

CITB
STANDARD CONTRACT FOR PURCHASING GOODS AND SERVICES

THIS CONTRACT is made the

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BETWEEN

- (1) Construction Industry Training Board otherwise known as CITB (Registered Charity Numbers 264289 (England & Wales) and SC044875 (Scotland)) whose principal office is situated at Bircham Newton, King's Lynn, Norfolk PE31 6RH ("**CITB**"); and
- (2) [NAME] [a company registered in England and Wales (company registration No NUMBER) whose registered office is at ADDRESS] OR [trading as NAME of ADDRESS] ("**Supplier**").

Whereas

CITB wishes to procure and the Supplier agrees to supply the Goods and/or Services set out in Annex A on the terms and conditions set out below.

NOW IT IS AGREED

1. Interpretation

In this Contract the following words and expressions shall have the following meanings, unless the context requires otherwise:

Background IPR - any Intellectual Property Rights existing as at the Commencement Date;

Children - persons who have not attained the age of 18;

CITB Property – any property, other than real property, issued or made available to the Supplier by CITB in connection with the Contract;

Commencement Date - the date stated in Annex A;

Contract - the contract between CITB and the Supplier consisting of this Contract together with any annexes and any other documents or parts referred to in this Contract;

DBS - the Disclosure and Barring Service;

DPA - The Data Protection Act 1998 and any successor legislation and regulation enacting provisions relating to the processing of personal data.

Deliverables - the deliverables set out in Annex A;

Enhanced Disclosure Checks - enhanced records checks available through the Disclosure and Barring Service and/or the Protection of Vulnerable Groups Scheme managed by Disclosure Scotland;

Expiry Date - the date stated in Annex A;

Force Majeure - any event preventing the performance by either party of its obligations under this Contract which is beyond the reasonable contemplation and control of the parties including, without limitation, industrial action (whether involving the workforce of either party or otherwise), acts of God, war or national emergency, an act of terrorism, riot, civil commotion, malicious damage, fire, explosion, flood, storm and/or epidemic;

Foreground IPR - Intellectual Property Rights coming into existence on or after the Commencement Date in connection with this Contract;

Good Industry Practice - using standards, practices, methods and procedures conforming to the law and exercising that degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar type of undertaking under the same or similar circumstances;

Goods - the goods to be supplied to CITB (including any of them or any part of them) under this Contract as described in Annex A;

Intellectual Property Rights - all intellectual and industrial property rights including patents, trade marks, service marks, database rights, knowhow, trade secrets, design rights (whether registrable or not), applications for any of the above rights, copyright, trade or business names or other similar rights or obligations whether registrable or not in any country including the United Kingdom and all other countries in the world and together with all renewals and extensions;

Premises – the location(s) where the Services are to be performed, as specified in Annex A;

Price - the price, exclusive of Value Added Tax (“VAT”), payable by CITB to the Supplier as detailed in Annex A;

Public Contracts Directive – Directive 2014/24/EU of the European Parliament and of the Council;

Replacement Goods or Services - any goods or services which are identical or substantially similar to any of the Goods or Services and which CITB receives in substitution for any of the Goods or Services following the termination or expiry of this Contract, whether those goods or services are provided by CITB internally or by any Replacement Supplier;

Replacement Supplier - any third party supplier of Replacement Goods or Services appointed by CITB from time to time;

Representatives - CITB's Representatives and/or the Supplier's Representatives;

Services - the services (including any of them or any part of them) described in Annex A;

Special Conditions - the special conditions, if any, attached at Annex B;

Staff - all workers of the Supplier engaged in providing the Goods or Services, including, without limitation, employees, sub-contractors, agents or servants;

Subcontract – a contract between two or more suppliers (at any stage of remoteness from CITB in a subcontracting chain) made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Contract;

Sub-contractor - any assignee, sub-contractor, servant, agent, supplier and/or other body whether incorporated or unincorporated that performs any part of the Supplier's obligations under this Contract and/or supplies any of the Goods and/or any part of the Services;

Supplier's Contract Manager - the person responsible for managing the Services on behalf of the Supplier;

TFEU – the Treaty on the Functioning of the European Union;

Treaties – the Treaty on European Union and TFEU;

Vulnerable Adults - individuals meeting the criteria set out in section 59 of the Safeguarding Vulnerable Groups Act 2006; and

Working Day - any day other than a Saturday or Sunday or a public or bank holiday in the United Kingdom.

- 1.1. In this Contract the singular shall include the plural and vice versa and references to either gender shall include the other.
- 1.2. The headings contained in this Contract are for ease of reference only and are not an aid to and do not form part of the construction of this Contract.
- 1.3. All references to statutory provisions shall be construed as including references to any statutory modification, consolidation or re-enactment (whether before or after the date of this Contract) and to all statutory instruments or orders for the time being in force made pursuant to such statutory provisions.
- 1.4. Any special terms applicable to this Contract shall be set out in the annexes which form part of this Contract and shall have full force and effect as if expressly set out in the body of this Contract and any reference to this Contract shall include the annexes. In the event of any conflict between the body of this Contract and any provisions contained in the annexes, the provisions of the annexes, as the case may be, shall prevail.

2. Commencement & Duration

- 2.1. This Contract shall take effect on the Commencement Date and shall continue until the Expiry Date stated in Annex A (the Initial Term), unless extended or terminated in accordance with this Contract.
- 2.2. CITB shall have the option of extending the duration of this Contract for [INSERT] months from the Expiry Date (the Renewal Term), provided it has given notice in writing not less than 3 months prior to expiry of the Initial Term.
- 2.3. The Term shall not in any event exceed [INSERT] years from the Commencement Date.
- 2.4. The provisions of this Contract shall continue (subject to any Variation or adjustment to the Price pursuant to clause 11.10) during any Renewal Term.
- 2.5. The parties acknowledge that any Goods or Services already supplied or performed in connection with this Contract prior to the Commencement Date shall be deemed to have been supplied or performed subject to these terms.
- 2.6. Subject to any variation under clause 26, the Contract shall be upon these terms and conditions to the exclusion of all others (including any terms and conditions which the Supplier purports to apply under any acknowledgement or confirmation of order, quotation, specification, purchase order, delivery note, invoice or similar document and all previous oral or written representation).
- 2.7. Delivery of the Goods or commencement of the performance of the Services will be deemed conclusive evidence of the Supplier's acceptance of these terms and conditions.

3. Supplier's Staff

- 3.1. Where the nature of the Services or their performance so requires, the Supplier shall comply at all times and in all respects with the Safeguarding Vulnerable Groups Act 2006 and/or the Safeguarding Vulnerable Groups (Scotland) Act 2006 and shall obtain and provide copies to CITB of Enhanced Disclosure Checks in respect of all Staff prior to their engagement in the provision of the Services.
- 3.2. If an Enhanced Disclosure Check of any member of Staff reveals any restriction under section 41 of the Mental Health Act 1983 and/or any convictions which CITB considers affect the suitability of the Supplier or any member of Staff to provide the Goods and/or Services, CITB may at its sole discretion:
 - 3.2.1. require the Supplier to provide a substitute member of Staff, subject to approval of such person by CITB in accordance with this clause 3; or
 - 3.2.2. terminate this Contract forthwith.
- 3.3. If CITB considers that the presence of any member of Staff is inappropriate, it shall be entitled to refuse that individual access to or to remove that individual from any premises occupied by or on behalf of CITB.
- 3.4. If, during the Contract, the Supplier is made aware that a Staff member is or may be unsuitable to work with Children and/or Vulnerable Adults the Supplier shall notify CITB forthwith and remove that person from frequent or regular access to Children and Vulnerable Adults.
- 3.5. At all times, the Supplier shall ensure that:
 - 3.5.1. each member of Staff is suitably qualified, adequately trained and capable of providing the applicable Services in respect of which they are engaged;
 - 3.5.2. there is an adequate number of Staff to provide the Services properly;
 - 3.5.3. only those people who are authorised by the Supplier (under the authorisation procedure to be agreed between the parties) are involved in providing the Services; and
 - 3.5.4. all Staff comply with such policies, rules, regulations and requirements (including those relating to security arrangements) as may be in force from time to time for the conduct of personnel who are allowed access to the applicable premises.
- 3.6. CITB may refuse to grant access to, and remove, any of the Staff who do not comply with any such policies, rules, regulations and requirements or if they otherwise present a security threat.
- 3.7. The Supplier shall replace any of the Staff who CITB reasonably decides have failed to carry out their duties with reasonable skill and care. Following the removal of any of the Staff for any reason, the Supplier shall ensure such person is replaced promptly with another person with the necessary training and skills to meet the requirements of the Services.
- 3.8. The Supplier shall ensure that the Supplier's Contract Manager is dedicated to the co-ordination of the management and operation of the Services, the performance of the Supplier's obligations under this Contract and the management of the Supplier's day-to-day relationship with CITB.
- 3.9. The Supplier shall maintain up-to-date personnel records on the Staff engaged in the provision of the Services and, on request, provide reasonable information to CITB on the Staff. The Supplier shall ensure at all times that it has the right to provide these records under the Data Protection Act 1988.
- 3.10. The Supplier shall use its best endeavours to ensure continuity of personnel and to ensure that the turnover rate of its Staff engaged in the provision or management of the Services is at least as good as the prevailing industry norm for similar services, locations and environments.

4. Provision of Services

- 4.1. The Supplier shall perform the Services to Good Industry Practice and in accordance with the Contract, including, without limitation, the Deliverables detailed in Annex A.
- 4.2. If the Services are performed at CITB's premises, the Supplier shall leave the premises clean and tidy upon completion of the Services.
- 4.3. Without prejudice to any other right or remedy, if CITB considers that the performance of the Services or any part of them fails to meet the requirements of the Contract then CITB may require the Supplier to re-perform the Services or remedy the failure (and any damage resulting from such failure) at its own cost and expense in accordance with the requirements of the Contract within 10 Working Days or such other period of time as CITB may specify. If the Supplier fails to comply with a request under this clause 4.3, CITB may itself supply or procure the supply of all or part of the Services until such time as the Supplier shall have demonstrated to the reasonable satisfaction of CITB that the Supplier will once more be able to supply all or such part of the Services in accordance with the Contract and the Supplier shall pay the reasonable costs incurred by CITB in so doing.
- 4.4. Save as CITB may otherwise direct, the Supplier is deemed to have inspected the Premises before tendering so as to have understood the nature and extent of the Contract to be carried out and be satisfied in relation to all matters connected with the performance of the Contract.

5. Provision of Goods

- 5.1. The quantity, quality and description of the Goods shall be as set out in Annex A.
- 5.2. All Goods must be fit for the purpose for which they are supplied.
- 5.3. The Goods must be free from defects in design, material and workmanship.
- 5.4. The Supplier shall promptly inform CITB of any potential hazard or risks of which the Supplier is or ought reasonably to be aware in relation to the transport, handling, manufacture, distribution or use of the Goods.
- 5.5. If required by CITB, samples of Goods shall be submitted by the Supplier to CITB at the Supplier's cost for evaluation and approval. All subsequent deliveries of the Goods shall be of equal or superior quality to the approved samples.
- 5.6. Save as CITB may otherwise direct, the Supplier is deemed to have inspected the Premises before tendering so as to have understood the nature and extent of the Contract to be carried out and be satisfied in relation to all matters connected with the performance of the Contract.

6. Time for Performance

- 6.1. The Supplier shall supply the Goods or Services at the dates and times set out in Annex A or as CITB may reasonably require from time to time. Unless otherwise agreed in writing, time shall be of the essence in the performance of the Contract.
- 6.2. The Supplier shall notify CITB immediately of any anticipated delay in the delivery of Goods or performance of Services, stating the estimated period of delay.
- 6.3. Without prejudice to any other rights or remedies it may have, in the event of non-delivery of Goods or delay in the performance of the Contract, CITB reserves the right to:
 - 6.3.1. terminate the Contract pursuant to clause 13;
 - 6.3.2. refuse to accept any subsequent delivery of Goods or performance of Services;
 - 6.3.3. recover from the Supplier any expenditure reasonably incurred by CITB in obtaining Replacement Goods or Services from a Replacement Supplier; and
 - 6.3.4. claim damages for any additional cost, loss or expense incurred by CITB which is directly or indirectly attributable to the Supplier's delay.

7. Delivery

- 7.1. The Supplier shall be responsible for transport and delivery of the Goods, which shall be included within the Price. Delivery of the Goods shall take place at the address specified in Annex A ('Delivery').
- 7.2. CITB shall not be deemed to have accepted the Goods until it has had 5 Working Days to inspect them following delivery.
- 7.3. Without prejudice to any other rights and remedies available to CITB, CITB shall be entitled to reject and return to the Supplier, at the Supplier's expense, any Goods which are faulty or which do not fully comply with the requirements stated in Annex A as to quantity, quality, date and time of delivery, standards or description or which are not fit for the purpose for which they are supplied.
- 7.4. CITB shall be under no obligation to accept or pay for any Goods delivered in excess of the quantity ordered which shall remain at the Supplier's risk. CITB shall be entitled to give written notice to the Supplier to remove such Goods within 5 Working Days and to refund to CITB any expenses incurred by it (including but not limited to storage costs) failing which CITB shall be entitled to dispose of such Goods and to charge the Supplier for the costs of such disposal.
- 7.5. Unless expressly agreed otherwise, CITB shall not be obliged to accept delivery by instalments. If CITB specifies delivery by instalments, delivery of any instalment later than the agreed delivery date shall, without prejudice to any other rights or remedies of CITB, entitle CITB to terminate the whole of any unfulfilled part of the Contract without further liability to the Supplier.

8. Property & Risk

- 8.1. Property in the Goods shall pass to CITB at the time of Delivery or, if earlier, payment by CITB of such proportion of the Price as relates to the Goods to be delivered.
- 8.2. Risk in the Goods shall pass to CITB on Delivery by the Supplier, which shall include off-loading and stacking.

9. Licence to occupy CITB's Premises

- 9.1. Any land or Premises (including temporary buildings) made available to the Supplier by CITB in connection with the Contract, shall be made available to the Supplier free of charge and shall be used by the Supplier solely for the purpose of performing its obligations under the Contract. The Supplier shall have the use of such land or Premises as licensee and shall vacate the same on completion, termination or abandonment of the Contract.
- 9.2. The Supplier shall not use CITB's Premises for any purpose or activity other than the provision of the Services.
- 9.3. Should the Supplier require modifications to CITB's Premises, such modifications shall be subject to prior approval and shall be carried out by CITB at the Supplier's expense. CITB shall undertake approved modification work without undue delay. Ownership of such modifications shall rest with CITB.
- 9.4. The Supplier shall (and shall ensure that their employees, servants, agents, suppliers or sub-contractors) observe and comply with such rules and regulations as may be in force at any time for the use of such Premises as determined by CITB, and the Supplier shall pay for the cost of making good any damage caused by the Supplier, his employees, servants, agents, suppliers or sub-contractors other than fair wear and tear. For the avoidance of doubt, damage includes damage to the fabric of the buildings, plant, fixed equipment or fittings therein.
- 9.5. The Parties agree that there is no intention on the part of CITB to create a tenancy of whatsoever nature in favour of the Supplier or its employees, servants, agents,

suppliers or sub-contractors and that no such tenancy has or shall come into being and, notwithstanding any rights granted pursuant to the Contract, CITB retains the right at any time to use in any manner CITB sees fit any premises owned or occupied by it.

10. CITB Property

- 10.1. Where CITB for the purpose of the Contract issues CITB Property free of charge to the Supplier such property shall be and remain the property of CITB. The Supplier shall not in any circumstances have a lien on CITB Property and the Supplier shall take all reasonable steps to ensure that the title of CITB to such CITB Property and the exclusion of any such lien are brought to the notice of all Sub-contractors and other persons dealing with the Contract.
- 10.2. Any CITB Property made available or otherwise received by the Supplier shall be deemed to be in good condition when received by or on behalf of the Supplier unless the Supplier notifies CITB otherwise within 5 Working Days of receipt.
- 10.3. The Supplier shall maintain all CITB Property in good order and condition, excluding fair wear and tear, and shall use CITB Property solely in connection with the Contract and for no other purpose without prior approval.
- 10.4. The Supplier shall ensure the security of all CITB Property, whilst in the Supplier's possession, either on its premises or elsewhere during the performance of the Contract, in accordance with CITB's reasonable security requirements as required from time to time.
- 10.5. The Supplier shall be liable for any and all loss of or damage (excluding fair wear and tear) to any CITB Property, unless the Supplier is able to demonstrate that such loss or damage was caused by the negligence or default of CITB. The Supplier's liability set out in this clause shall be reduced to the extent that such loss or damage was contributed to by the negligence or default of CITB. The Supplier shall inform the Contract Manager within [2] Working Days of becoming aware of any defects appearing in or losses or damage occurring to CITB Property made available for the purposes of the Contract.

11. Price & Payment

- 11.1. In consideration of the proper performance by the Supplier of its obligations under the Contract CITB shall pay the Price in accordance with this clause 11. No additional charges may be made by the Supplier unless agreed in writing by CITB and CITB shall have no liability under this Contract in excess of the Price.
- 11.2. CITB shall pay valid and undisputed sums due to the Supplier within 30 days of receipt of a valid invoice.
- 11.3. Each invoice submitted by the Supplier shall be considered and verified by CITB in a timely fashion and any undue delay in doing so shall not be sufficient justification for failing to regard an invoice as valid and undisputed.
- 11.4. Each invoice shall state the official order number provided by CITB together with all appropriate references and a detailed breakdown of the Goods and/or Services supplied and shall be supported by any other documentation reasonably required by CITB to substantiate the invoice. Invoices shall be addressed to CITB, Finance Department, Bircham Newton, Kings Lynn, Norfolk, PE31 6RH.
- 11.5. Without prejudice to any other rights or remedies it may have, CITB reserves the right to withhold or reduce payment to the Supplier in respect of any Goods or Services which do not comply in all respects with the requirements of this Contract.
- 11.6. Where the Supplier and/or any Sub-contractor is liable to be taxed in the UK in respect of consideration received under this Contract, it shall at all times comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax in respect of that consideration.

- 11.7. Where the Supplier and/or any Sub-contractor is liable to National Insurance Contributions in respect of consideration received under this Contract, it shall at all times comply with the Social Security Contributions and Benefits Act 1992 and all other statutes and regulations relating to NIC's in respect of that consideration.
- 11.8. CITB may, at any time during the term of this Contract, request the Supplier to provide information which demonstrates how the Supplier and/or any Sub-contractor complies with clauses 11.6 and 11.7 above or why those clauses do not apply to it.
- 11.9. A request under clause 11.8 above may specify the information which the Supplier must provide and the period within which that information must be provided.
- 11.10. In the event of a possible extension, CITB reserves the right to review any charges payable to the Supplier for performance of the Contract beyond the Initial Term.

12. Recovery of Sums Due

Without prejudice to any other right or remedy, CITB reserves the right to set off any amount owing at any time from the Supplier to CITB against any amount payable by CITB to the Supplier under the Contract.

13. Termination

- 13.1. CITB may terminate this Contract, in whole or in part, by written notice to the Supplier with immediate effect if:
 - 13.1.1. the Supplier commits a material breach of any clause of this Contract and if the breach is capable of remedy and the Supplier has not remedied the breach to the satisfaction of CITB within 20 Working Days, or such other period as may be specified by CITB, after issue of a written notice specifying the breach and requesting it to be remedied;
 - 13.1.2. the Goods are not delivered by the date and time specified by CITB;
 - 13.1.3. the Services are not performed by the date and time specified by CITB;
 - 13.1.4. CITB considers, in its reasonable opinion, that a conflict of interests exists;
 - 13.1.5. the Supplier, being an individual, or where the Supplier is a firm, any partner in that firm, shall at any time become bankrupt or have a bankruptcy petition presented against him, or shall make any compromise or arrangement with or for the benefit of his creditors, or shall make any conveyance or assignment for the benefit of his creditors, or shall purport to do so; or
 - 13.1.6. the Supplier, being a company, shall pass a resolution, or the court shall make an order, for its winding up or dissolution (otherwise than for the purposes of reconstruction or amalgamation), or has a receiver or manager, administrator or administrative receiver appointed in relation to all or any of its assets or undertakings, or if circumstances shall arise which entitle the court or a creditor to appoint a receiver or manager or which entitle the court to make a winding-up order or the company makes any composition or arrangement with its creditors; or
 - 13.1.7. the Supplier is unable to pay its debts as they fall due within the meaning of section 123 of the Insolvency Act 1986; or
 - 13.1.8. the Supplier undergoes a change of control within the meaning of s416 of the Income and Corporation Taxes Act 1988 which impacts adversely and materially on the performance of the Contract; or
 - 13.1.9. any similar event occurs under the law of any other jurisdiction within the United Kingdom; or
 - 13.1.10. the Supplier ceases or threatens to cease to carry on its business; or
 - 13.1.11. this Contract has been subject to a substantial modification that constitutes a new award in accordance with regulation 72(9) of The Public Contract Regulations 2015 (PCR 2015); or

- 13.1.12. at the time of contract award, the Supplier should have been excluded on one of the mandatory exclusion grounds set out in regulation 57(1) PCR 2015, including as a result of the application of regulation 57(2) PCR 2015;
- 13.1.13. this Contract should not have been awarded to the Supplier in view of a serious infringement of the obligations under the Treaties and the Public Contracts Directive that has been declared by the Court of Justice of the European Union in a procedure under Article 258 TFEU.
- 13.2. Without prejudice to clause 13.1, CITB shall be entitled to terminate this Contract at any time by giving to the Supplier 30 days' written notice.
- 13.3. Notwithstanding clauses 13.1 and 13.2, CITB may terminate this Contract if:
 - 13.3.1. in the case of a request mentioned in clause 11.8 above:
 - 11.3.1.1 the Supplier fails to provide information in response to the request within a reasonable time; or
 - 11.3.1.2 the Supplier provides information which is inadequate to demonstrate either how the Supplier and/or any Sub-contractor complies with clauses 11.6 and 11.7 above or why those clauses do not apply to it;
 - 13.3.2. in the case of a request mentioned in clause 11.9 above, the Supplier fails to provide the specified information within the specified period; or
 - 13.3.3. it receives information which demonstrates that, at any time when clauses 11.6 and 11.7 apply to the Supplier and/or Sub-contractor, the Supplier and/or Sub-contractor is not complying with those clauses.
- 13.4. Termination of the Contract, howsoever arising, shall be without prejudice to the rights and remedies of CITB accrued prior to termination. Any clause or paragraph which expressly or impliedly has effect after termination shall continue to be enforceable notwithstanding termination.

14. Effect of Termination

- 14.1. In the event of notice being given by CITB to terminate the Contract, CITB may at any time before the expiration of the notice:
 - 14.1.1. where the Services have not been commenced or the Goods have not been delivered, direct the Supplier to refrain from commencing or delivering them; or
 - 14.1.2. direct the Supplier to complete delivery or performance of all or part of the Goods and/or Services, and payment for such parts shall be made in accordance with clause 11.
- 14.2. In the event of notice of termination being given by CITB and subject always to CITB's rights under clause 12, payment for such part or parts of the Services as have been performed at the date of termination shall be made in accordance with clause 11.
- 14.3. In the event of notice of termination being given by CITB under any of clauses 13.1.1 to 13.1.3, CITB shall be entitled to supply itself or procure the supply by a third party of the Goods or Services and the Supplier shall reimburse to CITB the reasonable costs incurred in so doing. Such costs shall be recoverable as a debt.
- 14.4. On expiry or termination of the Contract, howsoever arising, any and all licences granted by CITB in respect of Foreground IPR shall immediately determine and the Supplier shall forthwith return to CITB any and all related documents or materials.

15. Assignment & Sub-contracting

- 15.1. The Supplier shall not assign or sub-contract the delivery of the Goods or provision of the Services in whole or in part without the prior written approval of CITB. CITB reserves the right to approve or reject any proposed assignee or Sub-contractor.
- 15.2. Any assignment or sub-contract shall be on terms no less onerous than this Contract and shall (a) require payment to be made by the Supplier to the Sub-contractor within

- a specified period not exceeding 30 days from the receipt of a valid invoice and (b) ensure each invoice submitted by the Sub-contractor to the Supplier be considered and verified by the Supplier in a timely fashion and any undue delay in doing so shall not be sufficient justification for failing to regard an invoice as valid and undisputed. This clause also requires any Sub-contractor to include in any Subcontract which it in turn awards suitable provisions to impose, as between the parties to that Subcontract, requirements to the same effect as those required by this clause 15.2.
- 15.3. No assignment or sub-contract shall relieve the Supplier of any obligation or liability under this Contract. The Supplier shall be responsible for the acts and omissions of any assignee or Sub-contractor and their employees as though they were the acts or omissions of the Supplier or his own employees.
- 15.4. Notwithstanding clauses 15.1-15.3, the Supplier shall ensure that the tax arrangement paragraphs set out in Annex C are contained within and form part of the conditions of any and all assignments and/or contracts between the Supplier and any Sub-contractor.

16. Anti-Bribery & Anti-Corruption

- 16.1. The Supplier shall and shall procure that persons associated with it or other persons who are performing services or providing goods in connection with this Contract shall:
- 16.1.1. comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (**Relevant Requirements**);
 - 16.1.2. not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
 - 16.1.3. comply with CITB Anti-bribery, Business Ethics & Anti-fraud Policies (available upon request) and in each case as CITB may update them from time to time (**Relevant Policies**);
 - 16.1.4. have and shall maintain in place throughout the term of this Contract its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements, the Relevant Policies and clause 16.1.2 and will enforce them where appropriate;
 - 16.1.5. promptly report to CITB any request or demand for any undue financial or other advantage of any kind received by the Supplier in connection with the performance of this Contract;
 - 16.1.6. immediately notify CITB (in writing) if a foreign public official becomes an officer or employee of the Supplier or acquires a direct or indirect interest in the Supplier (and the Supplier warrants that it has no foreign public officials as officers, employees or direct or indirect owners at the date of this Contract);
 - 16.1.7. annually certify to CITB in writing signed by an officer of the Supplier, compliance with this clause 16 by the Supplier and all persons associated with it under clause 16.2. The Supplier shall provide such supporting evidence of compliance as CITB may reasonably request.
- 16.2. The Supplier shall ensure that any person associated with the Supplier who is performing services or providing goods in connection with this Contract does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Supplier in this clause 16 (**Relevant Terms**). The Supplier shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to CITB for any breach by such persons of any of the Relevant Terms.
- 16.3. Breach of this clause 16 shall be deemed a material breach entitling CITB to terminate this Contract forthwith under clause 13.

- 16.4. For the purpose of this clause 16, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively. For the purposes of this clause 16 a person associated with the Supplier includes but is not limited to any Sub-contractor of the Supplier.

17. Discrimination

- 17.1. The Supplier shall not unlawfully discriminate within the meaning of any law, enactment, order, regulation or other similar instrument relating to discrimination in employment (whether in relation to race, gender, sexual orientation, religion, belief, age or otherwise).
- 17.2. The Supplier shall take all reasonable steps to secure the observance of clause 17.1 by all servants, employees or agents of the Supplier and all Sub-contractors employed in the execution of the Contract.

18. Confidentiality

The Supplier shall not disclose to any third party and shall not use for any purpose other than the performance of its obligations under this Contract any confidential information relating to CITB, this Contract, the Goods or Services. For the purposes of this clause, confidential information means any information of a confidential nature, whether in writing or otherwise, including information relating to the business, affairs, properties, assets, practices, Intellectual Property Rights, know-how, personnel, customers and suppliers of CITB.

19. Advertising

The Supplier shall not use any trading relationship between it and CITB, CITB's name or trading style or any Intellectual Property Rights belonging to CITB for any marketing or advertising purposes without the prior consent in writing of CITB.

20. Observance of Statutory Requirements

- 20.1. Whilst on premises occupied by CITB, the Supplier shall comply and shall procure that all Staff comply with:
- 20.1.1. all applicable CITB policies including but not limited to safety policies and safe working practices; and
 - 20.1.2. all statutory and other provisions (including the health and safety legislation) to be observed and performed in connection with the Contract.

21. Data Protection

- 21.1. The Supplier shall (and shall procure that any of its Staff, agents, contractors or sub-contractors involved in the provision of the Services) comply with any requirements of the DPA, and both Parties will duly observe all their obligations under the DPA which arise in connection with the Contract.
- 21.2. Notwithstanding the general obligation in clause 21.1, where the Supplier (the Data Processor) is processing personal data for CITB (the Data Controller) the Supplier shall ensure that it has in place appropriate technical and contractual measures to ensure the security of the personal data (and to guard against unauthorised or unlawful processing of the personal data and against accidental loss or destruction of, or damage to, the personal data; and

- 21.2.1. provide CITB with such information as it may reasonably require to satisfy itself that the Supplier is complying with its obligations under the DPA;
- 21.2.2. notify CITB, within 36 hours of any breach of the security measures required to be put in place pursuant to clause 21.2; and
- 21.2.3. ensure it does not knowingly or negligently do or omit to do anything which places CITB in breach of its obligations under the DPA.
- 21.3. The Supplier shall fully indemnify and keep indemnified CITB, its officers, servants or agents against all claims, awards, costs, fees etc. of dealing with any claims made in respect of information subject to the DPA which claims would not have arisen but for the act, omission or negligence of the Supplier or its Staff, agents or contractors or sub - contractors..
- 21.4. The provisions of this clause shall apply during the term of the Contract and indefinitely (to the extent allowed by law) after its expiry or termination.

22. Freedom of Information

- 22.1. The Supplier acknowledges that CITB is subject to the requirements of the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 and shall assist and cooperate with CITB (at the Supplier's expense) to enable CITB to comply with these information disclosure requirements.
- 22.2. The Supplier shall and shall procure that its Sub-contractors shall:
 - 22.2.1. transfer any Request for Information (as defined in s8 of FOIA) to CITB as soon as practicable after receipt and in any event within 2 Working Days of receiving a request;
 - 22.2.2. provide CITB with a copy of all Information (as defined in s84 of the FOIA) in its possession in the form that CITB requires within 5 Working Days (or such other period as CITB may specify) of CITB requesting that Information; and
 - 22.2.3. provide all necessary assistance as reasonably requested by CITB to enable CITB to respond to a Request for Information within the time for compliance set out in section 10 of the FOIA, or regulation 5 of the Environmental Information Regulations 2004.
- 22.3. In no event shall the Supplier respond directly to a Request for Information unless expressly authorised in writing to do so by CITB.
- 22.4. The Supplier acknowledges that CITB at its own discretion may disclose Information without consulting with the Supplier.
- 22.5. The Supplier acknowledges that CITB may supply any information which it receives under clause 11.8 in respect of the Supplier and/or any Sub-contractor to the Commissioners of Her Majesty's Revenue and Customs for the purpose of the collection and management of revenue for which they are responsible.

23. Dispute Resolution

If any dispute arises under or in connection with the Contract, the authorised Representatives of the parties shall meet as soon as practicable to resolve the same. If any dispute is not resolved within 10 Working Days of such meeting, either party may refer the dispute to mediation in accordance with the Centre for Effective Dispute Resolution (**CEDR**) Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator will be nominated by CEDR.

24. Intellectual Property Rights

- 24.1. The Supplier warrants that the supply of the Goods or Services will not infringe the Intellectual Property Rights of any third party and shall indemnify and keep indemnified CITB against all liability, costs, expenses, loss or damages CITB may incur directly or indirectly as a result of such infringement.

- 24.2. The Background IPR shall remain vested in the party in whom it was vested immediately prior to the Commencement Date.
- 24.3. The Supplier hereby grants to CITB a non-exclusive, royalty free, perpetual licence to use such of the Supplier's Background IPR as the Client reasonably requires to derive the full benefit from the Services and/or Goods.
- 24.4. All Foreground IPR which exist in or may be created in connection with the Goods or Services on or after the Commencement Date shall vest in CITB. CITB hereby grants to the Supplier a non-exclusive, royalty free, perpetual licence to use the Foreground IPR for the purposes only of the performance of the Contract and the Supplier shall indemnify and keep indemnified CITB against any liability, costs, expenses, loss or damages CITB may incur directly or indirectly as a result of its use of the Foreground IPR.
- 24.5. The provisions of this clause shall apply during the continuance of the Contract and indefinitely after its expiry or termination.

25. Indemnity & Insurance

- 25.1. The Supplier shall indemnify and keep indemnified CITB against all costs (including legal costs), expenses, liabilities, claims, proceedings, actions, damages howsoever arising, directly or indirectly out of or in relation to any breach or negligent performance or failure in performance by the Supplier of the terms of the Contract.
- 25.2. The Supplier shall effect and maintain with reputable insurance companies policies of insurance providing an adequate level of cover in respect of all risks which may be incurred by the Supplier arising out of the Supplier's performance of the Contract and shall provide evidence of the same on request.
- 25.3. The Supplier shall hold employer's liability insurance in accordance with any legal requirement for the time being in force.

26. Variations

No variation of this Contract shall be valid unless in writing and signed by a duly authorised Representative of each party.

27. Further Assurance

The Supplier shall and shall use all reasonable endeavours to procure that any necessary third party shall execute and deliver all such documents and perform all such acts as may reasonably be required for the purpose of giving full effect to the Contract.

28. Right of Audit

- 28.1. The Supplier shall keep secure and maintain until seven years after the final payment of all sums due under the Contract, or such longer period as may be agreed between the parties, full and accurate records of the Goods and/or Services, all expenditure reimbursed by CITB and all payments made by CITB.
- 28.2. The Supplier shall grant to CITB, its authorised agents and the National Audit Office such access to those records as they may reasonably require.

29. Notices

Any notice given under or pursuant to the Contract may be sent by hand, post, registered post, the recorded delivery service, transmitted by facsimile transmission and if so sent or transmitted to the address of the party shown at the beginning of this Contract, or such other address as the party may by notice to the other have substituted, shall be deemed effectively

given on the day when in the ordinary course of the means of transmission it would first be received by the addressee in normal business hours.

30. No Partnership, Agency or Joint Venture

Nothing in this Contract shall create, or be deemed to create, a partnership, agency or joint venture between the parties.

31. Force Majeure

- 31.1. Neither party will be deemed to be in breach of the Contract or otherwise liable to the other in any manner whatsoever for any failure or delay in performing its obligations under the Contract due to Force Majeure provided that it has given details of the Force Majeure event to the other party as soon as reasonably practicable.
- 31.2. If the Force Majeure continues for more than 3 months either party may give written notice to the other to terminate the Contract. The notice to terminate must specify a termination date not less than 15 days after the date on which the notice is given.

32. Rights of Third Parties

It is not intended that any terms of this Contract should be enforceable by virtue of the Contract (Rights of Third Parties) Act 1999 by any person other than CITB and the Supplier.

33. Waiver

- 33.1. Any failure or delay by either party in exercising any right, power or remedy under this Contract shall not in any circumstances impair such right, power or remedy nor operate as a waiver of it.
- 33.2. Save as otherwise expressly provided in this Contract the rights, powers and remedies provided in this Contract are cumulative and not exclusive of any rights, powers and remedies provided by law.

34. Severability

If any provision of this Contract is held to be invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions of this Contract shall continue in full force and effect as if the Contract has been executed with the invalid, illegal or unenforceable provision eliminated.

35. Governing Law

This Contract shall be governed by and interpreted in accordance with English law and the parties submit to the non-exclusive jurisdiction of the courts of England and Wales.

Annex A

Commencement Date: *(Insert start date)*

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Expiry Date: *(Insert end date)*

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The Services: *(Insert full description of work)*

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Deliverables: *(Insert deliverables you expect to be supplied and address where they are to be delivered)*

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Price: *(Insert detailed costs)*

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Invoicing Frequency

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Annex B

SPECIAL CONDITIONS

The following special conditions shall be incorporated into this Contract:

Annex C

Tax Arrangement Conditions

1. Where [WORKER] is liable to be taxed in the UK in respect of consideration received under this Contract, it shall at all times comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax in respect of that consideration.
2. Where [WORKER] is liable to National Insurance Contributions in respect of consideration received under this Contract, it shall at all times comply with the Social Security Contributions and Benefits Act 1992 and all other statutes and regulations relating to National Insurance Contributions in respect of that consideration.
3. [SUPPLIER] may, at any time during the term of this Contract, request [WORKER] to provide information which demonstrates how [WORKER] complies with paragraphs 1 and 2 above or why those paragraphs do not apply to it.
4. A request under paragraph 3 above may specify the information which [WORKER] must provide and the period within which that information must be provided.
5. [SUPPLIER] may terminate this Contract if:
 - a. in the case of a request mentioned in paragraph 3 above:
 - i. [WORKER] fails to provide information in response to the request within a reasonable time; or
 - ii. [WORKER] provides information which is inadequate to demonstrate either how [WORKER] complies with paragraph 1 and 2 above or why those paragraphs do not apply to it;
 - b. in the case of a request mentioned in paragraph 4 above, [WORKER] fails to provide the specified information within the specified period; or
 - c. it receives information which demonstrates that, at any time when paragraphs 1 and 2 apply to [WORKER], [WORKER] is not complying with those paragraphs.
6. Notwithstanding any other provision of this Contract the [SUPPLIER] may supply any information which it receives under paragraph 3 to:
 - a. The Commissioners of Her Majesty's Revenue and Customs for the purpose of the collection and management of revenue for which they are responsible; and/or
 - b. The Construction Industry Training Board who may supply any such information that it receives to The Commissioners of Her Majesty's Revenue and Customs for the purpose of the collection and management of revenue for which they are responsible.

Signed by:

.....
For and on behalf of the Construction Industry Training Board

Signed by:

.....
For and on behalf of [insert name of Supplier]