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- (1) UNIVERSITY OF KENT
(2) LTIMINDTREE UK LIMITED

Project Topaz
Master Services Agreement

[additional details]

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THIS AGREEMENT is made on

BETWEEN

- (1) The University of Kent (registered in England and Wales by Royal Charter with company number RC000656) (the "**University**"); and
- (2) LTIMindtree UK Limited (registered number 12817556) whose registered office is at 6 Bevis Marks, London EC3A 7BA (the "**Supplier**").

BACKGROUND

- (A) The University's Information Services provide IT and library services for all students, staff and visitors that help everyone connect, create, and communicate.
- (B) The University requires a vendor to transition services on to a managed services model in selected areas, i.e., all IT services and some of the User Experience (IT and Library helpdesk) team from the Library function. The transitioned service must meet the University's Kent 2030 strategy and allow the University to retain or improve its customer experience levels and current KPIs.
- (C) The University issued a request for proposals in respect of the Services on [DATE] and invited potential service providers to submit tenders. On [DATE] the Supplier submitted its tender to provide the Services and, on the basis of the Supplier's tender and subsequent discussions, the University has selected the Supplier to provide the Services.
- (D) The Supplier holds itself out as an expert and market leader in the provision of IT managed services in the nature of the Services and the University is entering into this Agreement in reliance on that fact.
- (E) The Supplier has agreed to provide the Services on the terms and conditions of this Agreement.

OPERATIVE PROVISIONS

1. **DEFINITIONS AND INTERPRETATION**

In this Agreement:

- 1.1 the following words and expressions have the following meanings unless the context otherwise requires:

Agreement	this agreement, its schedules, exhibits, and each Statement of Work together with all amendments as agreed in writing by the Parties from time to time.
Approved Sub-Contractors	all Sub-Processors and all other sub contractors appointed by the Supplier in accordance with clause 11
Charges	the charges payable for the performance of the Services, calculated in accordance with the provisions of Schedule 5
Commercial Model	the commercial model to be achieved in the provision off the Services, which includes the Charges, as set out in Schedule 5
Confidential Information	all information, whether written or oral (however recorded), provided by the disclosing party to the receiving party and which is known by the receiving party to be confidential, is marked as or stated to be

	confidential or ought reasonably to be considered by the receiving party to be confidential.
Contract Change Control Procedure	the contract change control procedure set out in Schedule 7
Critical Service Level Breach	[TBC]
Deliverables	all documents, products, software, code, programs, documentation and other materials 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 without limitation drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts) but excluding Supplier pre-existing IP and third-party materials (and any modifications made thereto).
Effective Date	[DATE]
Exit Assistance Period	<p>the period starting on the date on which, in accordance with this Agreement, a party gives written notice to the other party to terminate this Agreement [or, if sooner, the date which is [NUMBER] days before the date on which this Agreement will expire] and ending on the earlier of:</p> <p>(a) expiry of a period of [SPECIFY]; and</p> <p>(b) the date specified by the University in written notice given to the Supplier for this purpose</p> <p>as such period may be extended in accordance with the provisions of clause 18.2</p>
Exit Criteria	The exit criteria for Transition as more fully described in Schedule 2
Exit Plan	the exit plan prepared and maintained in accordance with Schedule [TBC]
FOIA	the Freedom of Information Act 2000.
Go-Live Date	the date by which the Supplier is required to complete Transition Services, as set out in Schedule 2 or a Statement of Work, or such later date as may be substituted for it in accordance with the terms of this Agreement
Intellectual Property Rights / IPR	patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, (including knowhow), 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

Commented [ES1]: Renamed to distinguish it from Change Management Services.

or forms of protection which subsist or will subsist now or in the future in any part of the world.

Innovation Fund

a fund as more fully described in Schedule 5 which may be offset against any Charges for any SOW which constitutes an innovation project

IT System

an overall information technology system comprising any or all of the following: programs, business processing system, electronic operations system, communications network, hosted applications and connectivity to the internet/the computer, telecommunication facilities (including networks, network devices, cables and routers), hardware, mobile devices, peripherals, software, equipment and databases and whether on premise, cloud or otherwise

Law(s)

any law, subordinate legislation, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Supplier is bound to comply;

Liability

liability arising out of or in connection with this Agreement, whether in contract, tort, misrepresentation, restitution, under statute or otherwise, including any liability arising from a breach of, or a failure to perform or defect or delay in performance of, any of a party's obligations under this Agreement, in each case howsoever caused including if caused by negligence

Material Service Default

[TO BE CONFIRMED. This should include reference to SLAs and minimum service/repeated or persistent failures.]

Operational Services

the services set out in **Schedule 3**

Party

a Party to this Agreement

Personnel

all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Approved Sub-Contractor engaged in the performance of its obligations under this Agreement

Relief Event

a breach by the University of, or a failure to perform or a defect or delay in performance by the University of:

- (a) any of the University's obligations under this Agreement; or
- (b) any other obligation or duty (whether in contract, tort (including negligence), misrepresentation, restitution, under any statute or otherwise) of the University which arises out of or in connection with this Agreement

in each case howsoever caused, including by the negligence of the University (or the negligence of a

	person for whom it is vicariously responsible), but excluding a failure by the University to pay the Charges
Replacement Services	services the same as or substantially similar to the Services (or any part of them) or which will, or may, be received in place of or in substitution for the Services (or any part of them) or which otherwise have the same or similar use or application as the Services (or any part of them) or their outputs
Replacement Supplier	any replacement supplier or provider appointed (or proposed to be appointed) by the University to perform Replacement Services
Service Default	any failure or defect or delay in performing the Services (or any of them) in accordance with the terms of this Agreement
Service Levels	the minimum standards of performance to which the Services are to be performed at all times, in each case as set out in Schedule 4 or a Statement of Work relating to the relevant Service, as these may be varied, added to or replaced from time to time in accordance with the Contract Change Control Procedure
Services	the services, including without limitation any Deliverables, to be provided by the Supplier under this Agreement, including as set out in Schedules 2, 3 and 4 and any Statement of Work.
Services Term	the period starting on the Effective Date and ending on the date set out or referred to in clause 4.1
Statement of Work (or SOW)	<p>a statement of work setting out the scope of particular services in respect of a project or service to be provided by the Supplier under this Agreement which is:</p> <ul style="list-style-type: none"> (a) included in Schedule 3; (b) [entered into in accordance with the procedure set out in Schedule [4]; and (c) materially in the form of the template set out in the Appendix to Schedule [4] and signed by a duly authorised representative of each of the University and the Supplier]
Supplier Equipment	all assets (whether tangible or intangible), materials, resources, tools, systems, networks, connectivity and other equipment and facilities that are required in order to perform the Services and the Supplier's other obligations under this Agreement from time to time (but excluding the University Equipment and University Materials)
Supplier IPR	any and all Intellectual Property Rights:

	<p>(a) owned by the Supplier (or any of its sub-contractors) and in existence as at the Effective Date; or</p> <p>(b) owned by the Supplier (or any of its sub-contractors) and created or developed after the Effective Date other than in the course of the performance of this Agreement,</p> <p>and used in the performance of the Services or the Supplier's other obligations under this Agreement</p>
Term	the period starting on the Effective Date and ending on the date on which the Exit Assistance Period expires
Transition	the transition of provision of part or all of the relevant Services to the Supplier, as more particularly described in Schedule 2
Transition Plan	[the plan for the Transition of Services agreed in accordance with Schedule 2]
Transition Services	the services required to be performed by the Supplier under Schedule 2 or the relevant Statement of Work (as applicable), in order to achieve Transition
TUPE	means the European Acquired Rights Directive 77/187 and the Transfer of Undertakings (Protection of Employment) Regulations 1981 and 2006 (as amended)
UK GDPR	the General Data Protection Regulation, which came into effect on May 25th 2018, as implemented in the UK and defined in the Data Protection Act 2018
University Equipment	the equipment and software belonging, licensed or leased to the University and made available to the Supplier for use in the provision of the Services
University Materials	has the meaning set out in clause 5.9.9
University Premises	any site from time to time owned, leased or otherwise occupied or used by the University to which the Supplier requires access in order to provide the Services in accordance with this Agreement
User Manuals	has the meaning given to it in clause 5.11
VAT	value added tax in accordance with the provisions of the Value Added Tax Act 1994.
Working Day	a day (other than a Saturday or Sunday) in England when banks in London are open for business.
Year	the period of 12 months starting on the Effective Date, each successive period of 12 months during the Term and the period (if any) starting on the day following expiry of the last such period of 12 months and ending on the date of termination

- 1.2 In this Agreement, unless the context otherwise requires:
- 1.2.1 a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
 - 1.2.2 a reference to a party includes its personal representatives, successors or permitted assigns;
 - 1.2.3 any obligation on any party not to do or omit to do anything shall include an obligation not to allow that thing to be done or omitted to be done;
 - 1.2.4 any reference to an enactment includes reference to that enactment as amended or replaced from time to time and to any subordinate legislation, byelaw or code of practice made under that enactment;
 - 1.2.5 the word "including" shall be understood as meaning 'including without limitation;'; and
 - 1.2.6 a reference to **writing** or **written** includes faxes and e-mails.

2. **BASIS OF CONTRACT**

- 2.1 The University appoints the Supplier to provide the Services to the University on the terms and conditions of this Agreement.
- 2.2 This Agreement constitutes the entire agreement between the parties for the Services. The Supplier acknowledges that in entering into this Agreement, the Supplier has not relied on any warranty, representation statement, agreement or undertaking except those expressly set out in this Agreement. The Supplier waives any claim for breach of, or any right to rescind this Agreement in respect of, any representation which is not specifically contained in this Agreement as a warranty. However, this clause does not exclude any Liability which either party may have to the other (or any right which either party may have to rescind this Agreement) in respect of any fraudulent misrepresentation or fraudulent concealment prior to the execution of this Agreement.
- 2.3 The Supplier acknowledges and agrees that it has sufficient information about the University and their requirements for the supply of the Deliverables and performance of the Services and that it has made all appropriate and necessary enquiries to enable it to supply the Deliverables and perform the Services in accordance with the terms of this Agreement. The Supplier will not be entitled to any additional payment and will not be excused from any obligation or Liability under this Agreement as a consequence of any misinterpretation or misunderstanding by the Supplier of any matter or fact relating to the functions, facilities and capabilities of the Deliverables or the University's requirements for the Deliverables and/or the Services.
- 2.4 The Supplier will ensure and be responsible to the University at all times for ensuring, on its own behalf [and on behalf of the Approved Sub-Contractors], that all aspects of the Services and Service performance and all obligations under this Agreement are performed in accordance with this Agreement.
- 2.5 The parties will manage their relationship in accordance with this Agreement, including **Schedule 4**.
- 2.6 The parties acknowledge and agree that this Agreement does not confer exclusivity on the Supplier or constitute any type of minimum purchase commitment by the University and the University may, at any time, procure services in the nature of the Services from a third party or perform them itself.

3. **Statements of Work**

- 3.1 At any time and from time to time during the Term, the Parties may, in accordance with the provisions of **Schedule 4**, enter into a Statement of Work under which the Supplier agrees to provide services in addition to those set out in **Schedules 2 or 3**.
- 3.2 Each Statement of Work, once agreed and signed by the parties in accordance with the terms of this Agreement, will form part of and be subject to the terms and conditions of this Agreement.
- 3.3 Each Statement of Work will commence on the commencement date set out in that Statement of Work and will continue until the earliest of:
- 3.3.1 completion of the Services which are the subject of that Statement of Work;
 - 3.3.2 expiry or termination of that Statement of Work in accordance with its terms; and
 - 3.3.3 expiry of the Services Term or expiry of the period during which the University requires the Services which are the subject of that Statement of Work to continue to be performed during the Exit Assistance Period in accordance with the provisions of **clause 18.1.2**.

4. **TERM**

- 4.1 This Agreement will commence on the Effective Date and, unless terminated earlier in accordance with the terms of this Agreement, will continue until **[INSERT DETAILS]**.
- 4.2 The parties acknowledge and agree that the Term comprises both the Services Term and the Exit Assistance Period and that references to the expiry or termination of this Agreement are to the expiry or termination of the Services and that the Exit Assistance Period will continue in force following such expiry or termination.

5. **SUPPLY OF SERVICES**

- 5.1 With effect from the Effective Date the Supplier will perform the Transition Services in accordance with **[the Transition Plan] Schedule 2** and **Schedule 4** and this Agreement.
- 5.2 Without prejudice to its obligations under **clause 5.1**, if the Supplier becomes aware that it is or may be unable to meet any date or deadline set out in **[the Transition Plan]** it will promptly give the University written notice of the delay, the estimated length of the delay and the reason for it.
- 5.3 If the Supplier fails to complete any Transition activity by the relevant date set out or referred to in the Transition Plan, the Supplier will:
- 5.3.1 arrange such additional resources as are necessary to complete that Transition activity as soon as possible after the relevant date; and
 - 5.3.2 **[CONSEQUENCES OF FAILURE TO MEET TRANSITION DATES]**.
- 5.4 If by the day immediately preceding the Go-Live Date any Transition activity has not been completed or any Exit Criteria have not been achieved, the University may (at its sole discretion):
- 5.4.1 extend the Go-Live Date for such period as it notifies to the Supplier in writing. During any such period the Supplier will complete all Transition activities and ensure that all Exit Criteria are achieved; and/or
 - 5.4.2 at any time before all Transition activities are completed and all Exit Criteria achieved, terminate this Agreement immediately by giving written notice to that

effect to the Supplier, in which case the Supplier will refund to the University any monies already paid to the Supplier by the University under this Agreement.

- 5.5 Successful completion of the Transition activities by the Supplier will not constitute any acknowledgement or acceptance by the University that the Supplier's solution for delivery of the Services will be sufficient or adequate to deliver the Services in accordance with the Service Levels and the other requirements of this Agreement. The Supplier remains solely responsible for the risk that its solution may not actually fulfil the requirements of this Agreement.
- 5.6 With effect from the Go-Live Date and during the remainder of the Services Term the Supplier will perform the Operational Services. The Supplier will also perform the Operational Services during the Exit Assistance Period in accordance with the provisions of clause [x].
- 5.7 The Supplier shall during the Term provide the Services to the University in accordance with the terms of this Agreement, subject to the University's rights of earlier termination.
- 5.8 The Supplier shall meet any performance dates for the Services specified in this Agreement or notified to the Supplier by the University.
- 5.9 In providing the Services, the Supplier shall:
- 5.9.1 co-operate with the University in all matters relating to the Services, and comply with all instructions of the University;
 - 5.9.2 perform the Services with all reasonable care, skill and diligence in accordance with good industry practice in the Supplier's industry, profession or trade;
 - 5.9.3 use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with this Agreement;
 - 5.9.4 ensure that the Services and Deliverables will conform with all descriptions and specifications set out in this Agreement, and that the Deliverables shall be fit for any purpose made known to the Supplier by the University;
 - 5.9.5 provide all equipment, tools and such other items as are required to provide the Services (unless otherwise specified in any SOW);
 - 5.9.6 use the best quality, materials, standards and techniques, and ensure that the Deliverables, and all materials supplied and used in the Services will be free from material defects in workmanship and design (during any warranty period set out in the relevant SOW, where applicable);
 - 5.9.7 obtain and at all times maintain all necessary licences and consents, and comply with all applicable laws and regulations;
 - 5.9.8 observe all health and safety rules and regulations and any other security requirements that apply at any of the University's premises;
 - 5.9.9 hold all materials, equipment and tools, drawings, specifications and data supplied by the University to the Supplier ("**University Materials**") in safe custody at its own risk, maintain the University Materials in good condition until returned to the University, and not dispose or use the University Materials other than in accordance with the University's written instructions or authorisation; and
 - 5.9.10 not do or omit to do anything which may cause the University to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business or cause the University to be in breach of any Law, and the Supplier acknowledges that the University may rely or act on the Services.

- 5.9.11 without prejudice to its obligations under **Schedules 3 and 4**, perform the Services in a manner that will, on the expiry or termination of all or part of this Agreement, facilitate an orderly handover of the provision of the Services to the University and/or a Replacement Supplier;
 - 5.9.12 assign to the University the benefit of the warranties, guarantees and/or conditions that it receives in respect of Services and/or Deliverables from Approved Sub-Contractors or other third parties (including in relation to commercially off the shelf software, cloud services, hardware, equipment, peripherals and other tangible materials);
- 5.10 The Supplier will, promptly on request, provide to the University copies of all documentation which demonstrates compliance by the Supplier and each Approved Sub-Contractor with the provisions of **clause 5.9**.
- 5.11 The Supplier will provide the University with comprehensive user manuals, guidance, policies, procedures and instructions (including knowledge articles) and online help that contain sufficient information to enable the University to make full and proper use of the Services at all times and which contain such other information as the University (or any Replacement Supplier) may reasonably require in order to receive Services from the Supplier (and understand the resources, processes and policies that are used by the Supplier to deliver the Services) or to undertake provision of services similar to the Services following termination of this Agreement ("**User Manuals**") and will keep the User Manuals up to date at all times. The Supplier will promptly provide a revised and updated electronic copy of the User Manuals to the University each time a material change is made to the Services and/or this Agreement which necessitates a change to the User Manuals and at any other time upon request.
- 5.12 Without prejudice to **Schedule 6**:
- 5.12.1 where a location is specified for the Services in a Statement of Work, the Supplier will not change the location from which the Operational Services are provided without the University's prior written consent. Where no location is specified in a Statement of Work, the Operational Services (including any access to or storage of data) may be provided from the UK or India. Without prejudice to the University's other rights and remedies under this Agreement, the University will be entitled to terminate this Agreement by giving at least 30 days' prior written notice to that effect to the Supplier if the University does not consent to the move; For avoidance of doubt this clause is only applicable for change of locations between countries.
- 5.13 The Supplier will immediately give written notice to the University if the Supplier or any Approved Sub-Contractor becomes aware of a Relief Event, such notice to include details of the nature of the Relief Event and its likely impact on the Agreement. Subject to the Supplier's compliance with **clause 5.13**, if and to the extent that a Relief Event causes the Supplier to fail to perform or to delay in performing any of the Supplier's obligations under this Agreement:
- 5.13.1 the University will grant the Supplier an extension of time to complete performance of the relevant obligations by giving written notice to the Supplier. Such extension of time will be for the minimum period necessary to allow the Supplier to deal with or work around the impact of the Relief Event; and
 - 5.13.2 the Supplier will not be in breach of this Agreement during the period referred to in **clause 5.13.1** to the extent that it fails or delays to perform the Services and/or any of its other obligations under this Agreement as a direct result of the relevant Relief Event, provided that the Supplier uses all reasonable endeavours to continue to perform those Services and obligations to the best possible standard and to mitigate the impact of the Relief Event.
 - 5.13.3 to the extent that such Relief Event results in any additional material, recoverable, reasonable, demonstrable and unavoidable costs being incurred as a result of the Relief Event and complying with its obligations under **clause**

5.13.2, then such costs shall be claimed via the Contract Change Management Process. The Supplier will not incur any avoidable costs without the prior written consent of the University.

- 5.14 Subject to **clause 15.8**, the Supplier's sole remedy in respect of any Relief Event will be as set out in **clause 5.13**. The Supplier will have no right to terminate this Agreement under **clause 17** or otherwise in respect of any Relief Event.
- 5.15 If the Supplier becomes aware that it will fail, or is likely to fail, for any reason, to perform any of its obligations under this Agreement by the date for performance set out or referred to in this Agreement:
- 5.15.1 if the failure is caused by a Relief Event, the provisions of **clause 5.13** will apply;
- 5.15.2 if the failure is not caused by a Relief Event:
- 5.15.2.1 the Supplier will immediately give written notice to the University of the actual or likely delay in the performance of its obligations, a detailed explanation of the reasons and an assessment of the responsibility for this and the steps it is taking and/or proposes to take to comply with its obligations under **clause 5.15.2.2**;
- 5.15.2.2 the Supplier will use all reasonable endeavours to minimise the period and impact of the delay.
- 5.16 The Supplier will ensure that the Services are performed so as to meet or exceed all Service Levels [and the Commercial Model], and the provisions of Schedule 4 will apply.

6. CONTINUOUS IMPROVEMENT

- 6.1 The Supplier will, throughout the Term, adopt a policy of continuous improvement in relation to the Services pursuant to which it will regularly review the Services and the manner in which it is providing the Services, with a view to reducing the University's costs and/or improving the quality and efficiency of the provision of the Services, including in accordance with **Schedule 3**.
- 6.2 Without prejudice to the generality of **clause 6.1**, the Supplier will (at its own cost and as part of the Services) throughout the Term:
- 6.2.1 generally review, consider and make proposals and suggestions for improvements and refinements to the Services as well as in relation to quality and efficiency so as to constantly remain a market leading supplier of the relevant types of Services as well as proposing improvements to minimise risk for and to the University;
- 6.2.2 seek to identify areas where the Services can be improved including what new and/or improved technologies and/or processes could be implemented in relation to the Services;
- 6.2.3 provide proposals for innovation in relation to this Agreement and/or the Services;
- 6.2.4 document the above and submit a report to the University at least [NUMBER] days before each review meeting to be held between the parties (as detailed in **Schedule 4**) providing details in relation to the areas listed under **clauses 6.2.1** to 6.2.3 (inclusive); and
- 6.2.5 as part of such review meetings with the University, discuss with the University the report and any queries the University may have and/or agree any outputs and/or actions for the Supplier and/or the University to take forwards (and each party will promptly action any agreed outputs and/or actions).

6.3 If required by the University, the Supplier will implement one or more aspects of the proposals and/or recommendations made under this **clause 6** in accordance with the Contract Change Control Procedure, and may benefit from the application of the Innovation Fund. Any agreed cost savings will be passed on to the University and documented under the Contract Change Control Procedure.

6.4 Nothing in this Agreement will oblige the University to implement or agree to the implementation of any new technology, process, improvement, innovation and/or development.

7. **ACCESS TO UNIVERSITY PREMISES**

7.1 During the Term and subject to compliance by the Supplier with this **clause 7**, the University will provide, or procure the provision of, non-exclusive access to the Supplier and its Personnel to such parts of the University Premises as the Supplier reasonably requires for the proper performance of the Services and its other obligations under this Agreement.

7.2 The Supplier will, and will procure that all Personnel will, at all times whilst present at any University Premises:

7.2.1 carry any identity pass issued or otherwise required by the University;

7.2.2 comply with any site specific policies and regulations that apply to such University Premises; and

7.2.3 comply with any reasonable requirements or instructions that may be made or given by or on behalf of the University.

7.3 Any access to any University Premises made available to the Supplier or its Personnel under this **clause 7** will be free of charge and used solely for the proper performance of the Services and the Supplier's other obligations under this Agreement. The Supplier will, and will procure that its Personnel will:

7.3.1 only access any University Premises during the working hours confirmed by the University from time to time;

7.3.2 move to different University Premises, or a different part of the University Premises, promptly whenever requested by the University;

7.3.3 immediately upon becoming aware of the same, report to the University any personal injury, death or damage to or loss of property that occurs, and any circumstances or events which concern security or health and safety, at any University Premises;

7.3.4 not (unless otherwise agreed on a case by case basis) be entitled to any car parking space at any University Premises;

7.3.5 not exercise or purport to exercise any rights in respect of any University Premises in excess of those expressly granted under this **clause 7**;

7.3.6 not create any nuisance, annoyance, damage or disturbance on any University Premises or to any assets, equipment, vehicles or buildings in any University Premises;

7.3.7 not alter any part of any University Premises;

7.3.8 not do, or omit to do, anything which has the effect of making the University's insurance policy for any University Premises void or voidable or which increases the insurance premium payable for that insurance; and

7.3.9 vacate all University Premises by no later than the end of the date of termination, or, if later, the date specified in the Exit Plan.

7.4 The Supplier and its Personnel will have the use of University Premises as licensee only and will not have or purport (and the Supplier will procure that its Personnel will not purport) to claim any sole or exclusive right to possession of, or any exclusive right to use and occupy, the whole or any part of any University Premises. Nothing in this **clause 7** is intended to create, or to be deemed to create, a letting of any part of any University Premises, or to confer any rights on the Supplier or any of its Personnel, or to create the relationship of landlord and tenant in respect of any University Premises between the University on the one hand and the Supplier or any of its Personnel on the other hand.

7.5 The University may, at any time, change the identity of and/or reduce or increase the extent of the University Premises to which the Supplier has access.

8. UNIVERSITY REMEDIES

8.1 Without prejudice to any other provision of this Agreement, if a Service Default which is not a Material Service Default occurs the Supplier will promptly remedy that Service Default and take all necessary action to prevent that Service Default from recurring.

8.2 Without prejudice to any other provision of this Agreement, if a Material Service Default occurs or is likely to occur the Supplier will:

8.2.1 promptly give the University written notice of the nature and extent of that Material Service Default, its anticipated impact on the Services, its root cause and the Supplier's proposed plan (including a timeline) for rectifying that Material Service Default and ensuring that it does not recur ("**Rectification Plan**");

8.2.2 promptly amend the proposed Rectification Plan to reflect the University's reasonable comments;

8.2.3 promptly implement the amended Rectification Plan;

8.2.4 report to the University on a reasonably appropriate basis given the nature of the Material Service Default and Rectification Plan, and in any event no less than weekly, on the Supplier's progress against the Rectification Plan implemented by it; and

8.2.5 promptly give the University written notice of any non-trivial changes required to the Rectification Plan from time to time and the reasons for those changes.

8.3 If the Supplier fails to perform the Services by the applicable date, or has supplied Services which do not conform to the undertakings in **clause 5** or otherwise under this Agreement, the University shall, without limiting its other rights or remedies, have one or more of the following rights:

8.3.1 to terminate the SOW or this Agreement by giving written notice of thirty (30) days to the Supplier to rectify the breach (unless the applicable date is specifically noted as "critical" in the SOW, in which case notice may result in immediate termination with 10 days notice to rectify the breach);

8.3.2 to refuse to accept any subsequent performance of the Services which the Supplier attempts to make;

8.3.3 to recover from the Supplier any costs incurred by the University in obtaining substitute services from a third party, without prejudice to the University's other rights and remedies under this Agreement, including to claim damages[, subject to a cap of 110% of the relevant Charges for such non-performing Services];

Commented [E52]: Subject to further discussion and commercial agreement between the parties.

- 8.3.4 where the University has paid in advance for Services that have not been provided by the Supplier, to have such sums refunded by the Supplier; and
- 8.3.5 to claim damages.
- 8.4 The University's rights under this Agreement are in addition to its rights and remedies implied by statute and common law.
9. **EQUIPMENT**
- 9.1 The Supplier will be responsible for providing (or procuring the provision of) all Supplier Equipment. The Supplier will at all times ensure that:
- 9.1.1 the Supplier Equipment:
- 9.1.1.1 is compatible with, interfaced with (where necessary), and will not have any adverse effect on, the University's IT Systems, assets, materials, systems, resources, networks, connectivity and other equipment and facilities from time to time; and
- 9.1.1.2 complies with all applicable Laws and is of the requisite quality and has the specification, functionality and performance characteristics that are required in order for the Supplier to perform its obligations under this Agreement in accordance with this Agreement;
- 9.1.2 it does not, without the prior written consent of the University, use or become reliant on any Supplier Equipment in performing the Services or its other obligations under this Agreement that the University or a Replacement Supplier would not be reasonably able to purchase, lease or hire or use under license on reasonably commercially acceptable terms and providing for the continued use of such equipment in the Exit Plan.
- 9.2 The Supplier acknowledge and agrees that it has satisfied itself as to the condition, fitness for purpose and safety of the University Equipment.
- 9.3 The Supplier will:
- 9.3.1 hold the University Equipment in safe custody at its own risk;
- 9.3.2 take all reasonable and proper care of the University Equipment and will exercise a standard of care that matches or exceeds that which the Supplier exercises in relation to the Supplier Equipment, including by using and maintaining it in accordance with the manufacturer's technical specifications and recommended operational practices and procedures;
- 9.3.3 comply with all of the University's reasonable requests, recommendations and instructions in relation to the University Equipment;
- 9.3.4 comply in full with all the terms of any warranty, lease or licence relating to the University Equipment and will not do or omit to do anything which would cause the University to be in breach of any such warranty lease or licence;
- 9.3.5 ensure all University Equipment is at all times clearly identified and labelled as such; and
- 9.3.6 not alter, modify, move or relocate any University Equipment other than in accordance with the University's written instructions.
- 9.4 The Supplier will be responsible for all loss, damage and/or deterioration of the University Equipment, save that:

- 9.4.1 normal wear and tear in the course of the ordinary and proper use of the University Equipment will be excepted; and
- 9.4.2 the Supplier will not be responsible to the extent that the loss, damage and/or deterioration results directly from the act or omission of the University.
- 9.5 Subject to **clause 15.8**, the University will not have any Liability for any loss, damage or defect caused by the University Equipment, however caused.
- 9.6 The Supplier will cease to have any right to use the University Equipment on and from the date of expiry or termination of this Agreement and will safely deliver up and return to the University all of the University Equipment on that date and/or as otherwise set out in **Schedule [TBC]** and/or the Exit Plan.
10. **CHARGES AND PAYMENT**
- 10.1 The Charges shall be set out in **Schedule 5** and any Statement of Work, and shall be the full and exclusive remuneration of the Supplier in respect of the supply of the Services. Unless otherwise agreed in writing by the University, the Charges shall be inclusive of every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.
- 10.2 No extra charges shall be effective unless agreed in writing and signed by the University.
- 10.3 The Charges shall not be varied for reason or currency fluctuation, unforeseen circumstances, or any other reason during the Term. These will include any attempts to impose price changes and alterations / uplifts as a result of changes in supply chain or suppliers to the Supplier.
- 10.4 The Supplier shall invoice for the Charges in accordance with this **clause 10** and **Schedule 5** or the relevant Statement of Work. Each invoice shall include such supporting information required by the University to verify the accuracy of the invoice, including but not limited to the relevant purchase order number.
- 10.5 The University reserves the right to reject as non-compliant any invoice that does not quote a valid and accurate purchase order number. Further details can be found in **Schedule 9** or as notified in writing by the University.
- 10.6 In consideration of the supply of Services by the Supplier, the University shall pay undisputed invoiced (in case of any dispute the same raised within 10 (ten) days from the date of receipt of the invoice, else the invoice shall be deemed accepted) amounts within 30 days of the date of receipt of a correctly rendered invoice to a bank account nominated in writing by the Supplier. In case of any delay in payment of any undisputed invoice, the University shall pay the Supplier interest [~~@1% per month of from the due date until the date of payment~~].
- 10.7 All amounts payable by the University under the Agreement are exclusive of VAT which shall be charged at the prevailing rate. The University shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier a sum equal to the VAT chargeable in respect of the supply of the Services.
- 10.8 If a payment of an undisputed amount is not made by the University by due date for payment, then the University shall pay the Supplier interest on the overdue amount at the rate specified in the Late Payment of Commercial Debts (Interest) Act 1998. This clause shall not apply to payments that the University disputes in good faith.
- 10.9 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 the University to inspect such records at all reasonable times on request.

Commented [ES3]: Subject to further discussion and commercial agreement between the parties.

10.10 The University may at any time, without limiting any of its other rights or remedies, set off any Liability of the Supplier to the University as agreed under this Agreement with prior and mutual agreement with the Supplier.

Commented [E54]: Subject to further discussion and commercial agreement between the parties.

10.11 Except where agreed in advance by an authorised representative of the University, normally the Head of Procurement or their nominated representative or deputy, the University will not pay in advance for any part of the goods, services or works. Payment in advance would normally only be agreed in exceptional circumstances where the initial capital outlay of any project, or the delay between expenditure and receipt by the Supplier, would be excessive in terms of time or value to the extent that it would cause unnecessary duress onto the Supplier, and in such circumstances would be by prior agreement only.

11. ASSIGNMENT AND SUBCONTRACTING

11.1 The Supplier may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Agreement without the prior written consent of the University.

11.2 The Supplier must also ensure that any suppliers in the subcontracting supply chain are paid within 30 days of a correct invoice.

Commented [E55]: UoK to confirm

11.3 The Supplier must also ensure that in the event of a change of control or performance standard by an Approved Sub-Contractor, that the delivery of the services or works, is maintained and be clear that the contract for performance of the services or works exists between the University and the Supplier.

11.4 It is the expectation of the University that the Supplier should declare any substantial subcontracting of services to a third party or of any change in the intended method of service provision during the lifespan of the contract where subcontractors are engaged. It is the expectation of the University that any subcontracted suppliers be treated by the Supplier in adherence with the University Supplier Code Of Conduct which is linked to from:

<https://www.kent.ac.uk/finance/procurement/index.html?tab=policies-and-procedures>

12. INTELLECTUAL PROPERTY RIGHTS

[FURTHER CONSIDERATION TO BE GIVEN TO TECHNOLOGY PROCUREMENT/LICENSING, INCLUDING CLOUD AND AI SERVICES]

12.1 In respect of the Services under this Agreement, including without limitation the Deliverables or any part of them, the Supplier warrants that it has full clear and unencumbered title to all such items, and that at the date of delivery of such Services to the University, and subject to payments, the University will have full and unrestricted rights to use, all such Services for to the University.

12.2 The Supplier grants the University a perpetual, royalty free, irrevocable, non-exclusive licence (with the right to sub-licence) to use Supplier IPR to the extent the University to use the Supplier IPR integrated in the Deliverables or required for the receipt of the Services and not on a stand-alone basis.

12.3 Except for Supplier IPR, third party software and open source code, the Supplier assigns to the University, free from all third party rights, all Intellectual Property Rights in the Services, including for the avoidance of doubt the Deliverables.

12.4 Except for Supplier IPR, third party software and open source code, the Supplier shall obtain waivers of all moral rights in the Services, including for the avoidance of doubt the Deliverables, to which any individual is now or may be at any future time entitled under Chapter IV of Part I of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction.

12.5 The Supplier shall, promptly at the University's request, do (or procure to be done) all such further acts and things and the execution of all such other documents as the University

may from time to time require for the purpose of securing for the University the full benefit of the Agreement, including all right, title and interest in and to the Intellectual Property Rights assigned to the University in accordance with **clause 12.3**.

- 12.6 All University Materials are the exclusive property of the University and shall remain so throughout the term of the Agreement.
- 12.7 All Intellectual Property Rights in the University Materials shall remain the property of the University but the University hereby grants the Supplier a royalty-free, non-exclusive and non-transferrable licence to use such materials as required during the term of the Agreement for the sole purpose of enabling the Supplier to perform its obligations under the Agreement.
- 12.8 Use of the University logo and branding on any products produced as a result of the Services should adhere to the use of the Brand Identity as outlined at: <https://www.kent.ac.uk/brand/guide.html>
- 12.9 The University acknowledges that in delivering the Services and the Deliverables under this Agreement, Supplier may use the Supplier IPR. Notwithstanding anything to the contrary contained in this Agreement, Supplier shall continue to retain all the ownership, the rights title and interests to all Supplier IPR and nothing contained herein shall be construed as preventing or restricting Supplier from using Supplier IPR in any manner.
- 12.10 Any third-party material and open-source software used by the Supplier in the provision of the Services shall be subject to (a) prior consent of the University (which may be subject to conditions), and (b) the terms and conditions set forth by the respective licensing terms, as provided to the University by the Supplier at the time of seeking consent.
- 12.11 Where the University is responsible for procuring the license to any open source software or third-party material required to be used in the provision of the Service, as specified in **Schedule 3** or the relevant Statement of Work, Supplier shall use such third-party material and open-source software as an agent of and under the instructions and authorizations of University. University warrants that it owns or holds title to appropriate licenses or approvals that Supplier and its subcontractors may use such University provided third party material for the performance of the Services.

13. **CONFIDENTIALITY, TRANSPARENCY AND PUBLICITY**

- 13.1 Subject to **clause 13.2**, each party shall:
 - 13.1.1 treat all Confidential 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 anticipated under the Agreement.
- 13.2 Notwithstanding **clause 13.1**, a 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 where the receiving party is the Supplier, to its staff on a need to know basis to enable performance of the Supplier's obligations under the Agreement provided that the Supplier shall procure that any staff to whom it discloses Confidential Information pursuant to this clause 13.2.4 shall observe the Supplier's confidentiality obligations under the Agreement; and

13.2.5 where the receiving party is the University:

13.2.5.1 on a confidential basis to the employees, agents, consultants and contractors of the University subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the University under this Agreement; or

13.2.5.2 in accordance with **clause 14**.

13.3 The Supplier shall not make any press announcement or publicise the Agreement or any part of the Agreement in any way, except with the prior written consent of the University.

13.4 The obligations under this clause shall survive for a term of this Agreement and two years thereafter.

14. **FREEDOM OF INFORMATION**

14.1 The Supplier acknowledges that the University:

14.1.1 is subject to the requirements of the FOIA and shall provide all necessary assistance and cooperation as is reasonably requested by the University to enable the University to comply with its obligations under the FOIA; and

14.1.2 may be required under the FOIA to disclose information concerning the Supplier, or the Services (including commercially sensitive information) without consulting or obtaining consent from the Supplier.

14.2 Notwithstanding any other provision in the Agreement, the University shall be responsible for determining in its absolute discretion whether any information relating to the Supplier or the Services is exempt from disclosure in accordance with the FOIA.

15. **LIMITATION OF LIABILITY, INDEMNITY AND INSURANCE**

15.1 The Supplier shall keep the University indemnified against all Liabilities, costs, expenses, damages and losses suffered incurred by the University as a result of or in connection with:

15.1.1 any claim made against the University for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, receipt, use or supply of the Services, to the extent that the claim is attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors, including in relation to any Supplier IPR or any third party IPR introduced to the Services by the Supplier];

15.1.2 any claim made against the University by a third party for death, personal injury or damage to property arising out of, or in connection with the Services are attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors.

15.2 This **clause 15** shall survive termination of the Agreement.

15.3 During the term of the Agreement, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance, employers' Liability insurance, product Liability insurance and public Liability insurance (of a minimum value of £5 million) to cover the Liabilities that may arise under or in connection with the Agreement, and shall, on the University's request, produce the insurance certificate giving details of cover.

15.4 Neither party shall be liable to the other for any special, exemplary or punitive damages, loss of profits [or revenue, loss of business]whether in contract, tort or other theories of law, even if such party has been advised of the possibility of such damages.

15.5 Subject to clause 15.8, the total aggregate Liability of the Supplier arising from or relating to this Agreement in any one Year shall be limited to the greater of:

- 15.5.1 [£5million]; or
- 15.5.2 [the Charges paid or payable to the Supplier in respect of that Year (the "General Cap")].
- 15.6 The total aggregate Liability of the University arising from or relating to this Agreement which occurs in any one Year shall be limited to the Charges paid or payable to the Supplier in respect of that Year
- 15.7 [Notwithstanding any other provision in this Agreement, as an independent limitation of Liability from the General Cap, Supplier's total Liability for any losses, claims, penalties, etc. whether in contract, in tort (including breach of warranty, negligence and strict Liability in tort) or otherwise, arising from or in connection with a breach of its obligations with respect to data privacy and security under this Agreement, or otherwise in respect of any applicable data privacy laws and security, including any indemnity obligations or fines and penalties, shall not in any event exceed in the aggregate an amount equal to the fees paid or payable by University under this Agreement in the twelve (12) month period immediately preceding the event under which the Liability first arose.]
- 15.8 Nothing in this Agreement will operate to exclude or restrict any Liability of a party:
- 15.8.1 that cannot be excluded or restricted in this Agreement in respect of death or personal injury resulting from negligence by operation of the Unfair Contract Terms Act 1977;
- 15.8.2 for fraud or fraudulent misrepresentation;
- 15.8.3 any indemnity under this Agreement as stated in clauses [DETAILS];
- 15.8.4 for any breach of **clause 13** (Confidentiality)
- 15.8.5 for any matter for which it is not permitted by law to exclude or limit, or to attempt to exclude or limit, its Liability.
- 15.9 Any Liability of a party which falls within **clause 15.8** will not be taken into account in assessing whether any of the financial limits in this **clause 15** has been reached.
16. **FORCE MAJEURE**
- 16.1 Neither party shall have any Liability under or be deemed to be in breach of the Agreement for any delays or failures in performance of the Agreement which result from circumstances beyond the reasonable control of the party affected. Each party shall promptly notify the other party in writing when such circumstances cause a delay or failure in performance and when they cease to do so. If such circumstances continue for a continuous period of more than 30 days, either party may terminate the Agreement by written notice to the other party.
- 16.2 For the avoidance of all doubt, Force Majeure clauses can be invoked by either party in event of war, terrorism, earthquakes, hurricanes, flood or other natural events, acts of government, plagues or epidemics or pandemics, global health emergencies, or other events reasonably outside of the control of either party including the instruction of official bodies such as the FCO. However, should either party fail to respond competently and appropriately to the event, the clauses may not be invoked as the relevant party may not have undertaken all reasonable endeavours to continue performance of the Agreement.
17. **TERMINATION**
- 17.1 Without prejudice to any other right or remedy, the University may terminate the Agreement or any Statement of Work:

Commented [ES6]: Note: this provision reflects LTIM's initial proposal, but this should exceed the cap agreed in clause 15.5.

Commented [ES7]: Liability position subject to further discussion and commercial agreement between the parties.

- 17.1.1 in respect of the supply of Services, by giving the Supplier three months' written notice (or if the Agreement is less than three months in duration by giving one month's written notice); and
 - 17.1.2 The Supplier may terminate the Agreement by written notice to the University if the University has not paid any undisputed amounts within 90 days of them falling due.
- 17.2 Without limiting its other rights or remedies, non-breaching Party may terminate the Agreement or any Statement of Work with immediate effect by giving written notice to the breaching Party if the Party:
- 17.2.1 commits a material breach of the terms of the Agreement and (if such a breach is remediable) fails to remedy that breach within 30 days of receipt of notice in writing to do so;
 - 17.2.2 commits a Material Service Default;
 - 17.2.3 repeatedly breaches any of the terms of the Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of the Agreement;
 - 17.2.4 undergoes a change of control within the meaning of section 416 of the Income and Corporation Taxes Act 1988;
 - 17.2.5 becomes insolvent, or if an order is made or a resolution is passed for the winding up of the Supplier (other than voluntarily for the purpose of solvent amalgamation or reconstruction), or if an administrator or administrative receiver is appointed in respect of the whole or any part of the Supplier's assets or business, or if the Supplier makes any composition with its creditors or takes or suffers any similar or analogous action to any of the actions detailed in this clause 17.2.5 in consequence of debt in any jurisdiction; or
 - 17.2.6 suspends or ceases, or threatens to suspend, or cease, to carry on all or a substantial part of its business.
- 17.3 Termination of the Agreement, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination.
- 17.4 Clauses which expressly or by implication survive termination of the Agreement shall continue in full force and effect.
- 17.5 Upon termination or expiry of the Agreement, the Supplier shall:
- 17.5.1 immediately deliver to the University all Deliverables whether or not then complete, and return all University Materials. If the Supplier fails to do so, then the University may enter the Supplier's premises and take possession of them. Until they have been returned or delivered, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Agreement; and
 - 17.5.2 give all reasonable assistance to the University and any incoming supplier of the Services (as the case may be).
- 17.6 The Supplier must follow diligent steps to ensure that notice of such termination is served to the Procurement Team of the University, which can be contacted at:
- <https://www.kent.ac.uk/finance/procurement/index.html?tab=contact>
- Failure to do so will be interpreted as not providing the University of such notice, and any termination notice in any communication that is not sent to this address may be deemed as having not been served.

18. **THE EXIT ASSISTANCE PERIOD AND CONSEQUENCES OF TERMINATION**

18.1 During the Exit Assistance Period:

- 18.1.1 each party will perform its obligations under **Schedule [TBC]** and the Exit Plan;
- 18.1.2 the Supplier will continue to perform such of the Services as are required by the University for the period required by the University and the Supplier acknowledges that this may require its performance of the Services to be handed over or migrated to the University and/or a Replacement Supplier on a phased basis; and
- 18.1.3 the relevant Charges will be payable for performance of Services provided by the Supplier under **clause 18.1.2** in accordance with the provisions of **Schedule 5**.

18.2 The University may, on up to two occasions, in each case by giving at least 30 days' written notice to that effect to the Supplier, such notice to be given not less than 30 days prior to the date on which the Exit Assistance Period would otherwise have expired, require that the Exit Assistance Period be extended by a period of up to 45 days on the same basis as above.

18.3 Following the termination of this Agreement, all other rights and obligations will immediately cease without prejudice to any rights, obligations, claims (including claims for damages) and Liabilities which have accrued prior to the date of termination.

18.4 Within [120] days after the date of termination, to the extent that such obligations are not already dealt with in the Exit Plan, the Supplier will, subject to the exception set out in **clause 18.5**:

- 18.4.1 if requested to do so, return to the University all of the University's Confidential Information (including all copies and extracts) and all other property of the University (whether tangible or intangible) in its possession or control;
- 18.4.2 if requested to do so, destroy or permanently erase (if technically feasible [without incurring excessive expense and without undue effort]) all documents and all records (in any media) created by it or on its behalf that use, concern or are based on any of the University's Confidential Information ("**Records**"); and
- 18.4.3 cease to use the University's Confidential Information.

18.5 The Supplier may retain any of the University's Confidential Information and/or Records which it has to keep to comply with any Law. **Clause 13** will continue to apply to retained Confidential Information and Records, which may only be used for such purposes.

18.6 If the Supplier fails to comply with **clause 18.4** the University will, subject to **clause 18.5**, be entitled to enter upon the Supplier's property, and the Supplier will procure that the University can enter upon each Approved Sub-Contractor's property, for the purpose of removing its Confidential Information and/or its property and/or any Records.

19. **COMPLIANCE WITH LAWS AND POLICIES**

19.1 In performing its obligations under the Agreement, the Supplier shall comply with the word and spirit of all applicable national and international law that will apply in all territories that the Agreement is performed in:

- 19.1.1 all applicable Laws, statutes, regulations from time to time in force, including the Data Protection Act 2018, the Bribery Act 2010, the Modern Slavery Act 2015, TUPE Regulations, Criminal Finance Act 2017, the Social Value Act 2012, and the UK GDPR; and
- 19.1.2 the University's policies as notified to the Supplier in writing from time to time.

- 19.2 The Supplier shall promptly notify the University immediately in the event of any incident occurring in the performance of its obligations under the Agreement which may amount to a breach of this clause.
- 19.3 Full details of the relevant GDPR Clauses are listed at **Schedule 6**. The Supplier will adhere with the requirements of these clauses.
- 19.4 The Supplier also agrees to honour best practice and guidance, including any legally binding clauses in any contracts or agreements they may have signed with any other bodies, including, but not limited to non-competition clauses.
- 19.5 A list of many applicable pieces of legislation and regulation is at the below link:
<https://www.kent.ac.uk/finance/procurement/index.html?tab=legislation>
as at the date of the last notice of update provided by the University to the Supplier in writing.
- 19.6 The Supplier guarantees to abide with, and honour the word and spirit of the relevant University policies, including those relating to the standards of conduct and behaviour the University expects of Suppliers. These documents are located at:
- 19.6.1 <https://www.kent.ac.uk/finance/procurement/index.html?tab=policies-and-procedures>
- 19.6.2 <https://www.kent.ac.uk/governance/policies-and-procedures/index.html>
- 19.7 Specifically, Suppliers agree to adhere to the University policies regarding Anti-Bribery, Data, Whistle-Blowing, Alcohol, Drugs & Substances, and Declaration of Interests.
- 19.8 Suppliers also agrees to adhere to the Supplier Code of Conduct which is linked to from:
<https://www.kent.ac.uk/finance/procurement/index.html?tab=policies-and-procedures>
- 19.9 Suppliers have a responsibility to declare to the University any potential conflicts of interest to the University, including but not limited to hospitality of staff, personal relationships, and similar, to ensure that decisions are made fairly and transparently with no possibility of any collusion or conspiracy. Further information on our policies and procedures relating to Business Practices and Behaviours can be found online:
- Anti Bribery & Corruption policy:
<https://www.kent.ac.uk/governance/policies-and-procedures/bribery.html>
- Declaration of Interests policy:
<https://www.kent.ac.uk/governance/register-of-interests/Declaration-of-InterestsPolicy.html>
- Whistleblowing & Fraud policy:
<https://www.kent.ac.uk/governance/policies-and-procedures/whistleblowing.html>
- 19.10 The University publishes a Modern Slavery Act statement and it is the expectation of the University that all suppliers comply to the requirements of the act and the contents of the statement: <https://www.kent.ac.uk/governance/modern-slavery-statement.html>
- 19.11 The Supplier will comply with the policies and other requirements set out in this clause **Error! Reference source not found.** as at the date of the last notice of update provided by the University to the Supplier in writing.

20. **DISPUTE RESOLUTION**

- 20.1 The parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Agreement and such efforts shall involve the escalation of the dispute to an appropriately senior representative of each party.
- 20.2 If the dispute cannot be resolved by the parties within one month of being escalated as referred to in **clause 20.1**, the dispute may by agreement between the parties be referred to a neutral adviser or mediator (**Mediator**) chosen by agreement between the parties. All negotiations connected with the dispute shall be conducted in confidence and without prejudice to the rights of the parties in any further proceedings.
- 20.3 If the parties fail to appoint a Mediator within one month, or fail to enter into a written agreement resolving the dispute within one month of the Mediator being appointed, either party may exercise any remedy it has under applicable law.

21. **GENERAL**

- 21.1 Each of the parties represents and warrants to the other that it has full capacity and authority, and all necessary consents, licences and permissions to enter into and perform its obligations under the Agreement.
- 21.2 A person who is not a party to the Agreement shall have no right to enforce any of its provisions which, expressly or by implication, confer a benefit on him, without the prior written agreement of the parties.
- 21.3 The Agreement cannot be varied except in writing signed by a duly authorised representative of both the parties. These variations can only be amended or added to by formal amendments issued in writing and agreed by both parties. Such agreement to these changes will not be unreasonably withheld. No oral or written amendment, other than in accordance with the correct channels, shall be binding to either party of the Agreement.
- 21.4 The Agreement contains the whole agreement between the parties and supersedes and replaces any prior written or oral agreements, representations or understandings between them. The parties confirm that they have not entered into the Agreement on the basis of any representation that is not expressly incorporated into the Agreement. Nothing in this clause shall exclude Liability for fraud or fraudulent misrepresentation.
- 21.5 Any waiver or relaxation either partly, or wholly of any of the terms and conditions of the Agreement shall be valid only if it is communicated to the other party in writing and expressly stated to be a waiver. A waiver of any right or remedy arising from a breach of contract shall not constitute a waiver of any right or remedy arising from any other breach of the Agreement.
- 21.6 The Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the parties other than the contractual relationship expressly provided for in the Agreement. Neither party shall have, nor represent that it has, any authority to make any commitments on the other party's behalf.
- 21.7 Except as otherwise expressly provided by the Agreement, all remedies available to either party for breach of the Agreement (whether under the Agreement, statute or common law) are cumulative and may be exercised concurrently or separately, and the exercise of one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.
- 21.8 If any provision of the Agreement is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from the Agreement and rendered ineffective as far as possible without modifying the remaining provisions of the Agreement, and shall not in any way affect any other circumstances of or the validity or enforcement of the Agreement.
- 21.9 **Employee Non-Solicitation** – Supplier and University each agree that during the time that Supplier personnel or University personnel are associated with the Services hereunder

and for a period of [12 months] after such person ceases to be so associated, neither Supplier nor University shall, directly or indirectly, solicit for hire the personnel of the other party as an employee or independent contractor or through a third party vendor or service provider, except with the prior written consent of the other party. The above prohibitions shall not apply to any change in employment status that arises by reason of operation of law, or to any general job posting or advert not specifically directed to such personnel.

22. NOTICES

- 22.1 Any notice to be given under the Agreement shall be in writing and may be served by personal delivery, first class recorded or, subject to **clause 22.3**, e-mail to the address of the relevant party set out in the relevant Statement of Work, or such other address as that party may from time to time notify to the other party in accordance with this clause
- 22.2 Notices served as above shall be deemed served on the Working Day of delivery provided delivery is before 5.00pm on a Working Day. Otherwise delivery shall be deemed to occur on the next Working Day. An email shall be deemed delivered when sent unless an error message is received.
- 22.3 Notices under **clauses 16** and 17 may be served by email only if the original notice is then sent to the recipient by personal delivery or recorded delivery in the manner set out in **clause 22.1**.

23. Governing law and jurisdiction

- 23.1 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the law of England.
- 23.2 Any dispute arising out of, or in connection with this Agreement, which cannot be resolved by negotiation between both parties, shall be referred to the arbitration of a single arbitrator appointed by agreement between the parties or in default of agreement, nominated on the application of either party to the Centre for Dispute Resolution ("CEDR").
- 23.3 Each party irrevocably agrees that the courts of England shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

STATUTORY REQUIREMENTS SECTION

24. INDUSTRIAL ACTIONS & THE TRANSFER OF UNDERTAKINGS (PROTECTION OF EMPLOYMENT)

[FURTHER CONSIDERATION TO BE GIVEN TO TUPE PROVISION AND KEY PERSONNEL (to be included in Schedule 8)]

- 24.1 The parties acknowledge that the expiry or termination of this Agreement may constitute a relevant transfer for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006. The same clause applies vice versa if transfer regulations apply due to reasons attributable to University and/or its third parties when this Agreement becomes effective.
- 24.2 The Supplier shall facilitate any transfer by providing the information that the new provider of the Services needs to enable an efficient transfer to take place.

DISCRIMINATION

- 24.3 Neither party shall unlawfully discriminate within the meaning and scope of the provisions of or made under the Equality Act 2010 or any other legislation relating to discrimination in employment or in the provision of Services.
- 24.4 The Supplier shall take all reasonable steps to secure the observance of these provisions by the Supplier's Personnel employed in the execution of the Agreement.

24.5 Failure to comply with any part of this clause may constitute a material breach of the Agreement and the University may exercise its rights under **clause 17**.

25. **ENVIRONMENTAL REQUIREMENTS**

25.1 The Supplier shall perform the Agreement in accordance with an environmental policy that aims to conserve resources, reduce waste and minimise the release of substances damaging to health and the environment. You attention is drawn to the University of Kent Sustainability Team information, aims and goals: <https://www.kent.ac.uk/estates/sustainability/index.html>

26. **HEALTH & SAFETY**

26.1 The Supplier shall ensure they and their Personnel are fully aware of the legal requirements on them with regards Health and Safety and promptly notify the University of any health and safety hazards that may arise in connection with the performance of the Services.

26.2 The University shall promptly notify the Supplier of any health and safety hazards which may exist or arise at the University's premises and which may affect the Supplier in the performance of the Services.

26.3 Whilst on the Supplier's premises, the Supplier's Personnel shall comply with any health and safety measures implemented by the University as well as following the guidelines published at: <https://www.kent.ac.uk/estates/contractors.html>

26.4 The Supplier shall notify the representative of the University immediately in the event of any incident occurring in the performance of the Services on the University's Premises where that incident causes any Personal Injury or any damage to property.

27. **INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS**

27.1 It shall be a condition of the Agreement that, except to the extent that materials may incorporate designs furnished by the University, the Supplier will not infringe any patent, trade mark, registered design, copyright or other right in the nature of intellectual property of any third party and Supplier shall indemnify the University against all actions, suits, claims, demands, losses, charges, costs and expenses which the University may suffer or incur as a result of, or in connection with, the Services.

27.2 All intellectual property rights in any specifications, instructions or other material:

27.2.1 provided to the Supplier by the University shall remain the property of the University or research team;

27.2.2 prepared by or for the Supplier for use, or intended use, in relation to the performance of this Agreement shall belong to the University or research team.

27.3 Supplier shall have no obligations with respect to any infringement claims to the extent that the infringement claim arises or results from: (i) Supplier's compliance with University's specific technical designs or instructions; (ii) inclusion in a Deliverable of any University Materials and the infringement relates to or arises from such University Materials or provided material; (iii) modification of a Deliverable after delivery by Supplier to University if such modification was not made by, on behalf of or under the instruction of the Supplier; or (iv) use of the Deliverables for any purposes for which the same have not been designed or developed or other than in accordance with any applicable specifications or documentation provided under the relevant Statement of Work by the Supplier; or (v) use of a superseded release of some or all of the Deliverables or University's failure to use any modification of the Deliverable furnished under this Agreement including, but not limited to, corrections, fixes, or enhancements made available by the Supplier (save where such failure was as a result of the acts or omissions of the Supplier).

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28. **PREVENTION OF CORRUPTION**

28.1 The Supplier shall not request, offer, promise, agree to receive, accept or give a financial or other advantage to another person intended to induce a person to perform a relevant function or activity improperly, or to reward a person for the improper performance of such a function or activity, or where it is known that the acceptance of the advantage would itself constitute the improper performance of a relevant function or activity. The attention of the Supplier is drawn to the criminal offences under the Bribery Act 2010.

28.2 Where the Supplier or Supplier's employees, Approved Sub-Contractors, suppliers or agents or anyone acting on the Supplier's behalf acts in a manner which constitutes a breach of **clause 28.1** in relation to this or any other contract with the University, the University has the right to exercise any or all of the following actions:

28.2.1 terminate the Agreement and recover from the Supplier the amount of any loss resulting from the termination

28.2.2 recover from the Supplier the amount of value of any such gift, consideration or commission, and

28.2.3 recover from the Supplier any other loss sustained in consequence of any breach of this clause, whether or not the Agreement has been terminated.

28.3 In exercising its rights or remedies under this clause, the University shall;

28.3.1 act in a reasonable and proportionate manner having regard to such matters as the gravity of and the identity of the person performing the prohibited act

28.3.2 give all due consideration, where appropriate, to action other than termination of the Agreement.

Signed by)
[NAME OF DIRECTOR/OFFICER])
for and on behalf of)
[NAME OF COMPANY])

Signature of director/officer

Signed by)
[NAME OF DIRECTOR/OFFICER])
for and on behalf of)
LTIMINDTREE UK LIMITED)

Signature of director/officer

SCHEDULE 1

Definitions

SCHEDULE 2

Transition

SCHEDULE 3

Services

Part 1 Enterprise Systems

Part 2 IT Infrastructure

Part 3 Endpoint and Technical Services

Part 4 IT & Library Support

Part 5 Assurance and Enablement

Part 6 Cyber Security

SCHEDULE 4
Service Management

SCHEDULE 5

Financials

SCHEDULE 6

Data Protection

Controller, Processor, Data Subject, Personal Data, Personal Data Breach, Data Protection Officer take the meaning given in the UK GDPR

Data Loss Event any event that results, or may result, in unauthorised access to Personal Data held by the Supplier under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach

Data Protection Impact Assessment an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data.

Data Protection Legislation

- (i) the UK GDPR, the LED and any applicable national implementing Laws as amended from time to time
- (ii) the DPA 2018 to the extent that it relates to processing of Personal Data and privacy;
- (iii) all applicable Law about the processing of Personal Data and privacy

Data Subject Access Request a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.

DPA 2018 Data Protection Act 2018

LED Law Enforcement Directive (Directive (EU) 2016/680)

Protective Measures appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it.

Sub-Processor any third Party appointed to process Personal Data on behalf of the Supplier related to this Agreement.

1. DATA PROTECTION

- 1.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the University is the Controller and the Supplier and/or their Approved Sub-Contractor (hereafter referred to as the Supplier, meaning both and all parties) is the Processor. The only processing that the Supplier is authorised to do is listed in the Annex to this Schedule by the University and may not be determined by the Supplier.
- 1.2 The Supplier shall notify the University promptly if it considers that any of the University's instructions infringe the Data Protection Legislation.
- 1.3 The Supplier shall provide all reasonable assistance to the University in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the University, include:

- 1.3.1 a systematic description of the envisaged processing operations and the purpose of the processing;
 - 1.3.2 an assessment of the necessity and proportionality of the processing operations in relation to the Services;
 - 1.3.3 an assessment of the risks to the rights and freedoms of Data Subjects; and
 - 1.3.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 1.4 The Supplier shall, in relation to any Personal Data processed in connection with its obligations under this Agreement:
- 1.4.1 process that Personal Data only in accordance with the Annex to this Schedule, unless the Supplier is required to do otherwise by Law. If it is so required, the Supplier shall promptly notify the University before processing the Personal Data unless prohibited by Law;
 - 1.4.2 ensure that it has in place Protective Measures within its environment/assets and in the context of its provision of the Services, which have been reviewed and approved by the University as appropriate to protect against a Data Loss Event having taken account of the:
 - 1.4.2.1 nature of the data to be protected;
 - 1.4.2.2 harm that might result from a Data Loss Event;
 - 1.4.2.3 state of technological development; and
 - 1.4.2.4 cost of implementing any measures;

FURTHER CONSIDERATION TO BE GIVEN TO SECURITY/CYBERSECURITY MEASURES

- 1.4.3 ensure that:
 - 1.4.3.1 the Personnel do not process Personal Data except in accordance with this Agreement (and in particular this Schedule and its Annex);
 - 1.4.3.2 it takes all reasonable steps to ensure the reliability and integrity of any Personnel who have access to the Personal Data and ensure that they:
 - (a) are aware of and comply with the Supplier's duties under this clause;
 - (b) are subject to appropriate confidentiality undertakings with the Supplier or any Sub-Processor;
 - (c) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the University or as otherwise permitted by this Agreement; and
 - (d) have undergone adequate training in the use, care, protection and handling of Personal Data; and
- 1.4.4 not transfer Personal Data outside of the EU unless the prior written consent of the University has been obtained and the following conditions are fulfilled:

- 1.4.4.1 the University or the Supplier has provided appropriate safeguards in relation to the transfer (whether in accordance with UK GDPR Article 46 or LED Article 37) as determined by the University;
 - 1.4.4.2 the Data Subject has enforceable rights and effective legal remedies;
 - 1.4.4.3 the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the University in meeting its obligations); and
 - 1.4.4.4 the Supplier complies with any reasonable instructions notified to it in advance by the University with respect to the processing of the Personal Data;
 - 1.4.4.5 at the written direction of the Supplier, delete or return Personal Data (and any copies of it) to the University within thirty (30) days of termination of the Agreement unless the Supplier is required by Law to retain the Personal Data.
 - 1.4.4.6 where Personal Data is transferred outside United Kingdom to India in accordance with the terms of this Agreement, the University (as "data exporter") and [DETAILS OF CONTRACTING INDIAN ENTITY], as appropriate, (as "data importer") hereby enter into the Standard Contractual Clauses available in international-data-transfer-addendum.pdf (ico.org.uk) including the International Data Transfer Addendum to the EU Commission Standard Contractual Clauses ("UK Addendum")
- 1.5 Subject to **paragraph 1.6**, the Supplier shall notify the University no later than forty-eight (48) hours if it:
- 1.5.1 receives a Data Subject Access Request (or purported Data Subject Access Request);
 - 1.5.2 receives a request to rectify, block or erase any Personal Data;
 - 1.5.3 receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
 - 1.5.4 receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement;
 - 1.5.5 receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
 - 1.5.6 becomes aware of a Data Loss Event.
- 1.6 The Supplier's obligation to notify under **paragraph 1.5** shall include the provision of further information to the University in phases, as details become available.
- 1.7 Taking into account the nature of the processing, the Supplier shall provide the University with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under **paragraph 1.5** (and insofar as possible within the timescales reasonably required by the University) including by promptly providing:

- 1.7.1 the University with full details and copies of the complaint, communication or request;
 - 1.7.2 such assistance as is reasonably requested by the University to enable the University to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
 - 1.7.3 the University, at its request, with any Personal Data it holds in relation to a Data Subject;
 - 1.7.4 assistance as requested by the University following any Data Loss Event;
 - 1.7.5 assistance as requested by the University with respect to any request from the Information Commissioner's Office, or any consultation by the University with the Information Commissioner's Office.
- 1.8 The Supplier shall maintain complete and accurate records and information to demonstrate its compliance with this clause. This requirement does not apply where the Supplier employs fewer than 250 staff, unless:
- 1.8.1 the University determines that the processing is not occasional;
 - 1.8.2 the University determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and
 - 1.8.3 the University determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 1.9 The Supplier shall allow for audits of its Data Processing activity by the University or the University's designated auditor. [University shall have the above mentioned audit rights subject to the following- (i) audits will be limited to work orders, statements of work, purchase orders, corresponding invoices and receipts and other information related to Supplier's compliance of laws under this Agreement; and (ii) audit takes place during regular business hours; (iii) No right to inspect or audit under this paragraph shall be given to University in regard to Supplier's financials, internal pricing methodology, books of accounting or information relating to Supplier's other customers, Supplier's internal aspects and any confidential information of Supplier's employees; (iv) University shall provide prior notification (not less than 10 business days) to Supplier before commencing such audit; (v) all audits shall be at the expense of the University]
- 1.10 The Supplier shall designate a data protection officer if required by the Data Protection Legislation.
- 1.11 Before allowing any Sub-Processor to process any Personal Data related to this Agreement, the Supplier must:
- 1.11.1 notify the University in writing of the intended Sub-Processor and processing;
 - 1.11.2 obtain the written consent of the University;
 - 1.11.3 enter into a written agreement with the Sub-Processor which give effect to the terms set out in this clause such that they apply to the Sub-Processor; and
 - 1.11.4 provide the University with such information regarding the Sub-Processor as the University may reasonably require.
- 1.12 The Supplier shall remain fully liable for all acts or omissions of any Sub-Processor onboarded by Supplier.
- 1.13 The University may, at any time on not less than 30 Working Days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms

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forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement).

- 1.14 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The University may on not less than 30 Working Days' notice to the Supplier amend this Agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.

ANNEX

Schedule of Processing, Personal Data and Data Subjects

1. The Supplier shall comply with any further written instructions with respect to processing by the University.
2. Any such further instructions shall be incorporated into this Schedule.

Description	Details
Subject matter of the processing	<i>[This should be a high level, short description of what the processing is about i.e. its subject matter]</i>
Duration of the processing	<i>[Clearly set out the duration of the processing including dates]</i>
Nature and purposes of the processing	<i>[Please be as specific as possible, but make sure that you cover all intended purposes. The nature of the processing means any operation such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means) etc. The purpose might include: employment processing, statutory obligation, recruitment assessment etc]</i>
Type of Personal Data	<i>[Examples here include: name, address, date of birth, NI number, telephone number, pay, images, biometric data etc]</i>
Categories of Data Subject	<i>[Examples include: Staff (including volunteers, agents, and temporary workers), customers/clients, suppliers, patients, students / pupils, members of the public, users of a particular website etc]</i>

Plan for return and destruction of the data once the processing is complete UNLESS requirement under union or member state law to preserve that type of data	<i>[Describe how long the data will be retained for, how it be returned or destroyed]</i>
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Technical And Organisational Measures Including Technical And Organisational Measures To Ensure The Security Of The Data

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EXPLANATORY NOTE:

The technical and organisational measures must be described in specific (and not generic) terms. See also the general comment on the first page of the Appendix, in particular on the need to clearly indicate which measures apply to each transfer/set of transfers.

Description of the technical and organisational measures implemented by the data importer(s) (including any relevant certifications) to ensure an appropriate level of security, taking into account the nature, scope, context and purpose of the processing, and the risks for the rights and freedoms of natural persons.

Technology controls are instrumental in enforcing most of the policies defined in Processor to protect Personal Data. Such controls are broadly classified into Physical security and IT infrastructure controls.

Processor's services have been certificated and governed in line with the following:

Certificate Name	Remarks
ISO/IEC 27001:2013	Compliance of Information security management systems to ISO/IEC 27001:2013
PCI-DSS V 3.2.1	Certifying compliance to Payment Card Industry Data Security Standard v 3.1 (PCI DSS)
CMMI SVC L5 Ver 2.0	Scope: Maintenance & Testing projects
CMMI DEV L5 V2.0	Scope: Full lifecycle software development projects meeting SOU criteria
ISO/IEC 20000-1:2018	Compliance for design, transition, delivery and improvement of services system
ISO 14001:2015	Certifying compliance of the environment Management systems
ISO 45001:2018	Certifying compliance of the Occupational health and safety management systems
ISO/IEC 27701:2019	Compliance of Personal Information Management systems ISO/IEC 27001:2019 (for selected delivery centres and industry groups)
ISO 9001:2015	Quality Management System complies to ISO 9001:2015 standard
SOC1 SSAE18 Type2 & ISAE 3402 Type2	SOC1 address the internal controls over financial reporting and SOC2 is based on Trust principles.
SOC2 Type2	SOC2 focuses on a business's non-financial reporting controls as they relate to security, availability, processing integrity, confidentiality, and privacy of a system
ISO 22301:2019	ISO 22301 is the international standard for Business Continuity Management (BCM)

Cyber Essentials	Assurance Framework with set of security controls to protect from threats coming from the internet
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Physical Security Controls adopted by the Supplier are:

Sr. No	Domain	Description
1	Facility Perimeter	Supplier facilities are guarded by security personal round the clock at all perimeter entry and exit points
2	HD access reader	All entry and exit points are installed with access card reader permitting general access to facility
3	Data Center	In addition to access card reader, Supplier's data center is installed with biometric card reader allowing an access to authorized personnel.
4	Video surveillance	By design Supplier facilities are installed with CCTV cameras in general common accessible area and prominent entry/exit doors.

Alongside the above, Offshore Delivery center controls as defined and agreed in the contract will also be implemented.

IT Infrastructure Controls implemented in LTIMindtree environment:

Sr. No	Domain	Description
1	Encryption	Data is encrypted on hard drives of laptops (using bit locker), backup tapes and in transit over internet
2	DLP	Supplier has implemented Data Loss Prevention across the corporate network to monitor data moved from endpoint systems and email with predefined rules which are tweaked in time to time.
3	Data masking	Supplier teams follow strict guidelines of masking the data in staging and testing environment
4	Portable ports	On Supplier systems, usage of mass storage devices through USB, Bluetooth or Portable Card reader is disabled
5	Access Control	All critical information systems are integrated with company active directory and access to various resources are controlled using user and system access policies. Multi-factor authentication (MFA) is enabled for administrative access to highly critical cloud-based services. MFA and conditional access is enabled on O365 services, which restricts users to download data only on company provided assets. Networks are segregated and secured using firewalls configured with specific access-control lists permitting access to and from identified IP source and destinations. Access to data and systems are provided on a need-to-know basis as per the Segregation-Of-Duties defined.
6	Unauthorized software	Supplier systems are installed with monitoring agent to keep track on unauthorized software installation

7	Data destruction	Industry standard tools to wipe electronic medias and degaussing to dispose the e-Waste
8	System Hygiene	All systems are loaded with antivirus software and web protection agent enabled with advanced threat protection (ATP).
9	Monitoring	Key information systems and perimeter devices are monitored for anomalies using tools and changes are tracked using a change management process and tool.
10	User Access Management	Supplier has implemented Microsoft active directory for user management, every user has been provided a unique username & password to access Supplier's domain re-sources with single sign-on, strong password is enforced. User access assignment shall follow "least access" and "least privileges" policy based on their role in the organization
11	Patch Management	Supplier's IT operations team has subscribed to all vendors updates, newsletters and notifications. Microsoft patches are deployed within two weeks from the release date post testing them in staging environment. Depending on criticality, non-Microsoft patches are deployed after testing them in staging environment
12	Vulnerability Management	Supplier's IT operations team scans critical IT infrastructure comprising of servers and network devices on monthly basis to discover the vulnerabilities which could be exploited. The results of such scans are shared with appropriate stakeholders for remediation if found
13	Email Security	Supplier has put together the Exchange Online Protection with ATP capabilities in addition to Spoof, Malware, Phishing protection for its Email Security

[In line with Data Protection Legislation and guidelines, the University shall implement the following to ensure and limit Personal Data exposure and breach, subject always to the Supplier's compliance with Schedule 3, Part 6.]

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- Provide **University images** on Supplier provided or University provided assets (laptop / desktop etc.);
- Provide a secured network access to University network over a point to point link, IP VPN or VPN client;
- Connect preferably via a **Virtual Desktop**, Citrix like environment;
- Provide access to a document repository that resides on **University network** (like Sharepoint). Supplier team must only have access to that environment and be able to operate in that environment. No downloads must be allowed from University environment onto Supplier assets / network and Supplier will not initiate any such downloads;
- Provide and give access to **University domain email id's** only for project related communication. No access must be allowed to Supplier domain emails from University image and Supplier will not initiate any such access;
- Implement an effective DLP policy and tools, compliant with the local laws and regulations, in University environment;
- Attachments sent from University email ids must be controlled via **appropriate DLP policy and tools**. This will restrict / enable notification on any transfers from the University network;

- Ensure effective **Encryption and masking of PII / Sensitive data** is implemented by University on the University environment to limit PII exposure and leak;
- University must also ensure all PII data provided to the Supplier is **pseudonymized** as recommended under the GDPR;
- Ensure all test data provided by the University is certified as pseudonymised and not real data
- Implement **Role-based access**;
- Approve and use appropriate **SFTP transfer** mechanisms so data transfers are secure and controlled
- Ensure all access to Supplier personnel is revoked once the person is no longer in the account or no longer needs the access to perform the agreed operations;
- Ensure all data that Supplier personnel has stored in the University environment (like GitHub, AWS, Share Point or any environment accessible over internet, etc.) is mandated with a PASSWORD or deleted / cleared once the person is no longer in the account or no longer needs the access to perform the agreed operations;
- Ensure mass storage device via USB, Blue tooth or portable card reader are disabled;
- Ensure an effective Cookie policy is implemented. Provide a Multi Factor Authentication (MFA) for administrative access to key information systems and services.]

WHERE CONTROLLER PERSONAL DATA IS TRANSFERRED OUTSIDE UNITED KINGDOM, CONTROLLER (AS "DATA EXPORTER") AND PROCESSOR, (AS "DATA IMPORTER") HEREBY ENTER INTO THE INTERNATIONAL DATA TRANSFER ADDENDUM TO THE EU COMMISSION STANDARD CONTRACTUAL CLAUSES ("UK ADDENDUM") AS PROVIDED HEREIN AS PART 1 OF THE UK ADDENDUM. PART 2 OF THE UK ADDENDUM (MANDATORY CLAUSES) IS ENTERED INTO BY THE PARTIES AS AVAILABLE AT INTERNATIONAL-DATA-TRANSFER-ADDENDUM.PDF (ICO.ORG.UK).

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Table 1: Parties

Start date		
The Parties	Exporter (who sends the Restricted Transfer)	Importer (who receives the Restricted Transfer)
Parties' details	Full legal name: [REDACTED] Trading name (if different): [REDACTED] Main address (if a company registered address): [REDACTED] Official registration number (if any) (company number or similar identifier): [REDACTED]	Full legal name: LTIMindtree Limited Trading name (if different): [REDACTED] Main address (if a company registered address): Gate No.5, Saki Vihar Road, Mumbai, Maharashtra, 400072, India Official registration number (if any) (company number or similar identifier): [REDACTED] CIN: L72900MH1996PLC104693
Key Contact	Full Name (optional): [REDACTED] Job Title: [REDACTED] Contact details including email: [REDACTED]	Full Name (optional): Jagannath PV Job Title: Data Privacy Officer Contact details including email: dataprotectionoffice@ltimindtree.com
Signature (if required for the purposes of Section 2)		

Table 2: Selected SCCs, Modules and Selected Clauses

Addendum SCCs	EU	<p>The version of the Approved EU SCCs which this Addendum is appended to, detailed below, including the Appendix Information: Date: [REDACTED] Reference (if any): [Name of the Agreement] [REDACTED] Other identifier (if any): [REDACTED] Or the Approved EU SCCs, including the Appendix Information and with only the following modules, clauses or optional provisions of the Approved EU SCCs brought into effect for the purposes of this Addendum:</p>
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Module	Module in operation	Clause 7 (Docking Clause)	Clause 11 (Option)	Clause 9a (Prior Authorisation or General Authorisation)	Clause 9a (Time period)	Is personal data received from the Importer combined with personal data collected by the Exporter?
1						
2						
3						
4						

Table 3: Appendix Information

“Appendix Information” means the information which must be provided for the selected modules as set out in the Appendix of the Approved EU SCCs (other than the Parties), and which for this Addendum is set out in:

Annex 1A: List of Parties: Refer to Annex I of the EU SCC's [REDACTED]
Annex 1B: Description of Transfer: Refer to Annex I of the EU SCC's [REDACTED]
Annex II: Technical and organisational measures including technical and organisational measures to ensure the security of the data: Refer to Annex II of the EU SCC's [REDACTED]
Annex III: List of Sub processors (Modules 2 and 3 only): Refer to Annex III of the EU SCC's [REDACTED]

Table 4: Ending this Addendum when the Approved Addendum Changes

Ending this Addendum when the Approved Addendum changes	<p>Which Parties may end this Addendum as set out in Section 19: Importer Exporter neither Party</p>
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7 SCHEDULE 7

Contract Change Control Procedure

[FURTHER CONSIDERATION TO BE GIVEN TO CHANGE INCLUDING E.G. CHANGES DRIVEN BY CHANGE IN LAW]

1. Introduction

- 1.1 Where the University or the Supplier see a need to change either the Services or the Agreement, Parties may at any time request, and the other party may at any time recommend, such change only in accordance with the Contract Change Control Procedure as set out at **paragraph 2**. Minor variations of limited and small value are permitted outside of this process, however any variation or extension of duties, scope, or those with any significant financial implications, should only be agreed through the specified process.
- 1.2 Until such time as a change is made in accordance with the Contract Change Control Procedures, the Supplier shall, unless otherwise agreed in writing, continue to provide the Services as if the request or recommendation had not been made.
- 1.3 Any discussions which may take place between the University and the Supplier in connection with a request for change shall be without prejudice to the rights of either party.
- 1.4 In the event of any variation of the Agreement, the Charges shall be subject to fair and reasonable adjustment to be agreed between the University and the Supplier. Any variation will have to comply with the requirements of clause 21 and the rest of the Agreement.
- 1.5 Any work undertaken by the Supplier staff which has not been authorised in advance by a change to the Agreement or otherwise agreed according to paragraph 1 shall be undertaken entirely at the expense and Liability of the Supplier.

2. Procedure

- 2.1 Where a request for an amendment is received from the University, the Supplier shall, unless otherwise agreed, submit to the University two copies of a Change Control Note ("CCN") signed by the Supplier within three weeks of the date of the request.
- 2.2 If the Suppliers considers that the preparation of a CCN requested by the University would necessitate significant additional allocation of resources, the Supplier will notify the University accordingly and, on agreement by the University, the Supplier will make a proposal for a paid study of the cost and implications of producing the required CCN.
- 2.3 A request to amend by the Supplier shall be submitted direct to the University in the form of two copies of a CCN signed by the Supplier at the time of such recommendation.
- 2.4 The CCN must include:
 - 2.4.1 Provision for a CCN number
 - 2.4.2 The title of the change
 - 2.4.3 The originator and date of the request for the change
 - 2.4.4 The reason for the change

Commented [ES13]: To be aligned with Exhibits and service/change management process, including in relation to major enhancements and agreement of new SOWs.

- 2.4.5 Full details of the change including any specifications
- 2.4.6 The price, if any, of the change
- 2.4.7 A timetable for implementation
- 2.4.8 A schedule of payments if appropriate
- 2.4.9 Details of the likely impact, if any, of the change on other aspects of the existing contract, including but not limited to:
 - 2.4.9.1 The Term of this Agreement
 - 2.4.9.2 The Personnel to be provided
 - 2.4.9.3 The Charges
 - 2.4.9.4 The payment profile
 - 2.4.9.5 The documentation to be provided
 - 2.4.9.6 The training to be provided
 - 2.4.9.7 Service Levels
 - 2.4.9.8 Working arrangements
 - 2.4.9.9 Other contractual issues
- 2.4.10 The date of expiry of the validity of the CCN, which shall usually be at least 10 Working Days from the date of submission;
- 2.4.11 Provision for signature by the University and the Supplier
- 2.5 For each CCN submitted the University shall allocate a sequential number to the CCN, evaluate the CCN, requesting further information if necessary, and before the expiry of the CCN shall either:
 - 2.5.1 Arrange for two copies of the CCN to be signed by or on behalf of the University and return one of the copies to the Supplier; or
 - 2.5.2 Notify the Supplier of the rejection of the CCN.
- 2.6 A CCN signed by both parties shall constitute an amendment to the Agreement.

8 SCHEDULE 8

Personnel and TUPE

9 SCHEDULE 9

Policies

Part 1 No PO, No Pay

No PO No Pay Policy

We operate a No PO No Pay (No Purchase Order No Payment) policy with all suppliers and contractors providing goods, services and works. The policy applies to all suppliers/contractors unless an alternative formal route of engagement has been agreed with the Head of Procurement.

No PO No Pay Supplier FAQ

What should I do if I don't receive a PO?

You should only accept an order when a valid PO is provided. If you receive an order from a member of University staff without a valid PO number, you should ask the member of staff to provide one before proceeding.

Where should invoices be sent for payment?

All invoices should be emailed to your current submission email address, normally that of the relevant area Finance Manager, as has been standard practice since March 2020. In the current circumstances paper invoices will no longer be accepted.

What should I do if I didn't receive a PO number and the invoice is returned to me?

You should contact the member of staff who gave the original instruction to supply the goods, services or works and ask them to provide a valid PO number.

When a valid PO number is obtained, you should send a replacement invoice, quoting the valid PO number to the address above. Upon authorisation of a correct and valid invoice, the 30 day payment target commences.

What should I do if I have sent an invoice quoting a valid PO number and my payment appears to be delayed?

Invoices may be disputed for a number of valid reasons that may include, but are not limited to:

- PO number quoted on invoice is closed or complete
- PO number quoted does not match the issued PO
- Invoice quantities, description, dates or pricing do not match those on the quoted PO number

If your invoice has been delayed beyond the expected payment terms agreed, you should contact the member of University staff you agreed the PO with to request the delay is investigated and a response provided to you.

What are the exceptions to the No PO No Pay policy?

There are a number of approved exceptions to the policy. Your University contact will have confirmed at point of order if an exemption applies to you. This should be noted on your invoice if practical. Should you need further clarification, please speak with your University contact.