

SLC PROVISION OF SERVICES TERMS AND CONDITIONS

Parties

STUDENT LOANS COMPANY LIMITED, a company incorporated under the laws of England and Wales, with Company Registration Number 02401034 and having its registered office at 21 St Thomas Street, Bristol, BS1 6JS (hereinafter called "SLC"). VAT Registration number 556 4352 32.

and

, a company incorporated under the laws, with Company Registration Number and having its registered office at hereinafter called "the Provider"). VAT Registration number

WHEREAS:

- (A) SLC requires the Services;
- (B) The Provider is willing to supply the Services.
- (C) SLC has agreed to appoint the Provider to provide the Services to SLC on the terms and conditions of this Agreement.

NOW THEREFORE THE PARTIES DO HERBY AGREE as follows:

1 DEFINITIONS AND INTERPRETATIONS

1.1 In this Agreement, unless the context otherwise requires, the following expressions shall have the meanings set opposite them below:-

"Account Manager" means the person to be appointed by the Provider in accordance with Clause 11;

"Charges" means the charges for the Services as specified in the Provider's Response;

"Commencement Date" means the last date of execution of this Agreement;

"Confidential Information" means any information relating to the businesses of the parties, their business systems and business processes and any Personal Data, and includes for the avoidance of doubt Proprietary Information;

"Data" means personal data (as defined in the Data Protection Act 1998) to be processed under this Agreement in the performance of the Services;

"Intellectual Property Rights" means all patents, trade marks or trade names, registered designs or applications for any of those or copyright, database rights, design right or know-how or any other intellectual property rights of a similar nature arising anywhere in the world;

"Legislation" means the legislation for the purpose of implementing a student loan scheme in the United Kingdom being the Education (Student Loans) Act 1990, the Teaching and Higher Education Act 1998, and regulations made thereunder;

"Loan" means a student loan issued and administered by SLC pursuant to the Legislation;

"Notice" means a written notice served by SLC on the Provider pursuant to Clause 4.1;

"Personnel" means the Provider's full time and part time employees, engaged in connection with the Services;

"Proprietary Information" means any information relating to a Loan, any Data and generally all information or knowledge relating to SLC and its business or its affairs which comes into the possession of the Provider pursuant to this Agreement whether before or after this Agreement is signed or during the term of this Agreement;

"Provider's Response" means the response by the Provider to the Tender Document a copy of which is annexed hereto within Part 1 of Schedule 2;

"Review Date" means in respect of each provision of Services in terms of a Notice (i) at the end of each calendar month for the first three months following the date of the Notice and (ii) quarterly thereafter following the date of the Notice;

"Services" means the services to be supplied by the Provider in accordance with the Specification;

"SLC's Computer System" means the computer systems, incorporating hardware and software, utilised by SLC for the provision of the Student Loans Scheme;

"SLC Representative" means the SLC Representative to be appointed in accordance with Clause 12;

"Specification" means the specification for the Services, as set out in the Tender Document and as varied by a Notice;

"Student Loans Scheme" means the student loans scheme operated by SLC pursuant to the Legislation; and

"Tender Document" means the Invitation to Tender (ITT) or the Request For Quotation (RFQ) issued to potential providers, including the Provider, a copy of which is annexed hereto within Schedule 1.

1.2 In this Agreement, unless otherwise specified or the context otherwise requires:-

1.2.1 reference to a Clause is to a clause of this Agreement;

1.2.2 reference to a Schedule is to a schedule to this Agreement;

1.2.3 words importing the singular only shall include the plural and vice versa;

1.2.4 reference to any statute or statutory provision or regulation shall include references to such statute or statutory provision or regulation as from time to time amended, extended or consolidated and shall include all statutory instruments and orders from time to time made pursuant thereto.

1.3 Headings to Clauses and Schedules are inserted for convenience only and shall not affect the interpretation or construction of this Agreement.

2 APPOINTMENT

SLC hereby appoints the Provider and the Provider accepts the appointment as a non-exclusive provider of the Services to SLC on the terms and conditions set out in this Agreement.

3 DURATION

This Agreement shall commence on the Commencement Date and, subject to the terms of Clauses 14 and 27, shall continue thereafter for a maximum period of three (3) years or such other period as specified within the Tender Document , whereupon this Agreement will automatically terminate, subject to SLC having the right to terminate this Agreement on any anniversary of the Commencement Date on giving the Provider at least thirty (30) days' prior notice.

4 PERFORMANCE OF THE SERVICES

- 4.1 SLC may from time to time, and in its absolute discretion, notify the Provider by the service of a Notice that it wishes the Services or any part thereof to be provided.
- 4.2 Upon the service of a Notice, the Provider shall acknowledge receipt of the Notice within forty eight (48) hours and shall perform the relevant part of the Services in accordance with the Specification.
- 4.3 So far as not inconsistent with the Specification, the Provider shall perform the Services in accordance with the Provider's Response, and shall provide the information required by the Tender Document.
- 4.4 SLC may at any time prior to the supply of the Services described in a Notice amend or cancel that Notice. If SLC amend or cancel a Notice their liability to the Provider shall be limited to those costs reasonably incurred by the Provider in fulfilling the Notice incurred up until their receipt of the notice amending or cancelling the Notice, except where such amendment or cancellation results from the Provider's failure to comply with this Agreement SLC shall have no liability to the Provider in respect of such amendment or cancellation.
- 4.5 In the event that the Services include the creation and provision of bespoke software developed by the Provider, the Provider acknowledges that the ownership of all Intellectual Property Rights in such software and all relevant documentation will be transferred to SLC on payment of the Charges for the Services.
- 4.6 In providing the Services the Provider shall:
 - 4.6.1 act with a standard of reasonable skill and care and attention and all generally accepted industry standards and applicable best practice;
 - 4.6.2 comply with all applicable laws, enactments, orders, regulations and other instruments relating to their performance of their obligations hereunder;
 - 4.6.3 comply with any instructions of SLC; and
 - 4.6.4 not perform any action or make any statement that may bring SLC into disrepute.

5 WARRANTIES IN RESPECT OF THE SERVICES

- 5.1 The Provider warrants that it has and will maintain throughout the continuance of this Agreement sufficient resources to enable it to meet SLC's requirements for Services from time to time.
- 5.2 In particular, the Provider warrants that:
 - 5.2.1 the Provider's Response is true and accurate and fully meets the requirements of SLC as set out in the Tender Document; and

- 5.2.2 there have been no changes in circumstances and no new information made available to the Provider which would render the Provider's Response untrue or inaccurate since its date.
- 5.3 The Provider warrants that during the performance of the Services it will not introduce nor permit the introduction of any software viruses or logic bombs into SLC's Computer System and will access and use, and permit only such of its employees as are authorised by SLC to access and use, SLC's Computer System in accordance with the directions of SLC from time to time.
- 5.4 The Provider warrants that any equipment and software used by it in the provision of the Services will be, where appropriate, compatible with and be capable of enabling data exchange with SLC's Computer System. SLC may refuse to allow the Provider to connect to SLC's Computer System unless SLC is satisfied that the Provider's equipment and software will operate correctly and will not disrupt SLC's Computer System.
- 5.5 The Provider warrants that it will preserve the integrity of all information and Data obtained from SLC's Computer System, and will ensure that any information and Data which is input into SLC's Computer System is accurate and complete and will not disrupt the functioning of SLC's Computer System.
- 5.6 The Provider warrants that it has obtained and will maintain throughout the duration of this Agreement an ISO 9000 certification or such certification as is reasonably equivalent.
- 5.7 The Provider warrants what it has obtained and shall maintain all licenses, permissions, authorisations, consents and permits necessary for it to provide the Services to SLC in accordance with the terms of this Agreement.

6 TIME FOR PERFORMANCE

- 6.1 Time shall be of the essence in the performance of the Services. If the Provider fails to perform any element of the Services in the time stipulated for its delivery, SLC may:
- 6.1.1 refuse to accept any subsequent performance of the Services;
- 6.1.2 obtain substitute services from a third party supplier and recover from the Provider any costs and expenses reasonably incurred by SLC in doing so;
- 6.1.3 claim damages for any costs, expenses or losses resulting from the Provider's failure to provide Services within any time stipulated for their delivery;
- 6.1.4 require the Provider to refund to SLC any Charges paid in respect of such Services; and / or
- 6.1.5 terminate this agreement in whole or in part without liability to the Provider, in which case the terms of Clause 15 shall apply.

7 PERFORMANCE REVIEW

- 7.1 At each Review Date, the Account Manager and the SLC Representative will meet to review the provision of the Services with reference to the Notices issued.
- 7.2 In the event that the said review finds that the Provider has failed to provide any aspect of the Services in compliance with a Notice or otherwise in accordance with this Agreement then SLC without limiting any other right or remedy it may have under this Agreement or otherwise may:

- 7.2.1 require the Provider to rectify their performance in these areas within a period of seven (7) days, or forty eight (48) hours if the failure relates to a critical aspect of SLC's business;
- 7.2.2 require the Provider to refund to SLC any Charges paid in respect of such Services; and / or
- 7.2.3 claim damages for any costs, expenses or losses resulting from the Provider's failure to provide Services in conformity with a Notice or this Agreement.
- 7.3 If the Provider fails to undertake any actions as may be required by SLC under Clause 7.2, SLC shall be entitled to terminate this Agreement in which case the terms of Clause 15 shall apply. The Provider shall have no claim against SLC if termination occurs pursuant to this Clause.

8 DATA PROTECTION

- 8.1 With respect to the parties' rights and obligations under this Agreement, the parties agree that the SLC is the Data Controller and that the Provider is the Data Processor.
- 8.2 The Provider shall:
 - 8.2.1 Process the Data only in accordance with instructions from SLC (which may be specific instructions or instructions of a general nature as set out in this Agreement or as otherwise notified by SLC to the Provider during the duration of the Agreement);
 - 8.2.2 Process the Data only to the extent, and in such manner, as is necessary for the provision of the Services or as is required by law or any regulatory body entitled to regulate, investigate or influence the matters dealt with in this Agreement or any other affairs of SLC;
 - 8.2.3 implement appropriate technical and organisational measures to protect the Data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure. These measures shall be appropriate to the harm which might result from any unauthorised or unlawful processing, accidental loss, destruction or damage to the Data and having regard to the nature of the Data which is to be protected;
 - 8.2.4 take reasonable steps to ensure the reliability of any Personnel who have access to the Data;
 - 8.2.5 obtain prior written consent from SLC in order to transfer the Data to any Sub-contractors for the provision of the Services;
 - 8.2.6 ensure that only those Personnel who need to have access to the Data are granted access to such data and only for the purposes of this Agreement and ensure that all Personnel required to access the Data are informed of the confidential nature of the Data and comply with the obligations set out in this clause 8;
 - 8.2.7 ensure that none of Personnel publish, disclose or divulge any of the Data to any third party unless directed in writing to do so by SLC;

- 8.2.8 notify SLC (within five Working Days) if it receives:
 - 8.2.8.1 a request from a Data Subject to have access to that person's Data;
or
 - 8.2.8.2 a complaint, request or any other communication relating to the SLC's obligations under the Data Protection Legislation;
- 8.2.9 provide SLC with full cooperation and assistance in relation to any complaint or request made, including by:
 - 8.2.9.1 providing SLC with full details of the complaint or request;
 - 8.2.9.2 complying with a subject access request within the relevant timescales set out in the Data Protection Legislation and in accordance with the SLC's instructions;
 - 8.2.9.3 providing SLC with any Data it holds in relation to a Data Subject (within the timescales required by SLC); and
 - 8.2.9.4 providing SLC with any information requested by SLC;
- 8.2.10 permit SLC or its external advisers (subject to reasonable and appropriate confidentiality undertakings) to inspect and audit the Provider's data processing activities and those of its agents, subsidiaries and sub-contractors:
- 8.2.11 provide a written description of the technical and organisational methods employed by the Provider for processing Data (within the timescales required by SLC); and
- 8.2.12 not process Data outside the European Economic Area without the prior written consent of SLC and, where SLC consents to a transfer, to comply with:
 - 8.2.12.1 the obligations of a Data Controller under the Eighth Data Protection Principle set out in Schedule 1 of the Data Protection Act 1998 by providing an adequate level of protection to any Data that is transferred; and
 - 8.2.12.2 any reasonable instructions notified to it by SLC.
- 8.2.13 comply with all reasonable requests or directions by SLC to enable SLC to verify and procure that the Provider is in full compliance with its obligations under this clause.
- 8.3 SLC acknowledges that the Provider is reliant on SLC alone for direction as to the extent the Provider is entitled to use and process the Data. Consequently, the Provider shall be entitled to relief from liability in circumstances where a Data Subject makes a claim or complaint with regards to the Provider's actions to the extent that such actions directly result from instructions received from SLC.
- 8.4 The Provider shall comply at all times with the Data Protection Legislation and shall not perform its obligations under this Agreement in such a way as to

cause SLC to breach any of its applicable obligations under the Data Protection Legislation. The Provider shall immediately notify SLC in the event that it becomes aware of any breach of the Data Protection Legislation by the Provider in connection with this Agreement.

- 8.5 The Provider shall indemnify and keep indemnified SLC from and against any and all claims, actions, damages, liabilities, costs and expenses howsoever arising, directly or indirectly, as a result of any breach by the Provider, its employees, agents or servants of the obligations contained within this clause.

9 CHARGES

- 9.1 The Charges shall be as stated in the Tender Document and shall be fixed and not be increased without the prior written consent of SLC.
- 9.2 The Charges shall be exclusive of any applicable Value Added Tax ("VAT") which shall be payable by SLC subject to receipt of a valid VAT invoice from the Provider addressed to SLC.

10 PAYMENT

- 10.1 The Provider shall be entitled to invoice SLC for all Charges payable in respect of any Services provided hereunder following satisfactory provision of such Services at the end of each calendar month following the month during which such Services were provided, provided always that such Services were provided otherwise in accordance with this Agreement.
- 10.2 All invoices will contain a full breakdown of each element of the Charges, together with such other information as SLC may reasonable request from time to time to enable the efficient processing of such invoices.
- 10.3 Invoices will be paid by SLC within ten (10) days of receipt in pounds sterling by direct bank transfer to such UK bank account as shall be nominated by the Provider and notified to SLC.
- 10.4 SLC shall be entitled to set off any amounts owed to it by the Provider against any amounts payable by it to the Provider.

11 PERSONNEL

- 11.1 The Provider shall appoint an Account Manager, who shall, subject to this Clause 11, remain as Account Manager for the duration of this Agreement.
- 11.2 If the services of the Account Manager are no longer available to the Provider, the Provider agrees that, subject to SLC's approval of the relevant person, such approval not to be unreasonably withheld or delayed, the Provider shall appoint a person of similar experience and expertise to act as Account Manager within fourteen (14) days of the Account Manager becoming unavailable.
- 11.3 The Provider agrees that the Account Manager shall be responsible for co-ordinating the provision of the Services and handling any queries from SLC regarding any matters relating to the provision of the Services. The Account Manager shall have the authority under this Agreement to contractually bind the Provider on all matters relating to the Services.
- 11.4 The Provider shall employ and provide sufficient Personnel to provide the Services in full compliance with all the requirements of SLC who shall, where appropriate, be fully qualified or trained by the Provider for the activities they undertake.

- 11.5 All Personnel employed by the Provider in the provision of the Services will be and remain employees of the Provider. The Provider shall only employ competent persons with the relevant experience as Personnel.
- 11.6 The Provider shall maintain full responsibility for the Personnel and for their actions while at SLC's premises and shall ensure that all Personnel comply fully with the rules and regulations relating to security and personal conduct at SLC's premises from time to time in force.
- 11.7 SLC reserves the right, without reason, to refuse any Personnel access to SLC's premises or to require the Provider to remove any of the Personnel from SLC's premises immediately without reason if, in SLC's sole discretion, it is considered to be in the best interests of SLC or the proper running of SLC's premises. In such cases, SLC shall be entitled to instruct the Provider to provide a replacement.
- 11.8 If as a result of the Provider ceasing (for whatever reason) to provide the Services, then the Provider shall indemnify and keep indemnified SLC against any claim, liability, cost, expense or demand in respect of Personnel which relates in any way to their employment prior to the Provider's ceasing to provide the Services.
- 11.9 The Provider will not
 - 11.9.1 in the event of notice of termination of this Agreement for any reason with effect from the date on which such notice is given; or
 - 11.9.2 during the three (3) months period before expiry of this Agreement;
carry out a Prohibited Act (as defined below) in relation to any of the Personnel, except where SLC's prior written consent (not to be unreasonably withheld) has been given.
- 11.10 Prohibited acts are:
 - 11.10.1 the termination of the employment of any of the Personnel for any reason whatsoever save when in the reasonable opinion of the Provider, termination is justified for one of the reasons listed in section 98(2) of the Employment Rights Acts 1996;
 - 11.10.2 the alteration or change in any way of any terms and conditions of employment of any of the Personnel (whether with or without the consent of the Personnel) other than for wage or salary awards which are in line with those offered generally for similar status individuals within the Provider's workforce or if required by law;
 - 11.10.3 the recruitment (except as a replacement of any employee whose employment is terminated and where the replacement is being recruited on terms which are not materially better than the terms of the employee being replaced) of any additional Personnel; and
 - 11.10.4 the assignment of any of Personnel to or from duties connected with the Services.
- 11.11 The Provider shall comply with all applicable statutes, laws and regulations and agreements relating to the provision of information to and/or consultation with employees and/or any representatives in connection with the transfer of their contracts of employment upon termination of this Agreement to SLC or any new provider of the same or similar services to the Services and shall indemnify and hold harmless SLC against all claims by any employee or any such representatives arising out of its failure to do so.

- 11.12 The Provider shall (in relation to the Personnel):
- 11.12.1 give to SLC full details of the Personnel including, but not limited to details of the terms and conditions of employment and benefits (including but not limited to any bonus incentives, profit sharing scheme, employee share scheme and its accident and health insurance), working arrangement, outstanding obligations to increase remuneration, recognition, agreements and redundancy schemes (including all those persons temporarily absent from work for any reason, for example, maternity leave, sick leave or holiday) provided that any demands by SLC under this Clause shall specify which of the above details are required; and
 - 11.12.2 subject to the Provider's obligations under the Data Protection Act 1998, give to SLC copies of all personnel and employment records (including without limitation National Insurance and PAYE records), employment contracts and statements of terms and conditions of employment and disciplinary records relating to the Personnel.
 - 11.12.3 It is expressly acknowledged that SLC can pass information acquired pursuant to this Clause 11 on to the new provider of services the same or similar to the Services or a prospective new provider of services the same or similar to the Services.

12 SLC's REPRESENTATIVE

- 12.1 SLC shall nominate an SLC Representative to oversee the supply of the Services. SLC shall advise the Provider from time to time of any change in the identity of the SLC Representative.
- 12.2 The SLC Representative shall be the Provider's point of contact within SLC and all correspondence or queries relating to the Services or this Agreement shall be referred to the SLC Representative.

13 INSURANCE

- 13.1 During the term of this agreement and for a period of one (1) year thereafter the Provider shall maintain in force the following insurance policies with reputable insurance companies:
 - 13.1.1 Public liability insurance for not less than £10 million per claim;
 - 13.1.2 Professional indemnity insurance for not less than £5 million per claim; and
 - 13.1.3 Product liability insurance for not less than £5 million per claim.
- 13.2 The Provider shall promptly send a copy of the receipt for payment of the premiums relating to the insurances specified in Clause 13.1 to SLC. On demand the Provider shall provide SLC with copies of the insurance policy certificates and details of the cover provided in relation to the insurances specified in Clause 13.1.
- 13.3 If the Provider fails or is unable to maintain insurance in accordance with Clause 13.1, or fails to provide evidence that it has paid the current year's premiums in accordance with Clause 13.2, SLC may, so far as it is able, purchase such alternate cover as it deems to be reasonably necessary and shall be entitled to recover all reasonable costs and expenses it incurs in doing so from the Provider.

14 TERMINATION

- 14.1 Either party shall be entitled to terminate this Agreement or the provision of any Services under a Notice forthwith upon written notice to the other if:

- 14.1.1 the other party commits any breach of any of the provisions of this Agreement and, in the case of a breach capable of remedy, fails to remedy the same within fourteen (14) days after receipt of a written notice giving full particulars of the breach and requiring it to be remedied;
- 14.1.2 an encumbrancer takes possession or an administrator, receiver, administrative receiver or similar official is appointed over any of the property or assets of the other party;
- 14.1.3 the other party makes any voluntary arrangement with its creditors or becomes subject to an administration order or becomes or is declared bankrupt or has a trustee in bankruptcy appointed or goes into liquidation (except for the purposes of amalgamation or reconstruction and in such manner that the solvent company resulting therefrom effectively agrees to be bound by or assume the obligations imposed on that other party under this Agreement); or
- 14.1.4 the other party ceases, or threatens to cease, to carry on its business.
- 14.2 SLC shall be entitled to terminate this Agreement or any provision of Services under a Notice forthwith upon written notice in any of the following circumstances:
 - 14.2.1 if, in the reasonable opinion of SLC, any action of the Provider or any matter affecting the Provider, whether in relation to this Agreement or otherwise, would bring SLC into disrepute; or
 - 14.2.2 the control or management of the Provider transfers to any third party.
- 14.3 SLC shall have the right to terminate this Agreement or any provision of Services under a Notice by giving not less than thirty (30) days' notice in writing to the Provider following the occurrence of any one of the following circumstances or events:
 - 14.3.1 the Legislation being wholly or partly repealed or amended;
 - 14.3.2 the exercise or failure to exercise powers by the applicable Government body or minister under the Legislation so that SLC is not required to administer the Student Loan Scheme; or
 - 14.3.3 the Department for Innovations, Universities and Skills or any Government minister responsible for the Student Loan Scheme requesting SLC to terminate this Agreement.
- 14.4 The rights to terminate this Agreement given under this Clause 14 shall be without prejudice to any other right or remedy of either party in respect of the breach concerned (if any) or any other breach, provided that the Provider shall have no claim against SLC if termination occurs pursuant to the exercise of SLC's powers contained in Clause 14.2 or 14.3.

15 CONSEQUENCES OF TERMINATION

- 15.1 Upon termination of this Agreement howsoever arising:-
 - 15.1.1 The Provider shall immediately return all materials or property of SLC which have come into the Provider's possession or under its control pursuant to this Agreement, including the Proprietary Information, and shall not make or retain any copies of such Proprietary Information.
 - 15.1.2 Clauses 1, 8, 11.11, 11.12, 13, 15, 17, 18, 20, 21, 22, 23, 25, 26, 28 and 327.3 shall continue in force in accordance with their respective terms.

15.2 Subject as otherwise provided herein and to any rights or obligations which have accrued prior to termination, neither party shall have any further obligation to the other under this Agreement.

16 ASSIGNATION

The Provider shall not be entitled to assign or sub-contract or sub-licence any of its rights or obligations under this Agreement in whole or in part, without the prior written consent of SLC.

17 VARIATION

This Agreement shall not be amended, modified, varied or supplemented in any way except in writing signed by two duly authorised representatives of each party.

18 CONFIDENTIALITY

18.1 Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in this Agreement, each party shall:

18.1.1 treat the other party's Confidential Information as confidential and safeguard it accordingly; and

18.1.2 not disclose the other party's Confidential Information to any other person without the owner's prior written consent.

18.2 Clause 18.1 shall not apply to the extent that:

18.2.1 such disclosure is a requirement of any law, rule or regulation of any governmental or regulatory body having jurisdiction placed upon the party making the disclosure, including any requirements for disclosure under the Freedom of Information Act 2002 provided that insofar as reasonably possible the party being required to make such a disclosure shall have informed the other party of such a need and shall have complied with the other party's reasonable instructions designed to protect the confidentiality of such Confidential Information;

18.2.2 such information was in the possession of the party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;

18.2.3 such information was obtained from a third party without obligation of confidentiality;

18.2.4 such information was already in the public domain at the time of disclosure otherwise than by a breach of this Agreement; or

18.2.5 it is independently developed without access to the other party's Confidential Information.

provided always that a party seeking to rely on this clause 18.2 can show by written evidence that such Confidential Information fulfils one of the criteria set out in clause 18.2.1 to 18.2.5.

18.3 Notwithstanding the terms of clause 18.2.4 if specific parts of the Confidential Information are or become generally available to the public otherwise by reason of a breach of this Agreement by the receiving party

this shall not prevent any combination thereof from remaining Confidential Information provided that such combination is not already generally available to the public otherwise by reason of a breach of this Agreement by the receiving party.

- 18.4 The Provider may only disclose SLC's Confidential Information to the Personnel who are directly involved in the provision of the Services and who need to know the information and shall ensure that such Personnel are aware of and shall comply with these obligations as to confidentiality.
- 18.5 The Provider shall not, and shall procure that the Personnel do not, use any of SLC's Confidential Information received otherwise than for the purposes of this Agreement.
- 18.6 [At the written request of SLC, the Provider shall procure that those members of Personnel identified by SLC sign a confidentiality undertaking prior to commencing any work in accordance with this Agreement.]
- 18.7 Nothing in this clause 18 shall prevent either party from using any techniques, ideas or know-how gained during the performance of the Agreement in the course of its normal business to the extent that this use does not result in a disclosure of the other party's Confidential Information or an infringement of IPR.
- 18.8 SLC acknowledges that the disclosure of Confidential Information belonging to the Provider may substantially prejudice the interests of the Provider. If and when SLC is in receipt of an information request pursuant to section 1 of the Freedom of Information Act 2000 (the "FOI") which relates to Confidential Information of the Provider, SLC may owe an obligation of confidentiality to the Provider in respect of the Confidential Information and, as such, that information may be capable of benefiting from one or more disclosure exemptions provided for under the FOI. Subject always to the proviso that SLC shall be entitled to act in a manner which, in its judgment, is compliant with the terms of the FOI, SLC shall:
 - 18.8.1 consult with the Provider in advance of making any disclosure of such Confidential Information pursuant to an information request it receives; and
 - 18.8.2 give reasonable consideration to any concerns which the Provider may raise in relation to the proposed disclosure.
- 18.9 The Provider shall not make any announcement to the press or the media or issue any statement or press release to the press or media in relation to this Agreement or the provision of the Services.
- 18.10 For the avoidance of doubt any breach of the confidentiality of the Proprietary Information which is made by the Provider or by any person who has acquired the Proprietary Information in consequence of it having been disclosed to the Provider pursuant to this Agreement shall constitute an irremediable material breach by the Provider to comply with the terms of this Agreement.

19 WARRANTIES

- 19.1 The Provider warrants to SLC that:-
- 19.1.1 it has the power and capacity to enter into this Agreement and that it has obtained all necessary permissions, consents and authorisations which may be required to enable it to perform its obligations pursuant to this Agreement; and
- 19.1.2 it has notified SLC of any complaints from any third parties with regard to its performance of services similar to the Services and the resolution of such complaints.

20 INDEMNITY

- 20.1 The Provider shall indemnify and keep indemnified SLC from and against any and all claims, actions, damages, liabilities, costs and expenses howsoever arising, directly or indirectly, as a result of:
- 20.1.1 any negligent act or omission of the Provider, its employees, agents and servants in the performance of the Services or as a result of the breach or non-performance by the Provider, its employees, agents or servants of any of its obligations under this Agreement;
- 20.1.2 any claim made against SLC that the Services infringes any third party Intellectual Property Rights; and
- 20.1.3 any failure by the Provider, its employees, agents or servants to process Data in accordance with the Data Protection Act 1998 or this Agreement.

21 INTELLECTUAL PROPERTY

- 21.1 The Provider acknowledges that all Intellectual Property Rights in any designs or materials generated or created by the Provider in the course of performing its obligations in terms of this Agreement shall vest in SLC. The Provider shall assign to SLC all Intellectual Property Rights which may come into existence in such materials without limitation.
- 21.2 The Provider, for the avoidance of doubt, further acknowledges that SLC shall be entitled to use any designs or materials prepared by the Provider as part of the Services for whatever purpose SLC may decide. The Provider will have no rights in the materials other than as agreed in writing with SLC.
- 21.3 Any Intellectual Property Rights in the Specification will remain owned by SLC, and no rights are granted in such Intellectual Property Rights save as necessary to enable the Provider to supply the Services to SLC.
- 21.4 On the reasonable request of SLC, the Provider shall, do all such things and sign all documents or instruments necessary to enable SLC to obtain, defend and enforce the Intellectual Property Rights referred to in Clause 21.1.
- 21.5 The Provider acknowledges that no disclosure of any Proprietary Information or information concerning SLC's Computer Systems to it in terms of this Agreement will give the Provider any rights in the Intellectual Property Rights in the Proprietary Information or in SLC's Computer System.
- 21.6 The Provider may not (save as permitted by law) at any time reverse engineer or adapt, modify or alter in any way any software forming part of SLC's Computer System.

22 SEVERANCE

Each of the restrictions and provisions contained in this Agreement or in any variation shall be construed as independent of every other such restriction

and provision to the effect that if any provision of this Agreement or any variation thereof or the application of any provision to any person, firm or company or to any circumstance shall be determined to be invalid and unenforceable to any extent, such provision shall be severed from the body of other provisions and such determination shall not affect any other provision in the Agreement or any variation or the application of such provision to any person, firm, company or circumstance all of which other provisions shall continue to be valid and enforceable to the fullest extent permitted by law.

23 WAIVER

- 23.1 The failure to exercise or delay in exercising a right or remedy provided by this Agreement or by law does not constitute a waiver of the right or remedy or a waiver of other rights or remedies.
- 23.2 A waiver of a breach of any of the terms of this Agreement or of a default under this Agreement does not constitute a waiver of any other breach or default and shall not affect the other terms of this Agreement
- 23.3 A waiver or a breach of any of the terms of this Agreement or of a default under this Agreement will not prevent a party from subsequently requiring compliance with the waived obligation, and a partial exercise of a right shall not preclude a subsequent complete exercise of that right.

24 NOTICES

Any notice (other than a Notice) required to be given hereunder by any party hereto shall be in writing sent by prepaid recorded delivery or registered post or by facsimile communication and shall be deemed effective if sent by post at the expiration of forty eight (48) hours after the same was posted whether or not received or if by facsimile communication, on the day of despatch to the correct fax number of the addressee.

The address and facsimile number for service of notices shall be:

in respect of: SLC
100 Bothwell Street
Glasgow G2 7JD

FAO

Facsimile Number: 0141 306 2005

in respect of:

FAO

Facsimile Number:

Each of the parties hereto shall notify the others of any change of address or fax number within forty eight (48) hours of such change.

25 ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements in connection with the subject matter hereof. For the avoidance of doubt, any terms of business of the Provider are expressly excluded from this Agreement. Nothing in this Clause 25 shall operate to limit or exclude any liability for fraud.

26 FURTHER ASSURANCE

The Provider shall (at its own expense) promptly execute and deliver all such documents, and do all such things, or procure the execution or delivery of all documents and doing of all such things as are required to give full effect to this Agreement and the transactions contemplated by it.

27 FORCE MAJEURE

27.1 If either party is prevented from performing its obligations pursuant to this Agreement as a result of any matter beyond its reasonable control including fire, explosion, war, civil disorder, act of Government, statutory order or industrial dispute (but not of its own workforce) ("Force Majeure") then it shall notify the other party forthwith specifying the reason.

27.2 Neither party shall be deemed to be in breach of this Agreement, or otherwise be liable to the other, for any delay in performance or the non-performance or partial performance of any of its duties or obligations under this Agreement, to the extent that the delay or non-performance or partial performance is due to the event notified in accordance with Clause 27.1, and the time for performance of that obligation will be extended accordingly. However, the Provider will not be excused for any failure or delay where such failure or delay could have been avoided (or where such delay or failure could have been mitigated, to the extent it should have been mitigated) by the adoption of contingency measures as set out in the Provider's Response.

27.3 The party affected by the event notified in accordance with Clause 27.1 will use reasonable endeavours to remove the cause of the event of Force Majeure and/or to mitigate the consequences of the event of Force Majeure. Forthwith upon the event of Force Majeure ceasing to exist, the party relying on it will give notice of this to the other party. If the event of Force Majeure continues for a period of more than fourteen (14) days, the party not affected shall have the right to terminate this Agreement upon giving seven (7) days' written notice of such termination to the other party.

28 FREEDOM OF INFORMATION

28.1 The Provider acknowledges that SLC is subject to the requirements of the FOI and shall assist and cooperate with SLC to enable SLC to comply with its obligations under the FOI.

28.2 The Provider shall and shall procure that its Sub-contractors shall:

28.2.1 transfer to SLC all requests for information that it receives as soon as practicable and in any event within two Working Days of receiving any request under the FOI;

28.2.2 provide SLC with a copy of all information in its possession, or power in the form that SLC requires within five Working Days (or such other period as SLC may specify) of SLC's request;
and

28.2.3 provide all necessary assistance as reasonably requested by SLC to enable SLC to respond to the request for information within the time for compliance set out in the FOI.

28.3 SLC shall be responsible for determining in its absolute discretion and

notwithstanding any other provision in this Agreement or any other agreement whether any information should be released under the FOI.

28.4 In no event shall the Supplier respond directly to any request for information unless expressly authorised to do so by SLC.

29 STAFFING SECURITY

29.1 The Provider shall comply with the Staff Vetting Procedures annexed at Schedule [] hereto in respect of all Personnel employed or engaged in the provision of the Services. The Provider confirms that all Personnel employed or engaged by the Provider at the Commencement Date were vetted and recruited on a basis that is equivalent and no less strict than the Staff Vetting Procedure.

29.2 The Provider shall provide training on a continuing basis for all Personnel employed or engaged in the provision of the Services in compliance with the provisions of Schedule [] annexed hereto.]

30 APPLICABLE LAW

This Agreement shall be governed by and construed in all respects in accordance with the law of Scotland and each of the parties hereby submits to the exclusive jurisdiction of the Scottish Courts in relation to all matters pertaining to or arising from this Agreement.

IN WITNESS WHEREOF, these presents consisting of this, the preceding [INSERT NUMBER] pages and the Schedules annexed hereto are subscribed as follows:

SUBSCRIBED for and on behalf
of STUDENT LOANS COMPANY LIMITED

Name

Position Held

Date

Address

Signature

Witnessed by

Name

Position Held

Date

Address

Signature

SUBSCRIBED for and on behalf
of [PROVIDER]

Name

Position Held

Date

Address

Signature

Witnessed by

Name

Position Held

Date

Address

Signature

This is Schedule 1 referred to in the foregoing agreement between Student Loans Company Limited and [INSERT PROVIDER NAME]

The Tender Document

This is Schedule 2 referred to in the foregoing agreement between Student Loans Company Limited and [INSERT PROVIDER NAME]

Part 1

The Provider's Response

Part 2

The Charges