

IMPERIAL COLLEGE LONDON

STANDARD TERMS AND CONDITIONS FOR THE SUPPLY OF GOODS AND SERVICES

1. Interpretation

The following definitions and rules of interpretation apply in these Conditions.

1.1 Definitions:

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

Business Hours: the period from 9.00 am to 5.00 pm on any Business Day.

Commencement Date: has the meaning given in clause 3.3.

Conditions: these terms and conditions as amended from time to time in accordance with clause 3.7.

Consignee: staff member of Imperial nominated to receive Goods and/or Services.

Contract: the contract between Imperial and the Supplier for the supply of Goods or Services or Goods and Services in accordance with these Conditions.

Control: has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression **change of Control** shall be interpreted accordingly.

Deliverables: all documents, products, advice and materials provided, produced and/or developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form or media, including drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).

Delivery Location: has the meaning given in clause 5.2(b).

Goods: the goods (or any part of them) set out in the Order.

Goods Specification: any specification for the Goods, including any related plans and drawings, that is agreed in writing by Imperial and the Supplier.

Imperial: Imperial College London whose legal name is Imperial College of Science, Technology and Medicine, a Royal Charter Corporation (company registration number RC000231) with administrative offices at the Faculty Building, Exhibition Road, South Kensington, London, SW7 2AZ.

Imperial Materials: has the meaning set out in clause 6.3(g).

Imperial Closure: days when Imperial is shut; these days are available at <https://www.imperial.ac.uk/human-resources/leave/college-closures/>

Intellectual Property Rights: patents, rights to inventions, copyright and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, 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 including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights 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.

Order: Imperial's order for the supply of Goods and/or Services, as set out in the applicable purchase order form or equivalent.

Place of Use: the place within the Delivery Location where the Goods are to be delivered.

Services: the services, including any Deliverables, to be provided by the Supplier under the Contract as set out in the Order and/or the Service Specification.

Service Specification: the description or specification for Services agreed in writing by Imperial and the Supplier.

Supplier: the person or firm from whom Imperial purchases the Goods and/or Services as specified in the Order.

UK GDPR: has the meaning given to it in section 16 (as supplemented by section 205(4)) of the Data Protection Act 2018.

1.2 Interpretation:

- (a) A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- (b) A reference to a party includes its personal representatives, successors and permitted assigns.
- (c) A reference to legislation or a legislative provision is a reference to it as amended or re-enacted. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision.
- (d) Any words following the terms **including, include, in particular, for example** or any similar expression shall be interpreted as illustrative and shall not limit the sense of the words preceding those terms.
- (e) A reference to **writing** or **written** includes email.

2. Building Work

Appointment of a contractor for engineering and construction work is subject to special terms and conditions set by Imperial's Estates Department and such contracts are not governed by these Conditions unless Imperial notifies the Supplier in writing to the contrary.

3. Basis of contract

3.1 These Conditions shall apply to any Order placed on or after 1 April 2023.

3.2 The Order constitutes an offer by Imperial to purchase Goods or Services or Goods and Services from the Supplier in accordance with these Conditions.

3.3 The Order shall be deemed to be accepted on the earlier of:

- (a) the Supplier issuing written acceptance of the Order; or
- (b) any act by the Supplier consistent with fulfilling the Order,

at which point and on which date the Contract shall come into existence (**Commencement Date**).

3.4 These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate (unless specifically and expressly agreed otherwise by Imperial in writing), or which are implied by law, trade custom, practice, or course of dealing.

- 3.5 All of these Conditions shall apply to the supply of both Goods and Services except where the application to one or the other is specified.
- 3.6 The Supplier waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Supplier.
- 3.7 No employee, representative or agent of Imperial is authorised to make any representation on behalf of Imperial which conflicts in any way with these Conditions, or to vary them in any way whatsoever, save by express agreement in writing signed by the Chief Financial Officer or the Director of Financial Services and Procurement of Imperial or their respective duly appointed nominees. If required, any such nominee will be able to provide written proof of their delegated authority to the Supplier.

4. Supply of Goods

- 4.1 The Supplier shall ensure that the Goods shall:
- (a) correspond with their description and any applicable Goods Specification.
 - (b) comply in every respect with any Imperial requirements set out in the Order.
 - (c) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for any purpose held out by the Supplier or made known to the Supplier by Imperial, expressly or by implication, and in this respect, Imperial relies on the Supplier's skill and judgment;
 - (d) where they are manufactured products, be free from defects in design, materials, and workmanship, and remain so for 12 months after delivery; and
 - (e) comply with all applicable statutory and regulatory requirements relating to the manufacture, labeling, packaging, storage, handling, and delivery of the Goods.
- 4.2 To the extent permissible, the Supplier shall secure for Imperial the benefit of any warranties and guarantees given by a manufacturer and/or original supplier of the Goods.
- 4.3 The Supplier shall ensure that at all times it has and maintains all the licenses, permissions, authorisations, consents, and permits that it needs to carry out its obligations under the Contract in respect of the Goods.

5. Delivery of Goods

- 5.1 The Supplier shall ensure that:
- (a) the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition and be addressed to the Consignee; and
 - (b) each delivery of the Goods is accompanied by a delivery note which shows Imperial's Order number and the type and quantity of the Goods delivered.
- 5.2 The Supplier shall deliver the Goods:
- (a) on the date specified in the Order or, if no such date is specified, then within 10 days of the date of the Order unless otherwise agreed in writing with Imperial;
 - (b) to Imperial's premises as is set out in the Order or as instructed by Imperial before delivery (**Delivery Location**); and

- (c) between 9 am and 4.30 pm Monday to Friday when Imperial is normally open or as instructed by Imperial.

5.3 A signature, supported by a legibly printed name, acknowledging receipt of the Goods must be obtained from the Consignee. Despite such signature, Imperial 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 to the Order.

5.4 Imperial shall use reasonable endeavours to notify the Supplier of any rejection based on a defect in the quality or condition of the Goods within 10 Business Days from the date of delivery of the Goods, or, where the defect or failure was not apparent on reasonable inspection, within a reasonable time after discovery of the defect or failure. The making of payment shall not prejudice Imperial's right of rejection.

5.5 Further to clauses 5.3 and 5.4, where the Goods are rejected, such Goods shall be returned at the Supplier's risk and expense in accordance with clause 7.

5.6 Delivery of the Goods shall be completed on the completion of unloading of the Goods at the Delivery Location or Place of Use as agreed in advance with Imperial.

5.7 Imperial shall not be obliged to safeguard or return any packaging unless it is clearly marked "returnable", shows the Supplier's name and address, and is invoiced separately and credited to Imperial in full upon return.

5.8 If the Supplier:

- (a) delivers less than 90% of the quantity of Goods ordered, Imperial may reject the Goods; or
- (b) delivers more than 100% of the quantity of Goods ordered, Imperial may at its sole discretion reject the Goods or the excess Goods,

and any rejected Goods shall be returnable at the Supplier's risk and expense. If the Supplier delivers more or less than the quantity of Goods ordered, Imperial accepts the delivery, the Supplier shall make a pro-rata adjustment to the invoice for the Goods.

5.9 The Supplier shall not deliver the Goods in instalments without Imperial's prior written consent. Where it is agreed that the Goods are delivered in instalments, they may be invoiced and paid for separately. However, failure by the Supplier to deliver any one instalment on time or at all or any defect in an instalment shall entitle Imperial to the remedies set out in clause 7.

5.10 Imperial will not accept any "cash on delivery"/ COD deliveries.

5.11 Title and risk in the Goods shall pass to Imperial on completion of delivery as per clause 5.6.

6. Supply of Services

6.1 The Supplier shall from the date set out in the Order or as otherwise specified by Imperial and for the duration of the Contract supply the Services to Imperial in accordance with the terms of the Contract.

- 6.2 The Supplier shall meet any performance dates for the Services specified in the Order or that Imperial notifies to the Supplier and time is of the essence in relation to any of those performance dates.
- 6.3 In providing the Services, the Supplier shall:
- (a) co-operate with Imperial in all matters relating to the Services, and comply with all instructions of Imperial ;
 - (b) perform the Services with reasonable care, skill, and diligence in accordance with best practice in the Supplier's industry, profession or trade;
 - (c) ensure that the Services will conform with all descriptions, standards, and specifications set out in the Service Specification and that the Deliverables shall be fit for any purpose that Imperial expressly or impliedly makes known to the Supplier;
 - (d) comply in every respect with any Imperial requirements set out in the Order.
 - (e) obtain and at all times maintain all licenses and consents which may be required for the provision of the Services;
 - (f) observe all health and safety rules and regulations and any other security requirements that apply at any of Imperial's premises;
 - (g) hold all materials, equipment and tools, drawings, specifications, and data supplied by Imperial to the Supplier (Imperial **Materials**) in safe custody at its own risk, maintain Imperial's Materials in good condition until returned to Imperial, and not dispose of or use Imperial Materials other than in accordance with Imperial's written instructions or authorisation.

7. Imperial remedies

- 7.1 If the Supplier fails to deliver the Goods by the applicable date or to perform the Services by the applicable date, Imperial shall, without limiting or affecting other rights or remedies available to it, have any one or more of the following rights and remedies:
- (a) to terminate the Contract with immediate effect by giving written notice to the Supplier.
 - (b) to refuse to accept any subsequent performance of the Services or delivery of the Goods which the Supplier attempts to make.
 - (c) to require a refund from the Supplier of sums paid in advance for Services that the Supplier has not provided or Goods that it has not delivered; and
 - (d) to claim damages for any additional costs, loss, or expenses incurred by Imperial which are in any way attributable to the Supplier's failure to meet such dates.
- 7.2 If the Supplier has delivered any Goods that do not comply with the Order or the undertakings set out in clause 4.1 then, without limiting or affecting other rights or remedies available to it, Imperial shall have one or more of the following rights and remedies, whether or not it has accepted the Goods:
- (a) to terminate the Contract with immediate effect by giving written notice to the Supplier.
 - (b) to reject the Goods (in whole or in part) whether or not title has passed and to return them to the Supplier at the Supplier's own risk and expense.

- (c) to require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods (if paid);
- (d) to refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make.
- (e) to recover from the Supplier any expenditure incurred by Imperial in obtaining substitute goods from a third party; and
- (f) to claim damages for any additional costs, loss or expenses incurred by Imperial arising from the Supplier's failure to supply Goods in accordance with the Order and/or clause 4.1.

7.3 Title and risk in any Goods that are returned to the Supplier for replacement under this clause passes to the Supplier when the Goods are handed over by Imperial to a transport or courier company for return to the Supplier.

7.4 If the Supplier has supplied Services that do not comply with the requirements of clause 6.3 (c) and (d) then, without limiting or affecting other rights or remedies available to it, Imperial shall have one or more of the following rights and remedies:

- (a) to terminate the Contract with immediate effect by giving written notice to the Supplier.
- (b) to return the Deliverables to the Supplier at the Supplier's own risk and expense.
- (c) to require the Supplier to provide repeat performance of the Services, or to provide a full refund of the price paid for the Services (if paid);
- (d) to refuse to accept any subsequent performance of the Services which the Supplier attempts to make; and
- (e) to claim damages for any additional costs, loss or expenses incurred by Imperial arising from the Supplier's failure to comply with clause 6.3 (c) and (d).

7.5 These Conditions shall extend to any substituted or remedial services or repaired, or replacement goods supplied by the Supplier.

7.6 Imperial's rights and remedies under the Contract are in addition to, and not exclusive of, any rights and remedies implied by statute and common law.

8. Imperial's obligations

8.1 Imperial shall:

- (a) provide the Supplier with reasonable access at reasonable times to Imperial's premises for the purpose of providing the Services; and
- (b) provide such necessary information for the provision of the Services as the Supplier may reasonably request.

9. Charges and payment

9.1 The price for the Goods:

- (a) shall be the price set out in the Order; and

- (b) unless expressly agreed otherwise by Imperial, shall be inclusive of the costs of packaging, insurance, carriage, delivery, and installation of Goods at the address stated in the Order, and any duties, tariffs, taxes or levies (other than VAT). No extra charges shall be effective unless agreed by Imperial.
- 9.2 Where Imperial has expressly agreed to pay delivery charges, handling charges or "minimum order surcharges" in addition to the price quoted in the Order, Imperial shall only pay one such charge or surcharge in respect of each Order, regardless of the number of packages actually delivered in fulfilment of each Order, except where more than one delivery is made at the express request of Imperial.
- 9.3 The charges for the Services shall be set out in the Order and shall be the full and exclusive remuneration of the Supplier in respect of the performance of the Services. Unless otherwise agreed in writing by Imperial, the charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.
- 9.4 Where the price quoted in the Order is an estimated price, the Supplier shall supply the Goods and/or Services at the Supplier's prevailing prices and rates applying at the time the Order is issued. If the actual aggregate price of the Goods and/or Services under a given Order or linked Orders exceeds the estimated price by more than 10%, Imperial shall be under no obligation to pay the excess above the 10% (**Excess**) unless Imperial has expressly agreed in writing in advance to be liable for the Excess.
- 9.5 In respect of the Goods, the Supplier shall invoice Imperial on or at any time after completion of delivery unless stated otherwise in the Order or expressly agreed by Imperial in writing. In respect of Services, the Supplier shall invoice Imperial on completion of the Services unless stated otherwise in the Order or expressly agreed by Imperial in writing.
- 9.6 All invoices must be submitted electronically via Imperial's nominated third-party provider through said provider's portal. Further details, including how to register can be found at <https://registration.tungsten-network.com/start>.
- 9.7 An invoice must be submitted for each Order and should detail the Goods and/or Services provided. The following information must also be quoted in the Supplier's invoices:
- (a) Supplier's VAT registration number.
 - (b) Imperial Order number.
 - (c) Number and type of packages of Goods per invoice (if applicable).
- 9.8 Only invoices with an official Imperial purchase order number will be paid. Invoices submitted without Imperial's purchase order number will be automatically rejected.
- 9.9 In consideration of the supply of Goods and/or Services by the Supplier, Imperial shall pay the invoiced amounts within 30 days of the date of a correctly rendered invoice to a bank account nominated in writing by the Supplier.
- 9.10 All amounts payable by Imperial under the Contract are exclusive of amounts in respect of valued added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made

under the Contract by the Supplier to Imperial, Imperial shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods and/or Services at the same time as payment is due for the supply of the Goods and/or Services.

- 9.11 Imperial will provide remittance advice notes electronically wherever possible. New suppliers are required to provide an email address for remittance advice notes.
- 9.12 If Imperial expressly agrees staged payments that involve any payment before the delivery of the Goods to Imperial, the Supplier shall, at Imperial's option, provide a banker's guarantee satisfactory to Imperial before any upfront payment is made.
- 9.13 The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Services, and the Supplier shall allow Imperial to inspect such records at all reasonable times on request.

10. Intellectual property rights

- 10.1 Where Intellectual Property Rights arise from the Services, the Supplier hereby assigns to Imperial all existing and future Intellectual Property Rights arising from the Services including those that subsist in any Deliverables. The Supplier agrees to promptly execute all documents and do all acts as may, in the reasonable opinion of Imperial, be necessary to give effect to this clause 10.1.
- 10.2 Imperial grants the Supplier a fully paid-up, non-exclusive, royalty-free non-transferable licence to copy and modify Imperial Materials for the term of the Contract for the purpose of providing the Services to Imperial.
- 10.3 To the extent that the Supplier uses any Supplier pre-existing Intellectual Property Rights for the provision of the Services, (i) such Intellectual Property Rights shall not include intellectual property owned by or licensed to a third party except for intellectual property which the Supplier has the right to use (including for the purposes of this Contract) and the Supplier shall not subject Imperial or any of its group companies to any claim for the infringement of any intellectual property rights of a third party and (ii) the Supplier grants to Imperial a worldwide, non-exclusive, royalty free, non-transferable, non-terminable licence, with the right to grant sub-licences, to use such Intellectual Property Rights for the purposes of receiving the Services and using the Deliverables including (without limitation) engaging in further research and development and commercially exploiting the Deliverables.
- 10.4 The Supplier acknowledges that all rights in the Imperial Materials are and shall remain the exclusive property of Imperial College.
- 10.5 This clause 10 shall survive the termination of the Contract.

11. Indemnity

- 11.1 The Supplier shall indemnify Imperial against all liabilities, costs, expenses, damages and losses suffered or incurred by Imperial arising out of or in connection with:

- (a) any claim made against Imperial for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with, the manufacture, supply or use of the Goods, or receipt, use or supply of the Services and Deliverables (excluding Imperial Materials);
- (b) any claim made against Imperial by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in the Goods, as delivered, or the Deliverables; and
- (c) any claim made against Imperial by a third party arising out of or in connection with the supply of the Goods, as delivered, or the Services, to the extent that such claim arises out of the breach, negligent performance or failure in performance of the Contract by the Supplier, its employees, agents or subcontractors.

11.2 Neither party shall be liable for any indirect, punitive, special, incidental, or consequential damages in connection with or arising out of this Contract.

11.3 This clause 11 shall survive termination of the Contract.

12. Insurance

During the term of the Contract, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance (if applicable) and public liability insurance to cover the liabilities that may arise under or in connection with the Contract.

13. Confidentiality

13.1 Subject to clause 13.2 below, each party undertakes that it shall not at any time during the Contract and for a period of five years after termination or expiry of the Contract, disclose to any person any confidential information concerning the business, assets, affairs, customers, clients or suppliers of the other party, except as permitted by clause 13.3.

13.2 Any drawings, specifications, circuit diagrams, computer programmes, tools or materials provided to the Supplier by Imperial shall be used solely for the purpose for which they were so supplied and shall not be divulged, copied or transmitted to any third parties without the prior written permission from the Chief Financial Officer or the Director of Financial Services and Procurement at Imperial. Such items remain the property of Imperial and shall be returned upon completion of the Order (unless Imperial has requested in writing that they be securely destroyed instead).

13.3 Each party may disclose the other party's confidential information:

- (a) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under the Contract. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 13; and
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

13.4 Neither party shall use the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.

14. Compliance with relevant laws

In performing its obligations under the Contract, the Supplier shall comply with all applicable laws, statutes, regulations and codes from time to time in force.

15. Prevention of Corruption

15.1 The Supplier shall comply with the requirements of the Bribery Act 2010 and will not:

- (a) offer or agree to give any person working for or engaged by Imperial any gift or other consideration which could act as an inducement or a reward for any act or failure to act connected to this Contract, or any other agreement between the Supplier and Imperial, including its award to the Supplier and any of the rights and obligations contained within it; nor
- (b) enter into this Contract if it has knowledge that, in connection with it, any money has been, or will be, paid to any person working for or engaged by Imperial by or for the Supplier, or that an agreement has been reached to that effect, unless details of any such arrangement have been disclosed in writing to Imperial before execution of this Contract.

15.2 If the Supplier (including any Supplier employee, sub-contractor, or agent, in all cases whether or not acting with the Supplier's knowledge) breaches:

- (a) clause 15.1; or
- (b) the Prevention of Corruption Acts 1889 – 1916 and the Bribery Act 2010 in relation to this Contract or any other contract with Imperial.

Imperial may terminate this Contract by written notice with immediate effect.

15.3 Any termination under clause 15.2 shall be without prejudice to any right or remedy which has already accrued, or subsequently accrues, to Imperial.

15.4 Any dispute relating to:

- (a) the interpretation of clauses 15.1 to 15.3 inclusive; or
 - (b) the amount or value of any gift, consideration, or commission,
- shall be determined by Imperial and the decision shall be final and conclusive.

16. Data protection

16.1 The following definitions apply in this clause 16:

- (a) **Controller, Processor, Data Subject, Personal Data, Personal Data Breach, processing, and appropriate technical and organisational measures:** as defined in the Data Protection Legislation.
- (b) **Data Protection Legislation:** all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR, the Data Protection Act 2018 (and

regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (*SI 2003/2426*).

- 16.2 Both parties will comply with (and will provide reasonable assistance to each other to enable compliance with) all applicable requirements of the Data Protection Legislation. This clause 16 is in addition to, and does not relieve, remove, or replace, a party's obligations or rights under the Data Protection Legislation.
- 16.3 Where a party (**Collecting Party**) collects and/or makes available to the other Personal Data, it will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the other party for the duration and purposes of the Contract.
- 16.4 The Collecting Party shall record, retain and make available to the other party on request evidence of consent given by any Data Subject from whom it is obliged to obtain consent (and a copy of any relevant information given to any such Data Subject) under clause 16.3 or, where the Collecting Party has not been obliged to obtain Data Subject consent, it shall be able to explain to the other party the basis on which it has relied to lawfully record, retain and provide to the other party the relevant Personal Data.
- 16.5 Without prejudice to the generality of clause 16.2, each party shall, in relation to any Personal Data processed in connection with the performance of its obligations under the Contract:
- (a) only use the Personal Data for a specified purpose as set out in and in compliance with obligations for fair and lawful processing in the Data Protection Legislation.
 - (b) have in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data (including adequate back up procedures and disaster recovery systems, and any other measures that the parties may specifically agree);
 - (c) ensure that Personal Data is Processed confidentially and accessed only by those of its employees as is necessary for the Processing and to ensure that any individual accessing the Personal Data has undertaken appropriate training.
 - (d) maintain records of all necessary information to demonstrate compliance with the Data Protection Legislation, and to allow its data processing facilities, procedures and documentation which relate to the Processing of Personal Data pursuant to or as a result of the Contract to be scrutinised (at reasonable times and on reasonable notice) by the employees or agents of the other party, in order to ascertain compliance with the Contract;
 - (e) only authorise a third party (sub-contractor) to Process the Personal Data:
 - (i) subject to the other party's prior written consent where the Processor has supplied the other party with full details of such sub-contractor.
 - (ii) provided that the sub-contractor's contract is on terms which are substantially the same as those set out in this clause 16; and
 - (iii) provided that the sub-contractor's contract terminates automatically on termination of this Contract for any reason.
 - (f) in respect of any Personal Data Breach:

- (i) notify the other party without undue delay of a Personal Data Breach (but in any event no later than 24 hours after becoming aware of the Personal Data Breach);
 - (ii) provide the other party without undue delay (wherever possible, no later than 36 hours after becoming aware of the Personal Data Breach) with such details as the other party reasonably requires regarding the nature of the Personal Data Breach; any investigations into such Personal Data Breach; the likely consequences of the Personal Data Breach; and any measures taken, or recommended, to address the Personal Data Breach, including to mitigate its possible adverse effects; and
 - (iii) be fully liable to the Controller in event of failure to comply with Data Protection Legislation in processing Personal Data.
- (g) not to transfer the Personal Data outside the European Economic Area without the prior written consent of the other party.

16.6 Each party (**Responding Party**) shall respond appropriately and in accordance with the applicable Data Protection Legislation to any request or complaint which is received by it about the Responding Party's Processing of Personal Data pursuant to or as a result of the Contract, and the other party shall promptly (and at its own expense) provide all reasonable assistance to the Responding Party in doing so.

16.7 Subject to clause 16.8, on termination of the Contract each party will have regard to its obligations under the applicable Data Protection Legislation as to the retention of Personal Data. The requirements of this clause 16 shall continue to apply to any Personal Data Processed pursuant to or as a result of the Contract which is retained by either party following termination of the Contract.

16.8 Where the Supplier is the Processor of Personal Data for and on behalf of Imperial as Controller, the Supplier shall upon the earlier of:

- (a) termination of the Contract; and
- (b) the date on which Imperial Personal Data is no longer relevant to, or necessary for, the delivery of the Services,

cease Processing all Imperial Personal Data and return and/or permanently and securely destroy Imperial's Personal Data and all copies in its possession or control (such that Imperial Personal Data is no longer retrievable), as directed in writing by Imperial, except to the extent required by applicable law to retain any of such Personal Data.

17. Freedom of Information

17.1 The Supplier acknowledges that Imperial is subject to the requirements of the Freedom of Information Act 2000 (**FOI**) and the Environmental Information Regulations 2004 (**EIR**) and shall assist and cooperate with Imperial to enable Imperial to comply with the requirements arising under the FOI and the EIR.

17.2 Imperial will be responsible for determining whether any information is exempt from disclosure in accordance with the provisions of the FOI and the EIR (as applicable) or is to be disclosed in response to a request for information made under the FOI and/or the EIR. Unless otherwise required

by applicable law, the Supplier will not respond directly to a request under the FOI or the EIR for information unless expressly authorised to do so by Imperial.

18. Health and Safety

- 18.1 The Supplier shall at all times comply with the requirements of the Health and Safety at Work etc. Act 1974 and of all statutory instruments and codes of practice made thereunder (and any amendments or re-enactment's thereof) and of all other relevant acts, orders, directions, bye-laws and codes of practice for the appropriate industry which pertain to the health, safety or welfare of employed persons and shall indemnify and keep Imperial indemnified against all liability incurred as a result of the Supplier's breach of or failure to comply with same.
- 18.2 The Supplier shall ensure that its employees comply with the Supplier's own and, where applicable (e.g. where its employees come on premises of Imperial), Imperial's safety policy statements and safety codes of practice, copies of which shall be supplied upon request. It is the Supplier's responsibility to obtain a copy of Imperial's policy before entering any Imperial premises.
- 18.3 Imperial will not accept liability for any costs incurred by the Supplier in complying with Imperial's safety policy. Any such costs shall be deemed to be included in the Supplier's estimate or tender.
- 18.4 The work of a number of academic departments in Imperial involves activities that are potentially hazardous to health and safety unless appropriate precautions are taken. The areas where these activities take place, all of which are clearly indicated, should not therefore be entered into by anyone unless accompanied by an authorised staff member of Imperial.

19. Termination

- 19.1 Without affecting any other right or remedy available to it, Imperial may terminate the Contract:
- (a) with immediate effect by giving written notice to the Supplier if the Supplier commits a breach of clause 14;
 - (b) for convenience by giving the Supplier 7 days' written notice in which case Imperial will pay in accordance with the Order for Goods and/or Services supplied up to the date of termination together with the Supplier's reasonable and unavoidable direct costs incurred as a result of such termination provided the Supplier takes all reasonable steps to mitigate such direct costs.
- 19.2 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
- (a) the other party commits a material breach of any term of the Contract and (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so;
 - (b) 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), obtaining a moratorium, 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;

- (c) 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.

20. Consequences of termination

- 20.1 On termination of the Contract, the Supplier shall immediately deliver to Imperial all Deliverables whether or not then complete and return all Imperial Materials (unless Imperial has requested in writing that any Imperial Materials be securely destroyed instead). If the Supplier fails to return any Imperial Materials, then Imperial may enter the Supplier's premises and take possession of them. Until they have been returned or delivered (or securely destroyed if so, requested by Imperial), the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.
- 20.2 Termination of the Contract shall not affect the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.
- 20.3 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.

21. Force majeure

Neither party shall be in breach of the Contract or otherwise liable for any failure or delay in the performance of its obligations if such delay or failure results from events, circumstances or causes beyond its reasonable control. The time for performance of such obligations shall be extended accordingly. If the period of delay or non-performance continues for 2 consecutive weeks, the party not affected may terminate the Contract by giving 7 days' written notice to the affected party.

22. General

22.1 Assignment and other dealings.

- (a) Imperial may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with all or any of its rights and obligations under the Contract.
- (b) The Supplier shall not assign, transfer, mortgage, charge, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of Imperial.

22.2 **Subcontracting.** The Supplier may not subcontract any or all of its rights or obligations under the Contract without the prior written consent of Imperial. If Imperial consents to any subcontracting by the Supplier, the Supplier shall remain responsible for all the acts and omissions of its subcontractors as if they were its own.

22.3 **Discounts.** Imperial is entitled to all discounts or special terms negotiated by public bodies having power to negotiate on behalf of universities. Imperial is a charity and an educational establishment and shall therefore be entitled to all discounts offered by the Suppliers to charities or educational establishments.

22.4 Notices.

- (a) Any notice given to a party under or in connection with the Contract shall be in writing and shall be:
 - (i) delivered by hand or by pre-paid first-class post or other next Business Day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
 - (ii) sent by email to the usual contact of a party or as otherwise agreed by the parties.
- (b) Any notice shall be deemed to have been received:
 - (i) if delivered by hand, at the time the notice is left at the proper address;
 - (ii) if sent by next Business Day delivery service, at 9.00 am on the second Business Day after posting provided that, where Imperial is the recipient, it does not fall on Imperial Closure in which case it will be the first day that Imperial is open; or
 - (iii) if sent by email, at the time of transmission, or, if this time falls outside Business Hours in the place of receipt or on a Imperial Closure where Imperial is the recipient, when Business Hours resume and Imperial is open.
- (c) This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

22.5 Severance. If any provision or part-provision of the Contract is or becomes invalid, illegal, or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision of the Contract is deemed deleted under this clause 22.5 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

22.6 Waiver.

- (a) A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.
- (b) A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.

22.7 No partnership or agency. Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party. Each party confirms it is acting on its own behalf and not for the benefit of any other person.

22.8 Publicity. The name and trademark of Imperial, its individual Faculties, schools and departments as well as its subsidiary companies shall not be used in advertising for any purpose without the prior written consent of the College Secretary and General Counsel.

22.9 Third party rights. The Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

22.10 Variation.

- (a) Imperial may amend the Order at any time and without penalty before dispatch of the Goods or performance of the Services provided that any such amendment is fair, reasonable and will not adversely impact on the Supplier. If amendment of the Order is required by Imperial after the dispatch of the Goods or after the performance of the Services has begun, the amendment will only be effective if mutually agreed by both parties provided that no price increase shall be payable by Imperial where such amendment is required due to breach of the Contract/the Order by the Supplier or the negligence or default of the Supplier, its agents or sub-contractors.
- (b) Except as set out in these Conditions, no variation of the Contract or the Order, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by the parties or their authorised representatives.

22.11 Governing law. The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

22.12 Jurisdiction. 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 the Contract or its subject matter or formation.