersedes all prior agreements and arrangements of whatever nature and sets out the entire agreement and understanding between the parties relating to its subject matter.
- 3.6 In the event that a court of competent jurisdiction holds that this Contract should include any Supplier terms, then in the event of any conflict these Conditions shall prevail over any Supplier terms.

4 GOODS

- 4.1 The quantity and description of the Goods shall be as set out in the Purchase Order.
- 4.2 The Goods shall be of the best quality, material and workmanship, be without fault and conform in all respects with the Purchase Order and any specification and/or design supplied or advised by the University to the Supplier.
- 4.3 The Goods shall be new (unless otherwise specified in the Purchase Order), and correspond with any plans, drawings, designs, patterns, samples and specifications referred to in the Purchase Order.
- 4.4 All Goods shall be properly packed, secured and despatched at the Supplier's expense to arrive in good condition at the time or times and the place or places specified in the Contract.

If the Supplier or the Supplier's carrier delivers any Goods at the wrong time or to the wrong place, then the University may deduct from the Price any resulting costs of storage or transport.

- 4.5 Unless otherwise stated in the Contract, all Packaging shall be non-returnable. If the Contract states that Packaging is returnable, the Supplier must give the University full disposal instructions before the time of delivery. The Packaging must be clearly marked to show to whom it belongs. The Supplier shall pay the cost of all carriage and handling for the return of the Packaging. The University shall not be liable for any Packaging lost or damaged in transit.
- 4.6 The Supplier shall indemnify the University in full against all claims, demands, actions, costs, expenses (including but not limited to legal costs and disbursements on a solicitor and client basis) losses and damages arising from or incurred or paid by the University as a result of or in connection with:
- 4.6.1 breach of any warranty given by the Supplier in these Conditions;
 - 4.6.2 any act or omission of the Supplier or its employees, agents or sub-contractors in supplying and delivering the Goods;
 - 4.6.3 defective workmanship, quality or materials;
 - 4.6.4 an infringement or alleged infringement of any IPR caused by the use, manufacture or supply of the Goods; and
 - 4.6.5 any claim made against the University in respect of any liability, loss, damage, injury, cost or expense sustained by the University's employees or agents or by any customer or third party to the extent that such liability, loss, damage, injury, cost or expense was caused by, relates to or arises from the Goods as a consequence of a direct or indirect breach or negligent performance or failure or delay in performance of the terms of the Contract by the Supplier.
- 4.7 The University's rights under these Conditions 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 (both as amended).

5 SERVICES

- 5.1 The Supplier shall provide the Services with effect from the Commencement Date in accordance with any agreed specification.
- 5.2 The Supplier will provide the Services:
- 5.2.1 with all reasonable skill and care and in accordance with best practice in the industry;
 - 5.2.2 in a proper, diligent, expeditious and professional manner;
 - 5.2.3 dutifully, timeously and in good faith; and
 - 5.2.4 in all respects in accordance with any policies or guidance supplied by the University that are directly related to the Services.
- 5.3 The Supplier warrants, undertakes and represents that:
- 5.3.1 it has full capacity and authority and all necessary licences, permits and consents to enter into and to perform the Contract;
 - 5.3.2 the provision of the Services will not infringe the IPR of any third party;
 - 5.3.3 the Services shall be performed in compliance with all applicable laws, enactments, orders, regulations, codes of practice and other similar instruments; and
 - 5.3.4 as at the date of the Contract there is no material outstanding litigation, arbitration or other disputed matter to which the Supplier is a party which may have an adverse effect upon the fulfilment of the Supplier's liabilities, responsibilities and obligations pursuant to the Contract.
- 5.4 The Supplier shall deliver to the University the Deliverables at the times and on the dates specified in the Purchase Order and to the satisfaction of the University.

- 5.5 The time(s) and date(s) of performance of the Services and delivery of the Deliverables shall be of the essence.
- 5.6 If the Contract requires any works or services to be performed on University premises the Supplier shall ensure that it and its employees, sub-contractors and agents
- 5.6.1 adhere in every respect to the obligations imposed on it by safety legislation applicable at the time; and
- 5.6.2 comply with all any regulations that the university notifies to the Supplier from time to time.
- 5.7 The Supplier shall at the Supplier's expense provide any programmes of manufacture and delivery that the University may reasonably require. The Supplier shall notify the University without delay in writing, if the Supplier's progress falls behind or may fall behind any of these programmes.
- 5.8 The Supplier shall indemnify the University in full against all claims, demands, actions, costs, expenses (including but not limited to legal costs and disbursements on a solicitor and client basis) losses and damages arising from or incurred or paid by the University as a result of or in connection with:
- 5.8.1 breach of any warranty given by the Supplier in relation to the Services; or
- 5.8.2 any act or omission of the Supplier or its employees, agents or sub-contractors in supplying, delivering and performing the Services.

6 INSPECTION

The University shall have the right to check progress of the Supplier's works or the works of sub-contractors at all reasonable times, to inspect and to reject Goods that do not comply with the Contract. The Supplier's sub-contracts shall reserve such right for the University. Any inspection or approval shall not relieve the Supplier from its obligations under this Contract.

7 SAFETY

The Supplier shall observe all legal requirements of the United Kingdom, European Union and relevant international agreements in relation to health, safety and environment, and in particular to the marking of hazardous Goods, the provision of data sheets for hazardous materials and all provisions relating to food.

8 DELIVERY

- 8.1 Unless otherwise agreed in writing by the University, any Goods shall be delivered, carriage paid, to such reasonable location as the University shall direct. The Supplier shall off-load the Goods at its own risk as directed by the University. Incoterms – where standard rate VAT is applicable, delivery shall be DDP (Delivery Duty Paid). If exemption is expected for medical or veterinary purposes then it shall be DPU (Delivery at Place Unloaded) unless otherwise agreed.
- 8.2 The dates for delivery shall be as specified in the Purchase Order. If no dates are specified, delivery will be within twenty eight (28) days of the Purchase Order. Time for delivery shall be of the essence of the Contract.
- 8.3 The Supplier shall, on request, ensure that each delivery is accompanied by a delivery note which shows the Purchase Order number, date of order, number of packages and its contents and, in the case of part delivery, the outstanding balance remaining to be delivered.
- 8.4 Unless otherwise stipulated by the University in the Purchase Order, the University shall only accept deliveries during normal business hours and on Business Days.
- 8.5 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 shall entitle the University at its option to treat the whole Contract as repudiated.
- 8.6 If the Goods are delivered to the University in excess of the quantities ordered, the University shall not be bound to pay for the excess and any excess will be and will remain at the Supplier's risk and will be returnable at the Supplier's expense.

9 RISK/TITLE

The Goods shall remain at the risk of the Supplier until delivery to the University is complete (including off-loading and stacking) when ownership of, and risk in, the Goods shall pass to the University. This shall not prejudice the University's right of rejection.

10 REMEDIES

- 10.1 Without prejudice to any other right or remedy which the University may have, if: (i) the Goods are not delivered on the due date, or (ii) the Goods do not conform with the Contract; or; (iii) the Supplier fails to commence the provision of, or to perform, the Services in accordance with the Contract; the University reserves the right to:
- 10.1.1 be released from any obligation to accept and pay for the Services and/or the Goods;
- 10.1.2 rescind the Purchase Order or cancel the Contract in whole or in part;
- 10.1.3 give the Supplier a reasonable opportunity, at the Supplier's expense, either to remedy any defect in the Goods and/or the Services and carry out any other necessary work to ensure that the terms of the Contract are fulfilled;
- 10.1.4 refuse to accept any subsequent delivery of the Goods or performance of the Services which the Supplier attempts to make;
- 10.1.5 carry out at the Supplier's expense any work necessary to make the Goods and/or the Services comply with the Contract; and/or

- 10.1.6 recover from the Supplier any expenditure reasonably incurred by the University in obtaining the Goods and/or Services in substitution from another Supplier; and
- 10.1.7 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 Goods and/or Services on the due date.
- 10.2 The University shall have the right to reject the Goods in whole or in part whether or not paid for in full or in part within a reasonable time of delivery if they do not conform with the requirements of this Contract.
- 10.3 In the event of cancellation under this condition the Supplier shall promptly repay any moneys paid under the Contract without any retention or offset whatsoever. Cancellation of the Purchase Order under this condition shall not affect any other rights the University may have.
- 10.4 The Supplier must collect all rejected Goods within a reasonable time of rejection or the University shall return them to the Supplier at the Supplier's risk and expense, or otherwise dispose of them at the Universities sole discretion.

11 PRICE AND PAYMENT

- 11.1 The Price for the Goods and Services shall be as stated in the Purchase Order and, unless otherwise so stated, shall be exclusive of any applicable VAT (which shall be payable by the University subject to receipt of a valid VAT invoice) but inclusive of all other charges.
- 11.2 No increase in the Price may be made (whether on account of increased material, labour or other costs, fluctuation in rates of exchange or otherwise) without the prior written consent of the University.
- 11.3 The University shall be entitled to any discount for prompt payment, bulk purchase or volume of purchase customarily granted by the Supplier, whether or not shown on its own terms of sale.
- 11.4 Subject to the Supplier performing the Services and delivering the Goods and/or Deliverables to the satisfaction of the University, the Supplier may invoice the University after performance of the Contract to the University's satisfaction. The University will pay the Price together with any VAT properly payable thereon to the Supplier within thirty (30) days of receipt by the University of a correctly rendered valid VAT invoice for sums properly due but time for payment shall not be of the essence of the Contract.
- 11.5 The Supplier shall ensure that all such invoices include the University's Purchase Order number, a description of the Goods and/or Services and the period to which it relates.
- 11.6 All expenses that may be incurred by the Supplier (including travel costs) must be agreed in advance and will only be payable by the University subject to the Supplier:
- 11.6.1 obtaining the University's prior written Authorised consent to such expenses; and
- 11.6.2 providing receipts or other such evidence to prove such expenditure.
- 11.7 The Supplier shall pay all taxes and other outgoings or expenses payable in consequence of the Contract and the Supplier shall indemnify the University in respect of any demand, costs or expense suffered by the University, whether during the period of the Contract or following termination of the Contract (howsoever caused) or otherwise in relation to any tax or employer's National Insurance contributions or other expense payable in respect of the Supplier, its employees, agents or sub-contractors or in relation to the provision of Goods and/or Services.
- 11.8 The parties will pay interest on any amount payable under the Contract not paid on the due date, for the period from that due date to the date of payment at two (2) per cent per annum above the base lending rate of the Royal Bank of Scotland plc from time to time. The parties acknowledge and agree that the amounts set out in this condition represent a substantial remedy. The Supplier is not entitled to suspend delivery of the Goods and performance of the Services as a result of any sums being outstanding.
- 11.9 Payment by the University shall be without prejudice to any claims or rights, which the University may have against the Supplier, and shall not constitute any admission by the University as to the performance by the Supplier of its obligations under the Contract.
- 11.10 Without prejudice to any other right or remedy, the University reserves the right to set off any amount owing at any time from the Supplier to the University against any amount payable by the University to the Supplier under the Contract or any other contract between the University and the Supplier.
- 11.11 The Supplier shall promptly make good at the Supplier's expense any defect in the Goods that the University discovers under proper the usage during the first eighteen (18) months from the date of delivery, or for the period of the Supplier's own warranty for the Goods (whichever being the greater). Such defects may arise from the Supplier's faulty design, the Supplier's erroneous instructions as to the use or inadequate or faulty materials or poor workmanship or any other breach of the Supplier's obligations whether in this Contract or at law.
- 11.12 Repairs or replacements will themselves be covered by the above warranty but for a period of twelve (12) months from delivery to the University.
- 11.13 The Supplier will ensure that compatible spares are available to facilitate repairs (where applicable) for a period of at least ten (10) years from the date of delivery of the Goods.

12 INTELLECTUAL PROPERTY

- 12.1 All right, title and interest in and to any University IP shall remain the property of and vested in the University.
- 12.2 All right, title and interest in and to any Supplier IP shall remain the property of and vested in the Supplier.
- 12.3 The Supplier hereby grants to the University a perpetual, irrevocable, royalty free, worldwide non-exclusive licence (with the right to grant sub-licences) to use the Supplier IP for the purpose of exploiting the Resultant IP and/or using and/or otherwise disposing of the Deliverables.
- 12.4 The University hereby grants to the Supplier a non-exclusive, non-transferable and limited licence to use University IP for the sole purpose of carrying out its obligations under the Contract.

- 12.5 By accepting a Purchase Order or performing under a Contract, the Supplier agrees that the Resultant IP will belong to and upon its creation vest in the University. The Supplier hereby assigns to the University from the date of creation, free from any encumbrances, its whole right, title and interest including (with effect from their creation) future rights in the Resultant IP.
- 12.6 The Supplier shall assign to the University on request and free of charge all rights in the Resultant IP which have not been assigned under condition 12.5 and shall execute any document and do anything as may be required to ensure that all Resultant IP is vested in the University and the Supplier shall deliver all supporting materials and documentation required in order to make effective use of the Resultant IP.
- 12.7 During the period of the Contract, and at all times thereafter, the Supplier shall (and shall procure that all third parties, employees and individuals shall) execute and perform (at the University's expense) all such applications, assignments, documents and acts as may be required by the University for the purpose of giving effect to this condition 12 and/or obtaining and enforcing any legal protection in respect of such IPR and in such countries as the University may, in its absolute discretion, determine.
- 12.8 If the Contract involves Goods made to the University's design or instruction:
- 12.8.1 All IPRs in the results of Goods arising out of or deriving from this Contract shall be the University's property and the University shall have the sole right to determine whether any patent, registered design, trade mark and other protection shall be sought;
- 12.8.2 the Supplier shall promptly communicate to the University all such results and shall if requested and at the University's expense do all acts and things necessary to enable the University or its nominee to obtain patents, registered designs, trade marks and other protection for such results in all territories and to assign same to the University or its nominee; and
- 12.8.3 the Supplier shall ensure that all 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 knowledge other than by breach of this Contract.
- 12.9 The Supplier warrants, represents and undertakes to the University that:
- 12.9.1 none of the IPR created or used by the Supplier in connection with the Goods and Services is or will be the subject of a claim and there are no grounds, facts or other circumstances which may give rise to the same;
- 12.9.2 it is and will be the sole and absolute legal owner of the Supplier IP, or is validly licensed to make such use of the Supplier IP in terms of written licences, and that the University will be free to use, licence, or otherwise transfer such Supplier IP without any third party claims, liens, charges or encumbrances of any kind;
- 12.9.3 it is and will be the sole and absolute legal owner of the Resultant IP until such Resultant IP is assigned in terms of conditions 12.5 and 12.6 and that such Resultant IP is not subject to any third party claims, liens, charges or encumbrances of any kind.
- 12.10 The Supplier shall indemnify the University against all claims, demands, actions, costs, expenses (including but not limited to legal costs and disbursements on a solicitor and client basis), losses and damages arising from or incurred by reason of any infringement or alleged infringement (including but not limited to the defence of such alleged infringement) of any IPR in connection with the receipt and/or use of the Goods and Services, the Resultant IP, the Supplier IP or Deliverables, or the performance by the Supplier of any obligation in terms of the Contract.
- 12.11 The Supplier hereby irrevocably waives in favour of the University any moral rights it may have in terms of Chapter IV of Part I of the Copyright, Designs and Patents Act 1988, and any similar rights available in any part of the world and shall procure that all employees, third parties and sub-contractors used in the provision of the Goods and the performance of the Services shall similarly waive such moral rights.

13 ARTICLES ON LOAN AND USE OF INFORMATION

- 13.1 All tools, drawings, specifications and other equipment and data ("the Articles") loaned by the University to the Supplier in connection with the Contract shall always remain University property and be surrendered to the University upon demand in good and serviceable condition (fair wear and tear allowed) and are to be used by the Supplier solely for the purpose of completing the Contract. The Supplier agrees that no copy of any of the Articles will be made without the consent in writing of an Authorised Officer.
- 13.2 Until the Supplier returns all the Articles to the University they shall be at the Supplier's risk and insured by the Supplier at the Supplier's own expense against risk of loss, theft or damage. Any loss of or damage to such Articles shall be made good by the Supplier at the Supplier's expense. All scrap arising from supply of such Articles must be disposed of at the University's discretion and all proceeds of sale of such scrap must promptly be paid to the University in full.

14 DATA PROTECTION

- 14.1 The Supplier warrants that it will at all times comply with the provisions of the Data Protection Act 1998 ("DPA") in connection with the provision of the Goods and the performance of the Services under the Contract and shall only undertake such processing of Personal Data (as defined in the DPA) reasonably required in connection with the provision of the Goods and the performance of the Services.

15 CONFIDENTIALITY

- 15.1 The Supplier shall keep secret and confidential at all times both during and after the Contract, any and all Confidential Information which comes in to their possession at any time either before, during or after the period of the Contract.
- 15.2 The Supplier shall not use, copy, disclose or divulge such Confidential Information to any third party except with the express written consent of the University. For the avoidance of doubt, any such permitted disclosure shall not affect the ownership of such Confidential Information.
- 15.3 The Supplier shall disclose the Confidential Information only to those of its officers and employees to whom, and to the extent to which, such disclosure is necessary for the purposes contemplated under the Contract and to procure that such parties are made aware of and agree in writing to observe the obligations in this condition 15.

- 15.4 The provisions of this condition 15 shall not apply to information which:
- 15.4.1 is or comes into the public domain through no fault of the Supplier;
 - 15.4.2 is lawfully received by the Supplier from a third party free of any obligation of confidence at the time of its disclosure;
 - 15.4.3 is independently developed by the Supplier;
 - 15.4.4 is required by law, by court or governmental order to be disclosed provided, however, that the Supplier will promptly notify the University of such requirements and shall take reasonable steps to coordinate with the University in contesting or limiting such requirement or in protecting the University's rights prior to disclosure.

The burden of proving that any of the foregoing exceptions applies shall be upon the recipient.

- 15.5 The obligations under this condition 15 shall survive the variation, expiry or termination of the Contract.

16 FREEDOM OF INFORMATION

- 16.1 The University is subject to the Freedom of Information (Scotland) Act 2002 (as amended) ("the Act"). The University may disclose information, including but not limited to information belonging to or relating to the Supplier (including but not limited to Supplier Confidential Information) to the extent that it is required to do so under the Act.
- 16.2 The Supplier acknowledges that disclosure may be made of such information relating to the outcome of the procurement process as may be required to be published in the Official Journal of the European Union or elsewhere in accordance with EU Directives or Government policy on the disclosure of information regarding government contracts.

17 CORRUPT GIFTS / BRIBERY ACT

- 17.1 In connection with this Contract or any other contract between the Supplier and the University, the Supplier shall not give, provide, or offer to University staff, subcontractors or agents any loan, fee, reward, or gift or any emolument or advantage whatsoever. In the event of any such breach of this condition, the University shall, without prejudice to any other rights the University may possess, be at liberty forthwith to terminate this Contract and any other contract between the Supplier and the University, and to recover from the Supplier any loss or damage resulting from such termination.
- 17.2 Supplier / Contractor shall not engage in any activity, practice or conduct which would constitute an offence under Sections 1, 2 or 6 of the Bribery Act 2010. The University shall be entitled to terminate this order, and any other contract / agreement / order between the Consultant / Supplier / Contractor and the University with immediate effect in the event that the Consultant / Supplier / Contractor, its associated persons, its agents, officers, employees, contractors or sub-contractors, with or without the Consultant / Supplier / Contractor knowledge, jointly or severally fail to comply with the requirements of this clause.

18 ANTI-FACILITATION OF TAX EVASION

- 18.1 Shall not engage in any activity, practice or conduct which would constitute either
- 18.1.1 A UK tax evasion facilitation offence under Section 45(1) of the Criminal Finances Act 2017; or
 - 18.1.2 A foreign tax evasion facilitation offence under Section 46(1) of the Criminal Finances Act 2017;
- 18.2 Have and shall maintain in place throughout the term of this supply such policies and procedures as are both reasonable to prevent the facilitation of tax evasion by another person (including without limitation employees of the Contractor) and to ensure compliance with this clause;
- 18.3 Promptly report to the Authority any request or demand from a third party to facilitate the evasion of tax within the meaning of Part 3 of the Criminal Finances Act 2017, in connection with the performance of this supply.
- 18.4 The supplier shall ensure that any person associated with the supplier who is performing services and / or providing goods in connection with this supply does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the supplier in this clause.
- 18.5 Breach of this clause shall be deemed a material breach and shall allow the University to terminate by written notice with immediate effect.

19 AUDIT RIGHTS

The Supplier shall keep full and accurate books, records and accounts with respect to the subject matter of the Contract ("Records"). The University shall have the right to audit and inspect the Records during normal business hours by giving the Supplier no less than one (1) days prior written notice of the University's intention to carry out such audit. The University shall provide the Customer with all reasonable co-operation and assistance in relation to any such audit.

20 INSURANCE

- 20.1 The Supplier shall hold satisfactory insurance cover with a reputable insurer to fulfil the Supplier's insurance obligations for the duration of this Contract and two years thereafter, which includes public liability insurance cover of at least Two Million Pounds Sterling (£2,000,000), or such other amount as the parties will agree in writing.
- 20.2 Satisfactory evidence of such insurance and payment of current premiums shall be shown to the University upon request.

21 LIMITATION OF LIABILITY

- 21.1 Neither party excludes or limits liability to the other party for death or personal injury caused by any negligent act or omission or wilful misconduct.
- 21.2 The University does not accept liability for:
- 21.2.1 indirect, special or consequential loss or damage,
 - 21.2.2 loss of business profits, salary, business revenue, goodwill, or anticipated savings, or
 - 21.2.3 loss which could have been avoided by the Supplier through reasonable conduct or by the Supplier taking reasonable precautions.
- 21.3 Subject to conditions 21.1 and 21.2, the University's liability under any Contract shall in no event exceed the Price paid by the University to the Supplier.

22 TERM AND TERMINATION

- 22.1 The University shall have the right at any time and for any reason to terminate the Contract in whole or in part by giving the Supplier fourteen (14) days' written notice.
- 22.2 The Contract may be terminated by either party by written notice with immediate effect if:
- 22.2.1 either party commits a material breach that it fails to remedy within thirty (30) days of being requested to do so by the other party; or
 - 22.2.2 either party ceases to carry on its activities, becomes unable to pay its debts when they fall due, becomes insolvent or apparently insolvent, has a receiver, manager, administrator, administrative receiver or similar officer appointed in respect of the whole or any part of its assets or business, makes any composition or arrangement with its creditors, takes or suffers any similar action in consequence of debt, an order or resolution is made for its dissolution or liquidation (other than for the purpose of solvent amalgamation or reconstruction) or enters into liquidation whether compulsorily or voluntarily or shall suffer any analogous event under any jurisdiction which it is subject to.
- 22.3 Termination of the Contract shall be without prejudice to any rights of either party under the provisions of the Contract existing at the date the Contract is terminated (including the right of either party to recover all sums due to that party up to such date of termination).
- 22.4 The provisions of conditions 2, 7, 12 to 21 and 26 to 33 shall survive termination of the Contract for any reason and shall remain in full force and effect.

23 ASSIGNATION

- 23.1 The University may at any time assign, charge or otherwise transfer the Contract or any of its rights or obligations under it.
- 23.2 The Supplier shall not, and shall not purport to, assign, charge, sub-contract or otherwise transfer the Contract or any rights or obligations under it without the University's prior written consent.

24 NO PARTNERSHIP OR AGENCY

Nothing in the Contract is intended to, or shall operate to, create between the parties a partnership agency, association, joint venture or other co-operative entity.

25 FORCE MAJEURE

- 25.1 Neither party shall be in breach of the Contract, nor liable for any failure or delay in performance of its obligations under the Contract arising from or attributable to acts, events, omissions or circumstances beyond its control, including but not limited to, acts of God, perils of the sea or air, fire, flood, drought, explosion, sabotage, accident, embargo, riot, civil commotion or civil authority including acts of local government and parliamentary authority; breakdown of equipment; telecommunication failures; war; terrorism; extreme adverse weather conditions; and labour disputes of whatever nature and for whatever cause arising including, without prejudice to the generality of the foregoing, work to rule, overtime, strikes and lockouts ("Force Majeure").
- 25.2 If either party is prevented or delayed in the performance of any of its obligations under the Contract by Force Majeure, that party shall forthwith serve notice in writing on the other party specifying the nature and extent of the circumstances giving rise to Force Majeure, and shall, subject to service of such notice and having taken all reasonable steps to avoid such prevention or delay, have no liability in respect of the performance of its obligation as prevented by the Force Majeure event and during the continuation of such event, and for such time after they cease as is necessary for that party, using all reasonable endeavours, to regain its effective operations in order for it to perform its obligations.
- 25.3 The party claiming to be prevented or delayed in the performance of any of its obligations under the Contract by reason of Force Majeure shall use reasonable endeavours to bring the Force Majeure event to a close or to find a solution by which the Contract may be performed despite the continuance of the Force Majeure event.
- 25.4 If either party is prevented from performance of its obligations for a continuous period in excess of six (6) months due to a Force Majeure event either party may terminate the Contract forthwith on service of written notice upon the party so prevented.

26 VARIATION

- 26.1 The University shall have the right, before delivery of any Goods, or commencement of any Services, to send the Supplier an Order of Amendment adding to, deleting or modifying the terms of the Contract.

- 26.2 If the Order of Amendment will cause a material change to the Price or delivery date/commencement date then the Supplier must suspend performance of the Contract and notify the university without delay, calculating the new Price and delivery date/commencement date at the same level of cost and profitability as the original Price and delivery date/commencement date.
- 26.3 The University shall confirm its acceptance of the new Price and/or delivery date/commencement date within ten (10) Business Days of receipt.
- 26.4 If the University fails to confirm its acceptance of these revised commercial terms within the ten day period, the Supplier shall deliver the Goods/ commence the Services on the terms agreed prior to the Amendment Order. The Order of Amendment shall take effect then on, and only in the event of, an Authorised Officer accepting the proposed revised terms in writing.
- 26.5 No other variation to the Contract shall be effective unless in writing and signed by authorised representatives of each party.

27 SEVERABILITY

If and in so far as any part or provision of these Conditions is or becomes void or unenforceable it shall be deemed not to be or never to have been or formed a part of the Contract and the remaining provisions of the Contract shall continue in full force and effect.

28 WAIVER

The failure of either party to exercise or enforce any right conferred on that party by the Contract shall not be deemed to be a waiver of any such right or operate to bar the exercise or enforcement thereof at any time or times thereafter.

29 NOTICES

All notices and communications required to be sent to the Supplier or the University in this Contract shall be made in writing and sent by first class mail and if sent to the Supplier, sent to the Supplier's registered or head office and if sent to the University, sent to Procurement, University of St Andrews, The Old Burgh School, Abbey Walk, St Andrews, Fife, KY16 9LB and shall be deemed to have reached the party to whom it is addressed on the next Business Day following the date of posting.

30 THIRD PARTY RIGHTS

Save to the extent expressly set out in the Contract, the Contract is not intended nor shall it create any rights, entitlement, claims or benefits enforceable by any person that is not a party to it.

31 CONSTRUCTION OF CONTRACT

These terms and conditions and any subsequent amendments to them issued by the Buyer take precedence over any contract order or other document issued by the Seller.

32 DISPUTE RESOLUTION

- 32.1 Any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be determined using the following resolution escalation protocol;
- 32.2 By discussion between the named managers / first points of contact at the University and the supplier;
- 32.3 In the event that agreement cannot be reached under clause 31.2, the matter shall be referred to [defined Senior Management position in University and Supplier];
- 32.4 In the event that agreement cannot be reached under clause 31.3, the matter shall be referred to arbitration administered by the International Centre for Dispute Resolution in accordance with its International Arbitration Rules.

33 GOVERNING LAW

The Contract shall be governed by and construed in accordance with Scots law and the parties hereby submit to the exclusive jurisdiction of the Scottish courts.

Version number	Purpose / changes	Document status	Author of changes, role and school / unit	Date
3	Addition of Incoterms at 8.1		Sarah Latto via Adrian Wood	25 th February 2021
2	Annual review – no changes other than date		Sarah Latto via Adrian Wood	14 th September 2020
1	Created August 2010 / Published to new System		Sarah Latto	25 th June 2019