SERVICES PROCUREMENT AGREEMENT

THIS AGREEMENT is made on the last date of signing.

BETWEEN

(1) The University of Warwick, having its administrative office at University House, Coventry, CV4 8UW (the “University”); and

(2) <<>>, with company number <<>> having its registered office at <<>> (the “Consultant”).

The Consultant has agreed to provide the Services to the University upon the terms and conditions set out in Schedule 1 as amended by any special conditions agreed by both parties.

Commencement Date:
Contract Period:
Authorised Personnel:
Services (including deliverables):
Fees:
Payment Terms: The University shall pay to the Consultant the Fees at the rate specified above for days worked by the Authorised Personnel exclusive of any applicable value added tax, plus any expenses incurred, within thirty (30) days of submission of monthly VAT invoices, to be issued at the end of a month when work has been carried out.

Except for any non-disclosure agreement in place between the parties which shall apply where there is no express equivalent provisions in this Agreement, this Agreement together with its Schedule(s) constitutes the entire agreement between the parties for the subject matter of this Agreement. If the Consultant issues a purchase order or other documentation covering the Services to be undertaken under this Agreement it is agreed that such purchase order or other documentation shall be for the Consultant’s own internal purposes and shall not amend the terms of this Agreement. This Agreement may not be varied other than in writing executed by the authorised representatives of each party.
IN AGREEMENT of the above, each party has signed this Agreement on the date below with effect from the last date of signing

SIGNED FOR AND ON BEHALF OF
The University of Warwick ..............................................

SIGNED FOR AND ON BEHALF OF
<<<<) .................................................................
SCHEDULE 1

1. **Interpretation**

1.1 In this Agreement the following words shall have the following meanings:

“**Anti-slavery Policy**” means the University’s policy on the Modern Slavery Act 2015 (or any statutory replacement), as updated from time to time and available from [http://www2.warwick.ac.uk/services/finance/corporate_information](http://www2.warwick.ac.uk/services/finance/corporate_information);

“**Assignment**” means the contract created by this Agreement under which the Consultant is contracted to provide the Services;

“**Background IPR**” means all IPR owned or created or developed by a party other than during the course of the Assignment;

“**Confidential Information**” means all information, which has value by virtue of not being publicly known, but shall not include any part of such information which: (i) is in or comes into the public domain in any way without breach of this Agreement; or (ii) the other party can show was recorded in its files prior to receipt or can show to have been independently developed without recourse to the Confidential Information; or (iii) the other party obtains from another source without breach of any obligation of confidentiality or non-use; or (iv) is required to be disclosed by law;

“**Employment Taxes**” means PAYE, national insurance contributions (including employer’s contributions if applicable), apprenticeship levy and any other employment related taxes or levies; and
“IPR” means patents, registered designs, trade marks and service marks (whether registered or not), domain names, copyright, design right, trade secrets, know how and all similar property rights in inventions, computer programs, designs, and Confidential Information.

1.2 [Any reference to ‘Authorised Personnel’ in this Agreement includes any Substitute (as defined in clause 2.3 below).] DELETE THIS CLAUSE IF OPTION 1 IN CLAUSE 2.3 BELOW IS SELECTED

2. Basis of the Agreement

2.1 The Consultant will supply the Authorised Personnel to perform the Services from the Commencement Date for the Contract Period, subject to any earlier termination pursuant to clause 8.

2.2 The Consultant warrants that the Authorised Personnel have the necessary qualifications and experience and are suitable to perform the Services.

2.3 [OPTION 1: No changes in the Authorised Personnel shall be made without the University’s prior written approval which shall not be unreasonably withheld or delayed.] or [OPTION 2: The Authorised Personnel may be substituted for another of the Consultant’s personnel (the “Substitute”) provided always that the Substitute is of no lesser skill, qualification, security clearance (if applicable) and ability to perform the Services as the Authorised Personnel for whom they are substituting. The Substitute shall not be interviewed by the University prior to the commencement of their engagement in the performance of the Services and the Substitute shall perform all of the tasks which would have been carried out by the Authorised Personnel had the Authorised Personnel not been so substituted.

2.4 The Consultant shall procure that the Authorised Personnel devote as much of their time and attention to the performance of the Services as is necessary to ensure that tasks are completed and deliverables are delivered within the specified period(s) agreed between the University and the Consultant (save for delays outside the Consultant’s reasonable control).
3. **Payment of Fees**

3.1 In consideration of the provision of the Services, the University will pay to the Consultant the Fees in the amount and in accordance with the Payment Terms, subject always to any reduction in the Fees in accordance with subclause 3.2.4 below.

3.2 It is mutually agreed and declared that no relationship of employer and employee is created hereby and that accordingly:

3.2.1 the Authorised Personnel shall have no right to sick pay, holiday payments, pension or sickness benefit or any other advantages or privileges enjoyed by employees of the University;

3.2.2 the Consultant is liable for making appropriate deductions and payment of all Employment Taxes payable in respect of all its activities and those of the Authorised Personnel;

3.2.3 to the extent that the University in its sole discretion considers that it is required to do so by law, the University shall make appropriate deductions and payment of Employment Taxes in respect of the provision of the Services by the Consultant and comply with any associated reporting obligations to HM Government;

3.2.4 in the event that the University is required to make deductions and payment of Employment Taxes pursuant to subclause 3.2.3 above, then the Fees shall be deemed to have been reduced such that the total cost to the University for the Services (being the reduced Fees plus any amounts expended by the University in relation to Employment Taxes) shall not exceed the amount of the Fee stated in the Particulars to this Agreement; and

3.2.5 without prejudice to the foregoing provisions of this clause 3, the Consultant will indemnify the University and keep it indemnified against all claims and demands which may be made on the University in respect of Employment Taxes payable in respect of the Consultant’s activities and those of the Authorised
Personnel, and any damages, costs, expenses or interest incurred or payable by the University in connection with any such assessment or claim.

4. **Confidentiality**

4.1 In relation to Confidential Information received from the other party or from a third party on behalf of the other party, the parties agree to treat such Confidential Information in confidence and to use it only for the purposes of this Agreement.

4.2 The Consultant shall at the request of University return, destroy under oath or surrender to the University all material (including any copies thereof) embodying the Confidential Information or relevant or related to such Confidential Information whether or not supplied by University, and shall permanently erase the Confidential Information from any electronic storage memory or media.

4.3 The Consultant shall procure that the Authorised Personnel are subject to the same obligations of confidentiality as are contained in this condition 4, and undertakes to enforce at its own expense any such obligations of confidentiality that are owed to it by the Authorised Personnel.

4.4 Neither party shall use the name of the other in any press release or product advertising, or for any other commercial purpose, without the prior written consent of the other.

5. **Intellectual Property**

5.1 The Consultant will disclose to the University in full without delay and before publication all proprietary data and all other materials as well as any IPR which arise out of the Services performed under this Agreement at any time and the Consultant hereby grants assigns and conveys to the University all right title and interest in and to all such material and IPR which are created, developed conceived reduced to practice or delivered by the Consultant or the Authorised Personnel either solely or jointly with others during and in connection with the performance of the Services (“Foreground IPR”). The Consultant shall procure that the Authorised Personnel irrevocably waive
their moral right in any work created or developed during the term of this Agreement.

5.2 The Consultant hereby grants to the University an irrevocable royalty free non exclusive right together with the right to grant sub licences to use and exploit all of the Consultant’s and the Authorised Personnel’s Background IPR necessary for the University’s use and exploitation of the Foreground IPR assigned above.

5.3 The Consultant agrees and warrants that any IPR arising out of or relating to work done by Authorised Personnel for the Consultant will contractually vest in the Consultant.

5.4 The Consultant warrants that as far as it is aware none of the IPR developed or created during the Assignment will infringe or have been misappropriated from any third party IPR and the Consultant agrees to indemnify and hold harmless the University against any and all claims of such infringement misappropriation or alleged infringement or misappropriation.

5.5 The Consultant undertakes at its own expense to do all that is necessary at the request of the University, including executing any documents, to perfect the University's title in any Foreground IPR. The Consultant irrevocably appoints the University to be its attorney or agent in its name and on its behalf to do all such acts and things and to sign all such deeds and documents as may be necessary in order to give the University the full benefit of the provisions of this Agreement

6. **Consultant's Obligations**

6.1 The Consultant will provide the Services and deliver the deliverables within the timescales set out in the description of Services. Where appropriate, the University shall be entitled to test the deliverables to ensure that they conform to the University’s requirements before accepting them.

6.2 The Consultant undertakes as follows:

6.2.1 to procure that the Authorised Personnel shall promote the interests of the University, shall act always with good faith
towards the University, shall give the University such advice, information and assistance as the University shall reasonably require, and shall perform the Services with proper skill and diligence at all times;

6.2.2 that the Authorised Personnel shall perform the Services at the University’s premises or such other locations as the University shall agree with the Consultant;

6.2.3 to procure that the Authorised Personnel will take all reasonable steps to safeguard their own safety and the safety of any other person who may be affected by their actions arising by reason of the provision of the Services under this Agreement;

6.2.4 to procure that the Authorised Personnel will cooperate with the University’s staff and accept the direction of any person in the University’s organisation to whom they are required to report and comply with all reasonable and lawful instructions made by the University and will comply with any rules or obligations in force at the University’s premises;

6.2.5 ensure that it and each of its subcontractors (if applicable) shall comply with the Modern Slavery Act 2015, the University of Warwick Anti-slavery Policy and the requirements set out in Schedule 2 University of Warwick Supply Chain Requirements in Respect of Modern Slavery and Human Trafficking.

6.3 The Consultant shall (and shall procure that the Authorised Personnel) carry out the obligations under this Agreement in a manner that conforms with any relevant laws, regulations, directives or other legal requirements or obligations in force from time to time including those relating to equality of opportunity and discrimination.

7. Warranties and Liabilities

7.1 The Consultant shall be liable for any loss damage or injury to any party resulting from the default, wilful misconduct or negligent act or omission of the Authorised Personnel during the assignment.
7.2 Apart from fraudulent misrepresentation and personal injury or death arising as a direct result of the University’s negligence, the University shall not be liable for any loss injury or damage however it arises and whether direct, indirect or consequential suffered by or occasioned to the Authorised Personnel or the Consultant during this Agreement.

7.3 The Consultant shall procure that all work carried out by the Consultant and the Authorised Personnel is of the requisite skill, care and diligence to be reasonably expected of a skilled and experienced person working in this capacity. If the Services are not performed in accordance with this Agreement or to the University’s reasonable satisfaction the Consultant agrees to perform free of charge such remedial services as may be necessary to correct any such defects.

7.4 The Consultant will effect all necessary insurances as required by the University, including against claims by third parties and others which may arise out of the carrying out of the Services or any negligent acts or defaults of the Consultant.

8. **Termination**

8.1 Without prejudice to any other right or remedy, either party may terminate this Agreement at any time by notice in writing to the other party:

8.1.1 if the other party is in material or persistent breach of this Agreement and the breach is not remedied within thirty (30) days of the other party receiving notice of it; or

8.1.2 if the other party becomes insolvent, bankrupt or makes any arrangement or composition with or for the benefit of its creditors or if an administrator, administrative receiver or receiver is appointed in respect of the whole or any part of the other party’s assets or business.

8.2 Without prejudice to any other right or remedy, this Agreement may be terminated immediately on written notice from the University without any liability for damages or any further payment (except in respect of Services performed up to the date of termination) if:
8.2.1 the Consultant or the Authorised Personnel is found guilty of any criminal offence or serious misconduct which affects the business of the University or might reasonably be expected to bring it or the University into disrepute; or

8.2.2 the Consultant or any of the Authorised Personnel fails to provide the Services and/or deliver the deliverables under this Agreement to the satisfaction of the University in a reasonable period following written notification from the University that this Agreement may be terminated due to poor performance.

8.3 The University may terminate the Assignment without cause by giving forty five (45) days' notice in writing to the Consultant. In this event, the University shall pay all Fees due and owing to the Consultant up to the point of termination as well as all sums unavoidably incurred by the Consultant with the University's consent prior to the notice of termination.

8.4 Clauses 4, 5 and 7 shall survive termination or expiry of this Agreement.

9. **Bribery Act 2010**

9.1 Both parties shall:

9.1.1 comply with all relevant requirements which shall mean all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 and any amendment thereto;

9.1.2 comply with and maintain in place throughout the term of this Agreement its own anti-bribery and anti-corruption policies as well as Adequate Procedures (as defined in S7(2) of the Bribery Act 2010 and the guidance provided under S9); and

9.1.3 not engage in any activity, practice or conduct which would constitute an offence under S1, 2 or 6 of the Bribery Act 2010.

10. **Data Protection**

10.1 For the purpose of this Clause 10 “Personal Data” and “Data Processor” has the meaning set out in Data Protection Act 1998 (the “Act”).
10.2 Where the Consultant is processing Personal Data as a Data Processor for the University, the Consultant shall ensure that it complies with its obligations under the Act. The Consultant will have in place appropriate technical and organisational measures to ensure the security of Personal Data, against unauthorised or unlawful processing and against accidental loss or destruction of, or damage to, Personal Data.

10.3 The Consultant shall only process Personal Data on behalf of the University in accordance with any instructions issued by the University and for no other purposes, save as required by law. The Consultant will provide the University with such information as the University may reasonably require in satisfying itself that the Consultant is complying with its obligations under the Act.

10.4 The Consultant shall treat any Personal Data provided by the University as confidential information belonging to the University.

10.5 The Consultant will notify the University of any actual or suspected fraudulent use, loss, theft, misuse or compromise of Personal Data. The Consultant will indemnify the University in full against any loss, claims, costs, expenses or other liabilities that the University incurs as a result or due to a breach of this Clause by the Consultant or its employees, agents or subcontractors.

11. **Freedom of Information**

11.1 The Consultant acknowledges that the University is subject to the requirements of the Freedom of Information Act 2000 ("FOIA") and the Environmental Information Regulations 2004 and the Consultant shall:

11.1.1 provide all necessary assistance and cooperation as reasonably requested by the University to enable the University to comply with its obligations under the FOIA and the Environmental Information Regulations 2004;

11.1.2 transfer to the University all requests for information under FOIA and the Environmental Information Regulations 2004 relating to the this Agreement that the Consultant receives as
soon as practicable and in any event within two (2) working days of receipt;

11.1.3 provide the University with a copy of all Information belonging to the University requested in the request for information which is in the Consultant’s possession or control in the form that the University requires within five (5) working days (or such other period as the University may reasonably specify) of the University’s request for such Information; and

11.1.4 not respond directly to a Request for Information unless authorised in writing to do so by the University.

11.2 The Consultant acknowledges that the University may be required under the FOIA and the Environmental Information Regulations 2004 to disclose information concerning the Consultant or Services (including commercially sensitive information) without consulting the Consultant or obtaining the Consultant’s consent. In these circumstances the University shall, in accordance with any relevant guidance issued by the Information Commissioner’s Office, take reasonable steps, where appropriate, to give the Consultant advance notice, or failing that, to draw the disclosure to the Consultant’s attention after any such disclosure.

11.3 Notwithstanding any other provision in this Agreement, the University shall be responsible for determining in the University’s absolute discretion whether any information relating to the Consultant or the Services is exempt from disclosure in accordance with the FOIA and/or the Environmental Information Regulations 2004.

12. **General**

12.1 This Agreement may only be amended in writing signed by duly authorised representatives of the parties.

12.2 Any notice given under this Agreement shall be given in writing and shall be deemed well served if it is sent by recorded delivery addressed to the address above. The day of service shall be deemed to be two days after the date of posting.
12.3 No failure to enforce a right by either party shall constitute a waiver under this Agreement.

12.4 Neither party shall assign or transfer any of its rights or obligations under this agreement without the prior written consent of the other party.

12.5 Neither Party shall act or describe itself as the agent of the other, nor shall it make any commitments on the other's behalf.

12.6 Nothing in this Agreement shall confer on any third party any benefit or the right to enforce any provision of this Agreement.

12.7 Notwithstanding that any provision of this Agreement may prove to be illegal or unenforceable, the remaining provisions of this Agreement shall continue in full force and effect.

12.8 Neither party shall be liable for any loss, damage or delay in performing its obligations under this Agreement if that delay is caused by circumstances beyond its reasonable control (including, without limitation, any delay caused by an act or omission of the other party) and the party affected will be entitled to a reasonable extension of time for the performance of its obligations.

12.9 This Agreement shall be governed by and construed in all aspects in accordance with English law, and the parties agree to submit to the exclusive jurisdiction of the English courts.
SCHEDULE 2

University of Warwick Supply Chain Requirements in Respect of Modern Slavery and Human Trafficking

The University of Warwick is committed to carrying out procurement activities in a socially, ethically and economically responsible manner and to entering into agreements and contacts with suppliers that share and adhere to its vision. To demonstrate this commitment, Suppliers must comply with the principles of this statement and make all reasonable endeavours to ensure compliance across its supply chains.

**Principles:**
Not to employ, support or condone any form of Modern Slavery or Human Trafficking and to comply with the Modern Slavery Act 2015

- Not to use forced, involuntary or underage labour
  - Employees should be free to choose their employment and leave that employment without hold by financial deposit or personal items.
  - Forced, bonded or involuntary prison labour shall not be used.
  - Support the effective abolition of child labour
  - Comply with the national minimum age for employment, unless a lower local minimum age is permitted under International Labour Organisations (ILO) convention 138
  - Where any child is found to be engaged in or performing child labour, to provide support for that child to enable them to complete, as a minimum, their compulsory education (even if they shall cease to be involved in child labour), or an equivalent educational level, as provided for under the UN Covenant on Economic, Social and Cultural Rights. Such support by the supplier should recognise and not prove detrimental to the conditions of the child or those that their work supports.

To provide suitable working conditions and terms
- For staff aged 25 and over and not in the first year of an apprenticeship, at least the National Living Wage must be paid in accordance to the rates detailed at https://www.livingwage.gov.uk/ as updated from time to time
- For staff under 25, at least the right rate of National Minimum Wage must be paid in accordance to the rates detailed at https://www.gov.uk/national-minimum-wage/employers-and-the-minimum-wage as updated from time to time
- The above must be paid without discrimination to all employees and all non-statutory deductions must be with the consent of the employee.
- Working hours must not be excessive. A safe and hygienic environment is provided
- Any hazardous working, as defined by ILO, should only be carried out by persons aged 18 years or over.
- Policies and processes must be in place for recording and eliminating occurrence/reoccurrence of health and safety related incidents.

To treat employees fairly
- Allow employees the freedom of association to join (but not be forced to join) or be represented by a trade union or similar organisation of their choice
- Provide a workplace free from discrimination, harassment or victimisation
- Treat all employees with respect and dignity, and not accept inequality as justifiable of any characteristics listed above, unless statutory conditions require otherwise.
- Remunerate all employees equally at the same employment grade, regardless of any characteristics listed above, unless statutory conditions require otherwise.
The University reserves the right to seek further evidence of your approaches to ensuring that Modern Slavery in all its forms is not occurring within your supply chains. Should your organisation’s turnover be £36M or above, you are required to publish a Modern Slavery Statement annually.