

TMI Practitioner Services -Terms and Conditions for the Provision of Services

Version: December 2018

1. Interpretation

1.1. The definitions and rules of interpretation in this condition 1.1 apply in these terms and conditions (“Conditions”).

“Charges” the charges payable by the Customer for the Services as provided under condition 8;

“Contract” the contract between the Customer and Supplier under condition 3 incorporating the Proposal and these Conditions as the same may be varied from time to time under conditions 7, 8.3 or 17.1;

“Customer” the person who purchases Services from the Supplier as stated in the Proposal;

“Deliverables” any particular items, outputs or targets that may be specified as such in the Proposal;

“Document” includes, in addition to any document in writing, any drawing, map, plan, diagram, design, picture or other image, tape, disk or other device or record embodying information in any form;

“Input Material” all Documents, information and materials required by the Supplier to be provided by the Customer to facilitate the efficient provision of the Services including, software, data, reports and specifications;

“Intellectual Property Rights” all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;

“Materials” all Documents, information and materials provided by the Supplier relating to the Services including software, data, reports and specifications;

“Proposal” the written proposal submitted to the Customer by the Supplier but excluding any proposal that is marked ‘draft’, ‘subject to contract’ or is otherwise indicated not to be a final document;

“Services” the services to be provided by the Supplier as set out in the Proposal together with any other services which the Supplier and the Customer agree in writing;

“Supplier” TMI Practitioner Services Limited a company incorporated and registered in England and Wales with company number 05774920;

“Supplier’s Group” together (i) the Supplier; (ii) the companies in which the Supplier holds or controls the majority of the voting rights; (iii) the company that holds or controls the majority of the voting rights in the Supplier (‘holding company’); (iv) the company that holds or controls the majority of the voting rights in the holding company (‘ultimate holding company’); (v) the companies in which the holding company holds or controls the majority of the voting rights; and (vi) the companies in which the ultimate holding company holds or controls the majority of the voting rights;

“VAT” value added tax chargeable under English law for the time being and any similar additional tax.

1.2. Condition headings shall not affect the interpretation of these Conditions.

1.3. A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.4. Words in the singular shall include the plural and vice versa.

1.5. A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.6. A reference to **writing** or **written** includes faxes but not email.

1.7. Where the words **include(s)**, **including** or **in particular** are used in these Conditions, they are deemed to have the words **without limitation** following them and where the context permits, the words **other** and **otherwise** are illustrative and shall not limit the sense of the words preceding them.

1.8. Any obligation in the Contract on a person not to do something includes an obligation not to agree, allow, permit or acquiesce in that thing being done.

2. Application of conditions

2.1. These Conditions shall:

2.1.1. apply to and be incorporated into the Contract; and

2.1.2. prevail over any inconsistent terms or conditions contained, or referred to, in the Customer's purchase order, confirmation of order, acceptance of a quotation or specification, or implied by law, trade custom, practice or course of dealing.

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2.2. In the event of any conflict or inconsistency between the Proposal and these Conditions, the Proposal will prevail.

3. Commencement

A contract will be formed between the Supplier and the Customer in respect of the Proposal when the Supplier receives a copy of the Proposal signed by the Customer and a purchase order for the Services issued by the Customer (or either of such documents) or, if earlier, the Supplier (with the Customer's consent) starts providing the Services (or any of them). However, if the Supplier receives either or both documents referred to in this condition 3 more than 30 days after the date of the Proposal, a contract will only be formed if the Supplier issues a written acknowledgement to this effect to the Customer or, before or without issuing such a written acknowledgement, the Supplier (with the Customer's consent) starts providing the Services.

4. Timing of provision of Services

4.1. The Services shall be delivered by the Supplier to the Customer on the dates agreed by the Supplier and the Customer.

4.2. The Supplier may reschedule any date for the provision of the Services where this is unavoidable due to any circumstances outside the Supplier's reasonable control (including where relevant personnel are ill) but will try to give the Customer as much notice as possible.

5. The Proposal and the Supplier's Obligations

5.1. The scope of the Proposal shall be limited to the Supplier's understanding of the needs of the Customer as communicated by the Customer to the Supplier. The Proposal shall set out a programme of services, activities and/or processes which, in the opinion of the Supplier, will address those needs having regard to any limitations on the Customer's time and/or budget available as may have been communicated by the Customer to the Supplier.

5.2. The Supplier shall provide the Services with reasonable care and skill and in accordance in all material respects with the Proposal.

5.3. The Supplier shall from time to time appoint an individual to have overall responsibility for the provision of the Services and to be the primary point of contact for the Customer on all matters relating to the Contract.

5.4. The Supplier shall observe all applicable health and safety requirements and (if communicated to the Supplier in writing) other reasonable security requirements whilst at the Customer's premises.

6. Customer's obligations

6.1. The Customer shall:

6.1.1. from time to time appoint an individual who will be the primary point of contact for all communications between the Supplier and the Customer relating to the Contract;

6.1.2. provide the Supplier with access to its premises without notice, during business hours, to inspect the Materials and attend any sessions which are delivered by any individual nominated by the Supplier to provide the Services; and

6.1.3. ensure (at its own cost) that the relevant premises of the Customer at which any Services are provided, and the equipment of the Customer at such premises that is used to provide any Services, comply with all applicable health and safety requirements.

6.2. The Customer shall indemnify and keep indemnified the Supplier, on demand, from all costs (including the costs of enforcement and legal and other professional fees), expenses, liabilities, losses, damages, claims, demands, fines and judgments that the Supplier incurs as a result of:

6.2.1. damage to property of the Supplier or any of its employees, agents or subcontractors and/or death of or injury to any of the Supplier's employees, agents or subcontractors in each case where such damage, death or injury is caused by any act or omission of the Customer or any of its employees, agents or subcontractors (other than the Supplier);

6.2.2. any claim brought against the Supplier that the use by the Supplier of any Input Material infringes any Intellectual Property Rights of any third party.

6.3. If, during the Services or within 12 months starting on the date of the last supply of the Services, the Customer solicits or employs or engages (without the Supplier's written consent) any of the Supplier's employees or subcontractors who are or have been engaged in the provision of Services for the Customer, then the Customer

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shall pay the Supplier an agency fee. The agency fee will be 50% of the total Charges paid to the Supplier by the Customer in respect of the Services provided by the relevant employee or sub-contractor in the 12 months immediately preceding the end of his or her employment or engagement (or any shorter period if his or her employment or engagement was for fewer than 12 months) or, if greater, £[20,000]. The parties confirm and agree that this sum represents a genuine pre-estimate of the Supplier and the Supplier's Group's losses.

6.4. The Customer consents to be named as a customer of the Supplier in any publicity.

7. Change to Services

- 7.1. Either party may request a change to the activities to be carried out by the Supplier under the Contract by giving written details of that change to the other party. No request is required from the Supplier where a change is covered by condition 7.5.
- 7.2. If the Supplier requests a change or receives written details of a change from the Customer, the Supplier shall, within a reasonable time, provide a written non-binding estimate to the Customer:
 - 7.2.1. the likely time required to implement the change;
 - 7.2.2. any variations to the Charges arising from the change; and
 - 7.2.3. in broad terms, the likely effect of the change on the matters set out in the Proposal.
- 7.3. If the Customer wishes the Supplier to make the change, the Supplier has no obligation to do so unless and until the parties have agreed in writing all of the terms applicable to the change.
- 7.4. The Supplier may charge the Customer for the time it reasonably spends in assessing a request for change from the Customer if the charge is agreed by the Customer in advance. If the Customer fails to agree the charge within 7 days starting on the date that the Customer is informed of the charge, then the Customer's request for change will be deemed to be withdrawn.
- 7.5. The Supplier may, from time to time and without the consent of the Customer, make any changes to the Services where such change is necessary to comply with any applicable legal requirements or does not materially affect the nature or quality of the Services or the Charges.

8. Charges and payment

- 8.1. The Customer shall pay the price set out in the Proposal which subject to conditions 7 and 8.3 shall be fixed for 12 months starting on the date the Contract is formed.
- 8.2. Where the Charges are calculated by reference to a daily rate for each individual engaged in the provision of the Services, that daily rate is based upon 8 hours between 9:00am and 5:00pm (with 30 minutes for lunch) on a weekday (excluding public holidays).
- 8.3. If no increase to the Charges is otherwise agreed in writing by the Supplier and the Customer, the Supplier may increase the price (including daily rates) set out in the Proposal on each anniversary of the date of the Contract in line with the percentage increase in the All Items Retail Prices Index (or any official index replacing it) in the preceding 12-month period.
- 8.4. The Charges exclude:
 - 8.4.1. VAT which the Supplier shall add to its invoices at the appropriate rate;
 - 8.4.2. the cost of hotel, subsistence, travelling and any other ancillary expenses reasonably incurred by the individuals whom the Supplier engages in connection with the Services, (the rate for expenses to be agreed by the Customer in advance), the cost of any materials and the cost of services reasonably and properly provided by third parties and required by the Supplier for the supply of the Services which, subject to condition 8.4.3, shall be invoiced by the Supplier to the Customer at cost
 - 8.4.3. mileage which shall be charged to the Customer at the rate from time to time approved by HM Revenue and Customs.
- 8.5. Unless otherwise stated in the Proposal, the Supplier will issue an invoice to the Customer 30 days prior to commencement of the Services in respect of the Services to be provided, and expenses incurred by the Supplier will be charged to the Customer as incurred and will be invoiced weekly. The Customer shall pay each invoice in full and in cleared funds within 30 days starting on the date of such invoice.
- 8.6. Without prejudice to any other right or remedy the Supplier may have, if the Customer fails to pay the Supplier any sum on the due date for payment, the Supplier may:
 - 8.6.1. charge interest on such sum from the due date for payment at the annual rate of 3% above the base lending rate from time to time of the Bank of England, accruing on a daily basis and being compounded quarterly until

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payment is made, whether before or after any judgment. Alternatively, the Supplier reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998; and/or

- 8.6.2. suspend all or any Services until payment has been received in full.
- 8.7. All sums payable to the Supplier under the Contract shall become due immediately on its termination under condition 13, despite any other provision. This condition 8.7 is without prejudice to any right of the Supplier to claim for interest under the law, or any such right under the Contract.
- 8.8. All payments by the Customer shall be made without any deduction, withholding or set-off except to the extent that such deduction, withholding or set-off is required by law. The Supplier may, without prejudice to any other rights or remedies it may have, set off any liability of the Customer to the Supplier against any liability of the Supplier to the Customer.

9. Intellectual property rights

- 9.1. All Intellectual Property Rights vested in the Customer and each member of the Supplier's Group respectively on the date on which the Contract is formed shall remain with the Customer and such member of the Supplier's Group. As between the Supplier and the Customer, all new Intellectual Property Rights that are created by the Supplier or that arise in the delivery of the Services, including in the Deliverables, shall be owned by the Supplier, even where Materials are adapted for the Customer or are produced with the Customer's branding. However, to be clear, nothing in this condition 9.1 will vest in the Supplier any Intellectual Property Rights in any of the Customer's inventions, designs or works with which the Supplier assists the Customer through the delivery of the Services.
- 9.2. Except as specified in the Proposal or as otherwise agreed in writing by the Supplier none of the Materials may be reproduced or otherwise used in whole or in part in any form or for any purpose and the Customer shall not provide the Materials to any third party.
- 9.3. The Customer acknowledges that, where the Supplier is the licensee rather than the owner of any Materials, the Customer's use of such Materials is subject to the terms of the relevant licensor.
- 9.4. The Customer shall immediately notify the Supplier if:
 - 9.4.1. it suspects that any of the materials provided to it in the provision of the Services are not genuine Materials; or
 - 9.4.2. it becomes aware of any actual, threatened or suspected infringement of the Materials; or
 - 9.4.3. it becomes aware of any actual, threatened or suspected infringement of any third party's Intellectual Property Rights as a result of the provision of the Services or the Materials.

10. Confidentiality and the Supplier's property

- 10.1. The Customer shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Customer by the Supplier, its employees, agents or subcontractors and any other confidential information concerning the Supplier's business or products which the Customer may obtain. The Customer shall not disclose any such confidential information to any person except to those of its employees or contractors who are subject to obligations of confidentiality corresponding to those which bind the Customer.
- 10.2. Neither the Customer nor the Supplier ("Recipient") shall use or disclose any information (whether verbal or in writing or via multimedia techniques) relating to the other party's marketing, business development, business operations, associations, transactions, financial arrangements or in relation to any activities of the other party or any person with whom the other party has any dealings and which is made available to the Recipient under or in connection with the Contract. Such information or any part thereof may only be disclosed to or used by such persons (such as employees or nominated suppliers) who need to know the same for the purposes of the Recipient performing its obligations in relation to the Contract. The Recipient shall keep the information described in this condition 10.2 secret and confidential and shall procure that such persons shall comply with obligations of confidentiality corresponding to those which bind the Recipient.

11. Limitation of liability - the customer's attention is particularly drawn to the provisions of this condition

- 11.1. All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.
- 11.2. Nothing in these conditions limits or excludes the liability of the Supplier for:
 - 11.2.1. Death or personal injury resulting from its negligence; or

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- 11.2.2. Fraud or fraudulent misrepresentation by the Supplier.
- 11.3. Subject to conditions 11.2 and 11.4 if any Services fail to comply with condition 5.2, then the Supplier shall at its option re-perform such Services or refund the Customer the charges paid by the Customer for such Services. However, no re-performance or refund will be made unless the Customer gives the Supplier notice of the non-compliant Services within 12 months starting on the date such non-compliant Services were provided. If the Supplier complies with this condition 11.3, it will have no further liability to the Customer for breach of condition 5.2.
- 11.4. Subject to condition 11.2, the Supplier will not have any liability to the Customer in connection with the Contract to the extent that such liability is attributable to all or any of the following (as to which the decision of the Supplier will be final and binding):
- 11.4.1. Any Input Material being misleading, inaccurate or incomplete;
- 11.4.2. The Supplier complying with the customer's requirements;
- 11.4.3. Any failure or delay of the Customer in providing any Input Material or in giving the Supplier's personnel access to the Customer's premises or facilities or in cooperating with the Supplier;
- 11.4.4. Any act or omission of the Customer or any of its employees, agents or subcontractors other than the Supplier.
- 11.5. Subject to condition 11.2, the Supplier will not be liable to the Customer for any indirect or consequential loss or damage whatsoever howsoever caused including in negligence which arises out of or in connection with the Contract.
- 11.6. Subject to conditions 11.2, 11.4 and 11.5 the Supplier's total liability in contract, tort (including negligence), breach of statutory duty, misrepresentation, restitution or otherwise arising out of or in connection with the Contract shall be limited to the total charges payable by the Customer for the Services or the sum of five million pounds which ever is the lower.

12. Data protection

Each Party agrees to comply with its obligations as set out in Schedules 1A and 1B of this Agreement.

Schedule 1A

1. Definitions

In this Schedule 1A the following definitions shall apply:

"Applicable EU Law"	means any law of the European Union or the law of one or more of the Member States of the European Union;
"Controller", "Processor", and "Data Subject"	shall have the meanings given to those terms in the applicable Data Protection Laws;
"Data Protection Laws"	, declaration, directive, regulation or other legislative enactment (as amended, consolidated or re-enacted from time to time) which relates to the protection of individuals with regard to the Processing of Personal Data to which a Party is subject, including the GDPR or, in the event that the UK leaves the European Union, all legislation enacted in the UK in respect of the protection of personal data; and (b) any code of practice or guidance published by the ICO (or equivalent regulatory body) from time to time;
"Data Processing Particulars"	means, in relation to any Processing under this Agreement: (a) the subject matter and duration of the Processing; (b) the nature and purpose of the Processing; (c) the type of Personal Data being Processed; and (d) the categories of Data Subjects; set out in Schedule 1B
"Data Subject Request"	means an actual or purported request from a Data Subject exercising his rights under the Data Protection Laws in relation to Personal Data including without limitation: the right of access by the Data Subject, the right to rectification,

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	the right to erasure, the right to restriction of processing, the right to data portability and the right to object;
"GDPR"	the General Data Protection Regulation (EU) 2016/679;
"ICO"	means the UK Information Commissioner's Office, or any successor or replacement body from time to time;
"Losses"	means all losses, fines, penalties, liabilities, damages, costs, charges, claims, amounts paid in settlement and expenses (including legal fees (on a solicitor/client basis), disbursements, costs of investigation (including forensic investigation), litigation, settlement (including ex gratia payments), judgment, interest and penalties), other professional charges and expenses, disbursements, cost of breach notification including notifications to the data subject, cost of complaints handling (including providing data subjects with credit reference checks, setting up contact centres (e.g. call centres) and making ex gratia payments), all whether arising in contract, tort (including negligence), breach of statutory duty or otherwise;
"Permitted Purpose"	means the purpose of the Processing as set out in more detail in the Data Protection Particulars
"Personal Data"	means any personal data (as defined in the Data Protection Laws) Processed by either Party in connection with this Agreement, and for the purposes of this Agreement includes Sensitive Personal Data (as such Personal Data is more particularly described in Schedule 1B (<i>Data Protection Particulars</i>));
"Personal Data Breach"	has the meaning set out in the Data Protection Laws;
"Personnel"	means all persons engaged or employed from time to time by The Manufacturing Institute Practitioner Services Ltd in connection with this Agreement, including employees, consultants, contractors and permitted agents;
"Processing"	has the meaning set out in the Data Protection Laws (and "Process" and "Processed" shall be construed accordingly);
"Restricted Country"	means a country, territory or jurisdiction outside of the European Economic Area which the EU Commission has not deemed to provide adequate protection in accordance with Article 25(2) of the DP Directive and/or Article 45(1) of the GDPR (as applicable);
"Sensitive Personal Data"	means Personal Data that reveals such special categories of data as are listed in Article 9(1) of the GDPR;
"Services"	means the delivery of Six Sigma Green Belt training including support for fellowship projects
"Third Party Request"	means a written request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by law or regulation

2. DATA PROTECTION

2.1 Arrangement Between The Parties

- 2.1.1 The Parties acknowledge that the factual arrangement between them dictates the classification of each party in respect of the Data Protection Laws. Notwithstanding the foregoing the Parties anticipate that the Associate shall act as a Controller and The Manufacturing Institute Practitioner Services Ltd shall act as a Processor where The Manufacturing Institute Practitioner Services Ltd is Processing the Personal Data on behalf of the Associate in relation to the Permitted Purpose in connection with the performance of its obligations under this Agreement;
- 2.1.2 Each of the Parties shall in performing its obligations under this Agreement, comply with the obligations imposed upon it under the Data Protection Laws.
- 2.1.3 Each of the Parties acknowledges and agrees that Schedule 1B (Data Processing Particulars) to this Agreement is an accurate description of the Data Processing Particulars.

2.2 Data Controller Obligations

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- 2.2.1 Without limiting the generality of the obligations set out in Paragraph 2.1.2, in particular, the Associate shall:
- (a) make all required notification(s) to the ICO in relation to its Processing of Personal Data;
 - (b) ensure that it is not subject to any prohibition or restriction which would: (i) prevent or restrict it from disclosing or transferring Personal Data to The Manufacturing Institute Practitioner Services Ltd; (ii) prevent or restrict it from granting The Manufacturing Institute Practitioner Services Ltd access to Personal Data; and/or (iii) prevent or restrict The Manufacturing Institute Practitioner Services Ltd from Processing Personal Data, in each case as required for The Manufacturing Institute Practitioner Services Ltd to perform the Services in accordance with this Agreement;
 - (c) ensure that all fair processing notices have been given (and/or, as applicable, consents obtained) and are sufficient in scope to allow The Manufacturing Institute Practitioner Services Ltd to Process Personal Data as required in connection with the provision of the Services under this Agreement and in accordance with the Data Protection Laws;
 - (d) ensure that all Personal Data disclosed or transferred to, or accessed by, The Manufacturing Institute Practitioner Services Ltd is accurate, up-to-date, adequate, relevant and not excessive to enable The Manufacturing Institute Practitioner Services Ltd to process Personal Data as required for The Manufacturing Institute Practitioner Services Ltd to perform the Services in accordance with this Agreement;
 - (e) maintain technical and organisational security measures sufficient to comply at least with the obligations imposed on the Controller by Data Protection Laws including, without limitation, (i) ensuring a level of security appropriate to the risk involved in the processing (which shall include without limitation and, as appropriate, taking steps such as the pseudonymisation and/or encryption of personal data, taking steps to ensure the ongoing confidentiality, integrity, availability and resilience of the systems and services used to process Personal Data, ensuring the ability to restore the availability and access to Personal Data and regularly testing the effectiveness of the systems in place); (ii) adhering to any relevant codes of conduct or approved certifications; and (iii) ensuring that all individuals who have access to Personal Data maintain the confidentiality and security of Personal Data and comply with the terms of this Agreement; and
 - (f) not do anything which shall damage the reputation of The Manufacturing Institute Practitioner Services Ltd.

2.3 Data Processor Obligations

- 2.3.1 To the extent that The Manufacturing Institute Practitioner Services Ltd Processes any Personal Data as a Processor on behalf of the Associate for the purpose of performing the Services under this Agreement, The Manufacturing Institute Practitioner Services Ltd undertakes to the Associate that The Manufacturing Institute Practitioner Services Ltd shall:
- (a) only Process Personal Data for and on behalf of the Associate for the purposes of performing its obligations under this Agreement and only in accordance with the Associate's instructions from time to time, unless otherwise required by law;
 - (b) inform the Associate immediately if it considers any of the Associate's instructions infringes Data Protection Laws;
 - (c) implement and maintain appropriate technical and organisational security measures to safeguard against any unauthorised or unlawful Processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data and where requested provide to the Associate evidence of its compliance with such requirement;
 - (d) take all reasonable steps to ensure the reliability and integrity of any of its staff and independent contractors who have access to Personal Data and ensure that only staff and contractors who are required to assist in performing the Services have access to such Personal Data;
 - (e) ensure that any of its staff and/or contractors who have access to Personal Data have entered into appropriate contractually binding confidentiality undertakings;

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- (f) not disclose Personal Data to a third party (including a sub-contractor or sub-processor) unless the third party agrees to terms which are substantially the same as the terms set out in this Agreement or in response to Third Party Requests where The Manufacturing Institute Practitioner Services Ltd is prohibited by law or regulation from notifying the Associate;
- (g) at the Associate's reasonable request: (i) make available to the other party evidence to demonstrate The Manufacturing Institute Practitioner Services Ltd's compliance with the requirements of this Paragraph 2.3.1; and/or (ii) allow for and contribute to audits of The Manufacturing Institute Practitioner Services Ltd's Processing activities pursuant to this Agreement conducted by or on behalf of the Associate on reasonable notice;
- (h) at the Associate's direction, arrange for the prompt and safe return and/or secure permanent destruction of all Personal Data, together with all copies in its possession or control (if any) within forty (40) days of such direction and, where requested by the Associate, certify that such destruction has taken place, except where The Manufacturing Institute Practitioner Services Ltd is required by Applicable EU Law or any regulatory body to retain any such Personal Data;
- (i) not transfer any Personal Data to a Restricted Country unless such transfer is made in compliance with the Data Protection Laws;
- (j) at the Associate's request use all reasonable endeavours to assist the Associate to comply with the obligations imposed on the Associate by or in relation to:
 - (i) the rights of Data Subjects;
 - (ii) assistance to the ICO; and/or
 - (iii) Data Protection Impact Assessments

provided that any such assistance shall be provided to the Associate subject to a fee payable to The Manufacturing Institute Practitioner Services Ltd to be agreed between the Parties.

3. RECOVERABLE LOSS

- 3.1 Notwithstanding any other clause, The Manufacturing Institute Practitioner Services Ltd shall not be prevented from recovering any Losses it incurs

4. INDEMNITY

- 4.1 The Associate shall indemnify on demand and keep indemnified The Manufacturing Institute Practitioner Services Ltd against any Losses incurred by, awarded against or agreed to be paid by The Manufacturing Institute Practitioner Services Ltd to the extent arising from the Associate's failure to comply with the Data Protection Laws.

5. INSURANCE

- 5.1 The Associate agrees:
 - 5.1.1 to obtain and keep in full force and effect at all times, in respect of the Processing of Personal Data, a policy or policies of insurance covering liability for damage arising to persons as a result of the Associate's failure to comply with the GDPR and/or the provisions of this Schedule 1A (Data Protection) with policy limits and provisions conforming to such requirements as The Manufacturing Institute Practitioner Services Ltd may from time to time prescribe;
 - 5.1.2 to deliver to The Manufacturing Institute Practitioner Services Ltd copies of all applicable insurance policies taken out pursuant to the provisions of this Agreement and ensure that The Manufacturing Institute Practitioner Services Ltd shall be entitled to the benefit of such insurance.

Schedule 1B

Data Protection Particulars

The subject matter of the Processing	The delivery of educational training and onsite support services
The nature of the Processing	Obtaining, recording and retaining customer details. The personal data will be transmitted by the data controller to the data processor.

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The duration of the Processing	For the length of the training programme, up to the graduation ceremony for any delegate achieving the fellowship award.
The purpose of the Processing	To be able to provide support and training to the customer
The type of Personal Data being Processed	Personal data - name, contact details, education background and employment details
The categories of Data Subjects	Customer Data

13. Termination

13.1 The Contract shall terminate automatically on the completion of the Services.

13.2 Without prejudice to any other rights or remedies which the parties may have, either party may terminate the Contract without liability to the other immediately on giving notice in writing to the other if

13.2.1 the other party commits a material breach of any of its obligations under the Contract and (if such breach is remediable) fails to remedy that breach within 7 days starting on the date on which that party receives notice in writing of the breach. Without limitation it will be a material breach that is incapable of remedy for the Customer to fail to pay in full any invoice of the Supplier within 14 days of the due date for payment of such invoice except to the extent that such invoice is the subject of a bona fide dispute of which the Customer gave notice to the Supplier within 7 days starting on the date of such invoice and which the Customer is trying to resolve with the Supplier; or

13.2.2 an order is made or a resolution is passed for the winding up of the other party; or

13.2.3 an order is made for the appointment of an administrator to manage the affairs, business and property of the other party, or documents are filed with a court of competent jurisdiction for the appointment of an administrator of the other party, or notice of intention to appoint an administrator is given by the other party or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986); or

13.2.4 a receiver, administrative receiver or manager is appointed of any of the other party's assets or undertaking; or

13.2.5 the other party makes any arrangement or composition with its creditors; or

13.2.6 the other party ceases, or threatens to cease, to trade; or

13.2.7 there is a change of control of the other party (as defined in section 574 of the Capital Allowances Act 2001); or

13.2.8 the other party is subject to a bankruptcy petition or order; or

13.2.9 the other party takes or suffers any similar or analogous action in any jurisdiction in consequence of debt.

13.3. On termination of the Contract for any reason other than by virtue of condition 13.1:

13.3.1. the Customer shall immediately pay to the Supplier all of the outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Supplier may submit an invoice, which shall be payable immediately on receipt;

13.3.2. the Customer shall, on demand, return to the Supplier all equipment belonging to the Supplier (if any) that is at the Customer's premises and all Materials. If the Customer fails to do so, then the Supplier may enter the Customer's premises and take possession of them.

13.4. The accrued rights of the parties as at the termination of the Contract and the continuation of any provision expressly stated to survive or implicitly surviving such termination, (including conditions 6.2, 6.3, 6.4, 7.4, 8, 9, 10, 11, 13.3, 13.4, 14.4 and 15 - 17 inclusive) shall not be affected.

14 Cancellation and Suspension

14.1. The Customer has the right to request a reschedule of agreed dates provided that such request is given to the Supplier not less than 28 days prior to commencement of the Services. If less than 28 days' notice is given the Supplier reserves the right to recover the full amount of Charges due under the Contract.

14.2. If the Supplier is unable to complete the delivery of the Services within 3 months starting on the date the Services were originally scheduled to have been completed because of either postponement by the Customer or

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suspension by the Supplier under condition 14.3, the Supplier may elect (by giving notice to the Customer) to treat the Contract as having been cancelled by the Customer immediately on the giving of such notice.

- 14.3. The Supplier may suspend the provision of the Services at any time if the Customer's premises at which the Services are provided fail to comply with applicable health and safety requirements. Further, if suspension of the Services continues for a period of at least two consecutive months under this condition 14.3, then the Supplier may elect (by giving notice to the Customer) to treat the Contract as having been cancelled by the Customer immediately on the giving of such notice.
- 14.4. If the Contract is cancelled under condition 14.2 or 14.3, the Customer shall pay the Supplier 100% of the Charges for the Services remaining to be completed (as determined by the Supplier), such payment to be made within 7 days starting on the date of cancellation.
- 14.5. The Supplier's right to cancel the Contract will be lost under condition 14.2 if the Supplier continues to provide the Services after the end of the 3-month period and under condition 14.3 if the Supplier resumes the provision of the Services after the period of suspension.

15. Force Majeure

- 15.1. The Supplier shall have no liability to the Customer under the Contract if it is prevented from or delayed in performing its obligations under the Contract by any circumstances beyond the Supplier's reasonable control, including strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport network, act of God, war, riot, act of terrorism civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors.

16. Entire Agreement

- 16.1. The Contract sets out all of the terms which the parties have agreed in relation to its subject matter and supersedes all prior agreements and understandings between the parties relating to such subject matter.
- 16.2. Each party acknowledges and agrees that, in entering into the Contract, it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether a party to the Contract or not) relating to the subject matter of the Contract, other than as expressly set out in the Contract.
- 16.3. Nothing in this condition 16 excludes any liability which one party would otherwise have for any statement it has made fraudulently to the other party.

17. General

- 17.1. Subject to the Proposal and condition 7, no variation of the Contract or these Conditions or of any of the documents referred to in them shall be valid unless it is in writing and signed by or on behalf of each of the parties.
- 17.2. If any provision (or part of a provision) of these Conditions or the Proposal is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions will remain in force. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, that provision will apply with whatever modification is necessary to make it valid, enforceable and legal.
- 17.3. The Contract is personal to the Customer who shall not, without the prior written consent of the Supplier, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract. The Supplier may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.
- 17.4. Nothing in the Contract is intended to, or shall operate to, create a partnership between the Customer and the Supplier, or to authorise either party to act as agent for the other, and neither the Customer nor the Supplier shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).
- 17.5. The Contract is made for the benefit of the parties to it and (where applicable) their successors and permitted assigns and is not intended to benefit, or be enforceable by, anyone else.
- 17.6. Notice given under the Contract shall be in writing, sent for the attention of the person, and to the address or fax number, given in the Contract (or such other address, fax number or person as the relevant party may

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notify to the other party in accordance with this condition 17.6) and shall be delivered personally, sent by fax or sent by pre-paid, first-class post or recorded delivery. A notice is deemed to have been received, if delivered personally, at the time of delivery, in the case of fax, at the time of transmission, in the case of pre-paid first class post or recorded delivery, 48 hours from the date of posting and, if deemed receipt under this condition is not within business hours (meaning 9.00 am to 5.30 pm Monday to Friday on a day that is a business day), at 9.00 am on the first business day following delivery. To prove service, it is sufficient to prove that the notice was transmitted by fax, to the fax number of the party or, in the case of post, that the envelope containing the notice was properly addressed and posted.

- 17.7. The failure to exercise or delay in exercising any right by the Supplier or the Customer will not be deemed to be a waiver of such right and will not bar the exercise of that or any other right at any time thereafter.
- 17.8. The Contract and any dispute or claim arising out of or in connection with it or its subject matter, shall be governed by, and construed in accordance with, the laws of England and Wales. The Customer and the Supplier irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Contract or its subject matter