

Terms and conditions of contract for purchase of goods and services

The General Teaching Council for Scotland, established under the Public Services Reform (General Teaching Council for Scotland) Order 2011 and having its office at Clerwood House, 96 Clermiston Road, Edinburgh EH12 6UT ('GTC Scotland'), wishes to purchase the Goods and/or Services from the Supplier and the Supplier agrees to provide such Goods and/or Services in accordance with these terms and conditions, the 'Conditions'.

1 Interpretation

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

1.1 Definitions:

'Authorised Person' means a GTC Scotland employee authorised by GTC Scotland to issue a Purchase Order.

'Business Day' means a day other than a Saturday, Sunday, public holiday in Scotland or a day between Christmas Day and 2 January (inclusive) where GTC Scotland offices are open for business.

'Business Hours' means the period between 09:00 (9am) and 17:00 (5pm) GMT.

'Commencement Date' means the date of commencement of the Contract as described in Condition 2.2.

'Confidential Information' means all information of a confidential or proprietary nature (whether in oral, written or electronic form) belonging or relating to GTC Scotland in any way that you receive in your role as a Supplier to GTC Scotland or in the course of forming the Contract.

'Contract' means these Conditions, the Purchase Order and the Supplier's acceptance of the Purchase Order together with any applicable Order Amendments.

'Data Protection Appendix' shall mean the appendix relating to the sharing or processing of personal data annexed to and forming part of these Conditions.

'Deliverables' means all documents, designs, software, reports, specifications, plans created, developed, provided or otherwise resulting from the provision of the Services by or on behalf of the Supplier, including, without limitation, any deliverables described in the Contract.

'Delivery Date' means the date specified in the Order, or, if none is specified, within twenty-eight (28) days of the date of the Order.

'Delivery Location' means the address for delivery of the Goods as set out in the Purchase Order.

'Force Majeure Event' means an event that could not reasonably have been foreseen by the parties and that is beyond their physical or legal control including but not limited to: extreme adverse weather conditions, pandemic or epidemic, war, terrorism, fire, civil unrest or riots and telecommunication failures.

'Goods' means: (i) any goods agreed to be purchased by GTC Scotland from the Supplier; and (ii) any Deliverables.

'Goods Specification' means any specification for the Goods, including any related plans and drawings, that is agreed in writing by GTC Scotland and the Supplier.

'GTC Scotland IPR' means any and all IPR belonging to GTC Scotland, or which GTC Scotland has a right to use, and which is made available to the Supplier by GTC Scotland in order to enable it to provide the Goods and/or Services.

'IPR' means any and all intellectual property rights including but not limited to: trade marks and service marks, patents, utility models, rights to inventions, copyright and related rights (including

software rights such as object and source code), database rights, rights in design rights, rights in computer software, moral rights, trade and business names, domain names, product names and logos, databases, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

'Key Personnel and Parties List' has the meaning set out in Condition 3.6.

'Order Amendment' means an amendment made in writing to the Goods or Services detailed in a Purchase Order and issued to the Supplier by GTC Scotland. Each Order Amendment issued shall take precedence over any earlier Order Amendment.

'Price' means the price (or fee), exclusive of value added tax ('VAT'), payable by GTC Scotland under the Contract for the full and proper performance by the Supplier of the Contract.

'Purchase Order' means GTC Scotland's written request to purchase the Goods and/or Services from the Supplier.

Representatives means, in relation to a party, its employees, officers, contractors, subcontractors, representatives and advisers.

'Reports' means written progress reports to be provided to GTC Scotland by the Supplier relating to provision of the Services.

'Resultant IPR' means all IPR created, developed or otherwise resulting directly or indirectly from the provision of the Goods and Services including, without limitation, IPR in any Deliverables.

'Services' means the services to be provided by the Supplier to GTC Scotland described in the Purchase Order and/or Services Specification.

'Services Specification' means any specification/description of, or requirements for, the Services provided by GTC Scotland to the Supplier in writing in the Purchase Order or elsewhere (and as may be amended from time to time).

'Supplier' means the person or legal entity supplying the Goods and/or Services to GTC Scotland.

'Supplier IPR' means any and all IPR belonging to the Supplier, or which the Supplier has a right to use, and which is made available to GTC Scotland by the Supplier in order to enable GTC Scotland to receive the Goods and/or Services or make use of the Deliverables.

'Supplier Personnel and Parties' means the Supplier's employees as well as any of its agents, consultants and/or contractors.

'Term' means a period of [three (3)] years from the Commencement Date.

1.2 Interpretation:

1.2.1 Headings set out in these Conditions will not affect the interpretation of the conditions themselves.

1.2.2 Words importing the singular include the plural and vice versa.

1.2.3 Reference to any legislation or similar will be construed as a reference to such legislation as amended or replaced from time to time. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision.

1.2.4 Any words following the terms including, include, in particular, for example or any similar expression shall be interpreted as illustrative and shall not limit the sense of the words preceding those terms.

1.2.5 A reference to writing or written excludes fax but not email.

1.2.6 Each party agrees to act reasonably at all times in the performance of the Contract.

2 Application and commencement

- 2.1 The Purchase Order constitutes an offer by GTC Scotland to purchase Goods and/or Services from the Supplier in accordance with these Conditions.
- 2.2 The Order shall be deemed to be accepted on the earlier of:
 - 2.2.1 the Supplier issuing written acceptance of the Order; or
 - 2.2.2 any act by the Supplier consistent with fulfilling the Order, at which point and on which date the Contract shall come into existence (**Commencement Date**) for the Term of the Contract.
- 2.3 These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or that are implied by law, trade custom, practice or course of dealing.
- 2.4 All of these Conditions shall apply to the supply of both Goods and Services except where the application to one or the other is specified.
- 2.5 GTC may extend the Term of this Contract for additional extension periods (the “Extension Periods” which each extension period being an “Extension Period”), subject to condition 2.5.3, as follows:
 - 2.5.1 GTC Scotland may extend the Extension Period for two (2) years at a time subject to the Supplier’s consent;
 - 2.5.2 An Extension Period may be exercised twice, provided that the total duration of the Term of this Contract shall not exceed seven (7) years in total; and
 - 2.5.3 If extending the Term of this Contract or the Extension Period, GTC Scotland shall provide at least ninety (90) Business Days’ notice to the Supplier prior to the expiry of the Term or the relevant Extension Period.

3 Supply of Goods

- 3.1 The Supplier shall ensure that the Goods:
 - 3.1.1 correspond with their description and any applicable (i) the Purchase Order; and (ii) any Goods Specification;
 - 3.1.2 are of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for any purpose held out by the Supplier or made known to the Supplier by GTC Scotland, expressly or by implication, and in this respect GTC Scotland relies on the Supplier's skill and judgement;

- 3.1.3 where they are manufactured products, are free from defects in design, material and workmanship and shall remain so for twelve (12) months after delivery; and
- 3.1.4 comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods.
- 3.2 GTC Scotland may inspect and test the Goods at any time before delivery. The Supplier shall remain fully responsible for the Goods despite any such inspection or testing and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract.
- 3.3 If following such inspection or testing GTC Scotland considers that the Goods do not comply or are unlikely to comply with the Supplier's undertakings at condition 3.1, GTC Scotland shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance.
- 3.4 GTC Scotland may conduct further inspections and tests after the Supplier has carried out its remedial actions.

4 Delivery of Goods

- 4.1 The Supplier shall ensure that:
 - 4.1.1 the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition;
 - 4.1.2 each delivery of the Goods is accompanied by a delivery note that shows the date of the Order, the Purchase Order number, the type and quantity of the Goods (including the code number of the Goods (where applicable)), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered;
 - 4.1.3 it complies with any other reasonable delivery requirements specified in the Purchase Order; and
 - 4.1.4 if the Supplier requires GTC Scotland to return any packaging material to the Supplier, that fact is clearly stated on the delivery note. Any such packaging material shall be returned to the Supplier at the cost of the Supplier.
- 4.2 The Supplier shall deliver the Goods:
 - 4.2.1 on the Delivery Date;
 - 4.2.2 at the Delivery Location; and

- 4.2.3 during Business Hours or as instructed by GTC Scotland. If no date is specified in the Purchase Order, delivery will be made within twenty-eight (28) days of the date of the Purchase Order. Time for delivery will be of the essence of the Contract.
- 4.3 Delivery of the Goods is completed on the completion of unloading of the Goods at the Delivery Location, including any stacking as required by GTC Scotland.
- 4.4 If the Supplier:
 - 4.4.1 delivers less than 100% of the quantity of Goods ordered, GTC Scotland may reject the Goods; or
 - 4.4.2 delivers more than 100% of the quantity of Goods ordered, GTC Scotland may reject the Goods or the excess Goods,
 - 4.4.3 and any rejected Goods shall be returnable at the Supplier's risk and expense. If the Supplier delivers more or less than the quantity of Goods ordered, and GTC Scotland accepts the delivery, the Supplier shall make a pro rata adjustment to the invoice for the Goods.
- 4.5 The Supplier shall not deliver the Goods in instalments without GTC Scotland's prior written consent. If delivery of the Goods by instalments is agreed, the Supplier shall invoice and GTC Scotland shall pay each instalment separately. However, failure by the Supplier to deliver any one instalment on time or at all, or any defect in an instalment shall entitle GTC Scotland to the remedies set out in condition 6.1.
- 4.6 Title and risk in the Goods shall pass to GTC Scotland on completion of delivery.
- 4.7 The Supplier will provide a warranty for the Goods (and any repairs or replacements) to the satisfaction of GTC Scotland and/or as specified in the Purchase Order.

5 Supply of Services

- 5.1 The Supplier shall from the date set out in the Purchase Order and for the duration of the Contract supply the Services to GTC Scotland in accordance with the Service Specifications and the terms of the Contract.
- 5.2 The Supplier shall meet any performance dates for the Services that GTC Scotland notifies to the Supplier.
- 5.3 In providing the Services, the Supplier shall:
 - 5.3.1 co-operate with GTC Scotland in all matters relating to the Services, and comply with all instructions of GTC Scotland;

- 5.3.2 perform the Services with the best care, skill and diligence in accordance best practice in the Supplier's industry, profession or trade;
- 5.3.3 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 the Contract;
- 5.3.4 ensure that the Services will conform with all descriptions, standards and specifications set out in the Service Specification, and that the Deliverables shall be fit for any purpose that GTC Scotland expressly or impliedly makes known to the Supplier;
- 5.3.5 provide all equipment, tools and vehicles and such other items as are required to provide the Services;
- 5.3.6 use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to GTC Scotland, will be free from defects in workmanship, installation and design;
- 5.3.7 obtain and at all times maintain all licences and consents which may be required for the provision of the Services;
- 5.3.8 observe all health and safety rules and regulations and any other security requirements that apply at any of GTC Scotland's premises;
- 5.3.9 hold all materials, equipment and tools, drawings, specifications and data supplied by GTC Scotland to the Supplier (GTC Scotland Materials) in safe custody at its own risk, maintain GTC Scotland Materials in good condition until returned to GTC Scotland, and not dispose of or use GTC Scotland Materials other than in accordance with GTC Scotland's written instructions or authorisation;
- 5.3.10 not do or omit to do anything which may cause GTC Scotland to lose any licence, authority, consent or permission on which it relies for the purposes of conducting its business, and the Supplier acknowledges that GTC Scotland may rely or act on the Services;
- 5.3.11 act professionally, on time and in good faith;
- 5.3.12 comply with any additional obligations as set out in the Services Specification, with general consideration for environmentally sustainable processes and procedures as well as any additional policies/guidance supplied by GTC Scotland;
- 5.3.13 act at all times in accordance with the law; and
- 5.3.14 provide the Services to the satisfaction of GTC Scotland.

- 5.4 The Supplier will provide GTC Scotland with a list of any of the Supplier's Personnel and Parties who are reasonably considered key to the provision of the Services ('Key Personnel and Parties List') and such Key Personnel and Parties List will be deemed to form part of the Services Specification. Any change to the Key Personnel List will be agreed in writing with GTC Scotland before any such changes are made.

6 Supplier obligations

- 6.1 The Supplier warrants and undertakes that:

- 6.1.1 it has and at all times will maintain all necessary licences, permissions, authorisations, consents and permits necessary for the performance of its obligations under the Contract;
- 6.1.2 it will comply with all applicable laws and regulations with respect to its obligations under these Conditions;
- 6.1.3 it will co-operate with the Customer in all matters relating to the Services and comply with the Customer's instructions;
- 6.1.4 it will not do or omit to do anything which may cause the Customer to lose any licence, authority, consent or permission on which it relies for the purposes of conducting its business; and
- 6.1.5 it will notify the Customer in writing immediately upon the occurrence of a change of control of the Supplier.

7 GTC Scotland remedies

- 7.1 If the Supplier fails to deliver the Goods on the Delivery Date or to perform the Services by the applicable date, GTC Scotland shall, without limiting or affecting other rights or remedies available to it, have any one or more of the following rights and remedies:
- 7.1.1 to terminate the Contract with immediate effect by giving written notice to the Supplier;
 - 7.1.2 to refuse to accept any subsequent performance of the Services or delivery of the Goods which the Supplier attempts to make;
 - 7.1.3 to recover from the Supplier any costs incurred by GTC Scotland in obtaining substitute goods or services from a third party;
 - 7.1.4 to require a refund from the Supplier of sums paid in advance for Services that the Supplier has not provided or Goods that it has not delivered; and

- 7.1.5 to claim damages for any additional costs, loss or expenses incurred by GTC Scotland which are in any way attributable to the Supplier's failure to meet such dates.
- 7.2 If the Goods are not delivered on the Delivery Date, GTC Scotland may, at its option, claim or deduct 2% of the price of the Goods for each week's delay in delivery of the Goods, by way of liquidated damages, until the earlier of delivery of the Goods or termination or abandonment of the Contract by GTC Scotland, up to a maximum of 10% of the total price of the Goods. If GTC Scotland exercises its rights in respect of late delivery under this condition 7.2 it shall not be entitled to any of the remedies set out in condition 7.1 in respect of the late delivery of the Goods.
- 7.3 If the Services are not performed by the applicable date, GTC Scotland may, at its option, claim or deduct 2% of the price of the Services for each week's delay in performance of the Services, by way of liquidated damages, until the earlier of performance of the Services or termination or abandonment of the Contract by GTC Scotland, up to a maximum of 10% of the total price of the Services. If GTC Scotland exercises its rights in respect of late performance under this condition 7.3 it shall not be entitled to any of the remedies set out in condition 7.1 in respect of the late performance of the Services.
- 7.4 If the Supplier has delivered Goods that do not comply with the undertakings set out in condition 3.1, then, without limiting or affecting other rights or remedies available to it, GTC Scotland shall have one or more of the following rights and remedies, whether or not it has accepted the Goods:
- 7.4.1 to terminate the Contract with immediate effect by giving written notice to the Supplier;
- 7.4.2 to reject the Goods (in whole or in part) whether or not title has passed and to return them to the Supplier at the Supplier's own risk and expense;
- 7.4.3 to require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods (if paid);
- 7.4.4 to refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;
- 7.4.5 to recover from the Supplier any expenditure incurred by GTC Scotland in obtaining substitute goods from a third party; and
- 7.4.6 to claim damages for any additional costs, loss or expenses incurred by GTC Scotland arising from the Supplier's failure to supply Goods in accordance with condition 3.1.
- 7.5 If the Supplier has supplied Services that do not comply with the requirements of condition 5.3(d) then, without limiting or affecting other rights or remedies available to it, GTC Scotland shall have one or more of the following rights and remedies:

- 7.5.1 to terminate the Contract with immediate effect by giving written notice to the Supplier;
 - 7.5.2 to return the Deliverables to the Supplier at the Supplier's own risk and expense;
 - 7.5.3 to require the Supplier to provide repeat performance of the Services, or to provide a full refund of the price paid for the Services (if paid);
 - 7.5.4 to refuse to accept any subsequent performance of the Services which the Supplier attempts to make;
 - 7.5.5 to recover from the Supplier any expenditure incurred by GTC Scotland in obtaining substitute services or deliverables from a third party; and
 - 7.5.6 to claim damages for any additional costs, loss or expenses incurred by GTC Scotland arising from the Supplier's failure to comply with condition 5.3(d).
- 7.6 These Conditions shall extend to any substituted or remedial services or repaired or replacement goods supplied by the Supplier.
- 7.7 GTC Scotland's rights and remedies under the Contract are in addition to, and not exclusive of, any rights and remedies implied by statute and common law.

8 Inspection and reporting

- 8.1 The Supplier will provide GTC Scotland with the Reports, all to the reasonable satisfaction of GTC Scotland.
- 8.2 The Supplier will provide GTC Scotland with the right to check progress of the Supplier's provision of the Services and GTC Scotland will have the right to inspect and to reject Goods and/or Services that do not comply with the Contract. Any inspection or approval given will not relieve the Supplier from its obligations under the Contract.

9 GTC Scotland's obligations

- 9.1 GTC Scotland shall:
- 9.1.1 provide the Supplier with reasonable access at reasonable times to GTC Scotland's premises for the purpose of providing the Services; and
 - 9.1.2 provide such necessary information for the provision of the Services as the Supplier may reasonably request.

10 Price and payment

- 10.1 The Price for the Goods and/or Services:

- 10.1.1 is the price set out in the Purchase Order, including payment of VAT;
- 10.1.2 includes the costs of packaging, insurance and carriage of the Goods. No extra charges shall be effective unless agreed in writing and signed by GTC Scotland.
- 10.2 In respect of the Goods, the Supplier shall invoice GTC Scotland on or at any time after completion of delivery. In respect of the Services, the Supplier shall invoice GTC Scotland on completion of the Services, to the satisfaction of GTC Scotland. Each invoice shall include such supporting information required by GTC Scotland to verify the accuracy of the invoice, including GTC Scotland Purchase Order number, a description of the Goods and/or Services concerned and the time period to which it relates.
- 10.3 GTC Scotland shall pay the invoiced amounts within twenty (20) Business Days of the date of a correctly rendered invoice to a bank account nominated in writing by the Supplier.
- 10.4 No increase in the Price may be made without the prior written consent of GTC Scotland.
- 10.5 All expenses that may be incurred by the Supplier (including travel costs) must be agreed with GTC Scotland in writing in advance in order to be reimbursed and will be subject to the provision of receipts to prove such expenditure.
- 10.6 Without prejudice to any other right or remedy, GTC Scotland reserves the right to set off any amount owing at any time by the Supplier to GTC Scotland against any amount payable by GTC Scotland to the Supplier under the Contract.

11 Intellectual property

- 11.1 All IPR in GTC Scotland IPR shall be owned by GTC Scotland.
- 11.2 All IPR in the Supplier IPR shall be owned by the Supplier.
- 11.3 The Supplier grants to GTC Scotland, or shall procure the direct grant to GTC Scotland of, a fully-paid up, worldwide, non-exclusive, perpetual, irrevocable, and royalty-free during the Term of the Contract to copy and use the Deliverables and Supplier IPR for the purpose of receiving and using the Services and the Deliverables, and exploiting the Resultant IPR.
- 11.4 GTC Scotland grants to the Supplier a non-exclusive, non-transferable, royalty free licence to copy and modify GTC Scotland IPR for the Term of the Contract for the purpose of providing the Services to GTC Scotland.
- 11.5 The Supplier agrees that the Resultant IPR will belong to, and upon its creation vest in, GTC Scotland. The Supplier assigns to GTC Scotland from the date of creation its whole right, title and interest in the Resultant IPR (including any future rights in it). The Supplier will execute and

perform all such applications, assignments, documents and acts as may be required by GTC Scotland in order to give effect to this Condition and in order to enforce any legal protection in respect of such IPR.

- 11.6 The Supplier irrevocably waives in favour of GTC Scotland any moral rights it may have in the Resultant IPR in terms of the Copyright, Designs and Patents Act 1988, and any other similar rights in other parts of the world.

12 Indemnity

- 12.1 The Supplier will indemnify GTC Scotland against all Losses incurred by GTC Scotland as a result of:
- 12.1.1 any claim that the supply, receipt or use of the Goods or Services (excluding GTC Scotland Materials) infringes the IPR of any third party;
 - 12.1.2 any claim by a third party for death, personal injury or damage to property arising out of or in connection with defective Goods or Deliverables, to the extent that the defect is attributable to the acts or omissions of the Supplier;
 - 12.1.3 any claim by any person, or any action or investigation by a regulator, arising out of or in connection with the Supplier's breach of condition 12; and
 - 12.1.4 any claim by a third party arising out of or in connection with the supply of the Goods or the Services, to the extent that the claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Supplier.

13 Data protection and records management

- 13.1 The Supplier and GTC Scotland shall comply with the terms and conditions in the Data Protection Appendix.
- 13.2 The Supplier shall manage any GTC Scotland records that they hold in accordance with GTC Scotland Records Management Policy and Record Management and Retention Schedule.

14 Publishing of information

- 14.1 The Supplier acknowledges that GTC Scotland has obligations under the: Public Services (Scotland) Act 2010, Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland) Regulations 2004 and shall:
- 14.1.1 provide all necessary assistance and cooperation as reasonably requested by GTC Scotland to enable GTC Scotland to comply with its obligations as per Condition 9.1.

- 14.1.2 transfer to GTC Scotland all requests for information relating to the agreement between GTC Scotland and the supplier that it receives as soon as practicable and in any event within 2 Business Days of receipt; and
 - 14.1.3 provide GTC Scotland with a copy of all information belonging to GTC Scotland requested in the request for information which is in its possession or control in the form that GTC Scotland requires within 5 Business Days (or such other period as GTC Scotland may reasonably specify) of GTC Scotland's request for such information.
- 14.2 The Supplier acknowledges that GTC Scotland may be required under the obligations in condition 9.1 to disclose information concerning the Supplier or the Goods (including commercially sensitive information) without consulting or obtaining consent from the Supplier. In these circumstances GTC Scotland shall, in accordance with any relevant guidance issued under the Freedom of Information (Scotland) Act 2002, take reasonable steps, where appropriate, to give the Supplier advance notice, or failing that, to draw the disclosure to the Supplier's attention after any such disclosure.
- 14.3 Notwithstanding any other provision in the Agreement, GTC Scotland shall be responsible for determining in its absolute discretion whether any information relating to the Supplier or the Goods is exempt from disclosure in accordance with the legislation listed in condition 9.1.

15 Confidentiality

- 15.1 Each party shall keep the other party's Confidential Information secret and confidential during the Term of the Contract and for a period of two (2) years after, and shall not:
- 15.1.1 use such Confidential Information except for the purpose of exercising or performing its rights and obligations under or in connection with the Contract (Permitted Purpose); or
 - 15.1.2 disclose such Confidential Information in whole or in part to any third party, except as expressly permitted by this condition 14.
- 15.2 A party may disclose the other party's Confidential Information to those of its Representatives (as defined below) who need to know such Confidential Information for the Permitted Purpose, provided that:
- 15.2.1 it informs such Representatives of the confidential nature of the Confidential Information before disclosure; and
 - 15.2.2 at all times, it is responsible for such Representatives' compliance with the confidentiality obligations set out in this condition.

- 15.3 A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority, or by a court or other authority of competent jurisdiction provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of the disclosure as possible.
- 15.4 A party may, provided that it has reasonable grounds to believe that the other party is involved in activity that may constitute a criminal offence under the Bribery Act 2010, disclose Confidential Information to the Serious Fraud Office without first informing the other party of such disclosure.
- 15.5 The provisions of this condition shall not apply to any Confidential Information that:
- 15.5.1 is or becomes generally available to the public (other than as a result of its disclosure by the receiving party or its Representatives in breach of this condition);
 - 15.5.2 was available to the receiving party on a non-confidential basis before disclosure by the disclosing party;
 - 15.5.3 was, is or becomes available to the receiving party on a non-confidential basis from a person who, to the receiving party's knowledge, is not bound by a confidentiality agreement with the disclosing party or otherwise prohibited from disclosing the information to the receiving party; or
 - 15.5.4 the parties agree in writing is not confidential or may be disclosed.

16 Insurance

During the Term of the Contract, the Supplier shall maintain in force, with a reputable insurance company public liability insurance, employers' liability insurance and (where relevant) professional indemnity insurance to cover the liabilities that may arise under or in connection with the Contract, and shall produce to GTC Scotland on demand evidence of such insurance confirming the contractually required level of cover is in place and the receipt for the then current premiums.

17 Remedies

- 17.1 Without prejudice to any other right or remedy which GTC Scotland may have, if: (i) the Goods are not delivered on the due date, (ii) the Goods do not conform with the Contract, or (iii) the Supplier fails to commence the provision of, or to perform, the Services in accordance with the Contract, GTC Scotland reserves the right to:

- 17.1.1 rescind the Purchase Order or terminate the Contract (in whole or in part) and refuse to accept any subsequent delivery of the Goods, or performance of the Services, which the Supplier attempts to make;
 - 17.1.2 give the Supplier a reasonable opportunity (at the Supplier's expense) either to remedy any defect in the Goods and/or the Services and carry out any other necessary work to ensure that the terms of the Contract are fulfilled;
 - 17.1.3 recover from the Supplier any expenditure reasonably incurred by GTC Scotland in obtaining any Goods and/or Services from another Supplier; and/or
 - 17.1.4 reject the Goods in whole or in part whether or not paid for in full or in part and be released from any obligation to pay for the Goods and/or Services and require the Supplier to collect all rejected Goods at its own expense.
- 17.2 In the event of Purchase Order cancellation in terms of the above, the Supplier will promptly repay any sums paid under the Contract without any retention or offset whatsoever. Cancellation of the Purchase Order will not affect any other rights GTC Scotland may have.

18 Limitation of liability

- 18.1 Nothing in these Conditions excludes the liability of either party for:
- 18.1.1 death or personal injury caused by the other party's negligence; or
 - 18.1.2 for fraud or fraudulent misrepresentation; or
 - 18.1.3 under conditions 6, 11, 12, or 14.
- 18.2 Subject to condition 18.1, neither party shall be liable for any:
- 18.2.1 indirect, special or consequential loss or damage (including loss of business profits/revenue, salary, goodwill or anticipated savings); and/or
 - 18.2.2 loss which could reasonably have been avoided or mitigated through reasonable conduct or precautions.
- 18.3 The total aggregate liability in respect of all defaults under these Conditions shall be limited to the Price.

19 Term and termination

- 19.1 GTC Scotland may terminate the Contract at any time by giving the Supplier [two (2)] months' written notice.

- 19.2 Further to condition 19.1, the Contract may be terminated at any time by either party giving the other one calendar months' written notice where either party:
- 19.2.1 commits a material breach of the Contract which it fails to remedy within 10 Business Days of being asked to do so by the other party; or
 - 19.2.2 is subject to: bankruptcy, insolvency or winding-up proceedings; administrator/ receiver/trustee management arrangements; or any other similar procedures.
- 19.3 The Supplier agrees to facilitate a handover of the provision of the goods/services to any new supplier that may be appointed by GTC Scotland in the lead up to, or following, any termination of the Contract.
- 19.4 Termination of the Contract will be without prejudice to any Contract rights in existence at the date of termination.
- 19.5 On termination of the Contract, the Supplier will return to GTC Scotland any document, materials or information (and any copies taken) supplied by or obtained from GTC Scotland in connection with the Contract.
- 19.6 Conditions 10, 11, 12, 13, 14 and 21.5 will survive termination of the Contract and will remain in full force and effect.

20 Business continuity

- 20.1 The Supplier will ensure that it has adequate business continuity policies and procedures in place.
- 20.2 If the Supplier is unable to provide the Goods and/or Services, the Supplier will inform GTC Scotland of this as soon as reasonably practicable. In such circumstances, GTC Scotland may require the Supplier to find a replacement supplier in order that the Goods and/or Services may be provided in accordance with the Contract, the Supplier will meet all costs associated with this.

21 General

- 21.1 Neither party will assign, charge, sub-contract or otherwise transfer any rights or obligations under the Contract without the prior written consent of the other party.
- 21.2 Nothing in the Contract is intended, or will operate, to create between the parties an employment or agency relationship or any form of co-operative entity (including, but not limited to, a partnership or joint venture).
- 21.3 Neither party will be in breach of the Contract, nor liable for any failure or delay in performance, arising from a Force Majeure Event. Each party agrees to take all reasonable steps to mitigate

the impact of any such event on the performance of the Contract and to notify (and keep informed) the other party until the event has passed.

- 21.4 No variation of the Contract, except in an Order Amendment, will be effective unless in writing signed by an Authorised Person of each party.
- 21.5 If and in so far as any part of the Contract is or becomes void or unenforceable it will be deemed not to be and never to have formed part of the Contract: the remaining parts of the Contract will remain in full force and effect.
- 21.6 The failure of either party to exercise or enforce any right conferred by the Contract will not be deemed to be a waiver of any such right or operate to bar the exercise or enforcement of that right any time before or after that.
- 21.7 The contract is not intended, and nor will it, create any rights, entitlement, claims or benefits enforceable by any person that is not a party to it.
- 21.8 This Contract will be governed by and construed in accordance with Scots law and the parties submit to the exclusive jurisdiction of the Scottish courts.

This is the Data Protection Appendix referred to in the forgoing Terms and Conditions of Purchase of Goods/Services between the General Teaching Council for Scotland ('GTC Scotland') and the Supplier.

Data Protection Appendix

1 Interpretation

In this Data Protection Appendix:

- 1.1 **'Contract'** means the contract between the Supplier and GTC Scotland to which this Data Protection Appendix is attached to and forms part of.
- 1.2 **'Data Controller'** has the meaning given in the Data Protection Laws under 1.4.
- 1.3 **'Data Processor'** has the meaning given in the Data Protection Laws under 1.4.
- 1.4 **'Data Protection Laws'** means all applicable laws, statutes, subordinate legislation, regulations, order, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body which relates to the protection of Personal Data and the privacy of individuals, including the Data Protection Act 2018, the UK GDPR, the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426), and the guidance issued by the Information Commissioner or any other relevant regulatory authority.
- 1.5 **'UK GDPR'** has the meaning given in section 3(1) (as supplemented by section 205(4)) of the Data Protection Act 2018.
- 1.6 **'Goods'** means the goods to be supplied to GTC Scotland by the Supplier pursuant to the Contract.
- 1.7 **'Personal Data'** has the meaning given in the Data Protection Laws under 1.4.
- 1.8 **'Processing'** has the meaning given in the Data Protection Laws (see 1.4) and cognate expressions shall be construed accordingly.
- 1.9 **'Services'** means the services to be supplied to GTC Scotland by the Supplier pursuant to the Contract.
- 1.10 **'Supervisory Authority'** has the meaning given in Data Protection Laws under 1.4.

2 Data Protection: General

- 2.1 Both Parties agree to negotiate in good faith any such amendments to this Data Protection Appendix that may be required from time to time in order to ensure that both Parties meet all their obligations under Data Protection Laws (see 1.4). The provisions of this Data Protection Appendix are without prejudice to any obligations and duties imposed directly on the Supplier under Data Protection Laws (see 1.4) and the Supplier hereby agrees to comply with those obligations and duties.
- 2.2 The Supplier will, in conjunction with GTC Scotland and in its own right and in respect of the Goods or Services, make all necessary preparations to ensure it will be and shall remain compliant with Data Protection Laws (see 1.4).
- 2.3 The Supplier will provide GTC Scotland with the contact details of its data protection officer or other designated individual with responsibility for data protection and privacy to act as the point of contact for the purpose of observing its obligations under Data Protection Laws (see 1.4).

3 Data Processing: Data Controller to Data Processor

- 3.1 In respect of any Personal Data to be Processed by the Supplier in connection with the Goods or Services under the Contract, the parties agree that GTC Scotland is the Data Controller, and the Supplier is the Data Processor. The Parties shall agree and record the following details relating to the Goods or Services in writing (and shall keep all such Processing activities under appropriate periodic regular review):
 - 3.1.1 the subject matter of the Processing activity;
 - 3.1.2 the duration of the Processing activity;
 - 3.1.3 the nature and purpose of the Processing activity;
 - 3.1.4 the types of Personal Data to be Processed;
 - 3.1.5 the categories of Data Subject; and
 - 3.1.6 any plan for the return and destruction of the Personal Data once the Processing is complete unless there is a requirement under applicable UK, EU or Member State law to preserve that type of Personal Data.
- 3.2 The Supplier must:
 - 3.2.1 process Personal Data only as necessary in accordance with its obligations under the Contract and any written instructions given by GTC Scotland (which may be specific

or of a general nature), including with regard to transfers of Personal Data outside the European Economic Area unless required to do so by any applicable European Union or Member state law or regulatory body to which the Supplier is subject; in which case the Supplier must inform GTC Scotland of that legal requirement before processing unless prohibited by that law the Personal Data only to the extent, and in such manner as is necessary for the performance of the Supplier's obligations under the Contract or as is required by any applicable law;

- 3.2.2 subject to Paragraph 3.2.1 only process or otherwise transfer any Personal Data in or to any country outside the European Economic Area with GTC Scotland's prior written consent;
- 3.2.3 take all reasonable steps to ensure the reliability and integrity of any Supplier Personnel who have access to the Personal Data and ensure that the Supplier Personnel:
 - 3.2.4 are aware of and comply with the Supplier's duties under this Paragraph;
 - 3.2.5 are subject to appropriate confidentiality undertakings with the Supplier or the relevant Sub-contractor;
 - 3.2.6 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 GTC Scotland or as otherwise permitted by the Contract;
 - 3.2.7 have undergone adequate training in the use, care, protection and handling of Personal Data; and
 - 3.2.8 implement appropriate technical and organisational measures in accordance with Article 32 of the GDPR (see 1.5) to protect Personal Data against unauthorised or unlawful Processing and against accidental loss, destruction, damage, alteration or disclosure, such measures being appropriate to the harm which might result from any unauthorised or unlawful Processing accidental loss, destruction or damage to the Personal Data and having regard to the nature of the Personal Data which is to be protected.
- 3.3 The Supplier shall not engage a sub-contractor to carry out Processing in connection with the Goods or Services without prior specific or general written authorisation from GTC Scotland. In the case of general written authorisation, the Supplier must inform GTC Scotland of any

intended changes concerning the addition or replacement of any other sub-contractor and give GTC Scotland an opportunity to object to such changes.

- 3.4 If the Supplier engages a sub-contractor for carrying out processing activities on behalf of GTC Scotland, the Supplier must ensure that same data protection obligations as set out in this Data Protection Appendix are imposed on the sub-contractor by way of a written and legally binding contract, in particular providing sufficient guarantees to implement appropriate technical and organisational measures. The Supplier shall remain fully liable to GTC Scotland for the performance of the sub-contractor's performance of such obligations.
- 3.5 The Supplier must provide to GTC Scotland reasonable assistance including by such technical and organisational measures as may be appropriate in complying with Articles 12-23 of the GDPR (see 1.5), including any subject access request and/or responding to any enquiry made, or investigation or assessment of processing initiated by the Information Commissioner in respect of the Personal Data as soon as is possible but in any event within 3 Business Days of receipt of the request or any other period as agreed in writing with the Data Controller from time to time.
- 3.6 Taking into account the nature of the Processing and the information available, the Supplier must assist GTC Scotland in complying with GTC Scotland's obligations concerning the security of Personal Data, reporting requirements for data breaches, data protection impact assessments and prior consultations in accordance with Articles 32 to 36 of the GDPR (see 1.5). These obligations include:
 - 3.6.1 ensuring an appropriate level of protection through technical and organisational measures that take into account the circumstances and purposes of the processing as well as the projected probability and severity of a possible infringement of the law as a result of security vulnerabilities and that enable an immediate detection of relevant infringement events;
 - 3.6.2 notifying a Personal Data breach to GTC Scotland without undue delay and in any event no later than 24 hours after becoming aware of a Personal Data breach;
 - 3.6.3 assisting GTC Scotland with communication of a personal data breach to a Data Subject;
 - 3.6.4 supporting GTC Scotland with preparation of a data protection impact assessment;and

- 3.6.5 supporting GTC Scotland with regard to prior consultation of the Supervisory Authority.
- 3.7 At the end of the provision of the Goods or Services relating to processing the Supplier must, on written instruction of GTC Scotland, delete or return to GTC Scotland all Personal Data and delete existing copies unless applicable UK, EU or Member State law requires preservation of the Personal Data.
- 3.8 The Supplier must:
 - 3.8.1 provide such information as is necessary to enable GTC Scotland to satisfy itself of the Supplier’s compliance with this Data Protection Appendix;
 - 3.8.2 allow GTC Scotland, its employees, auditors, authorised agents or advisers reasonable access to any relevant premises, during normal business hours, to inspect the procedures, measures and records referred to in this Data Protection Appendix and contribute as is reasonable to those audits and inspections;
 - 3.8.3 inform GTC Scotland if in its opinion an instruction from GTC Scotland infringes any obligation under Data Protection Laws.
- 3.9 The Supplier must maintain written records including in electronic form, of all Processing activities carried out in performance of the Goods or Services or otherwise on behalf of GTC Scotland containing the information set out in Article 30(2) of the GDPR (see 1.5). If requested, the Supplier must make such records available to the Supervisory Authority on request and co-operate with the Supervisory Authority in the performance of its tasks. The Parties acknowledge that the inspecting party will use reasonable endeavours to carry out any audit or inspection under this Paragraph with minimum disruption to the Supplier’s day to day business.

4 Change control

Version	Date	Detail
1.0	03/02/2026	Approved – Head of People and Finance

