



MIDDLESBROUGH COLLEGE STANDARD TERMS AND CONDITIONS OF CONTRACT FOR SERVICES

(Including Hire, Lease and Facilities Management)

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MIDDLESBROUGH COLLEGE STANDARD TERMS AND CONDITIONS OF CONTRACT FOR SERVICES

(Including Hire, Lease and Facilities Management)

1. Definitions and Interpretation

(1) In these terms and conditions of contract for services ("Conditions"):

"Basic Service and Additional Services" shall have the meaning as set out in the Specification:

The "College" shall mean the Further Education Corporation of Middlesbrough College;

"College's Premises" shall mean land or buildings owned or occupied by the College;

"Confidential Information" shall mean all information obtained by the Contractor from the College or any other department of the College relating to and connected with the Contract and the Services, including but not limited to the Contract itself and the provisions of the Contract;

"Commencement Date" shall mean the date on which services are to commence:

The "Contract" shall mean the agreement concluded between the College and the Contractor for the supply of Services, including without limitation the Conditions (to the extent that they are not expressly excluded or modified), all specifications, plans, drawings and other documents which are incorporated into the agreement;

The "Contractor" shall mean the person who agrees to supply the Services and includes any person to whom all or part of the Contractor's obligations are assigned pursuant to Condition 4;

The "Contract Manager" shall mean the Manager of the College or such other person as may from time to time be notified by the College to the Contractor:

The "Contract Price" shall mean the price agreed in respect of the Services, excluding Value Added Tax:

"College Property" shall mean anything issued or otherwise furnished in connection with the Contract by or on behalf of the College, including but not limited to documents, papers and other materials;

"Intellectual Property Rights" shall mean patents, trade marks, service marks, design rights (whether registrable or not), applications for any of those rights, copyright, database rights, trade or business names and other similar rights or obligations, whether registrable or not, in any country, including but not limited to, the United Kingdom;

“Month” shall mean calendar month:

“Purchase Order” shall mean the document so described by the College to purchase the Services which makes reference to the Conditions;

The “Services” shall mean the services to be supplied under the Contract.

The “Tender” shall mean the tender submitted by the Contractor in respect of the Services and accepted by the College:

(2) The interpretation and construction of the Contract shall be subject to the following provisions:

- (a) A reference to any statute, enactment, order, regulation or similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as subsequently amended or re-enacted;
- (b) The headings in these Conditions are for ease of reference only and shall not affect the interpretation or construction of the Contract;
- (c) References to “person”, where the context allows, includes a corporation or an unincorporated association.

2. Acts by the College

The Contract Manager may from time-to-time in writing authorise any person or persons to act on his/her behalf either generally in respect of the whole or part of the Contract or specifically in respect of particular Conditions or functions of the Contract Manager and any act of any such person within the scope of his/her authority shall, for the purpose of the Contract, be deemed to be an act of the Contract Manager.

3. Service of Notices and Communications

Any notice or other communication that either party gives under the Contract shall be made in writing and given either by hand, first class recorded postal delivery or facsimile transmission. Notice given by hand shall be effective immediately, notice given by recorded postal delivery shall be effective two working days after the date of posting, and notice given by facsimile transmission shall be effective the working day after receipt by the notifying party of a transmission slip showing that the transmission has succeeded.

4. Assignment and Sub-contracting

(1) The Contractor shall not give, bargain, sell, assign, sub-contract or otherwise dispose in any manner whatsoever of the Contract or any part thereof without the previous agreement in writing of the College.

(2) The Contractor shall not use the services of self-employed individuals in connection with the Contract without the previous agreement in writing of the College.

(3) If the Contractor uses a sub-contractor for the purpose of performing the Services or any part of it, the Contractor shall include in the relevant contract a provision which requires the Contractor to pay for those goods or services within 30 days of the Contractor receiving a correct invoice from the sub-contractor.

(4) The Contractor shall be responsible for the acts and omissions of his sub-contractors as though they were his own.

(5) The College shall be entitled to assign any or all of its rights under the Contract to any organisation as defined in Regulation 3(1) of the Public Supply Contracts Regulations 1993, provided that such assignment shall not materially increase the burden of the Contractor's obligations under the Contract.

5. Entire Agreement

The Contract constitutes the entire agreement and understanding between the parties and supersedes all prior written and oral representations, agreements or understandings between them relating to the subject matter of the Contract provided that neither party excludes liability for fraudulent misrepresentations upon which the other party has relied.

6. Waiver

(1) The failure by either party to exercise any right or remedy shall not constitute a waiver of that right or remedy.

(2) No waiver shall be effective unless it is communicated to the other party in writing.

(3) A waiver of any right or remedy arising from a breach of the Contract shall not constitute a waiver of any right or remedy arising from any other breach of the Contract.

7. Severability

If any Condition, clause or provision of the Contract not being of a fundamental nature is held to be unlawful, invalid or unenforceable by a court or tribunal in any proceedings relating to the Contract, the validity or enforceability of the remainder of the Contract shall not be affected. If the court finds invalid a provision so fundamental as to prevent the accomplishment of the purpose of the Contract, the parties shall immediately commence negotiations in good faith to remedy the invalidity.

8. Confidentiality

(1) The Contractor agrees not to disclose any Confidential Information to any third party without the prior written consent of the College. To the extent that it is necessary for the Contractor to disclose Confidential Information to its staff, agents and sub-contractors, the Contractor shall ensure that such staff, agents and sub-contractors are subject to the same obligations as the Contractor in respect of all Confidential Information.

(2) Condition 8(1) shall not apply to information which:

- (a) Is or becomes public knowledge (otherwise than by breach of these Conditions or a breach of an obligation of confidentiality);
- (b) Is in the possession of the Contractor, without restriction as to its disclosure, before receiving it from the College or any other department of the College;
- (c) Is required by law to be disclosed.

(3) The obligations contained in this Condition shall continue to apply after the expiry or termination of the Contract.

(4) The Contractor shall not communicate with representatives of the general or technical press, radio, television or other communications media, with regard to the Contract, unless previously agreed in writing with the College.

(5) Except with the prior consent in writing of the College, the Contractor shall not make use of the Contract or any Confidential Information otherwise than for the purposes of carrying out the Services.

9. Amendments and Variations

No amendment or variation to the terms of the Contract shall be valid unless previously agreed in writing between the College and the Contractor.

10. Invoices and Payment

(1) The Contractor shall submit invoices at times or intervals agreed by the College in the Contract or otherwise. The Contractor shall ensure that any invoice it submits sets out the College's Purchase Order or contract number, the charges and, where not all of the Services have been completed, the relevant part of the charges with an appropriate breakdown of time worked, the part of the Services (if all the Services have not been completed) and period to which the invoice relates, and its confirmation that the Services (or relevant part of the Services referred to on the invoice) have been fully performed.

(2) In consideration of the provision of the Services by the Contractor, the College shall pay the Charges after receiving a correctly submitted invoice as set out in Condition 10(1). Such payment shall normally be made within 30 days of receipt of the correctly submitted invoice.

(3) The Contractor shall not be entitled to charge for the provision of any services that are not part of the Services agreed within the Contract, unless the Contract has been properly varied in advance in accordance with Condition 9.

(4) The College will reduce payment in respect of any Services that the Contractor has either failed to provide or has provided inadequately, without prejudice to any other rights or remedies of the College.

(5) If the Contractor believes that payment for a correctly submitted invoice is overdue, he should, in the first instance, speak to the named contact on the face of the Contract. In the event that the problem is not resolved to his satisfaction, he should write to the Procurement Manager at the College setting out his case. The Procurement Manager shall ensure that the complaint is dealt with by an official who is independent of the main contact and that the Contractor is not treated adversely in future for having made a complaint.

11. Accounts

(1) The Contractor shall keep full and proper accounts, records and vouchers relating to all expenditure reimbursed by the College and all payments made by the College in respect of the Services.

(2) The Contractor shall permit the College acting by its officers, servants and agents or independent auditor on request and at all reasonable times to examine all accounts, records and vouchers at the offices of the Contractor or at such other places as the College shall direct, and to take copies of such accounts, records and vouchers and the Contractor shall provide the College or its independent auditor with such explanations relating to that expenditure as the College may request.

12. Recovery of Sums Due

(1) Whenever under the Contract any sum of money shall be recoverable from or payable by the Contractor, such sum will be deducted from any amount then due, or which at any time thereafter may become due, to the Contractor under this Contract or any other agreement or arrangement with the College or with any other department of the College.

(2) Any over-payment by the College to the Contractor whether in respect of the Charges or Value Added Tax shall be a sum of money recoverable from the Contractor pursuant to Condition 12(1) above or otherwise.

13. Value Added Tax

(1) The College shall pay to the Contractor, in addition to the Charges, a sum equal to the Value Added Tax chargeable on the value of the Services provided in accordance with the Contract.

(2) Any invoice or other request for payment of monies due to the Contractor under the Contract shall, if he is a taxable person, be in the same form and contain the same information as if the same were a tax invoice for the purposes of Regulations made under the Value Added Tax Act 1994.

(3) The Contractor shall, if so requested by the College, furnish such information as may reasonably be required by the College relating to the amount of Value Added Tax chargeable on the Services.

14. Provision of Services

(1) The Contractor shall provide the Services in accordance with and as specified in the Contract to the satisfaction of the College whose decision shall be final and conclusive. The College shall have the power to inspect and examine the performance of the Services at the College's Premises at any reasonable time or, provided that the College gives reasonable notice to the Contractor, at any other premises where any part of the Services is being performed.

(2) If the College informs the Contractor that the College considers any part of the Services to be inadequate or in any way differing from the Contract, and this is other than as a result of default or negligence on the part of the College, the Contractor shall at his own expense re-schedule and perform the work correctly within such reasonable time as may be specified by the College.

(3) The College may at any time demand that the Contractor suspend the provision of the Services. If the College exercises such right to suspend the provision of the Services or any part of them, or if the Contractor is delayed in proceeding with the provision of the Services by the College (otherwise than as a consequence of a breach of the Contract, or a breach of duty or fault or negligence on the part of the Contractor), the College shall be responsible for loss incurred by the Contractor as a result of such suspension or delay. Subject to the Contractor taking reasonable steps to mitigate its loss, the Contractor will be able to recover from the College under this Condition only for those losses which:

(a) Were reasonably foreseeable by the College as arising as a direct result of the suspension or delay; and

(b) Relate to the cost of any commitments entered into by the Contractor which cannot be met as a result of the suspension or delay and in respect of which the Contractor cannot obtain a refund (where the Contractor has already paid in relation to the commitment) or is obliged to pay (where the Contractor has not already paid in relation to the commitment).

The provisions of this Condition shall not apply where the reason for the suspension of the Services arises from circumstances beyond the control of the College.

(4) If the performance of the Contract by the Contractor is delayed by reason of any act on the part of the College or by industrial dispute (other than by an industrial dispute occurring within the Contractor's or its sub-contractor's organisation) or any other cause which the Contractor could not have prevented then the Contractor shall be allowed a reasonable extension of time for completion. For the purposes of this Condition, the Contractor shall be deemed to have been able to prevent causes of delay that are within the reasonable control of the Contractor's staff, agents and sub-contractors.

(5) Timely provision of the Services shall be of the essence of the Contract, including in relation to commencing the provision of the Services within the time agreed or on a specified date.

(6) The Contractor warrants that it shall provide the Services with all due skill, care and diligence, and in accordance with good industry practice and legal requirements.

(7) Without prejudice to the provision of Condition 12(1), the Contractor shall reimburse the College for all reasonable costs incurred by the College which have arisen as a direct consequence of the Contractor's delay in the performance of the Contract which the Contractor had failed to remedy after being given reasonable notice by the College.

15. Progress Report

(1) Where formal progress reports are required by the Contract, the Contractor shall render such reports at such time and in such form as may be specified by the College, or as otherwise agreed between the Contractor and the College.

(2) The submission and acceptance of progress reports shall not prejudice any rights of the College under the Contract.

16. Contractor's Personnel

(1) The College reserves the right to refuse to admit to the College's Premises any person employed by the Contractor or its sub-contractors, whose admission would be undesirable in the opinion of the College.

(2) If and when requested by the College, the Contractor shall provide a list of the names and addresses of all persons who may at any time require admission in connection with the performance of the Services to the College's Premises, specifying the role in which each such person is concerned with the Contractor and giving such other particulars as the College may require.

(3) If the Contractor fails to comply with paragraph (2) of this Condition and the College decides that such failure is prejudicial to its interests, the College may immediately terminate the Contract by notice in writing to the Contractor, provided that such termination shall be without prejudice to any accrued rights of, or to any rights that shall accrue thereafter to, the College.

17. Indemnities and Insurance

(1) The Contractor shall indemnify and keep indemnified the College against the injury to or death of any person or loss or damage to property which may arise out of the act, default or negligence of the Contractor, its employees, servants or agents and against all actions, claims, demands, proceedings, damage costs, charges and expenses whatsoever in respect thereof or in relation thereto PROVIDED that the Contractor shall

not be liable for nor be required to indemnify the College against any compensation or damages for or in respect of injuries, loss or damage resulting wholly from any act, default or negligence on the part of the College, its employees, servants or agents not being the Contractor or employed by the Contractor. In addition the Contractor shall indemnify the College against any claims from employees of the current Contractor adversely affected by the award of the Contract.

- (2) Without limiting its responsibilities under this condition, the Contractor shall insure with a reputable Insurance Company against all loss of and damage to property and injury to or death of persons arising out of or in consequence of the Contractor's obligations under the Contract and against all actions, claims, demands, proceedings, damages, costs, charges and expenses in respect thereof.
- (3) The insurance in respect of personal injury or death of any person arising out of an incident occurring during the course of such person's employment shall comply with the Employer's Liability Compulsory Insurance Act 1969 and the Road Traffic Act 1972 and any statutory orders made thereunder. For all other claims to which this condition applies the insurance cover shall be the minimum of ten million pounds (£10,000,000) or such greater sum as the Contractor may choose in respect of any one incident and its insurance policy effecting such cover shall have the interest of the College endorsed therein or shall otherwise expressly by its terms confer its benefits upon the College.
- (4) The Contractor shall supply to the College immediately upon request copies of all insurance policies, cover notes, premium receipts and other documents necessary to comply with this condition.
- (5) The College shall indemnify and keep indemnified the Contractor and insure with a reputable Insurance Company or self insure against the injury to or death of any persons or loss of or damage to any property which may arise out of the act, default or negligence of the College, its employees, servants or agents other than the Contractor, its employees, servants or agents and against all actions, claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect thereof or in relation thereto.
- (6) The Contractor shall not be deemed to be in breach of the agreement or otherwise liable to the College for any failure or delay in performance by the Contractor of the services to the extent that such failure or delay is due to any event which is beyond the Contractor's reasonable control (excluding computer malfunction as a result of the date change) and including without limitation;
 - (1) Flood, storm, weather conditions or other natural events;
 - (2) War, terrorist action, hostilities, revolution, riot or civil disorder;
 - (3) Any destruction, breakdown (permanent or temporary) or malfunction of, or damage to any premises, plant, equipment, materials (including any computer hardware or software or any records) unless by an act or omission of our employees, agents or sub-contractors;
 - (4) The introduction of, or any amendment to, a law or regulation, or any change in your interpretation or application by an authority;
 - (5) Any strike, lockout or other industrial action;
 - (6) Any obstruction or public or private highway or road or any event which prevents or obstructs access to the site;

- (7) Any breach of contract or default by, or insolvency of a third party (including an agent or sub-contractor) other than a company in the Contractors group of companies or an officer or employee of the Contractor or of the group company.

18 Termination for Insolvency or Change of Control

(1) The Contractor shall notify the College in writing immediately upon the occurrence of any of the following events:

- a) Where the Contractor is an individual, if a petition is presented for his bankruptcy, or he makes any composition or arrangement with or for the benefit of creditors, or makes any conveyance or assignment for the benefit of creditors, or if an administrator is appointed to manage his affairs; or
- b) Where the Contractor is not an individual but is a firm or a number of persons acting together, if any event in Condition 18(1)(a) or (c) occurs in respect of any partner in the firm or any of those persons, or if a petition is presented for the Contractor to be wound up as an unregistered company; or
- c) Where the Contractor is a company or limited liability partnership, if the company or limited liability partnership enters administration or passes a resolution to wind up or the court makes an administration order or a winding-up order, or the company makes a composition or arrangement with its creditors, or an administrative receiver, receiver or manager is appointed by a creditor or by the court, or possession is taken of any of its property under the terms of a floating charge; or
- d) The Contractor undergoes a change of control, where “control” has the meaning given in Section 416 of the Income and Corporation Taxes Act 1998.

(2) After receipt of the notice under paragraph (1) above or earlier discovery by the College of the occurrence of any of the events described in that paragraph, the College may, by notice in writing to the Contractor, terminate the Contract with immediate effect without compensation to the Contractor and without prejudice to any right or action or remedy which may accrue to the College thereafter.

19. Termination for Breach of Contract

If either party commits a material breach of the Contract which is either not capable of remedy, or, if it is capable of remedy, he fails to remedy such breach within 28 days of being notified by the other party in writing to do so, that other party shall be entitled to terminate the Contract with immediate effect by notice in writing to the party that committed the material breach and without prejudice to any other rights or remedies of either party in respect of the breach concerned or any other breach of the Contract.

20. Cancellation

The College shall be entitled to terminate the Contract, or to terminate the provision of any part of the Services, by giving to the Contractor not less than 28 days' notice in writing to that effect without prejudice to any rights or remedies of the Contractor for breach of contract. Once it has given such notice, the College may extend the period of notice at any time before it expires, subject to agreement on the level of Services to be provided by the Contractor during the period of extension.

21. Dispute Resolution

(1) The parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Contract.

(2) If the parties cannot resolve the dispute pursuant to paragraph (1) of this Condition, the dispute may, by agreement between the parties, be referred to mediation pursuant to paragraph (4) of this Condition.

(3) The performance of the Services shall not cease or be delayed by the reference of a dispute to mediation pursuant to paragraph (2) of this Condition.

(4) If the parties agree to refer the dispute to mediation:

(a) In order to determine the person who shall mediate the dispute (the "Mediator") the parties shall by agreement choose a neutral adviser or mediator within 30 days after agreeing to refer the dispute to mediation;

(b) The parties shall within 14 days of the appointment of the Mediator meet with him in order to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiations to be held.

(c) Unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the parties in any future proceedings;

(d) If the parties reach agreement on the resolution of the dispute within 60 days of the Mediator being appointed, or such longer period as may be agreed between the parties, the agreement shall be reduced to writing and shall be binding on the parties once it is signed by both the College and the Contractor;

(e) Failing agreement within 60 days of the Mediator being appointed, or such longer period as may be agreed between the parties, either of the parties may invite the Mediator to provide a non-binding but informative opinion in writing. Such an opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the Contract without the prior written consent of both parties.

(5) If the parties do not agree to refer the dispute to mediation, or if the parties fail to reach agreement as to who shall mediate the dispute pursuant to Condition 21(4) (a) or if they fail to reach agreement in the structured negotiations within 60 days of the Mediator being appointed or such longer period as may be agreed by the parties, then any dispute or difference between them may be referred to the courts.

22. Corrupt Gifts and Payments of Commission

(1) The Contractor shall not:

a) Offer or give, or agree to give, to any person employed by or on behalf of the College any gift or consideration of any kind as an inducement or reward for doing, or having done, or not doing, any act in relation to the obtaining or execution of this Contract or any other contract with the College, or for showing or not showing favour or disfavour to any person in relation to this Contract or any other contract with the College;

b) Enter into the Contract or any other contract with the College or any other department of the College in connection with which commission has been paid, or agreed to be paid by him or on his behalf, or to his knowledge, unless, before the Contract is made, particulars of any such commission and the terms and conditions of any agreement for the payment thereof, have been disclosed in writing to any person duly authorised by the College to act as its representative for the purpose of this Condition.

Nothing contained in this Condition shall prevent the Contractor paying such commission or bonuses to his own staff in accordance with their agreed contracts of employment.

(2) Any breach of this Condition by the Contractor, or by anyone employed by him or acting on his behalf (whether with or without his knowledge), or the commission of any offence by the Contractor or by anyone employed by him or acting on his behalf under the Prevention of Corruption Acts 1889-1916, in relation to this Contract or any other contract with the College, shall entitle the College to terminate the Contract with immediate effect and recover from the Contractor the amount of any loss resulting from such termination and the amount of the value of any such gift, consideration or commission as the College shall think fit.

(3) Where the Contract has been terminated under paragraph (2) of this Condition, there shall be deemed to be a failure to commence the provision of the Services, enabling the College to terminate the Contract with immediate effect and the College will not be obliged to pay the charges.

(4) In any dispute, difference or question arising in respect of:

a) The interpretation of this Condition (except so far as the same may relate to the amount recoverable from the Contractor under paragraph (2) of this Condition in respect of any loss resulting from such determination of the Contract); or

b) The right of the College to determine the Contract; or

c) The amount or value of any gift, consideration or commission,

The decision of the College shall be final and conclusive.

23. Special Provisions

In the case of any conflict or inconsistency between these general Conditions and any specific terms of the Contract, the latter shall prevail.

24. Conflict of Interest

(1) The Contractor shall ensure that there is no conflict of interest as to be likely to prejudice his independence and objectivity in performing the Contract and undertakes that upon becoming aware of any such conflict of interest during the performance of the Contract (whether the conflict existed before the award of the Contract or arises during its performance) he shall immediately notify the College in writing of the same, giving particulars of its nature and the circumstances in which it exists or arises and shall furnish such further information as the College may reasonably require.

(2) Where the College is of the opinion that the conflict of interest notified to it under paragraph (1) above is capable of being avoided or removed, the College may require the Contractor to take such steps as will, in its opinion, avoid, or as the case may be, remove the conflict and:

a) If the Contractor fails to comply with the College's requirements in this respect; or

b) If, in the opinion of the College, it is not possible to remove the conflict,

The College may terminate the Contract immediately and recover from the Contractor the amount of any loss resulting from such termination.

(3) Notwithstanding Condition 25(2), where the College is of the opinion that the conflict of interest which existed at the time of the award of the Contract could have been discovered with the application by the Contractor of due diligence and ought to have been disclosed as

required by the tender documents pertaining to it, the College may terminate the Contract immediately for breach of a fundamental condition and, without prejudice to any other rights, recover from the Contractor the amount of any loss resulting from such termination.

25. Intellectual Property Rights

(1) Subject to any pre-existing rights of third parties and of the Contractor, the Intellectual Property Rights in all reports, documents and other materials which are generated or acquired by the Contractor (or any of its sub-contractors or agents) in the performance of the Services shall belong to and be vested automatically in the College, and the Contractor warrants to the College that all staff, agents and sub-contractors are and will be engaged in relation to the Contract on terms which do not entitle any of them to any Intellectual Property Rights in any such report, document or other material. The Contractor hereby assigns any copyright that it owns in every such report, document and other material to the College. The Contractor waives all moral rights relating to such reports, documents and other materials.

(2) If the Contractor in providing the Services uses any materials in which there are pre-existing Intellectual Property Rights owned by itself, its agents, sub-contractors or third parties, it shall itself provide, or procure from such agent, subcontractor or third party a non-exclusive licence for, or, if the Contractor is itself a licensee of those Intellectual Property Rights, it shall grant a sub-licence to, the College to use, reproduce, modify, adapt and enhance the material as the College sees fit. Such licence or sub-licence shall be perpetual and irrevocable and granted at no cost to the College.

(3) Any information (whether or not it is Confidential Information) collected or collated pursuant to the Contract (excluding any information which in the opinion of the College is confidential to the Contractor or which has been communicated to the Contractor under a condition that it shall be confidential to the Contractor) shall be the property of the College, and all original documents in whatever form which contain that information, including any computer tape or disk, any voice recording and any special computer program written to give access to the information, shall on request be deposited with the College.

(4) Nothing in this Contract or done under the Contract shall be taken to diminish any College copyright, patent rights or any other Intellectual Property Rights which would apart from this Contract vest in the College.

(5) The Contractor shall ensure that all royalties licence fees or similar expenses in respect of intellectual property used in connection with the Contract have been paid and are included in the contract price.

(6) If the College reimburses the Contractor for the cost of any equipment, such equipment shall become the property of the College and the Contractor shall on request deliver such equipment to the College. The Contractor shall keep a proper inventory of such equipment and shall deliver that inventory to the College on request and on completion of the Services.

26. Rights of Third Parties

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

27. College Property

(1) All College Property shall remain the property of the College and shall be used in the execution of the Contract and for no other purpose whatsoever except with the prior agreement in writing of the College.

(2) All College Property shall be deemed to be in good condition when received by or on behalf of the Contractor unless he notifies the College to the contrary within 14 days or such other time as is specified in the Contract.

(3) The Contractor undertakes to return any and all College Property on completion of the Contract or on any earlier request by the College.

(4) The Contractor shall, except as otherwise provided for in the Contract, repair or replace or, at the option of the College, pay compensation for all loss, destruction or damage occurring to any College Property caused or sustained by the Contractor, or by his servants, agents or sub-contractors, whether or not arising from his or their performance of the Contract and wherever occurring, provided that if the loss, destruction or damage occurs at the College's Premises, this Condition shall not apply to the extent that the Contractor is able to show that any such loss, destruction or damage was not caused or contributed to by his negligence or default or the neglect or default of his servants, agents, or sub-contractors.

28. Data Protection

(1) In this condition references to "personal data", "data subjects" and "data processor" are to be interpreted as defined in the Data Protection Act 1998 ("the Act"). The Contractor shall comply with all relevant provisions of the Act and do nothing which causes, or may cause, the College to be in breach of its obligations under the Act. In particular, to the extent that the Contractor acts as a data processor in respect of any personal data pursuant to the Contract, the Contractor shall only process such personal data as is necessary to enable it to fulfil its obligations under this Contract.

(2) The Contractor warrants that it has appropriate technical and organisational measures in place to protect any personal data it is processing on the College's behalf against any unauthorised or unlawful processing and against any accidental loss, destruction or damage and undertakes to maintain such measures during the course of this Contract. The Contractor shall also take all reasonable steps to ensure the reliability of its staff having access to any such personal data.

(3) Upon reasonable notice the Contractor shall allow the College access to any relevant premises owned or controlled by it to enable the College to inspect its procedures described at Condition 28(2) above and will upon the College's request from time to time prepare a report for it on the technical and organisational measures it has in place to protect the personal data it is processing on the College's behalf.

(4) The Contractor shall at its own cost, at the College's request, assist the College to comply with any requests for access to personal data under Section 7 of the Act and in particular shall respond to any such request promptly to enable the College to comply with its obligations under the Act. When requested by the College the Contractor shall at its own cost promptly provide it with any personal data relating to this Contract.

(5) If the Contractor fails to comply with any provision of this condition, the College may terminate the Contract immediately in which event the provisions of Condition 19 shall apply.

(6) The Contractor shall indemnify the College against all claims and proceedings, and all costs and expenses incurred in connection therewith, made or brought against the College by any person in respect of the Act or equivalent applicable legislation in any other country which claims would not have arisen but for some act, omission, misrepresentation or negligence on the part of the Contractor or its sub-contractors and hold it harmless against all costs, losses and liability whatsoever incurred by it arising out of any action or inaction on its part in relation to any of its obligations as set out in this Contract which results in the College being in breach of its obligations under the Act or equivalent applicable legislation in any other country.

(7) The Contractor warrants that it has submitted, pursuant to Section 18(1) of the Act, a notification to the Information Commissioner and shall keep that notification up to date.

(8) The Contractor shall not transfer any personal data outside the European Economic Area unless authorised in writing to do so by the College.

(9) Upon the termination of this Contract for whatever reason the Contractor shall, unless notified otherwise by the College or required by law, immediately cease any processing of the personal data on the College's behalf and as requested by the College destroy or provide the College with a copy on suitable media.

(10) The Contractor shall promptly carry out any request from the College requiring it to amend, transfer or delete the personal data or any part of the personal data.

(11) Where the Contractor is required to collect any personal data on behalf of the College, it shall ensure that it provides the data subjects from whom the personal data are collected with a data protection notice in a form to be agreed with the College.

29. Non-discrimination

The Contractor shall not unlawfully discriminate within the meaning and scope of the anti-discrimination legislation within the UK in relation to the provision of the Services or otherwise and shall take all reasonable steps to ensure that all servants, employees or agents of the Contractor and all sub-contractors employed in the execution of the Agreement do not unlawfully discriminate.

30. Other Legislation

The Contractor shall, and shall procure that its sub-contractors, agents and personnel, comply with all applicable law.

31. Contractor Status

Nothing in the Contract shall create or be construed as creating a partnership, joint venture, a contract of employment or relationship of employer and employee, or a relationship of principal and agent between the College and the Contractor.

32. Transfer of Services

(1) Where the College intends to continue with services equivalent to any or all of the Services after termination or expiry of the Contract, either by performing them itself or by the appointment of a replacement contractor, the Contractor shall use all reasonable endeavours to ensure that the transition is undertaken with the minimum of disruption to the College.

(2) The contractor shall co-operate fully during the transition period and provide full access to all data, documents, manuals, working instructions, reports and any information, whether held in electronic or written form, which the College considers necessary.

33. Law and Jurisdiction

The Contract shall be governed by and construed in accordance with English Law and shall be subject to the exclusive jurisdiction of the courts of England and Wales.