



Invitation to Tender for Reputation Damage Assessment

Sections	Page no
1 Introduction.....	1
2 Purpose of this document.....	1
3 Background to the project.....	1
4 Overview of the project.....	2
5 Communications and timetable.....	2
6 General Notices.....	3
7 Tender Submission Instructions.....	6
8 Requirements, Evaluation and Award criteria.....	7
Schedule 1 Detailed Requirements.....	8
Schedule 2 Contract for Goods and/or Services.....	9
Appendix 1 Statement of Requirements Response Document.....	10

1 Introduction

Ordnance Survey Ltd is a company registered in England and Wales (company registration number 09121572) whose registered address is at Explorer House, Adanac Drive, SOUTHAMPTON, SO16 0AS, UK (**OS**). OS is a limited company in which the entire share capital will be owned by the Secretary of State for Business, Innovation and Skills.

OS is Britain’s mapping agency and is responsible for the surveying, production, maintenance and marketing of a wide range of geographic information, relied on by government, business and individuals.

Further information on us can be found on our website <http://www.os.uk>

2 Purpose of this document

OS is conducting this tender exercise for the purpose of procuring the goods/services described in the Statement of Requirements (**SOR**). Interested parties (**Participant** or **Potential Supplier**) should review this Invitation to Tender (**ITT**) and submit their completed Response Document (see Appendix 1) in accordance with Section 7 below.

This ITT contains further information about the procurement process, the SOR, and assessment questions for Participants to complete. Each Participant's response (**Tender**) should be detailed enough to allow OS to make an informed selection of the most appropriate solution.

3 Background to the project

OS have several Internet facing services that exist under the ordnancesurvey.co.uk domain as well as social media channels. OS wishes to undertake a security audit (penetration test) to review the:

- technology;
- physical Infrastructure; and
- social engineering risks,

in order to understand the risk of reputational brand damage as a result of a data breach.

4 Overview of the project

OS is seeking to understand the risk of exposure to the OS brand from potential:

- Data Theft
- Data Exposure
- Data Compromise
- Information Harvesting (for example: social networking, spear phishing).

Participants will be asked to demonstrate their experience, accreditation (e.g. CREST) and methodology (with supporting evidence).

5 Communications and timetable

5.1 General

5.1.1 English is to be the language for all communications between OS and Participants on all matters relating to this tender.

5.1.2 Participants must each appoint one individual who will continue to be responsible for all communications with OS and to whom OS should address any enquiries during the tender process. The name, address, telephone and fax numbers and e-mail address of the Participant’s contact must be notified (or confirmed if unchanged from that previously provided) to OS’s main contact at the address given below within 5 working days of the date of issue of this ITT. Any subsequent changes to the Participant’s contact details are to be notified to OS as soon as reasonably practicable.

5.1.3 All formal communications (including, but not limited to, the submission of responses) to OS are to be made in writing to **OS's Main Contact** as follows:

Victoria Lavender
 Supplier Relationship Manager
 Ordnance Survey, Explorer House, Adanac Drive, SOUTHAMPTON, United Kingdom, SO16 0AS
 Phone: 02380 05 5405
 Email: tenderenquiries@os.uk

5.1.4 OS will notify Participants of any changes to the contact details listed above.

5.2 NOT USED

5.3 Outline Timetable

5.3.1 The timetable for each stage of the remainder of the procurement process from issue of this ITT to contract award is estimated to be as follows:

Event	Target date
Issue ITT	14 July 2017
Deadline for receipt of clarification questions	28 July 2017
Date of submission of Tenders	4 August 2017
Tender evaluation	11 August 2017
Contract Award Decision Letter and Unsuccessful ITT Letters issued	18 August 2017
Contract Award	25 August 2017
Implementation begins	28 August 2017
Commencement Date of Contract	1 September 2017

OS may change this timetable at any time at its sole discretion.

5.4 Participant Requests for Clarification

- 5.4.1 OS recognises that clarification may be needed prior to submission of Tenders.
- Participants should submit their questions, queries or clarification responses to OS's Main Contact, as detailed in Section 5.1.3 above.
- 5.4.2 All clarifications and responses will be logged and recorded by OS. OS will endeavour to respond to all clarifications within 2 working days of receipt. If the response is not going to be available within 2 working days then the originator of the clarification will be advised of when a response will be given.
- 5.4.3 Participants should clearly identify any clarifications or parts of clarifications which they consider to be confidential or specific to its proposed solution, stating the reasons why it considers the clarification to be so. OS will decide at its sole discretion whether or not to accept the Participant's request. If OS does not accept the request for confidentiality or does not accept that it is specific to its proposed solution, the Participant will be informed and OS will specify a period within which the Participant may choose to withdraw its clarification. If the Participant does not withdraw its clarification in such circumstances, OS will proceed to respond on a non-confidential basis.
- 5.4.4 The cut off for receipt of clarification questions is **14:00 on 28 July 2017**.

5.5 OS Requests for Clarification

- 5.5.1 Any requests from OS to a Participant to clarify, specify or fine-tune a tender following receipt of Tenders will be submitted via email to the Participant's nominated point of contact in the completed Response Document. Participants shall endeavour to respond to all such requests within 2 working days of. If the response is not going to be available within 2 working days then OS should be advised of when the response will be given as soon as is reasonably practicable but in any event no later than the initial 2 working day period.
- 5.5.1 OS may, in its evaluation of Participant's proposals, request demonstrations and/or site visits. Participants must accept responsibility for organising and providing any required demonstrations and/or visits. Participants must bear their own costs for such demonstrations and/or visits.

6 General Notices

6.1 Exclusion of Liability

OS reserves the right to cease this procurement process at any time without any liability (whether in contract, tort or negligence) to Participants.

Each Participant considering entering into contractual relationships with OS on the basis of the information provided in this ITT should make their own evaluation of the information provided pursuant to the ITT and make their own investigations and form their own opinion on OS and the project. Participants are recommended to seek their own financial and legal advice.

OS reserves the right not to enter into a contract with any Participant without any liability (whether in contract, tort or negligence) for any loss, cost or expense (including legal expenses) incurred by Participants in preparing for or participating in this procurement process, howsoever arising (whether under contract, tort or under any statutory provision or otherwise). OS is not liable for any costs Participants may incur in contemplation of a contractual relationship being entered into.

6.2 Contractual Relationship

Nothing in this ITT or any other pre-contractual documentation shall constitute the basis of a contract that may be concluded in relation to this procurement exercise, nor shall such documentation be used in construing any such contract.

Each Participant must rely on the terms and conditions contained in any contract when, and if, a written contract has been signed and countersigned by both parties and dated, subject to such limitations and restrictions that may be specified in such contract. It is envisaged that the successful Participant's responses to the requirements set out in this ITT will be included in any contract.

6.3 Accuracy of information

This ITT has been compiled in good faith. It is intended to provide sufficient information for Participants to provide a full and firm proposal. OS considers that all information (including numbers and other figures) given in this ITT and any information provided pursuant to this ITT is accurate at the time of preparation, but may change in the future. However, neither OS nor its financial or legal representatives, officers, agents or employees make any representation or warranty, or accept any responsibility for the information contained in this ITT (or any other information provided pursuant to this ITT) or for its fairness, accuracy or completeness, nor shall such persons be liable for any loss or damage arising as a result of reliance on such information or any subsequent communication. There is an absolute obligation on each Participant to query any perceived ambiguity in this ITT (or any of its associated documents) whether actual or potential, in the use of technical, functional or other terms. It is the participant's sole responsibility to undertake whatever investigation and due diligence it considers to be appropriate in order to verify the accuracy of any information provided to it by OS through the ITT process.

6.4 Freedom of Information Act 2000 (FOIA) and Environmental Information Regulations 2004 (EIR)

OS is committed to open government and meeting its legal responsibilities under FOIA and EIR. Accordingly, any information submitted to OS (including, without limitation, the information contained in this ITT and the Tender submissions received from Participants in response) may need to be disclosed by OS in response to a request for information.

OS may also decide to include certain information in the relevant publication scheme maintained under the FOIA or EIR. In making a submission, each Participant therefore acknowledges and accepts that the information contained therein may be disclosed under the FOIA or EIR.

In respect of any information submitted by a Participant that it considers being commercially sensitive the Participant should:

- Clearly identify such information as commercially sensitive;
- Explain the potential implications of disclosure of such information; and
- Provide an estimate of the period of time during which the Participant believes that such information will remain commercially sensitive.

Please submit responses to each of the above in Appendix 1 and include with the completed ITT submission.

However, Participants should be aware that even where a Participant has indicated that information is confidential or commercially sensitive, OS is responsible for determining, at its absolute discretion, whether such information is exempt from disclosure under the FOIA or EIR, or must be disclosed in response to a request for information.

Participants should also note that the receipt by OS of any information marked 'confidential' or equivalent does not mean that OS accepts any duty of confidence by virtue of that marking, and OS has the final decision regarding the disclosure of any such information in response to a request for information under the FOIA or EIR.

In making a submission in response to this ITT, each Participant acknowledges that OS may be obliged under the FOIA or EIR to disclose any information provided to it.

6.5 Government Transparency Agenda

Government has set out the need for greater transparency across its operations to enable the public to hold public bodies and politicians to account. This includes commitments relating to public expenditure, intended to help achieve better value for money.

As part of this agenda, Government has made the following commitments with regard to procurement:

- Publication of all new tender documents over £25,000 and their respective timetables; and
- Publication of all new contracts over £25,000.

Participants should therefore note that this ITT and resulting contract awarded may be published on the OS website (<http://www.os.uk>).

OS may, at its sole discretion, make limited redactions to the information it publishes.

6.6 Confidentiality

All documents and information contained in this ITT or provided during the tender process are, and shall remain, OS's property. Participants shall not disclose either:

- the fact that they have been invited to tender or release details of the proposed contract; or
- details of their Tender in whole or in part,

other than on an 'in confidence' basis to those who have a legitimate need to know or WITH whom they need to consult for the purpose of preparing the Tender.

Participants may only use information provided by OS to respond to the requirements set out in this ITT.

OS reserves the right to copy and electronically distribute all or any part of any Participant's Tender exclusively for the purposes of analysis and assessment. Submission of a Tender shall be deemed as confirmation of OS's right to do such acts.

6.7 Cost of preparing response

Each Participant will be responsible for all costs and expenses it incurs:

- in providing responses to this ITT and any other communications, including, without limitation, responses to any invitation to participate in meetings, technical demonstrations and workshops held at OS's offices; and/or
- in any further stages of this procurement; and/or
- in obtaining any additional software and/or hardware and relevant licenses required in order to provide a full response to this ITT; and/or
- in obtaining or providing any additional information required in order to facilitate the evaluation process.

OS accepts no liability for any loss, liability, cost or expense (including legal expenses) incurred by any Participant in preparing for or participating in this tender process, howsoever arising (whether under contract, tort or under any statutory provision or otherwise).

6.8 Publicity

Participants may not make any public statements or undertake any promotional activity relating to this procurement without OS's express prior written consent.

6.9 Conflict of interest

Participants are responsible for ensuring that there are no conflicts of interest either between their own advisers and those of OS, or between the members of its consortium and their sub-contractors. Participant must notify OS of any actual or potential conflict of interest as soon as reasonably practicable as soon as it becomes aware of such a conflict and the measures it has taken and/or proposes to take to deal with such a conflict.

6.10 Non-canvassing, non-collusion, compliance with *Bribery Act 2010* and *The Modern Slavery Act 2015*

OS takes a zero-tolerance approach to bribery. Participants must have demonstrated that they take a robust approach to bribery prevention through either written policies or oral communication and training of its staff and agents.

OS also takes a zero-tolerance approach to slavery and is committed to preventing acts of slavery and human trafficking (as set out in the *Modern Slavery Act 2015 (MSAct)*) from occurring within both its business and supply chain. Ordnance Survey will expect any successful Contractor to be able to ensure it, and its supply chains, are compliant with the MSAct.

Participants must not canvass or solicit or offer any gift or consideration whatsoever as an inducement or reward to any officer or employee of, or person acting as an adviser to, OS in connection with the submission of a Tender, evaluation of responses, short-listing of Participants and in connection with the overall procurement exercise.

Participants must submit a bona fide response and confirm, by a signed return of the certificate contained in Appendix 1, that it has not prepared its response in collusion with any third party and will not engage in collusive behaviour during the tender process.

7 Tender Submission Instructions

Refer to requirements sections before completing Section 7.1.

- 7.1 Participants are invited to submit Tenders in accordance with the required responses set out in Appendix 1 of this ITT. OS
- 7.2 Tenders must be returned by **14:00 on 4 August 2017**. Late Tender submissions may at OS's sole discretion be rejected. It is the Participant's responsibility to ensure that the Tender submission is received on time.
- 7.3 All documents to be completed in text point size not below 10 in the English (UK) language.
- 7.4 Participants should ensure that their Tender contains all information required for evaluation. In particular, Participants should ensure that an adequately detailed response is given to each item in the 'response required from Participant' section of the Statement of Requirements. Web-links or other external references will not be taken into consideration.
- 7.5 All prices in the Tender must be fully priced in Sterling (£) exclusive of VAT and totalled in clear terms. Tender must remain open for acceptance or non-acceptance for not less than 90 days from the tender closing date.
- 7.6 Tenders should contain all of the information as required in this ITT.
- 7.7 Subject to paragraph 7.14, the name of the Participant must be clearly indicated at the top of each Tender. The Tender and all supporting documentation should be page numbered and cross-referenced to this ITT where appropriate and should be fully indexed.
- 7.8 Tenders must be valid for a period of 6 months from the date of submission.
- 7.9 OS reserves the right to carry out reference checks and/or financial checks prior to the award of contract(s). By submitting Tenders the Participant will be deemed to have given such consent.
- 7.10 Do not include publicity material of any kind, for example brochures and web references, unless specifically requested, as it will not be evaluated.
- 7.11 Do not reference your answers from 1 requirement, or question, to another, even where there is commonality.
- 7.12 Participants must ensure that each document is clearly labelled with the name of their organisation and a title, identifying the content (i.e. Smith PLC - Tender.doc, Smith PLC – appendix1.pdf). Please allow sufficient time for all documents to be uploaded before the closing time of the tender.

8 Requirements, Evaluation and Award criteria

8.1 The criteria and requirements, including allocation of overall weighting reflecting its relative importance to OS, are as follows. The Participant’s response to the:

- a) organisational and commercial requirements (Part 1) = PROVIDED/NOT PROVIDED
- b) exclusion grounds (Part 2) = PASS/FAIL
- c) selection questions (Part 3) = 100 MARKS
- d) operational requirements (Part 4) = PASS/FAIL
- e) technical and proposal requirements (Part 5) = 120 MARKS
 - i) experience and accreditations
 - ii) testing methodology
 - iii) time scales and a proposed plan
 - iv) risk report clarity
 - v) technical and vulnerabilities report clarity
 - vi) root cause and security improvement programme clarity
- f) pricing requirements (Part 6) = 200 MARKS

8.2 Further detail concerning the requirements, sub-criteria, sub-weightings and marking schemes are contained in Schedule 1. The requirements for c) and e) above will be evaluated using the following scoring methodology:

Score	The Participant’s response:
0 (Inadequate)	a) does not provide a response to the requirement/s; or b) responds to the requirement/s, however fails to address the specific issues (if any) identified by OS; or c) fails to provide any evidence (where applicable) to support its response.
1 (Concerns)	a) responds to the requirement/s, however, has only partially addressed the specific issues (if any) identified by OS; and/or b) provides insufficient evidence (where applicable) to support its response; and/or c) responds to all the requirement/s with insufficient detail raising significant concerns about the Participants ability to meet all the requirement/s; and/or d) provides a response which raises significant concerns about the Participants ability to meet the requirement/s.
3 (Potential)	a) provides a full response to the requirement/s, however the supporting evidence only partially addresses the requirement; and/or b) provides a response to the requirement/s, which raises concerns about the Participant’s ability to meet the requirement/s.
5 (Capable)	provides a full and comprehensive response to the requirement/s, supported by evidence (where applicable), to indicate the Participant can fully meet the requirement/s and does not raise any concerns about the Participants ability to meet all of the relevant requirement/s and/or to deliver the services to the required standard.

Note that:

If a score of **0** is applied, the Participant may be **eliminated**.

If a score of **1** is applied, ¹/₅ **available marks** for that question will be awarded (rounded up to the nearest whole number).

If a score of **3** is applied, ³/₅ **available marks** for that question will be awarded (rounded up to the nearest whole number).

If a score of **5** is applied, **all available marks** for that question will be awarded.

Example:

If there are **10 marks** available for a question and a score of **3** is applied to a Participant’s response, the Participant will be awarded **6 marks** for that response.

If there are **5 marks** available for a question and a score of **3** is applied to the Participant’s response, the Participant will be awarded **3 marks** for that response.

8.3 The requirements for f) above will be evaluated using the following scoring methodology:

- the potential supplier identified as the overall lowest total price will be awarded 100% of the marks available; and
- other participating suppliers will receive a percentage of the marks available on a pro-rata basis which will be calculated as follows:

(Lowest price divided by participants price) multiplied by the Marks available = the Participants Weighted Score)

Schedule 1 Detailed Requirements

Background

The OS online presence includes several internet facing services that exist under the ordnancesurvey.co.uk domain and the following social media channels:

- OS Website
- Facebook
- Twitter
- Instagram
- YouTube; and
- LinkedIn.

OS now wishes to undertake a security audit to review the following to understand the level of risk associated with reputational brand damage:

- technology;
- physical infrastructure; and
- social engineering risks.

OS is seeking to understand the risk to the OS brand should the following activities occur:

- Data Theft
- Data Exposure
- Data Compromise
- Information Harvesting (for example: social networking, spear phishing).

Contract Deliverables / Outputs

- executive report highlighting key findings
- technical issues and vulnerabilities report
- detailed mitigation strategies and security improvement plan e.g. identify additional controls and recommendations to potentially reduce the risk further

Responding to ITT

Participants will be asked to demonstrate their experience, accreditation and methodology (with supporting evidence) and example reports.

Schedule 2 Contract for Goods and/or Services

Contract for Goods and / or Services

This Contract is entered into between:

- (1) Ordnance Survey Limited, a company registered in England and Wales (company registration number 09121572) whose registered address is at Explorer House, Adanac Drive, SOUTHAMPTON, UK, SO16 0AS (**OS**); and
- [(2) [Company Name], a company registered in England and Wales (company registration number [insert company registration number] whose [registered office / principal place of business] is at [insert address as on Companies House] (the **Supplier**).]
- [(2) [Individual Name] [trading as [insert trading name] of [insert address] (the **Supplier**). OR]
- [(2) [Partnership Name LLP] a limited liability partnership registered in England and Wales (registration number [insert registration number] whose registered office is a [Address] (the **Supplier**).]

This Contract comprises all terms contained in this document (including the Schedules) together with the Purchase Order and any other documents referred to herein.

1 Definitions & interpretations

1.1 In this Contract the following terms shall, unless the context otherwise requires, have the following meanings:

Expression	Meaning
Acceptance Test(s)	means the test(s) to be carried out by OS in order to verify that the Deliverables and / or the Goods and / or the Services confirm with OS's requirements and this Contract.
Acceptance Testing	means the carrying out of the Acceptance Tests.
Acceptance Test Period	means a period of 10 Working Days commencing on the Working Day following the delivery of the Goods and / or Services.
Agency Worker Regulations	means the <i>Agency Worker Regulations 2010</i> .
Best Industry Practice	means the exercise of the highest degree of skill, care and foresight which would be expected from a highly skilled and experienced person at the leading edge of their field engaged in the same type of undertaking under the same or similar circumstances.
Bribery Act 2010	means the <i>Bribery Act 2010</i> .
Code	means the Secretary of State for Constitutional Affairs' Code of Practice on the discharge of public authorities' functions under Part I of the <i>Freedom of Information Act 2000</i> .
Confidential Information	means any Commercially Sensitive Information and any other information that is marked or identified as confidential, or that would reasonably be considered to be confidential in nature, that relates to the affairs of a Party and is acquired by the other Party in anticipation of or as a result of the Contract.
Commercially Sensitive Information	means any information identified as such in the Schedules.
DPA	means the <i>Data Protection Act 1998</i> .
Data Protection Legislation	means the <i>Data Protection Act 1998</i> and all applicable laws and regulations relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner.

[subject to contract]

Defective Deliverable	means any Deliverable provided by the Supplier which fails to comply with OS's requirements or this Contract. For the avoidance of doubt, failure to deliver in accordance with this Contract and non-delivery of a Deliverable shall be a Defective Deliverable.
Deliverable	means the outcome of the Goods and / or Services.
Delivery	means the delivery of the Goods and / or Services by the time, date and method as set out in the Contract.
DOTAS	means the Disclosure of Tax Avoidance Scheme rules which require a promoter of tax schemes to tell HM Revenue & Customs of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the <i>Finance Act 2004</i> and in secondary legislation made under vires contained in Part 7 of the <i>Finance Act 2004</i> and as extended to National Insurance Contributions by the <i>National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012</i> , SI 2012/1868 made under s.132A Social Security Administration Act 1992.
EIR	means the <i>Environmental Information Regulations 2004</i> .
FOIA	means the <i>Freedom of Information Act 2000</i> .
Force Majeure Event	means any event outside the reasonable control of a party affecting its ability to perform any of its obligations (other than an obligation of payment) under this Contract.
General Anti-Abuse Rule	means: <ul style="list-style-type: none">a) the legislation in Part 5 of the <i>Finance Act 2013</i>; andb) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid national insurance contributions.
Goods	means the goods to be supplied by the Supplier (as specified in the Schedules) pursuant to or in connection with the Contract (including any instalment of the goods or any part of them) and shall, where the context so admits, include any Materials to be supplied thereunder.
Halifax Abuse Principle	means the principle explained in the CJEU Case C-255/02 Halifax and others.
HSWA	means the <i>Health and Safety at Work etc Act 1974</i> .
Intellectual Property Rights	means all patents, copyrights, database rights, trademarks, service marks, inventions, domain names, database rights, utility models and design rights (whether registered or not and all applications for any of the foregoing) and all rights of confidence in the know how whensoever and howsoever arising for the full term thereof and all renewals and extensions thereof.
Liabilities	means all liabilities, losses, sanctions, proceedings, demands, claims, damages, redundancy payments, payments in lieu of notice, amounts agreed upon in settlement, costs and expenses (including all legal and other professional fees, expenses and disbursements).

[subject to contract]

Occasion of Tax Non-Compliance

- a) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 is found on or after 1 April 2013 to be incorrect as a result of:
 - i. a Relevant Tax Authority successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle;
 - ii. the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime; and/or
- b) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 gives rise, on or after 1 April 2013, to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Effective Date or to a civil penalty for fraud or evasion.

OS Network

means the computer equipment or the computer network or equipment of OS or equipment belonging to any third Party but resident on OS's Premises.

Persistent Breach

means 3 or more failures by a party to comply with its obligations under this Contract in any 12 month period during the Term.

Personnel

means all employees, agents, consultants, directors, professional advisers and staff engaged by the Supplier or acting on the Supplier's behalf.

Pre-Existing IPR

means any Intellectual Property Rights vested in or licensed to (a) the Supplier prior to or independently of the performance by the Supplier of its obligations under this Contract; and (b) OS prior to or independently of the performance by OS of its obligations under this Contract.

Premises

means Explorer House, Adanac Drive, SOUTHAMPTON, UK, SO16 0AS or such other location where the Services are to be performed and / or the Goods are to be delivered.

Price

means the price of the Goods and / or Services, exclusive of VAT, as stated in Schedule 1.

Relevant Tax Authority

means HM Revenue & Customs or, if applicable, a tax authority in the jurisdiction in which the Supplier is established.

Retest

means the retest of the Deliverables by OS following the failure of the Acceptance Test(s).

Services

means the Services to be performed by the Supplier (as specified in the Schedule) pursuant to or in connection with the Contract (including any instalment of Goods or any part of them) and shall, where the context so admits, include any Materials and Goods to be supplied thereunder.

Schedule

means the schedules attached to this Contract as completed by the Parties.

Subcontractors

means any third Parties engaged by the Supplier to provide Goods and / or Services or any part thereof or facilities or services in connection with the Contract.

Term

means the duration of the Contract as specified in Schedule 1.

TUPE

means the *Transfer of Undertakings (Protection of Employment) Regulations 2006*.

VAT

means Value Added Tax at the rate applicable to the Goods and / or Services being performed or supplied under the Contract.

Working Day

means any day other than a Saturday, Sunday or public holiday in England and Wales.

- 1.2 A reference to any statute or statutory provision includes a reference to that statute or statutory provision as amended, extended or re-enacted from time to time.
- 1.3 Where the context so permits, references to the Supplier shall include its Personnel and Subcontractors.
- 1.4 Reference to the Parties shall be deemed to refer to both OS and the Supplier. Reference to a Party shall be deemed to refer to either OS or the Supplier as the context so permits.

[subject to contract]

- 1.5 In the event and to the extent only of any conflict or inconsistency in the provisions of the terms of this Contract and the provisions of the Schedule or any other documents that are referred to herein, the following order of precedence shall prevail:
- 1.5.1 the terms of this Contract;
 - 1.5.2 the completed Schedules;
 - 1.5.3 any other document referred to in the Clauses of this Contract.
- 2 The Goods and / or Services**
- 2.1 The Goods shall be to the satisfaction of OS and shall;
- 2.1.1 be of satisfactory quality;
 - 2.1.2 be fit and sufficient for the purpose for which such goods are ordinarily used;
 - 2.1.3 be free from defects in design, materials and workmanship;
 - 2.1.4 conform in all respects to the Contract (and any variations thereto) including without limitation any specification supplied or advised by OS to the Supplier; and
 - 2.1.5 be new and not used in any way (unless OS has otherwise agreed in writing in Schedule 1).
- 2.2 The Supplier shall perform the Services as follows:
- 2.2.1 with the highest degree of skill, care and diligence in accordance at all times with Best Industry Practice;
 - 2.2.2 in accordance with the Contract including without limitation any service description supplied or advised by OS to the Supplier.
- 2.3 OS relies on the skill and judgement of the Supplier in the supply of the Goods and /or Services and the execution of the Contract.
- 2.4 The Supplier shall ensure that the Goods and / or Services:
- 2.4.1 conform in all respects to the requirements of any law, regulation or code of practice (to the extent non-compliance with such codes of practice is deemed breach of the associated laws by the relevant regulatory authority) applicable to the Supplier from time to time and that generally affect its provision of services to its customers; and
 - 2.4.2 are sourced and supplied in accordance with all applicable laws and in an ethical and sustainable manner.
- 2.5 Where applicable, the Supplier shall comply with the Payment Card Industry Data Security Standards in force from time to time (and with any other polices and standards issued by the Payment Card Industry Security Standards Council from time to time).
- 2.6 OS reserves the right by notice to the Supplier to modify the quality or quantity of the Goods and / or Services and any alteration to the Contract price or the delivery date arising by reason of such modification shall be agreed between the Parties in writing.
- 2.7 Without prejudice to Clause 8.2, OS shall not be deemed to have accepted any Goods and / or Services until it has had a reasonable time (which shall be no less than 30 Working Days) to inspect them following delivery or, if applicable, the Goods and / or Services have successfully passed in all respects any Acceptance Tests.
- 2.8 Where the Supplier requires access to the OS Network then the Supplier shall:
- 2.8.1 observe such procedures (including the use of equipment and software provided by OS to carry out the services and / or making available any equipment or software for virus checking by OS prior to installation and / or connection to the OS Network); and
 - 2.8.2 provide such information as OS shall require; and
 - 2.8.3 ensure that no such equipment or software used by the Supplier, causes any loss, damage, corruption or other adverse effect upon the OS Network.

[subject to contract]

3 The Price

- 3.1 The Price is deemed to include all taxes (other than VAT), levies and duties and, where applicable, all packaging, carriage, insurance and delivery.
- 3.2 The Supplier shall only invoice OS once the Goods and / or Services have been delivered and accepted by OS.
- 3.3 Invoices shall be addressed to the Suppliers Accounts Department at OS. Only original hardcopy invoices will be accepted by OS for payment: photocopies, faxes, scans or similar are not acceptable, unless otherwise agreed. In each invoice, the Supplier shall quote the relevant purchase order number along with the information required on the advice note and the Supplier's VAT registration number (if applicable). OS is entitled to reject any invoice which does not conform to these requirements.
- 3.4 Payment of undisputed sums will be due within 30 calendar days of receipt by OS of a correctly presented invoice (unless OS has otherwise agreed in writing in Schedule 1). Payment will be made in pounds sterling (£) (unless otherwise agreed in Schedule 1). OS shall notify the Supplier of any disputed sums within 10 Working Days, giving full reasons for the dispute.
- 3.5 In the event that Supplier, at any time during the Term of this Contract;
- 3.5.1 provides Goods or Services (or similar goods or services as those contemplated under this Contract) to any of its customers at rates which are below those stated herein; or
- 3.5.2 implements any measures that result in cost savings to the Supplier
- then the Supplier shall immediately reduce the rates under this Contract to reflect the foregoing.

4 Delivery

- 4.1 Subject to Clause 28 any access to the Premises provided by OS in connection with delivery shall be provided without acceptance by OS of any liability whatsoever.
- 4.2 Where access to Premises is necessary in connection with delivery or installation under the Contract, the Supplier shall at all times comply with any instructions issued to the Supplier by OS or by a third Party regarding conduct of the Supplier on the Premises.
- 4.3 Unless otherwise agreed, the Goods shall be delivered to the Premises (or such other address as may be notified to the Supplier) between the hours of 8:00 am – 4:30 pm (Monday to Friday). The Goods will be delivered at the Supplier's risk.

5 Time of performance

- 5.1 Time for delivery of the Goods and / or performance of the Services shall be of the essence. Failure by the Supplier to adhere to the timeframes set out in this Contract shall be deemed a material breach.

6 Title and risk

- 6.1 Title and risk in the Deliverables shall pass to OS on delivery unless payment is made prior to delivery in which case title shall pass to OS once payment has been made and risk shall pass to OS on delivery.

7 Advice note

- 7.1 On despatch of any consignment of the Goods, the Supplier shall send or deliver to OS at the address for delivery of the Goods an advice note specifying the means of transport, the place and date of despatch, the number of packages and their weight and volume. If the delivery is to third Party Premises, the Supplier shall send the advice note to the third Party and send a copy of the advice note to OS.

8 Inspection, acceptance and / or rejection

- 8.1 The Supplier shall permit OS or its authorised representative(s) to make any inspection or tests it may reasonably require during manufacture, processing or storage and the Supplier shall afford all reasonable facilities and assistance free of charge at its premises for the purposes of such inspection or tests. No failure to make a complaint at the time of such inspection or tests and no approval given during or after such inspections or tests shall constitute acceptance by OS and shall not relieve the Supplier of any responsibility under the Contract, express or implied. If as a result of the inspection or testing, OS is not satisfied that the Goods comply in all respects with the Contract then the Supplier shall take such steps as are necessary to ensure compliance prior to delivery.
- 8.2 Subject to the Supplier meeting the Delivery Schedule for each Deliverable, OS may carry out Acceptance Tests during the relevant Acceptance Testing Period.
- 8.3 If, during the Acceptance Testing Period, OS notifies the Supplier that the relevant Deliverable fails to comply with OS's requirements and / or this Contract then the Supplier shall investigate and promptly remedy the non-compliance at no cost to OS within 10 Working Days of OS's notice of non-compliance. Once the Supplier has remedied the problem, it shall notify OS and deliver the revised Deliverable and OS may undertake a Retest.
- 8.4 If a Retest demonstrates that a Deliverable is still not in accordance with OS's requirements and / or this Contract, then OS may, by written notice to the Supplier, elect at its sole option:
- a) without prejudice to its other rights and remedies, to determine a new date to carry out further tests on the Deliverable on the same terms and conditions of the Retest, except that all reasonable costs that OS may incur as a result of carrying out such tests shall be reimbursed in full by the Supplier. If the Deliverable fails further tests, OS shall notify the Supplier of the result of the Retest and shall be entitled to proceed under Clauses b) or c) below.
 - b) to accept the Deliverable subject to an abatement of the Price. The abatement shall be agreed in writing between the Parties, acting reasonably at all times. In the absence of a written agreement between the Parties within 10 Working Days of the written notice to the Supplier; or
 - c) to reject the Deliverable and, without prejudice to OS's other rights and remedies, the Supplier shall refund all monies paid to the Supplier under this Contract within 10 Working Days of the written notice to the Supplier and OS shall be released from all obligations under this Contract.
- 8.5 Without prejudice to any of OS's other rights or remedies, the Supplier undertakes (at OS's sole option), either to repair or replace or refund the price of the Goods and / or Services which are or become defective before the sooner of 18 months from the date of delivery to OS or, if for resale by OS, 12 months from the date of delivery to OS's customer or within such longer period as may be specified in Schedule 1.
- 8.6 Any Goods and / or Services rejected by OS as described in this Clause 8 shall be held by OS at the Supplier's risk and expense until collection by the Supplier but title therein shall not revert to the Supplier until it has complied with its obligations under this Clause 8 (as the case may be). Goods not collected within a reasonable period will be subject to a storage charge.

9 Supplier's status

- 9.1 In carrying out the Services, the Supplier shall be acting as principal and not as the agent of OS. Accordingly:
- a) the Supplier shall not say or do anything that might lead any other person to believe that the Supplier is acting as the agent of OS; and
 - b) nothing in the Contract shall impose any liability on OS in respect of any liability incurred by the Supplier.

10 Freedom of Information

- 10.1 For the purpose of this Clause, 'Information' has the meaning as set out in section 84 of FOIA and 'Request for Information' or an apparent request under the Code of Practice on Access to Government Information, FOIA or EIR.
- 10.2 The Supplier acknowledges that OS is subject to the requirements of FOIA and EIR and shall assist and cooperate with OS (at the Supplier's expense) to enable OS to comply with its Information disclosure obligations.
- 10.3 The Supplier shall and shall procure that its Subcontractors shall:

[subject to contract]

- 10.3.1 transfer any Request for Information to OS within 2 Working Days of receiving the Request for Information;
 - 10.3.2 provide OS with a copy of all Information in its possession or power in the form that OS requires within 5 Working Days (or such other period as OS may specify) of OS requesting that Information; and
 - 10.3.3 provide all necessary assistance as reasonably requested by OS to enable OS to respond to the Request for Information within the time for compliance set out in FOIA or EIR (as appropriate).
- 10.4 OS shall be responsible for determining in its absolute discretion whether Commercially Sensitive Information and / or any other Information:
- a) is exempt from disclosure in accordance with the provisions of FOIA or EIR ; or
 - b) is to be disclosed in response to a Request for Information.
- 10.5 In no event shall the Supplier respond directly to a Request for Information unless expressly authorised to do so in writing by OS.
- 10.6 The Supplier acknowledges that OS may, acting in accordance with the Code, be obliged under the FOIA or EIR to disclose Information:
- 10.6.1 without consulting with the Supplier; or
 - 10.6.2 following consultation with the Supplier and having taken its views into account;
- provided always that where this Clause 10.6 applies, OS shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Supplier advanced notice, or failing that to draw the disclosure to the Supplier's attention after any such disclosure.
- 10.7 The Parties acknowledge that, except for any Commercially Sensitive Information and any Information which is exempt from disclosure in accordance with the provisions of FOIA and EIR, the content of this Contract is not Confidential Information. The Supplier hereby gives consent for OS to publish the Contract in its entirety (but with any Information which is exempt from disclosure in accordance with this Clause 10 duly redacted) including from time to time agreed changes to the Contract, to the general public.
- 10.8 The provisions of this Clause 10 shall survive the expiration or termination of the Contract.

11 Environmental Information

- 11.1 Without prejudice to the Supplier's obligations pursuant to Clause 12, the Supplier shall both during and following the expiry or termination of the Contract use all reasonable endeavours to assist OS with its obligations under EIR.
- 11.2 Subject to Clause 18, the Supplier shall indemnify OS against all Liabilities incurred by OS as a result of any breach of this Clause 11 and Clause 10 by the Supplier.
- 11.3 Insofar as EIR applies to the Supplier or its Subcontractors, the Supplier shall comply with, and shall procure that its Subcontractors comply with, EIR and any associated legislation and codes of practice.
- 11.4 The provisions of this Clause 11 shall survive the expiration or termination of the Contract.

12 Confidentiality

- 12.1 The Parties agree:
 - 12.1.1 to use Confidential information of the other only for the purposes of discussions between us relating to our business relationship, and for performing obligations and exercising rights granted under the Contract;
 - 12.1.2 to keep all Confidential Information secure, and to disclose it only to those employees, consultants, directors and professional advisers, who need to know such Confidential Information and who are subject to at least the same obligations of confidentiality as those set out in this Clause 12;
 - 12.1.3 to notify the other without delay of any unauthorised use, copying or disclosure of the other's Confidential Information of which it becomes aware and provide all reasonable assistance to the other to stop such unauthorised use, copying and/or disclosure; and

[subject to contract]

12.1.4 except as required by law or by governmental or regulatory requirements (which, for the avoidance of doubt, shall include any requirements for disclosure under the *Freedom of Information Act 2000* and/or the *Environmental Information Regulations 2004*), not to disclose Confidential Information to any third Parties unless expressly permitted under this Clause 12 or with the other's prior written consent.

12.2 The obligations in this Clause 12 do not apply to any information which is in the public domain (other than through the breach of any obligation of confidentiality) or which a Party can demonstrate was previously known to it (unless acquired directly from the other Party or in breach of any obligation of confidentiality) or was independently developed by it without the use of any Confidential Information.

12.3 The provisions of this Clause 12 shall survive the expiration or termination of the Contract.

13 Data Protection

13.1 In this Clause 13 the following terms have the meanings set out in the DPA: 'Data', 'Data Controller' 'Data Processor', 'Data Subject', 'Personal Data' which include 'Sensitive Data', 'Process', 'Processed', 'Processing'.

13.2 The Parties acknowledge and agree that:

13.2.1 each Party may carry out Processing of Personal Data and Sensitive Personal Data to the extent necessary in the performance under this Contract or as is required by law or any regulatory body;

13.2.2 each Party shall use its best endeavours to carry out Processing in compliance with any applicable data protection legislation in force from time to time, and shall, without limitation to the foregoing;

13.2.3 take appropriate technical and organisational measures against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data;

13.2.4 only Process Personal Data within the EEA unless the other Party expressly consents in writing;

13.2.5 neither Party may disclose Personal Data or information extracted from such data to third Parties without the other Party's prior written approval or subject to the non-disclosure exemptions set out within the DPA;

13.2.6 notify the other Party (within 5 Working Days), if one Party receives:

- a) a request from a Data Subject to have access to Personal Data held by the other Party; or
- b) a complaint or request relating to the other Party's obligations under the Data Protection Legislation.

13.2.7 provide OS with full co-operation and assistance in relation to any complaint or request made, including by:

- a) providing OS with full details of the complaint or request;
- b) complying with a data access request within the relevant timescales set out in the Data Protection Legislation and in accordance with OS's instructions;
- c) providing OS with any Personal Data it holds in relation to a Data Subject (within the timescales required by OS); and
- d) providing OS with any information requested by OS;

13.2.8 each shall notify the other promptly upon discovery of any actual or potential losses of any Personal Data held or Processed or any security breaches or attempted breaches of systems, equipment or premises and will fully cooperate with the other Party to provide any further details that the other Party may require.

13.2.9 each Party shall, on termination of the Contract at the request of the other Party either return or destroy the Personal Data (including all copies of it) immediately and, in the case of destruction of Personal Data, promptly provide a certificate signed by a senior officer of that Party confirming that such destruction has taken place.

[subject to contract]

14 Audit

- 14.1 The Supplier shall keep and maintain until 6 years (or such other period as may be specified in Schedule 1) after the delivery of any Goods or the provision of any Services, full and accurate records to the satisfaction of OS including:
- a) the Goods and / or Services provided under this Contract; and
 - b) all payments made by OS and all expenditure reimbursed to the Supplier by OS under this Contract.
- 14.2 The Supplier shall, and shall procure that the Subcontractors shall, on request afford OS or its representatives such access to those records as may be required by OS in connection with the Goods and / or Services.

15 Intellectual Property Rights

- 15.1 Subject to Clause 15.4, neither the Supplier nor OS shall acquire any right, title or interest in the other's Pre-Existing Intellectual Property Rights.
- 15.2 It shall be a condition of this Contract that the Deliverables will not infringe any Intellectual Property Rights of any third Party and the Supplier shall indemnify OS against all actions, claims, demands, costs and expenses which OS may suffer or incur as a result of or in connection with any breach of this Clause 15.2 (**Claim**) save to the extent that such Claim is based on (i) modifications to Deliverables made by OS or a third Party (other than the Supplier or its Subcontractors) acting on OS's instructions; and/or (ii) any software or hardware or other materials provided to the Supplier by OS or a third Party acting on OS's instructions; and/or (iii) any use of the Deliverables in a manner not reasonably inferred from OS's requirements.
- 15.3 All Intellectual Property Rights in any Deliverable (excluding the Supplier's Pre-Existing IPR):
- 15.3.1 furnished or made available to the Supplier belong to OS absolutely; or
 - 15.3.2 prepared by or for the Supplier or its Personnel in the course of or in connection with the Contract are hereby assigned to and shall vest in OS absolutely (and the Supplier agrees to execute and do all such documents, acts and things as required by OS to enable such rights to vest in OS).
- 15.4 The Supplier hereby grants to OS a perpetual, irrevocable, royalty free non-exclusive licence to use, copy or amend, including the right to grant sub-licenses (to its customers or members of its group companies) of the Supplier's Pre-Existing Intellectual Property Rights for OS's or its group member's business purposes to the extent the same are embedded or incorporated in any Deliverables.
- 15.5 The Supplier and its Personnel may use any documentation or materials (including systems, methodologies, tools, software, reports, correspondence and advice) supplied or made available by or on behalf of OS to the extent necessary for the performance of the Supplier's obligations under this Contract
- 15.6 The Supplier retains the right to use all know-how and residual knowledge obtained in connection with the Services and nothing in this Contract shall prevent it from using any know-how, methodologies, ideas or concepts acquired before or during the performance of the Services, for any purpose, subject always to its obligation not to disclose OS's Confidential Information.
- 15.7 If a Claim (as defined in Clause 15.2) is made against OS or the Supplier anticipates that such a claim may be made, the Supplier may at its own expense and option either:
- 15.7.1 procure for OS the right to continue using the part of the Deliverables which is the subject of likely to be subject of a Claim; or
 - 15.7.2 replace, modify, or procure the replacement or modification of such Deliverables so that the infringing item becomes non-infringing, provided that the performance and functionality of the replaced or modified item is at least materially equivalent to the performance and functionality of the original item and there is no additional cost to OS.
- 15.8 If a third Party makes a Claim (as defined in Clause 15.2), or notifies an intention to make a Claim, against OS, OS shall: (a) as soon as practicable give notice of the Claim to the Supplier, specifying the nature of the Claim in reasonable detail; (b) allow the Supplier (if the Supplier so requests) to conduct and control the defence and any related settlement of the Claim and (c) provide all reasonable assistance to the Supplier (at the Supplier's sole expense) and not make any admission prejudicial to the defence of the Claim other than pursuant to legal advice in respect of the same.

[subject to contract]

15.9 The provisions of this Clause 15 (excluding Clause 15.5) shall survive the expiration or termination of the Contract.

16 Health and Safety

16.1 The Supplier shall ensure that its Health and Safety policy statements and procedures (as required by the HSWA) are made available to OS on request.

16.2 The Supplier shall promptly notify OS of any health and safety hazards which may arise in connection with the performance of the Services or the supply of the Goods and / or Services.

16.3 The Supplier shall inform all persons used by the Supplier to perform the Services at the Premises of all known health and safety hazards and shall instruct those persons in connection with any necessary safety measures.

16.4 On entering the OS Premises, the Supplier shall (report to security and (where required) undergo any necessary site familiarisation and induction training prior to commencing the Services. The Supplier shall (comply with all policies and procedures applicable at the Premises and shall follow the reasonable instructions of staff at the Premises.

16.5 Whilst on the Premises, the Supplier shall comply with any health and safety measures implemented by OS or any third Party including without limitation any measures in respect of OS personnel and other persons working on the Premises.

16.6 The Supplier shall notify OS immediately in the event of any incident occurring on the Premises where that incident causes any personal injury or any damage to property which could give rise to personal injury.

16.7 The Supplier shall, and will procure that its Personnel and Subcontractors shall, take all measures necessary to comply with the requirements of the HSWA and any other Acts, orders, regulations and Codes of Practice relating to health and safety, which may apply in the performance of the Services.

17 Agency Worker Regulations

17.1 The Supplier warrants that it and its Personnel are either outside the scope of the Agency Worker Regulations or that the Supplier has fulfilled obligations under the Agency Worker Regulations in such a manner so that OS will suffer no liability or extra cost or expense as a result of the application of the Agency Worker Regulations in relation to the Services provided by the Supplier and its Personnel, either during or after the Term.

18 Indemnity and insurance

18.1 Nothing in the Contract shall exclude or limit either Party's liability for:

- a) death or personal injury to the extent it results from its negligence, or that of its Personnel or Subcontractors; or
- b) fraud or fraudulent misrepresentation; or
- c) breach of the DPA; or
- d) breach of TUPE; or
- e) breach of the *Bribery Act 2010*; or
- f) breach of its Confidentiality obligations as identified in Clause 12;
- g) infringement of third party Intellectual Property Rights as identified in Clause 15; or
- h) damage or loss to property to the extent it results from its negligence, or that of its Personnel or Subcontractors.

18.2 Subject to Clause 18.1, the total liability for all claims made (whether in contract, tort (including negligence) or otherwise) under or in connection with a Contract will not at any time exceed 125% of the Price.

18.3 Neither Party will be liable to the other in contract, tort (including negligence) or otherwise for any loss of profits, loss of business or loss of contracts (in each case whether direct or indirect) or for any special, indirect or consequential losses or damages.

18.4 During the Term and for a period of 6 years following expiry or termination (howsoever arising) of this Contract, the Supplier shall take out and maintain or procure the maintenance of the minimum insurances set out in Schedule 1.

[subject to contract]

- 18.5 The Supplier shall produce to OS within 5 Working Days of request, brokers letters of all insurance policies referred to in Clause 18.4 or such other evidence as agreed between the Supplier and OS that will confirm the extent of the cover given by those policies, together with receipts or other evidence of payment of the latest premiums due under those policies.
- 18.6 The terms of any insurance or the amount of cover shall not relieve the Supplier of any liabilities under this Contract. It shall be the responsibility of the Supplier to ensure that the amount of insurance cover is adequate to enable it to satisfy all its potential liabilities subject to the limit of liability set out in Schedule 1.
- 18.7 The Supplier represents and warrants that as at the Effective Date, it has notified OS in writing of any Occasion of Tax Non-Compliance or any litigation that it is involved in that is in connection with any Occasion of Tax Non-Compliance.
- 18.8 If, at any point during the Term, an Occasion of Tax Non-Compliance occurs, the Supplier shall:
- a) notify the OS in writing of such fact within 5 Working Days of its occurrence and;
 - b) promptly provide to the OS:
 - i) details of the steps which the Supplier is taking to address the Occasion of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors that it considers relevant; and
 - ii) such other information in relation to the Occasion of Tax Non-Compliance as OS may reasonably require.

19 Equality

- 19.1 The Supplier shall:
- 19.1.1 comply with all current relevant equality legislation; and
 - 19.1.2 provide, at OS's request, a written statement of its equality and diversity policy (or its equivalent) and an adequate explanation of how the policy will be effected over time; and
 - 19.1.3 use all reasonable endeavours to adhere to the relevant codes of practice published by the Equality and Human Rights Commission, the Equality Commission for Northern Ireland, or their successors.

20 Term and Termination

- 20.1 Subject to the provisions for earlier termination, this Contract shall continue for the Term.
- 20.2 Without prejudice any of its rights or remedies under this Contract, either Party may at any time terminate this Contract with immediate effect by giving written notice to the other Party if:
- a) the other Party commits a material breach (which shall include non-payment of undisputed sums) of any material Clause of this Contract (other than failure to pay any amounts due under this Contract) and fails to remedy that breach within a period of 20 Working Days after being notified in writing to do so; or
 - b) the other Party has committed a Persistent Breach in relation to this Contract or any part; or
 - c) the other Party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the *Insolvency Act 1986* OR (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the *Insolvency Act 1986* OR (being a partnership) has any partner to whom any of the foregoing apply; or
 - d) the other Party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts or makes a proposal for or enters into any compromise or arrangement with its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of that other Party with one or more other companies or the solvent reconstruction of that other Party; or

[subject to contract]

- e) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other Party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of that other Party with one or more other companies or the solvent reconstruction of that other Party; or
- f) an application is made to court or an order is made for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other Party (being a company); or
- g) the holder of a qualifying floating charge over the assets of that other Party (being a company) has become entitled to appoint or has appointed an administrative receiver; or
- h) a person becomes entitled to appoint a receiver over the assets of the other Party or a receiver is appointed over the assets of the other Party; or
- i) the other Party (being an individual) is the subject of a bankruptcy petition or order; or
- j) a creditor or encumbrancer of the other Party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against the whole or any part of the other Party's assets and such attachment or process is not discharged within 10 Working Days; or
- k) any event occurs, or proceedings are taken, with respect to the other Party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in Clause 20.2(d) to Clause 20.2 (k) (inclusive); or
- l) the other Party suspends or ceases or threatens to suspend or cease carrying on all or a substantial part of its business; or
- m) the other Party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation; or
- n) there is a change of control of the other Party (within the meaning of section 1124 of the *Corporation Tax Act 2010*); or
- o) any warranty given in respect of this Contract is found to be untrue or misleading.

20.3 Termination or expiry of this Contract howsoever arising shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereupon accrue to OS and shall not affect the continued operation of any provisions of the Contract which expressly or impliedly continue in effect following termination or expiry of this Contract.

20.4 OS may terminate this Contract in the event that:

- a) the warranty given by the Supplier pursuant to Clause 18.7 is materially untrue; or
- b) the Supplier commits a material breach of its obligation to notify OS of any Occasion of Tax Non-Compliance as required by Clause 18.8; or
- c) the Supplier fails to provide details of proposed mitigating factors which, in the reasonable opinion of OS, are acceptable.

OS shall be entitled to terminate this Agreement by giving immediate notice to the Supplier.

21 Break

21.1 In addition to its rights of termination under this Contract, OS shall be entitled to terminate the Contract by giving to the Supplier not less than 20 Working Days' notice (or such notice period as may be specified in the Schedules) to that effect in which event OS's sole liability shall be to pay to the Supplier a fair and reasonable price for all Services performed and Goods delivered at the date when such notice is given but in no event shall such payment exceed the price of the Contract.

[subject to contract]

22 Recovery of sums due

- 22.1 Wherever under the Contract any sum of money is recoverable from or payable by the Supplier (including any sum that the Supplier is liable to pay to OS in respect of any breach of the Contract), OS may unilaterally deduct that sum from any sum then due or which at any later time may become due to the Supplier under the Contract or under any other agreement or contract with OS.
- 22.2 The Supplier shall make any payments due to OS without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Supplier has a valid court order requiring an amount equal to such deduction to be paid by OS to the Supplier.

23 Assignment and subcontracting

- 23.1 The Supplier shall not assign or subcontract any part of the Contract without the prior written consent of OS. Subcontracting any part of the Contract shall not relieve the Supplier of any obligation or duty attributable to it under the Contract.
- 23.2 Where OS has consented to the placing of subcontracts, and the Supplier enters into a subcontract for the purpose of performing its obligations under the Contract the Supplier shall ensure that:
- 23.2.1 provisions are included in the subcontract which
- a) requires payment to be made of all sums due by the Supplier to the Subcontractor within a specified period not exceeding 30 calendar days from the receipt of a valid invoice; and
 - b) impose obligations to comply with the terms of this Contract as if they were the Supplier; and
- 23.2.2 copies of each subcontract shall be sent by the Supplier to OS immediately it is issued.
- 23.3 OS shall be entitled to assign or transfer (either in whole or in part) the benefits of any or all of the Supplier's obligations or any benefit arising under or out of this Contract to any third Party or to change its constitution or any other aspect of its presentation or construction without adversely affecting its rights and benefits under the Contract.

24 TUPE

- 24.1 All Liabilities relating to the Supplier's Personnel during the Term are to be borne by the Supplier.
- 24.2 The Supplier will indemnify and keep OS and any new provider of services to OS similar to the Services or any part of the Service (a **New Service Provider**) indemnified against any Liabilities transferred to, imposed upon or incurred by OS and / or any New Service Provider, in each case to the extent arising out of or in connection with the employment of any Personnel during the Term.
- 24.3 If any of the Personnel makes any claim (whether successful or not) at any time prior to termination of the Contract that they have become an employee of, or have rights against, OS and / or a New Service Provider by virtue of TUPE or otherwise, the Supplier will indemnify and keep OS and any New Service Provider indemnified against any Liabilities transferred to, imposed upon or incurred by OS and / or a New Service Provider in each case to the extent arising out of or in connection with any such claim.

[subject to contract]

24.4 Information regarding Personnel

The Supplier agrees, subject to compliance with the Data Protection Legislation that within 20 Working Days of the earliest of the following dates:

- a) 12 months before the end of the Term; or
- b) the date of receipt of OS's intended transfer of the Services or part of the Service to a New Service Provider (**Service Transfer Date**); or
- c) the date of receipt of OS's intended early contract termination; or
- d) the date of receipt of OS's written request at any time

the Supplier will provide OS with a list (to be regularly updated) of its current Personnel engaged in providing the Services (**Relevant Personnel**), along with relevant anonymised information about those Personnel (including but not limited to their age, contractual relationship with the Supplier, remuneration, terms and conditions of employment (including notice periods and redundancy terms), outstanding or potential liabilities such as personal injury claims and any other Employee Liability Information as defined by Regulation 11 of TUPE).

24.5 Without prejudice to the Supplier's obligations in Clause 24.4, at least 14 Working Days prior to the Service Transfer Date, the Supplier shall provide OS with the list of its Relevant Personnel at the date of the Service Transfer (the **Final List**).

24.6 OS shall be permitted to use and disclose the information relating to the Relevant Personnel (which the Supplier warrants to be true and accurate in all material respects), for informing any tenderer or other prospective New Service Provider, provided that OS imposes on such third Party obligations of confidence that are no less onerous than OS's obligations to the Supplier in relation to that information.

24.7 From the date of the earliest event referred to in Clause 24.4 above, the Supplier agrees that it will not, save with the prior written consent of OS:

- 24.7.1 withdraw or permit the withdrawal of any of the Supplier's Relevant Personnel engaged wholly or mainly at that time in the provision of the Services from the provision of Services;
- 24.7.2 alter in any material respect the terms and conditions of employment of any of the Relevant Personnel (including without limitation any increase in salary, wages or other emoluments (whether pursuant to a general review or otherwise) where the effect of such increase would be to increase the annual salary, wages or other emoluments of any Relevant Personnel to an annual level above the market rate paid to such personnel across the relevant industry);
- 24.7.3 assign any member of the Relevant Personnel (not already engaged in the provision of the Services) to the provision of the Services; or
- 24.7.4 engage new Personnel who would become Relevant Personnel except to replace Relevant Personnel who have left the Supplier's employment. Any engagement of new Personnel will be on substantially and materially similar terms to the outgoing personnel.

24.8 Following the termination or expiry of the Contract for whatever reason, the Supplier will indemnify and keep OS and any New Service Provider indemnified in full against all Liabilities arising directly or indirectly in connection with any act or omission of the Supplier prior to the termination or expiry of the Contract in respect of any member of the Personnel for which OS and / or any New Service Provider is liable by reason of TUPE.

24.9 If, as a result of the application of TUPE, the contract of employment of any Personnel of the Supplier shall have effect, following the termination or expiry of the Contract, as if originally made between OS and / or any New Service Provider (**Outgoing Personnel**), OS and / or any New Service Provider may terminate the contract of employment with such Outgoing Personnel and the Supplier shall indemnify and keep OS and any New Service Provider indemnified against all Liabilities in respect of such Outgoing Personnel. The Supplier shall also indemnify and keep OS indemnified against all Liabilities incurred by OS and / or any New Service Provider arising out of or in connection with any claim (whether successful or not) made by an Outgoing Personnel (whether or not such person is dismissed by OS).

24.10 A New Service Provider may enforce the term of this Clause 24 subject to and in accordance with the term of this Contract and the provisions of the *Contracts (Rights of Third Parties) Act 1999*.

[subject to contract]

24.11 The provisions of this Clause 24 shall survive the expiration or termination of the Contract.

25 Notices

25.1 A notice given to a Party under or in connection with this Contract shall be in writing and sent to the Party at the address given in this Contract or as otherwise notified in writing to the other Party.

25.2 The following table sets out methods by which a notice may be sent and, if sent by that method, the corresponding deemed delivery date and time:

Delivery method	Deemed delivery date and time
Delivery by hand.	On signature of a delivery receipt.
Pre-paid first class or recorded delivery post or other next Working Day delivery service providing proof of delivery.	9:00am on the second Working Day after posting or at the time recorded by the delivery service.
Pre-paid airmail providing proof of delivery.	9:00am on the fifth Working Day after posting or at the time recorded by the delivery service.

25.3 For the purpose of Clause 26.2:

- a) all references to time are to local time in the place of deemed receipt; and
- b) if deemed receipt would occur in the place of deemed receipt on a day that is not a Working Day then receipt is deemed to take place at 9:00 am on the next Working Day.

25.4 This Clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

25.5 A notice given under this Contract is not valid if sent by e-mail.

26 Bribery, corrupt gifts or payments

26.1 The Parties each warrant that in preparation for and the entering into of this Contract they have not, and they have applied best endeavours to ensure that the Personnel and Subcontractors have not offered, given, or agreed to give, to any person or sought or received any gift or dishonest consideration of any kind as an inducement or reward:

- 26.1.1 for doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of this Contract; or
- 26.1.2 for showing or not showing favour or disfavour to any person in relation to this Contract;

26.2 The Parties each warrant that in fulfilling their respective obligations under this Contract they will not, and they will apply best endeavours to ensure that their Personnel and Subcontractors do not offer, give, or agree to give, to any person or seek or receive any gift or dishonest consideration of any kind as an inducement or reward

- 26.2.1 for doing or not doing (or for having done or not having done) any act in relation to the performance of this Contract; or
- 26.2.2 for showing or not showing favour or disfavour to any person in relation to this Contract;

26.3 The Parties each warrant and undertake (and the Supplier shall procure that its Subcontractors and Personnel shall undertake) in connection with this Contract to comply at all times with anti-bribery and corruption legislation, laws and regulations in all jurisdictions, and not to perform their respective obligations or otherwise do anything or omit to do anything under or in connection with this Contract in such a way as to cause either of them to be in breach of any such legislation, laws or regulations and in particular they have not in connection with this Contract committed and will not commit any offence:

- 26.3.1 under the *Bribery Act 2010* or other legislation, laws or regulations in force in England creating offences in respect of bribery and corruption;
- 26.3.2 under legislation or other laws or regulations in force in any jurisdiction creating offences in respect of bribery and corruption
- 26.3.3 under legislation, laws or regulations creating offences in respect of fraudulent acts.

[subject to contract]

26.4 Any breach of the Contract related to this Clause 26 by the Supplier or by any Personnel (whether with or without the knowledge of the Supplier) or the commission of any offence by the Supplier or by any Personnel or Subcontractor under the *Bribery Act 2010* or other legislation, laws or regulations in force in England or any jurisdiction where the Contract is performed that creates offences in respect of bribery and corruption shall entitle OS, with no liability whatsoever to the Supplier, to terminate the Contract with immediate effect by notice in writing and to recover from the Supplier the amount of any loss resulting from such termination.

27 Modern Slavery Act 2015

27.1 The Supplier warrants and undertakes that in connection with this Contract:

- 27.1.1 to comply at all times with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including but not limited to the *Modern Slavery Act 2015*, and not to perform its obligations or otherwise do anything or omit to do anything under or in connection with this Contract in such a way as to cause it to be in breach of any such legislation, laws or regulations; and
- 27.1.2 not to engage in any activity, practice or conduct that would constitute an offence under sections 1, 2 or 4, of the *Modern Slavery Act 2015* if such activity, practice or conduct were carried out in the UK; and
- 27.1.3 to ensure that its Subcontractors, suppliers and Personnel shall comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including but not limited to the *Modern Slavery Act 2015*.
- 27.1.4 that neither the Supplier nor any of its Subcontractors, suppliers or Personnel:
 - 27.1.4.1 has been convicted of any offence involving slavery or human trafficking; and
 - 27.1.4.2 to the best of its knowledge, has been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of or in connection with slavery or human trafficking.

27.2 The Supplier shall implement due diligence procedures for its Subcontractors, suppliers and other participants in its supply chains, to ensure that there is no slavery or human trafficking in its supply chains.

27.3 The Supplier shall notify OS as soon as it becomes aware of any actual or suspected slavery or human trafficking in a supply chain which has a connection with this Contract.

27.4 Any breach of the Contract related to this Clause 27 by the Supplier or by any Personnel (whether with or without the knowledge of the Supplier) or the commission of any offence by the Supplier or by any Personnel or Subcontractor under the *Modern Slavery Act 2015* or other legislation, laws or regulations in force in England or any jurisdiction where the Contract is performed that creates offences in respect of slavery and human trafficking shall entitle OS, with no liability whatsoever to the Supplier, to terminate the Contract with immediate effect by notice in writing and to recover from the Supplier the amount of any loss resulting from such termination.

28 Limitation of Liability

28.1 Nothing in this Contract shall have the effect of excluding or limiting the liability of either Party for:

- 28.1.1 death or personal injury to the extent it results from negligence, or that of either Party's personnel in the course of their engagement; or
- 28.1.2 fraud or fraudulent misrepresentation; or
- 28.1.3 breach of anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force; or
- 28.1.4 bribery or corruption.

28.2 OS will not be liable to the Supplier by reason of any representation (unless fraudulent) or any implied warranty, condition or other term or any duty at common law, or under the express terms of this Contract for:

- 28.2.1 any loss of profit, business, contracts, opportunity, goodwill, revenues, anticipated savings or other similar loss; and / or

[subject to contract]

28.2.2 any indirect, special or consequential loss or damage (whether for loss of profits or otherwise); whether caused by negligence, breach of contract, tort, breach of statutory duty of OS its employees or agents or otherwise, arising out of or in connection with this Contract.

29 Waiver

29.1 No waiver by OS of any breach of the Contract by the Supplier shall be considered as a waiver of any subsequent breach of the same or any other provision.

30 Force Majeure

30.1 Neither party shall be liable for delay or failure to perform its obligations to the extent that such delay or failure results from a Force Majeure Event. The party affected by a Force Majeure Event shall give the other party written notice as soon as reasonably possible containing details of the circumstances giving rise to the Force Majeure Event.

30.2 The affected party shall be allowed a reasonable extension of time to carry out its obligations in these circumstances. In the event that such circumstances materially impact the affected party's performance of its obligations under this Contract for a continuous period in excess of 30 Working Days, the non-affected party shall be entitled to terminate this Contract by giving notice in writing to the other.

31 Contracts (Rights of Third Parties) Act 1999

31.1 A person who is not a Party to this Contract has no right under the *Contracts (Rights of Third Parties) Act 1999* to enforce or enjoy the benefit of any terms of this Contract.

32 Governing law and dispute resolution

- 32.1 Subject to Clause 32.2, the Parties agree that any disputes or disagreements will be resolved in the following way:
- 32.1.1 by discussion between the buyer named on the Purchase Order or equivalent at OS and a representative of the Supplier;
 - 32.1.2 if no agreement is reached within 10 Working Days of the first request of either Party for the meeting or discussion referred to in Clause 32.1.1, the dispute shall be escalated to the Head of Procurement at OS and a representative of the Supplier of comparable position;
 - 32.1.3 if no agreement is reached within 10 Working Days of the first request of either Party for the meeting or discussion referred to in Clause 32.1.2, the dispute shall be escalated to an appropriate Director of OS and a Director or equivalent of the Supplier; or
 - 32.1.4 if no agreement is reached within a reasonable period pursuant to Clause 32.1.3, the dispute may be referred to the English courts.
- 32.2 Either Party may refer disputes involving Confidential Information, intellectual property matters (including but not limited to matters in respect of Intellectual Property Rights) and debt to the English courts immediately.
- 32.3 This Contract will be governed by and construed in accordance with English law and the exclusive jurisdiction of the English Courts.

[subject to contract]

33 Variation

- 33.1 No Conditions appearing in any quotation, correspondence, acknowledgement of order or other document issued by or put forward at any time by the Supplier shall form any part of the Contract.
- 33.2 The Clauses and Term may only be varied by a written agreement signed by the authorised representatives of OS and the Supplier.

34 Signing

Signed for and on behalf of **Ordnance Survey Limited**

Having read and understood this Contract signed for and on behalf of **[Name of other party]**

Signature

Signature

Name

Name

Title

Title

Date

Date

Appendix 1 Statement of Requirements Response Document