



Foreign, Commonwealth & Development Office

Contract Ref No:	Ecm 7114
Contract Name:	Montserrat Patrol Vessels
LONG CONTRACT CONDITIONS: <i>These conditions shall not apply where the supply of goods or services is subject to the terms of a framework contract between the Contractor and the Authority or any other government department or agency. These conditions of contract shall not take precedence over or replace any existing Contractual agreements between the Contractor and the Authority.</i>	

This Contract is made between the Secretary of State for Foreign, Commonwealth & Development Affairs represented by the Foreign, Commonwealth & Development Office, acting as part of the Crown ("the Authority"), and

Berthon RIB Solutions Limited, company registration 11612326 ("the Contractor") having their main or registered office at Bath Road, Lymington, Hampshire, SO41 3YL, United Kingdom.

("the Parties")

SIGNED on behalf of the Parties:

For the Contractor:

By:

Full Name: [REDACTED]

Position held on behalf of Supplier:

Director

Date: 16 January 2024

For the Authority:

Full Name: [REDACTED]

Position held on behalf of Authority:

Commercial Lead

Date: 16 January 2024

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A. GENERAL PROVISIONS

A1. DEFINITIONS AND INTERPRETATION

In these Conditions, unless the context otherwise requires, the following provisions shall have the meanings given to them below:

"ADR Notice" means a notice served under Condition I2 (Dispute Resolution) requesting mediation.

"Affiliate" means in relation to a body corporate, any other entity which directly or indirectly controls, is controlled by, or is under direct or indirect common control with, that body corporate from time to time.

"Agreement" means this contract.

"Approval" and **"Approved"** refer to the written consent of the Authority's Representative.

"Authority" means the Secretary of State for Foreign, Commonwealth & Development Affairs and includes the Authority's Representative. In this Contract, the Authority is acting as part of the Crown.

"Authority's Premises" means land or buildings owned or occupied by the Authority where the Services are performed.

"Authority's Property" means any property, other than land and buildings, issued or made available to the Staff by the Authority in connection with the Contract.

"Authority's Representative" means the individual authorised to act on behalf of the Authority for the purposes of the Contract.

"Commencement of Full Operations" means the point in time when the Contractor becomes responsible for the provision of the Services following the completion of the Setting up Operations. In the event that the Contractor's responsibility for the provision of the Services is phased, the Commencement of Full Operations means the commencement of each phase following the Setting Up Operations in respect of that phase.

"Commencement Date" means the date when the period of the duration of the contract commences in accordance with Condition A2 (Initial Contract Period).

"Contract" means this agreement between the Authority and the Contractor consisting of these Conditions, Sections, attached Schedules and Appendices and the Contractor proposal dated 14th June 2024.

"Contractor" means Berthon RIB Solutions Ltd.

"Contractor's Representative" means the individual authorised to act on behalf of the Contractor for the purposes of the Contract.

"Contract Period" means the period of the duration of the Contract in accordance with Condition A2 (Initial Contract Period).

"Contractor Personnel" means all directors, officers, employees, agents, consultants and contractors of the Contractor and/or of any Sub-Contractor engaged in the performance of its obligations under this Agreement

"Contract Price" means the price, exclusive of any applicable Value Added Tax, payable by the Authority to the Contractor, as set out in Condition C1 (Contract price).

"Controller, Processor, Data Subject, Personal Data, Personal Data Breach, Data Protection Officer" take the meaning given in the GDPR.

"Credit transfer" is a payment instruction from the Authority to its bank or payment service provider to transfer an amount of money to another account.

"The Crown" means any central government department of the United Kingdom, or a Devolved Administration, or any other body which is legally defined as a Crown Body.

"Data Protection Legislation" means

- (i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time
- (ii) the DPA 2018 [subject to Royal Assent] to the extent that it relates to processing of personal data and privacy;
- (iii) all applicable Law about the processing of personal data and privacy;

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- "Data Protection Impact Assessment"** an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data.
- "Data Loss Event"** means any event that results, or may result, in unauthorised access to Personal Data held by the Contractor under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach.
- "Data Subject Request"** means a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.
- "DPA 2018"** means the Data Protection Act 2018
- "Default"** means any breach of the obligations of either Party (including but not limited to fundamental breach or breach of a fundamental item) or any default, act, omission, negligence or statement of either Party, its employees, contractors, agents or Sub-Contractors in connection with or in relation to the subject matter of this Contract and in respect of which such Party is liable to the other.
- "Equality Enactments"** means the enactments defined in section 33(1) Equality Act 2006.
- "Equipment"** means all equipment, materials, consumables and plant and other items supplied, other than Authority's Property, to be used by the Staff in the provision of the Services.
- "Environmental Information Regulations"** means the Environmental Information Regulations 2004, as the same may be amended or updated from time to time, together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government Department in relation to such regulations.
- "FOIA"** means the Freedom of Information Act 2000 and any subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner in relation to such legislation.
- "Force Majeure"** has the meaning set out in Condition H7 (Force Majeure).
- "GDPR"** means the General Data Protection Regulation (Regulation (EU) 2016/679)
- "Good Industry Practice"** means at any time the exercise of that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced provider of services similar to the Services seeking in good faith to comply with its contractual obligations and complying with all relevant laws.
- "Goods"** means anything which the Contractor supplies to the Authority under the Contract including any materials provided as part of the Service;
- "Information"** has the meaning given under section 84 of the FOIA.
- "Intellectual Property Rights"** means patents, inventions, trademarks, service marks, logos, design rights (whether registerable or not), applications for any of the above rights, copyright, database rights, domain names, know how, trade or business names, moral rights or other similar rights or obligations whether registerable or not in any country including but not limited to the United Kingdom.
- "Joint Controllers"** means where two or more Controllers jointly determine the purposes and means of processing
- "Key Performance Indicators"** means a set of quantifiable measures that the Authority and Contractor will use to measure the performance of the Services provided by the Contractor under the Contract.
- "Key Staff"** means all persons identified in Appendix C – Key Staff.
- "LED"** means Law Enforcement Directive (Directive (EU) 2016/680)
- "Law"** means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Processor is bound to comply;
- "Month"** means calendar month.
- "Notice"** means information from either Party to the other Party about a particular action that has been taken;
- "Party"** means either the Authority or the Contractor and the **"Parties"** means the Authority and the Contractor;
- "Personnel"** means persons directly employed by the Authority.
- "Premises"** means land or buildings where the Services are performed.
- "Price"** means a price entered in Appendix J
- "Private Security Companies"** (PSCs) and **"Private Security Service Providers"** (PSSPs) means any Company (as defined in the International Code of Conduct for Private Security Service Providers) whose business activities

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include the provision of security services either on its own behalf or on behalf of another, irrespective of how such Company describes itself.

"Processor Personnel" means all directors, officers, employees, agents, consultants and contractors of the Processor and/or of any Sub-Processor engaged in the performance of its obligations under this Agreement.

"Proposal" means the Contractor's proposal submitted to the Authority to meet the requirement detailed in the Authority's tender documentation.

"Protective Measures" means appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it including those outlined in Schedule [x] (Security).

"Purchase Order" or **"PO"** means the form, which the Authority sends to the Contractor confirming the contract and facilitating payment via the Authority Purchase to Pay System.

"Regulatory Bodies" means those government departments and regulatory, statutory and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this Contract or any other affairs of the Authority and "Regulatory Body" shall be construed accordingly.

"Requests for Information" shall have the meaning set out in the FOIA or any apparent request for information under the FOIA or the Environmental Information Regulations as relevant.

"Services" means all the services (including any works) which the Contractor provides to the Authority under the Contract.

"Site" means the area within the Premises in which the Services are performed.

"Staff" means all persons used by the Contractor to deliver the contract.

"Sub-contractor" means any third party employed by the Contractor in the provision of the Services.

"Sub-processor" any third Party appointed to process Personal Data on behalf of the Contractor related to this Agreement

"Termination Transfer" means the transfer of responsibility for delivery of the Contract from the Contractor to the Authority and/or a Successor Supplier on or following the termination or expiry of this Contract or any part thereof.

"Termination Transfer Date" means the date of a Termination Transfer.

"the Crown" means any central government department of the United Kingdom, including the Devolved Administrations, and other bodies which are legally defined as being Crown Bodies.

"Variation" means a properly executed variation to the Contract in compliance with Condition F3 (Variation).

"Variation to Contract Form" means the form set out in Appendix A - Variation to Contract Form

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

A1.1. FURTHER PROVISIONS

The interpretation and construction of the Contract shall be subject to the following provisions:

- a) a reference to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as subsequently amended or re-enacted;
- b) the headings included in the Contract are for ease of reference only and shall not affect the interpretation or construction of the Contract;
- c) references to Conditions are references to Conditions in the Conditions of the Contract in which they appear, unless otherwise stated;
- d) where the context allows, the masculine includes the feminine and the neuter, and the singular includes the plural and vice versa;
- e) reference to a Condition is a reference to the whole of that Condition unless stated otherwise;

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- f) reference to any person shall include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees; and
- g) any words following the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or terms preceding those terms and the words "include", "includes" and "including" are to be construed as if they were immediately followed by the words "without limitation".
- h) These Conditions shall apply to the exclusion of all other terms and conditions including any terms and conditions which the Contractor may seek to apply under any purchase order, confirmation of order, invoice, delivery note or similar document.
- i) The Contractor shall be deemed to have accepted the terms and conditions of the Contract by delivering the Goods and/or Service.
- j) Time for delivery of Goods and/or provision of the Service shall be of the essence of the Contract.
- k) If either Party does not enforce any one or more of the terms or conditions of this Contract this does not mean that the Party has given up the right at any time subsequently to enforce all terms and conditions of this Contract.
- l) The Authority shall in no circumstances be liable for any claim, loss or damage whether arising in contract, tort (including negligence) or otherwise, for consequential, economic, special or other indirect loss and shall not be liable for any losses calculated by reference to profits, contracts, business, goodwill, income, production or accruals whether direct or indirect and whether or not arising out of any liability of the Contractor to any other person.

A2. CONTRACT PERIOD

- A2.1 The Contract Period shall begin after signing of this Contract by both Parties and on receipt by the Contractor of the 50% deposit payment corresponding to the Milestone Payment M1 described in Appendix 3 – Price Schedule. The Contract shall expire six months later subject to satisfactory performance by both Parties of their obligations under the Contract. Any extensions to the Contract period shall be mutually agreed between Authority and Contractor and confirmed in writing in accordance with Condition F3 of the contract.

A3. CONTRACTOR'S STATUS

- A3.1 At all times during the Contract Period, the Contractor shall be an independent contractor and nothing in this Contract shall create a contract of employment, a relationship of agency or partnership or joint venture between the Parties and accordingly neither Party shall be authorised to act in the name of, or on behalf of, or otherwise bind the other Party save as expressly permitted by the terms of this Contract accordingly:
 - a) the Contractor shall not say or do anything that might lead any other Person to believe that the Contractor is acting as the agent of the Authority; and
 - b) the Authority shall not incur any contractual liability to any other Person as a result of anything done by the Contractor in connection with the performance of the Contract.

A4. AUTHORITIES OBLIGATIONS

- A4.1 Save as otherwise expressly provided, the obligations of the Authority under the Contract are obligations of the Authority in its capacity as a contracting counterparty and nothing in the Contract shall operate as an obligation upon, or in any other way fetter or constrain the Authority in any other capacity, nor shall the exercise by the Authority of its duties and powers in any other capacity lead to any liability under the Contract (howsoever arising) on the part of the Authority to the Contractor.

A5. NOTICES

- A5.1 Except as otherwise expressly provided within this Contract, no communication from one Party to the other shall have any validity under this Contract unless made in writing by or on behalf of the Party concerned.
- A5.2 Any notice or other communication which is to be given by either Party to the other shall be given by letter, or by facsimile transmission or electronic mail. Such letters shall be addressed to the other Party in the manner referred to in Condition A5.3 (Notices). If the other Party does not acknowledge receipt of any such letter, facsimile transmission or item of electronic mail, and, in the case of a letter, the relevant letter is not returned

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as undelivered, the notice or communication shall be deemed to have been given 3 Working Days after the day on which the letter was posted.

A5.3 For the purposes of Condition A5.2 (Notices), the address of each Party shall be:

a) The Authority's Representative

Name	[REDACTED]
Address	FCDO, King Charles Street, London, SW1A 2AH
E-mail Address	[REDACTED]

b) The Contractor's Representative

Name	[REDACTED]
Telephone Number	[REDACTED]
Address	Berthon RIB Solutions Ltd, The Shipyard, Lymington, Hampshire, SO41 3YL
E-mail Address	[REDACTED]

A5.4 Either Party may change its address for service by notice given in accordance with this Condition A5 (Notices).

A6. MISTAKES IN INFORMATION

A6.1 The Contractor shall be responsible for the accuracy of all drawings, documentation and information supplied to the Authority by the Contractor in connection with the supply of the Services and shall pay the Authority any extra costs occasioned by any discrepancies, errors or omissions therein

A7. CONFLICTS OF INTEREST

A7.1 The Contractor shall establish and maintain appropriate business standards, procedures and controls to ensure that no conflict of interest arises between the Parties, howsoever arising.

A7.2 The Contractor shall notify the Authority immediately of any circumstances of which it becomes aware which give rise or potentially give rise to a conflict with the Services and shall advise the Authority of how they intend to avoid such a conflict arising or remedy such situation. The Contractor shall subject to any obligations of confidentiality it may have to third parties provide all information and assistance reasonably necessary (at the Contractor's cost) that the Authority may request of the Contractor in order to avoid or resolve a conflict of interest and shall ensure that at all times they work together with the Authority with the aim of avoiding a conflict or remedy a conflict.

A7.3 The Authority reserves the right to terminate this contract immediately by notice in writing and/or to take such steps it deems necessary where, in the reasonable opinion of the Authority, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Contractor and the duties owed to the Authority under the provisions of this contract. The actions of the Authority pursuant to this Article will not prejudice or affect any right of action or remedy which will have accrued or will thereafter accrue to the Authority.

A7.4 In addition to its obligations under Condition E5 (Publicity, Media and Official Enquiries), the Contractor shall:

- (a) Avoid expressing views which may prejudice the position of the Authority;
- (b) Make clear when it is expressing views on behalf of the Authority and/or the Government of the United Kingdom, and when it is expressing personal views;
- (c) Check with the Authority first if they are unsure whether expressing views might be caught by (a) and (b); and

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(d) Not carry out any acts on behalf of third parties in the course of performing the Services, without the Authority's permission.

- A7.5 Pursuant to Condition A7.2 (Conflict of Interest), the Authority shall have the right to require that the Contractor puts in place "Ethical Walls" and will ensure and satisfy the Authority that all information relating to the Contract and to the Services and Deliverables completed pursuant to it (to include all working papers, draft reports in both tangible and intangible form) are not shared or made available to other employees, contractors or agents of the Contractor and that such matters are not discussed by the relevant staff with other employees, contractors or agents of the Contractor.
- A7.6 In the event of a failure to maintain the "Ethical Walls" as described above arising during the course of this Contract, the Authority reserves the right to immediately terminate the Contract on giving written notice to the Contractor and to pursue the Contractor for damages.
- A7.7 To the extent that any of the Contractor's staff breach this Conflict of Interest Condition, the Contractor undertakes to keep the Authority fully and effectively indemnified in respect of all costs, losses and liabilities arising from any wrongful disclosure or misuse of the Confidential Information by the Contractor's staff. This indemnity shall be without prejudice to any other rights or remedies, including injunctive or other equitable relief, which the Authority may be entitled to, but for the avoidance of doubt shall be subject to the limitations of liability (including without limitation the cap on liability) set out in this Contract.

B. SUPPLY OF SERVICES AND/OR GOODS

B1. THE SERVICES/GOODS

- B1.1 The Contractor shall supply the Services during the Contract Period in accordance with the Authority's requirements as set out in the Specification and the provisions of the Contract in consideration of the payment of the Contract Price. The Authority may inspect and examine the manner in which the Contractor supplies the Services at the Premises during normal business hours on reasonable notice.
- B1.2 If the Authority informs the Contractor in writing that the Authority reasonably believes that any part of the Services does not meet the requirements of the Contract or differ in any way from those requirements, and this is other than as a result of a Default by the Authority, the Contractor shall at its own expense re-schedule and carry out the Services in accordance with the requirements of the Contract within such reasonable time as may be specified by the Authority.

B2. PROVISION AND REMOVAL OF EQUIPMENT

- B2.1 The Contractor shall provide all the Equipment necessary for the supply of the Services.
- B2.2 The Contractor shall not deliver any Equipment nor begin any work on the Premises without obtaining prior Approval.
- B2.3 All Equipment brought onto the Premises shall be at the Contractor's own risk and the Authority shall have no liability for any loss of or damage to any Equipment unless the Contractor is able to demonstrate that such loss or damage was caused or contributed to by the Authority's Default. The Contractor shall provide for the haulage or carriage thereof to the Premises and the removal of Equipment when no longer required at its sole cost. Unless otherwise agreed, Equipment brought onto the Premises will remain the property of the Contractor.
- B2.4 The Contractor shall maintain all items of Equipment within the Premises in a safe, serviceable and clean condition.
- B2.5 The Contractor shall, at the Authority's written request, at its own expense and as soon as reasonably practicable:
- (a) remove from the Premises any Equipment which in the reasonable opinion of the Authority is either hazardous, noxious or not in accordance with the Contract; and
 - (b) replace such item with a suitable substitute item of Equipment.
- B2.6 On completion of the Services the Contractor shall remove the Equipment together with any other materials used by the Contractor to supply the Services and shall leave the Premises in a clean, safe and tidy condition. The Contractor is solely responsible for making good any damage to the Premises or any objects contained thereon, other than fair wear and tear, which is caused by the Contractor or any Staff.
- B2.7 The Contractor confirms that any item of Equipment purchased by the Contractor for the purposes of delivering the Services under this Contract e.g. weapons, ammunition, PPE, communications, tracking systems etc shall

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be owned by and the property of the Authority, although the risk with any such Equipment shall remain with the Contractor until such Equipment is passed to the Authority at the end of the Contract or earlier as appropriate.

B4. KEY PERSONNEL – NOT USED

B9. OFFERS OF EMPLOYMENT

B9.1 For the duration of the Contract and for a period of 12 months thereafter neither the Authority nor the Contractor shall employ or offer employment to any of the other Party's staff who have been associated with the procurement and/or the contract management of the Services without that other Party's prior written consent.

B10. MEETINGS AND REPORTS

- B10.1 The Contractor shall upon receipt of reasonable notice and during normal office hours attend all meetings arranged by the Authority for the discussion of matters connected with the performance of the Services.
- B10.2 Without prejudice to any other requirement in this Contract, the Contractor shall provide such reports on the performance of the Services as the Contract Manager may reasonably require.

B11 SAFEGUARDING

B11.1 For the purposes of this Clause B11, "**Reasonable Measures**" shall mean:

all reasonable endeavours expected to be taken by a professional and prudent supplier in the Contractor's industry to eliminate or minimise risk of actual, attempted or threatened exploitation, abuse and harassment (including Sexual Abuse, Sexual Exploitation and Sexual Harassment) and whether or not such conduct would amount to a criminal offence in the United Kingdom or an offence under the laws of the territory in which it takes place (together "**Serious Misconduct**") as is reasonable and proportionate under the circumstances. Such endeavours may include (but shall not be limited to):

- (a) Clear and detailed policies and guidance for Contractor Personnel, Contractor Providers and where appropriate, beneficiaries;
- (b) Developing, implementing and maintaining a safeguarding plan throughout the term (including monitoring);
- (c) Provision of regular training to Contractor Personnel, Contractor Providers and where appropriate, beneficiaries
- (d) Clear reporting lines and whistleblowing policies in place for Contractor Personnel, Contractor Providers and beneficiaries,
- (e) Maintaining detailed records of any allegations of Serious Misconduct and regular reporting to FCDO and the Appropriate Authorities (where relevant) of any such incidents;
- (f) Any other Good Industry Practice measures (including any innovative solutions),

B11.2 The Contractor shall take all Reasonable Measures to prevent Serious Misconduct by the Contractor Personnel or any other persons engaged and controlled by it to perform any activities under this Agreement ("**Contractor Providers**") and shall have in place at all times robust procedures which enable the reporting by Contractor Personnel, Contractor Providers and beneficiaries of any such Serious Misconduct, illegal acts and/or failures by the Contractor or Contractor Personnel to investigate such reports.

B11.3 The Contractor shall take all Reasonable Measures to ensure that the Contractor Personnel and Contractor Providers do not engage in sexual activity with any person under the age of 18, regardless of the local age of majority or age of consent or any mistaken belief held by the Contractor Personnel or Contractor Provider as to the age of the person. Furthermore, the Contractor shall ensure that the Contractor Personnel and Contractor Providers do not engage in 'transactional sex' which shall include but not be limited to the exchange of money, employment, goods, or services for sex and such reference to sex shall include sexual favours or any form of humiliating, degrading or exploitative behavior on the part of the Contractor Personnel and the Contractor Providers. For the avoidance of doubt, such 'transactional sex' shall be deemed to be Serious Misconduct in accordance with Clause B11.1.

B11.4 The Contractor shall promptly report in writing any complaints, concerns and incidents regarding Serious Misconduct or any attempted or threatened Serious Misconduct by the Contractor Personnel and Contractor

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Providers to FCDO, including FCDO's Counter Fraud Section at reportingconcerns@fcdo.gov.uk or +44 (0)1355 843747, and where necessary, the Appropriate Authorities.

- B11.5 The Contractor shall fully investigate and document all cases or potential cases of Serious Misconduct and shall take appropriate corrective action to reduce the risk and/or eliminate Serious Misconduct being committed by the Contractor Personnel and Contractor Providers (which may include disciplinary action, termination of contracts etc.), such investigations and actions to be reported to FCDO as soon as is reasonably practicable.
- B11.6 The Contractor shall not engage as Contractor Personnel or Contractor Provider for the purposes of the Services any person whose previous record or conduct known to the Contractor (or reasonably ought to be known by a diligent supplier which undertakes the appropriate checks) indicates that they are unsuitable to perform the Services and/or where they represent an increased and unacceptable risk of committing Serious Misconduct.
- B11.7 The Contractor shall comply with all applicable laws, legislation, codes of practice and government guidance in the UK and additionally, in the territories where the Services are being performed, relevant to safeguarding and protection of children and vulnerable adults, which the Contractor acknowledges may include vetting of the Contractor Personnel by the UK Disclosure and Barring Service in respect of any regulated activity performed by the Contractor Personnel (as defined by the Safeguarding Vulnerable Groups Act 2006 (as amended)) and/or vetting by a local equivalent service. Where FCDO reasonably believes that there is an increased risk to safeguarding in the performance of the Services, the Contractor shall comply with any reasonable request by FCDO for additional vetting to be undertaken.
- B11.8 Failure by the Contractor to:
- 1) Put in place preventative measures to eliminate and/or reduce the risk of Serious Misconduct; or
 - 2) Fully investigate allegations of Serious Misconduct; or
 - 3) Immediate report any complaints to FCDO and where appropriate, the relevant authorities (including law enforcement)
- shall be a material Default of this Contract and shall entitle FCDO to terminate this Contract with immediate effect.

B12. MODERN SLAVERY

The Contractor:

- (a) shall not use, nor allow its subcontractors to use, forced, bonded or involuntary prison labour;
- (b) shall not require any Contractor employees or the employees of any subcontractors to lodge deposits or identity papers with their employer and shall be free to leave their employer after reasonable notice;
- (c) warrants and represents that it has not been convicted of any slavery or human trafficking offences anywhere around the world;
- (d) warrants that to the best of its knowledge it is not currently under investigation, inquiry or enforcement proceedings in relation to any allegation of slavery or human trafficking offences anywhere around the world;
- (e) shall make reasonable enquiries to ensure that its officers, employees and subcontractors have not been convicted of slavery or human trafficking offences anywhere around the world;
- (f) shall have and maintain throughout the Term its own policies and procedures to ensure its compliance with the Modern Slavery Act 2015 and include in its contracts with its sub-contractors anti-slavery and human trafficking provisions;
- (g) shall implement due diligence procedures to ensure that there is no slavery or human trafficking in any part of its supply chain performing obligations under the Contract;
- (h) shall prepare and deliver to the Authority, an annual slavery and human trafficking report setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its business;
- (i) shall not use, or allow its employees or sub-contractors to use, physical abuse or discipline, the threat of physical abuse, sexual or other harassment and verbal abuse or other forms of intimidation of its employees or sub-contractors;
- (j) shall not use, or allow its sub-contractors to use, child or slave labour;

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- (k) shall report the discovery or suspicion of any slavery, trafficking, forced labour, child labour, involuntary prison labour or labour rights abuses by it or its subcontractors to the Authority and Modern Slavery Helpline and relevant national or local law enforcement agencies;
- (l) If the Contractor is in Default under Conditions (a) to (k) the Authority may by notice:
 - 1. require the Contractor to remove from performance of the Contract any sub-contractor, Contractor employees or other persons associated with it whose acts or omissions have caused the Default; or
 - 2. immediately terminate the Contract
- (m) shall, if the Contractor or the Authority identifies any occurrence of modern slavery connected to this contract, comply with any request of the Authority to follow the Rectification Plan Process to submit a remedial action plan which follows the form set out in Annex D of the Tackling Modern Slavery in Government Supply Chains guidance;
- (n) shall comply with any request by the Authority to complete the Modern Slavery Assessment Tool within sixty (60) days of such request;

C. PAYMENT AND CONTRACT PRICE

C1. CONTRACT PRICE

- C1.1 In consideration of the Contractor's performance of its obligations under the Contract, the Authority shall pay the Contractor in accordance with Appendix J and in accordance with Condition C2 (Payment and VAT)
- C1.2 Where the parties have agreed in the Price Schedule that the Services will be provided on a fixed price basis, then the fixed price shall be paid according to the schedule of payments as detailed in the Price Schedule which may relate to the achievement of specific predefined milestones, dates or acceptance and shall be inclusive of all Contractor costs.
- C1.3 From the date of the contract and every month thereafter, the Contractor shall provide a brief narrative report of activities undertaken under the Project and an assessment of the progress made against project outputs as set out Appendix J. This assessment should provide evidence that the quality and timing criteria have been met.

C2. PAYMENT

- C2.1 The Authority is committed to pay as soon as possible and shall pay all sums due to the Contractor within 30 days of receipt of a valid invoice, submitted monthly in arrears to the invoicing address stipulated by the Authority in the Contract Award Letter.
- C2.2 The Contractor shall ensure that each invoice contains all appropriate references and a detailed breakdown of the Services supplied and that it is supported by any other documentation reasonably required by the Authority to substantiate the invoice.
- C2.3 Where the Contractor enters into a sub-contract with a supplier or contractor for the purpose of performing its obligations under the Contract, it shall ensure that a provision is included in such a subcontract which requires payment to be made of all sums due by the Contractor to the sub-contractor as soon as possible and in any event not exceeding 30 days from the receipt of a valid invoice. The Authority reserves the right to ask for information about payment performance and will provide a facility for sub-contractors to report poor performance to the Authority.
- C2.4 The Contractor shall not suspend the supply of the Services unless the Contractor is entitled to terminate the Contract under Condition H2.3 (Termination on Default) for failure to pay undisputed sums of money. Interest shall be payable by the Authority on the late payment of any undisputed sums of money properly invoiced in accordance with the Late Payment of Commercial Debts (Interest) Act 1998.
- C2.5 If the Authority, acting in good faith, has a dispute in respect of any invoice, the Authority shall be entitled to withhold payment of the disputed amount, provided that it has notified the Contractor of the disputed amount and the nature of the dispute prior to the due date for payment of the invoice, and has paid any undisputed portion of the invoice to the Contractor. The parties will negotiate in good faith to resolve the dispute, and, failing resolution within five working days after receipt by the Contractor of the Authority's notification, the dispute will be referred to dispute resolution in accordance with Condition I2 (Dispute Resolution). In the event of such dispute, the Contractor shall continue to perform all its obligations under this Contract notwithstanding any withholding or reduction in payment by the Authority.

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- C2.6 The Authority may elect to pay for the Services by Government Procurement Card or such other method as the Parties may agree.
- If the Authority elects to pay against an invoice, The Authority shall pay the Contractor within 30 days of receipt of an undisputed invoice by payment direct to the Contractors bank account as a credit transfer.
- C3. RECOVERY OF SUMS DUE
- C3.1 Any sum which is recoverable from or payable by the Contractor may be deducted from or reduced by any sum or sums then due or which may thereafter become due to the Contractor under or in respect of the Contract or any other contract with the Authority or any other government department or the Crown.
- C3.2 Any overpayment by either Party, whether of the Contract Price or of VAT or otherwise, shall be a sum of money recoverable by the Party who made the overpayment from the Party in receipt of the overpayment.
- C3.3 The Contractor shall make all payments due to the Authority without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Contractor has a valid court order requiring an amount equal to such deduction to be paid by the Authority to the Contractor.
- C3.4 All payments due shall be made within a reasonable time unless otherwise specified in the Contract, in cleared funds, to such bank or building society account as the recipient Party may from time to time direct.
- D. STATUTORY OBLIGATIONS AND REGULATIONS
- D1 PREVENTION OF CORRUPTION
- D1.1 The Contractor shall not offer or give, or agree to give, to the Authority or any other public body or any person employed by or on behalf of the Authority or any other public body any gift or consideration of any kind as an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of the Contract or any other contract with the Authority or any other public body, or for showing or refraining from showing favour or disfavour to any person in relation to the Contract or any such contract.
- D1.2 The Contractor warrants that it has not paid commission or agreed to pay commission to the Authority or any other public body or any person employed by or on behalf of the Authority or any other public body in connection with the Contract.
- D1.3 If the Contractor, its Staff or anyone acting on the Contractor's behalf, engages in conduct prohibited by Conditions D1.1 or D1.2 or commits any offence under the Bribery Act 2010, the Authority may:
- (a) terminate the Contract and recover from the Contractor the amount of any loss suffered by the Authority resulting from the termination, including the cost reasonably incurred by the Authority of making other arrangements for the supply of the Services and any additional expenditure incurred by the Authority throughout the remainder of the Contract Period; or
 - (b) recover in full from the Contractor any other loss sustained by the Authority in consequence of any breach of those Conditions.
- D.2 PREVENTION OF FRAUD
- D2.1 The Contractor shall take all reasonable steps, in accordance with Good Industry Practice, to prevent Fraud by Staff and the Contractor (including its shareholders, members, directors) in connection with the receipt of monies from the Authority.
- D2.2 The Contractor shall notify the Authority immediately if it has reason to suspect that any Fraud has occurred or is occurring or is likely to occur.
- D2.3 If the Contractor or its Staff commits Fraud in relation to this or any other contract with the Crown (including the Authority) the Authority may:
- (a) terminate the Contract and recover from the Contractor the amount of any loss suffered by the Authority resulting from the termination, including the cost reasonably incurred by the Authority of making other arrangements for the supply of the Services and any additional expenditure incurred by the Authority throughout the remainder of the Contract Period; or
 - (b) recover in full from the Contractor any other loss sustained by the Authority in consequence of any breach of this Condition.

D.3 DISCRIMINATION

- D3.1 The Contractor shall not unlawfully discriminate either directly or indirectly on protected characteristics such as race, colour, ethnic or national origin, disability, sex or sexual orientation, religion or belief, or age and without prejudice to the generality of the foregoing the Contractor shall not unlawfully discriminate within the meaning and scope of the provisions of all relevant legislation including the Equality Act 2010 or other relevant or equivalent legislation, or any statutory modification or re-enactment thereof.
- D3.2 The Contractor shall adhere to the current relevant codes of practice or recommendations published by the Equality and Human Rights Commission. The Contractor shall take all reasonable steps to secure the observance of these provisions and codes of conduct by all contractors, employees or agents of the Contractor and all suppliers and Sub-contractors employed in the execution of this Contract.
- D3.3 The Contractor will comply with any request by the Authority to assist the Authority in meeting its obligations under the Equality Act 2010 and to allow the Authority to assess the Contractor's compliance with its obligations under the Equality Act 2010.
- D3.4 Where any investigation is concluded or proceedings are brought under the Equality Act 2010 which arise directly or indirectly out of any act or omission of the Contractor, its agents or sub contractors, or Staff, and where there is a finding against the Contractor in such investigation or proceedings, the Contractor will indemnify the Authority with respect to all costs, charges and expenses (including legal and administrative expenses) arising out of or in connection with any such investigation or proceedings and such other financial redress to cover any payment the Authority may have been ordered or required to pay to a third party.
- D3.5 Where in the reasonable opinion of the authority the Contractor has breached its obligations under Condition D3.1 or D3.2 (Discrimination) the Authority may terminate this Contract with immediate effect.

D.4 THE CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

- D4.1 A person who is not a Party to the Contract shall have no right to enforce any of its provisions which, expressly or by implication, confer a benefit on him, without the prior written agreement of both Parties. This Condition does not affect any right or remedy of any person which exists or is available apart from the Contracts (Rights of Third Parties) Act 1999 and does not apply to the Crown.

D.5 ENVIRONMENTAL REQUIREMENTS

- D5.1 The Contractor shall, when working on the Premises, perform its obligations under the Contract in accordance with the Authority's environmental policy, which is to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment.
- D5.2 All written work, including reports, delivered in connection with this Contract shall (unless otherwise specified) be produced on recycled paper containing 100% post consumer waste and used on both sides where appropriate. Paper used for printed publications must contain at least 75% recycled fibre paper in accordance with the UK government's timber procurement policy.
- D5.3 All timber or wood-derived products procured as part of this contract must originate from either legal and sustainable or FLEGT licensed or equivalent sources.
- D5.4 All goods purchased by the Contractor on behalf of the Authority (or which will become the property of the Authority) must comply with the relevant minimum environmental standards specified in the [Government Buying Standards](#) unless otherwise specified or agreed in writing.

D.6 HEALTH AND SAFETY

- D6.1 The Contractor shall promptly notify the Authority of any health and safety hazards which may arise in connection with the performance of its obligations under the Contract. The Authority shall promptly notify the Contractor of any health and safety hazards which may exist or arise at the Premises and which may affect the Contractor in the performance of its obligations under the Contract.
- D6.2 While on the Premises, the Contractor shall comply with any health and safety measures implemented by the Authority in respect of Staff and other persons working there.

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- D6.3 The Contractor shall notify the Authority immediately in the event of any incident occurring in the performance of its obligations under the Contract on the Premises where that incident causes any personal injury or damage to property which could give rise to personal injury.
- D6.4 The Contractor shall comply with the requirements of the Health and Safety at Work etc. Act 1974 and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to Staff and other persons working on the Premises in the performance of its obligations under the Contract.
- D6.5 The Contractor shall ensure that its health and safety policy statement (as required by the Health and Safety at Work etc Act 1974) is made available to the Authority on request.

D.7 THE TRANSFER OF UNDERTAKINGS (PROTECTION OF EMPLOYMENT) REGULATIONS 2006 (TUPE 2006)

- D7.1 The Contractor shall provide the Department, or any other person authorised by the Department who is to be invited to submit a tender in relation to the provision of similar Services, with such information (including any changes to and interpretations thereof) in connection with TUPE as the Department may require. The Contractor shall provide the information within 10 days of the Department's request
- D7.2 During the 8 month period preceding the Expiry Date or any notice period, the Contractor shall not without the prior consent of the Department (which shall be in writing, but shall not be unreasonably withheld or delayed) move or deploy any Key Personnel away from the performance of the Services under this Contract.
- D7.3 Save where the Services comprise the provision of a consultancy service, during the 8 month period preceding the date of expiry set out in condition A2 (initial contract period) or any notice period, the Contractor shall not without the prior consent of the Authority (which shall be in writing, but shall not be unreasonable withheld or delayed):
- (a) materially amend the terms and conditions of employment of any employee whose work, wholly or mainly falls within the scope of this Contract; or
 - (b) materially increase the number of employees whose work (or any part of it) is work undertaken for the purposes of this Contract; or
- D7.4 The Contractor shall not knowingly do, or omit to do, anything which may adversely affect the orderly transfer of responsibility for provision of the Services.

E. PROTECTION OF INFORMATION

E1 DATA PROTECTION

- E1.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Controller and the Contractor is the Processor unless otherwise specified in Appendix G.2 to the Contract (Joint Controller Agreement). The only processing that the Contractor is authorised to do is listed in Appendix G.1 to the Contract (Processing, Personal Data and Data Subjects) by the Customer and may not be determined by the Contractor.
- E1.2 The Contractor shall notify the Customer immediately if it considers that any of the Customer's instructions infringe the Data Protection Legislation.
- E1.3 The Contractor shall provide all reasonable assistance to the Customer in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Customer, include:
- (a) a systematic description of the envisaged processing operations and the purpose of the processing;
 - (b) an assessment of the necessity and proportionality of the processing operations in relation to the Services;
 - (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
 - (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- E1.4 The Processor shall, in relation to any Personal Data processed in connection with its obligations under this Agreement:
- (a) process that Personal Data only in accordance with Appendix G.1 to the Contract (Processing, Personal Data and Data Subjects), unless the Processor is required to do otherwise by Law. If it is so required

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the Contractor shall promptly notify the Controller before processing the Personal Data unless prohibited by Law;

- (b) ensure that it has in place Protective Measures, which are appropriate to protect against a Data Loss Event, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures), having taken account of the:
 - (i) nature of the data to be protected;
 - (ii) harm that might result from a Data Loss Event;
 - (iii) state of technological development; and
 - (iv) cost of implementing any measures;
- (c) ensure that:
 - (i) the Processor Personnel do not process Personal Data except in accordance with this Agreement (and in particular Appendix G.1 to the Contract (Processing, Personal Data and Data Subjects);
 - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
 - (A) are aware of and comply with the Processor's duties under this condition;
 - (B) are subject to appropriate confidentiality undertakings with the Processor or any Sub-processor;
 - (C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Controller or as otherwise permitted by this Agreement; and
 - (D) have undergone adequate training in the use, care, protection and handling of Personal Data; and
- (d) not transfer Personal Data outside of the EU unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
 - (i) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Controller;
 - (ii) the Data Subject has enforceable rights and effective legal remedies;
 - (iii) the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and
 - (iv) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the processing of the Personal Data;
- (e) at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Agreement unless the Processor is required by Law to retain the Personal Data.

E1.5 Subject to Condition E1.6 (Data Protection), the Processor shall notify the Controller immediately if it:

- (a) receives a Data Subject Access Request (or purported Data Subject Access Request);
 - (b) receives a request to rectify, block or erase any Personal Data;
 - (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
 - (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement;
 - (e) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law;
- or
- (f) becomes aware of a Data Loss Event.

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- E1.6 The Processor's obligation to notify under Condition E1.5 (Data Protection) shall include the provision of further information to the Controller in phases, as details become available.
- E1.7 Taking into account the nature of the processing, the Processor shall provide the Controller with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under Condition E1.5 (Data Protection) (and insofar as possible within the timescales reasonably required by the Controller) including by promptly providing:
- (a) the Controller with full details and copies of the complaint, communication or request;
 - (b) such assistance as is reasonably requested by the Controller to enable the Controller to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
 - (c) the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
 - (d) assistance as requested by the Controller following any Data Loss Event;
 - (e) assistance as requested by the Controller with respect to any request from the Information Commissioner's Office, or any consultation by the Controller with the Information Commissioner's Office.
- E1.8 The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this condition. This requirement does not apply where the Processor employs fewer than 250 staff, unless:
- (a) the Controller determines that the processing is not occasional;
 - (b) the Controller determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and
 - (c) the Controller determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- E1.9 The Processor shall allow for audits of its Data Processing activity by the Controller or the Controller's designated auditor.
- E1.10 Each Party shall designate a data protection officer if required by the Data Protection Legislation.
- E1.11 Before allowing any Sub-processor to process any Personal Data related to this Agreement, the Processor must:
- (a) notify the Controller in writing of the intended Sub-processor and processing;
 - (b) obtain the written consent of the Controller;
 - (c) enter into a written agreement with the Sub-processor which give effect to the terms set out in this Condition E1.4 (Data Protection) (such that they apply to the Sub-processor; and
 - (d) provide the Controller with such information regarding the Sub-processor as the Controller may reasonably require.
- E1.12 The Processor shall remain fully liable for all acts or omissions of any Sub-processor.
- E1.13 The Controller may, at any time on not less than 30 Working Days' notice, revise this condition by replacing it with any applicable controller to processor standard conditions or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement).
- E1.14 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Customer may on not less than 30 Working Days' notice to the Contractor amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.
- E1.15 Where the Parties include two or more Joint Controllers as identified in Appendix G.1 to the Contract (Processing, Personal Data and Data Subjects) in accordance with GDPR Article 26, those Parties shall enter into a Joint Controller Agreement based on the terms outlined in Appendix G.2 to the Contract (Joint Controller Agreement) in replacement of Conditions 1.1-1.14 for the Personal Data under Joint Control.
- E2 OFFICIAL SECRETS ACTS 1911, 1989, S182 OF THE FINANCE ACT 1989
- E2.1 The Contractor shall comply with, and shall ensure that its Staff comply with, the provisions of:
- (a) the Official Secrets Acts 1911 to 1989; and
 - (b) Section 182 of the Finance Act 1989.

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- E2.2 In the event that the Contractor or its Staff fail to comply with this Condition, the Authority reserves the right to terminate the Contract by giving notice in writing to the Contractor.
- E3 CONFIDENTIALITY
- E3.1 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Contract is not Confidential Information. The Authority shall be responsible for determining in its absolute discretion whether any of the content of the Contract is exempt from disclosure in accordance with the provisions of the FOIA. Notwithstanding any other term of this Contract, the Contractor gives consent to the Authority to publish the Contract in its entirety, (but with any information which is exempt from disclosure in accordance with the provisions of the FOIA redacted) including from time to time agreed changes to the Contract, to the general public.
- E3.2 The Authority may consult with the Contractor to inform its decision regarding any exemptions to FOIA but the Authority shall have the final decision in its absolute discretion.
- E3.3 The Contractor shall assist and cooperate with the Authority to enable the Authority to publish this Agreement.
- E3.4 Condition E3.2 (Confidentiality) shall not apply to the extent that:
- E3.4.1 Such disclosure is a requirement of Law placed upon the party making the disclosure, including any requirements for disclosure under the FOIA, Code of Practice on Access to Government Information or the EIR, save that the Contractor shall not disclose any information relating to the Contract or the Authority's activities without the prior written consent of the Authority, which shall not be unreasonably withheld.
- E3.4.2 Such information was in the possession of the party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;
- E3.4.3 Such information was obtained from a third party without obligation of confidentiality;
- E3.4.4 Such information was already in the public domain at the time of disclosure otherwise than by a breach of this Contract; or
- E3.4.5 It is independently developed without access to the other party's Confidential Information.
- E3.5 The Contractor may only disclose the Authority's Confidential Information to the persons it has employed or engaged who are directly involved in the provision of the Services and who need to know the information, and shall ensure that such persons are aware of and shall comply with these obligations as to confidentiality.
- E3.6 The Contractor shall not, and shall procure that the persons it has employed or engaged do not, use any of the Authority's Confidential Information received otherwise than for the purposes of this Contract.
- E3.7 At the written request of the Authority, the Contractor shall procure that those persons it has employed or engaged identified in the Authority's notice sign a confidentiality undertaking prior to commencing any work in accordance with this Contract.
- E3.8 Nothing in this Contract shall prevent the Authority from disclosing the Contractor's Confidential Information:
- E3.8.1 To any Crown Body or Overseas Governments. All Crown Bodies receiving such Confidential Information shall be entitled to further disclose the Confidential Information to other Crown Bodies on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any Crown Body;
- E3.8.2 To any consultant, contractor or other person engaged by the Authority or any person conducting a Gateway or other assurance review;
- E3.8.3 For the purpose of the examination and certification of the Authority's accounts; or
- E3.8.4 For any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources.
- E3.9 The Authority shall use all reasonable endeavours to ensure that any Crown Body, employee, third party or sub-contractor to whom the Contractor's Confidential Information is disclosed pursuant to Condition E3.8 (Confidentiality) is made aware of the Authority's obligations of confidentiality.
- E3.10 Nothing in this Condition E3 (Confidentiality) shall prevent either party from using any techniques, ideas or know-how gained during the performance of this Contract in the course of its normal business to the extent that this use does not result in a disclosure of the other party's Confidential Information or an infringement of Intellectual Property Rights.
- E3.11 In the event that the Contractor fails to comply with this Condition E3 (Confidentiality), the Authority reserves the right to terminate the Contract by notice in writing with immediate effect.

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- E3.12 The provisions under this Condition E3 (Confidentiality) are without prejudice to the application of the Official Secrets Acts 1911 to 1989 to any Confidential Information.
- E5 PUBLICITY, MEDIA AND OFFICIAL ENQUIRIES**
- E5.1 Without prejudice to the Authority's obligations under the FOIA, the Contractor shall not make any press announcement or publicise the Contract or any part thereof in any way, except with the prior written consent of the Authority.
- E5.2 Both Parties shall take reasonable steps to ensure that their servants, employees, agents, sub-contractors, suppliers, professional advisors and consultants comply with Condition E5.1.
- E8 AUDIT**
- E8.1 The Contractor shall keep secure and maintain until six years after the final payment of all sums due under the Contract, or such other period as may be agreed between the Parties, full and accurate records of the Services, all expenditure reimbursed by the Authority and all payments made by the Authority.
- E8.2 The Contractor shall grant to the Authority, or its authorised agents, such access to those records as they may reasonably require in order to check the Contractor's compliance with the Contract.
- E8.3 For the purposes of the examination and certification of the Authority's accounts, or any examination under section 6(1) of the National Audit Act 1983 or annual re-enactment thereof as to the economy, efficiency and effectiveness with which the Authority has used its resources, the Comptroller and Auditor General may examine such documents as he may reasonably require which are owned, held or otherwise within the control of the Contractor and may require the Contractor to provide such oral or written explanations as he may reasonably require for those purposes. The Contractor shall give all reasonable assistance to the Comptroller and Auditor General for those purposes.
- E8.4 Condition E8.3 (Right of Audit) applies only in respect of documents relating to the Contract and only for the purpose of the auditing of the Authority. It does not constitute an agreement under section 6(3)(d) of the National Audit Act 1983 such as to make the Contractor the subject of auditing under that Act.
- E8.5 Except where an audit is imposed on the Authority by a Regulatory Body (in which case the Authority may carry out the audit required without prejudice to its other rights) the Authority may conduct an audit:
- a) to review the integrity, confidentiality and security of the Authority Data;
 - b) to review the Contractor's compliance with the Data Protection Act 1998, the Freedom of Information Act 2000 in accordance with Condition E1 (Data Protection Act) and Condition E4 (Freedom of Information Act) and any other legislation applicable to the Services.
- E8.6 Subject to the Authority's obligations of confidentiality, the Contractor shall on demand provide the Authority (and/or its agents or representatives) with all reasonable co-operation and assistance in relation to each audit, including:
- a) all information requested by the Authority within the permitted scope of the audit;
 - b) reasonable access to any Sites controlled by the Contractor and to any equipment used (whether exclusively or non-exclusively) in the performance of the Services;
 - c) access to the Contractor's system; and
 - d) access to the Contractor's Staff.
- E11 TRANSPARENCY**
- E11.1 The parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Contract is not Confidential Information. The Authority shall be responsible for determining in its absolute discretion whether any of the content of the Contract is exempt from disclosure in accordance with the provisions of the FOIA.
- E11.2 Notwithstanding any other term of this Contract, the Contractor hereby gives his consent for the Authority to publish the Contract in its entirety, including from time to time agreed changes to the Agreement, to the general public.
- E11.3 The Authority may consult with the Contractor to inform its decision regarding any redactions but the Authority shall have the final decision in its absolute discretion.

E11.4 The Contractor shall assist and cooperate with the Authority to enable the Authority to publish this Contract.

F. CONTROL OF THE CONTRACT

F1 TRANSFER AND SUB-CONTRACTING

F1.1 Except where F1.4 and 5 applies, the Contractor shall not assign, sub-contract or in any other way dispose of the Contract or any part of it without prior Approval. Sub-contracting any part of the Contract shall not relieve the Contractor of any of its obligations or duties under the Contract.

F1.2 The Contractor shall be responsible for the acts and omissions of its sub-contractors as though they are its own.

F1.3 Where the Authority has consented to the placing of sub-contracts, copies of each sub-contract shall, at the request of the Authority, be sent by the Contractor to the Authority as soon as reasonably practicable.

F1.4 Notwithstanding Condition F1.1, the Contractor may assign to a third party ("**the Assignee**") the right to receive payment of the Contract Price or any part thereof due to the Contractor under this Contract (including any interest which the Authority incurs under Condition C2.6). Any assignment under this Condition F1.4 shall be subject to:

- (a) reduction of any sums in respect of which the Authority exercises its right of recovery under Condition C3 (Recovery of Sums Due);
- (b) all related rights of the Authority under the contract in relation to the recovery of sums due but unpaid; and
- (c) the Authority receiving notification under both Conditions F1.5 and F1.6.

F1.5 In the event that the Contractor assigns the right to receive the Contract Price under Condition F1.4, the Contractor or the Assignee shall notify the Authority in writing of the assignment and the date upon which the assignment becomes effective.

F1.6 The Contractor shall ensure that the Assignee notifies the Authority of the Assignee's contact information and bank account details to which the Authority shall make payment.

F1.7 The provisions of Condition C2 (Payment and VAT) shall continue to apply in all other respects after the assignment and shall not be amended without the approval of the Authority.

F1.8 Subject to Condition F1.10, the Authority may assign novate or otherwise dispose of its rights and obligations under the Contract or any part thereof to:

- (a) any Contracting Authority; or
- (b) any other body established by the Crown or under statute in order substantially to perform any of the functions that had previously been performed by the Authority; or
- (c) any private sector body which substantially performs the functions of the Authority, provided that any such assignment, novation or other disposal shall not increase the burden of the Contractor's obligations under the Contract.

F1.9 Any change in the legal status of the Authority such that it ceases to be a Contracting Authority shall not, subject to Condition F1.8, affect the validity of the Contract. In such circumstances, the Contract shall bind and inure to the benefit of any successor body to the Authority.

F1.10 If the rights and obligations under the Contract are assigned, novated or otherwise disposed of pursuant to Condition F1.6 to a body which is not a Contracting Authority or if there is a change in the legal status of the Authority such that it ceases to be a Contracting Authority (in the remainder of this Condition both such bodies being referred to as the "**Transferee**"):

- (a) the rights of termination of the Authority in Conditions H1 (Termination on change of control and insolvency) and H2 (Termination on Default) shall be available to the Contractor in the event of respectively, the bankruptcy or insolvency, or Default of the Transferee; and
- (b) the Transferee shall only be able to assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof with the prior consent in writing of the Contractor.

F1.11 The Authority may disclose to any Transferee any Confidential Information of the Contractor which relates to the performance of the Contractor's obligations under the Contract. In such circumstances the Authority shall authorise the Transferee to use such Confidential Information only for purposes relating to the performance of the Contractor's obligations under the Contract and for no other purpose and shall take all reasonable steps to ensure that the Transferee gives a confidentiality undertaking in relation to such Confidential Information.

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F1.12 Each Party shall at its own cost and expense carry out, or use all reasonable endeavours to ensure the carrying out of, whatever further actions (including the execution of further documents) the other Party reasonably requires from time to time for the purpose of giving that other party the full benefit of the provisions of the Contract.

F2 WAIVER

F2.1 The failure of either Party to insist upon strict performance of any provision of the Contract, or the failure of either Party to exercise, or any delay in exercising, any right or remedy shall not constitute a waiver of that right or remedy and shall not cause a diminution of the obligations established by the Contract.

F2.2 No waiver shall be effective unless it is expressly stated to be a waiver and communicated to the other Party in writing in accordance with Condition A5 (Notices).

F2.3 A waiver of any right or remedy arising from a breach of the Contract shall not constitute a waiver of any right or remedy arising from any other or subsequent breach of the Contract.

F3 VARIATION

F3.1 Subject to the provisions of this Condition F3, the Authority may request a variation to the Specification provided that such variation does not amount to a material change to the Specification. Such a change is hereinafter called a "Variation".

F3.2 The Authority may request a Variation by notifying the Contractor in writing of the "Variation" and giving the Contractor sufficient information to assess the extent of the Variation and consider whether any change to the Contract Price is required in order to implement the Variation. The Authority shall specify a time limit within which the Contractor shall respond to the request for a Variation. Such time limits shall be reasonable having regard to the nature of the Variation. If the Contractor agrees with the proposed Variation it shall confirm the same in writing.

F3.3 In the event that the Contractor is unable to accept the Variation to the Specification or where the Parties are unable to agree a change to the Contract Price, the Authority may;

- (a) allow the Contractor to fulfil its obligations under the Contract without the variation to the Specification; or
- (b) terminate the Contract with immediate effect, except where the Contractor has already delivered all or part of the Services or where the Contractor can show evidence of substantial work being carried out to fulfil the requirements of the Specification; and in such case the Parties shall attempt to agree upon a resolution to the matter. Where a resolution cannot be reached, the matter shall be dealt with under the Dispute Resolution procedure detailed at Condition I2.

F4 SEVERABILITY

F4.1 If any provision of the Contract is held 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 the Contract shall continue in full force and effect as if the Contract had been executed with the invalid, illegal or unenforceable provision eliminated.

F5 REMEDIES IN THE EVENT OF INADEQUATE PERFORMANCE

F5.1 If the Contractor does not deliver Goods on time the Authority may terminate the Contract and claim losses from the Contractor.

F5.2 If at the acceptance trial the Contractor delivers faulty Goods to the Authority, the Authority will immediately:

- (a) notify the Contractor of the defect in such Goods and
- (b) request the Contractor to replace, repair or reinstate the Goods within such time period as is reasonable in the circumstances (no less than 24 hours)
- (c) Carry out another acceptance trial in the presence of the Authority's representative
- (d) Any significant defect discovered by the Authority after the acceptance trial will be repairable by the Contractor in accordance with its standard 'return to base' warranty valid for 12 months

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- (e) The Contractor will pass manufacturers' warranties to the Authority in respect of mechanical, electrical, and/or electronic components.

F5.3 Where the Contractor fails to comply with a request made under Condition F5.2(b) above, the Authority shall be entitled to a full refund and may cancel any further deliveries due at the Contractor's expense.

F6 REMEDIES CUMULATIVE

F6.1 Except as otherwise expressly provided by the Contract, all remedies available to either Party for breach of the Contract are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

F.11 FINANCIAL DISTRESS – NOT USED

G. LIABILITIES

G1 LIABILITY, INDEMNITY AND INSURANCE

G1.1 Neither Party excludes or limits liability to the other Party for:

- (a) Death or personal injury caused by its negligence; or
- (b) Fraud; or
- (c) Fraudulent misrepresentation; or
- (d) Any breach of any obligations implied by Section 2 of the Supply of Goods and Services Act 1982.
- (e) breach of Condition E3 (Confidentiality); or
- (f) breach of Condition E7 (Intellectual Property Rights); or
- (g) breach of Condition E1 (Data Protection Act); or
- (h) breach of Condition E4 (Freedom of Information)

G1.2 Subject to clauses G1.3 and G1.4, the Contractor shall indemnify the Authority and keep the Authority indemnified fully against all claims, proceedings, actions, damages, costs, expenses and any other liabilities which may arise out of, or in consequence of, the supply, or the late or purported supply, of the Services or the performance or non-performance by the Contractor of its obligations under the Contract or the presence of the Contractor or any Staff on the Premises, including in respect of any death or personal injury, loss of or damage to property, financial loss arising from any advice given or omitted to be given by the Contractor, or any other loss which is caused directly or indirectly by any act or omission of the Contractor.

G1.3 The Contractor shall not be responsible for any injury, loss, damage, cost or expense if and to the extent that it is caused by the negligence or wilful misconduct of the Authority or by breach by the Authority of its obligations under the Contract.

G1.4 Subject always to clause G1.1, the liability of either Party for Defaults shall be subject to the following financial limits:

- (a) the annual aggregate liability of either Party for Default resulting in direct loss of or damage to the property of the other under or in connection with the Contract shall in no event exceed five million pounds (£5,000,000) or twice the contract value (whichever is higher) unless otherwise agreed; and
- (b) the annual aggregate liability under the Contract of either Party for Default (other than a Default governed by clauses E7.3 (Intellectual Property Rights) or G1.4(a)) shall in no event exceed five Million pounds (£5,000,000) or twice the contract value (whichever is higher) unless otherwise agreed.

G1.5 Subject always to clause G1.1, in no event shall either Party be liable to the other for any:

- (a) loss of profits, business, revenue or goodwill; and/or
- (b) loss of savings (whether anticipated or otherwise); and/or
- (c) indirect or consequential loss or damage.

G1.6 The Contractor shall not exclude liability for additional operational, administrative costs and/or expenses or wasted expenditure resulting from the direct Default of the Contractor.

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- G1.7 The Contractor shall effect and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover in respect of all risks which may be incurred by the Contractor, arising out of the Contractor's performance of its obligations under the Contract, including death or personal injury, loss of or damage to property or any other loss. Such policies shall include cover in respect of any financial loss arising from any advice given or omitted to be given by the Contractor. Such insurance shall be maintained for the duration of the Contract Period [and for a minimum of 6 (six) years following the expiration or earlier termination of the Contract].
- G1.8 The Contractor shall hold employer's liability insurance and public liability insurance in respect of Staff in accordance with any legal requirement from time to time in force.
- G1.9 The Contractor shall give the Authority, on request, copies of all insurance policies referred to in this clause or a broker's verification of insurance to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.
- G1.10 If, for whatever reason, the Contractor fails to give effect to and maintain the insurances required by the provisions of the Contract the Authority may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Contractor.
- G1.11 The provisions of any insurance or the amount of cover shall not relieve the Contractor of any liabilities under the Contract. It shall be the responsibility of the Contractor to determine the amount of insurance cover that will be adequate to enable the Contractor to satisfy any liability referred to in clause G1.2.

G2 PROFESSIONAL INDEMNITY – NOT USED

G3 WARRANTIES AND REPRESENTATIONS

G3.1 The Contractor warrants and represents that:

- (a) it has full capacity and authority and all necessary consents (including where its procedures so require, the consent of its parent company) to enter into and perform its obligations under the Contract and that the Contract is executed by a duly authorised representative of the Contractor;
- (b) in entering the Contract it has not committed any Fraud;
- (c) as at the Commencement Date, all information contained in the Tender remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Authority prior to execution of the Contract; The Contractor warrants that the Services which it provides under the Contract correspond to the Authority's requirements and is consistent with the standards that are referred to in Condition 3.1 and any other standards which may be implied by statute or common law that apply to this Contract may not be excluded.
- (d) no claim is being asserted and no litigation, arbitration or administrative proceeding is presently in progress or, to the best of its knowledge and belief, pending or threatened against it or any of its assets which will or might have a material adverse effect on its ability to perform its obligations under the Contract;
- (e) it is not subject to any contractual obligation, compliance with which is likely to have a material adverse effect on its ability to perform its obligations under the Contract;
- (f) no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Contractor or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Contractor's assets or revenue;
- (g) it owns, has obtained or is able to obtain, valid licences for all Intellectual Property Rights that are necessary for the performance of its obligations under the Contract;
- (h) it has and will continue to hold all necessary (if any) regulatory approvals from the Regulatory Bodies necessary to perform the Contractor's obligations under this Contract;
- (i) in the three 3 years prior to the date of the Contract:
 - (i) it has conducted all financial accounting and reporting activities in compliance in all material respects with the generally accepted accounting principles that apply to it in any country where it files accounts;
 - (ii) it has been in full compliance with all applicable securities and tax laws and regulations in the jurisdiction in which it is established; and

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- (iii) it has not done or omitted to do anything which could have a material adverse effect on its assets, financial condition or position as an ongoing business concern or its ability to fulfil its obligations under the Contract.

H. DEFAULT, DISRUPTION AND TERMINATION

H1 TERMINATION ON INSOLVENCY AND CHANGE OF CONTROL

H1.1 The Authority may terminate the Contract with immediate effect by notice in writing where the Contractor is a company and in respect of the Contractor:

- (a) a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignment for the benefit of, its creditors; or
- (b) a shareholders' meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding-up is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation); or
- (c) a petition is presented for its winding up (which is not dismissed within 14 days of its service) or an application is made for the appointment of a provisional liquidator or a creditors' meeting is convened pursuant to section 98 of the Insolvency Act 1986; or
- (d) a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets; or
- (e) an application order is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given; or
- (f) it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986; or
- (g) being a "small company" within the meaning of section 247(3) of the Companies Act 1985, a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or
- (h) any event similar to those listed in H1.1(a)-(g) occurs under the law of any other jurisdiction.
- (i) an application for an interim order is made pursuant to sections 252-253 of the Insolvency Act 1986 or a proposal is made for any composition scheme or arrangement with, or

H1.2 The Authority may terminate the Contract with immediate effect by notice in writing where the Contractor is an individual and:

- (a) an application for an interim order is made pursuant to sections 252-253 of the Insolvency Act 1986 or a proposal is made for any composition scheme or arrangement with, or assignment for the benefit of, the Contractor's creditors; or
- (b) a petition is presented and not dismissed within 14 days or order made for the Contractor's bankruptcy; or
- (c) a receiver, or similar officer is appointed over the whole or any part of the Contractor's assets or a person becomes entitled to appoint a receiver, or similar officer over the whole or any part of his assets; or
- (d) the Contractor is unable to pay his debts or has no reasonable prospect of doing so, in either case within the meaning of section 268 of the Insolvency Act 1986; or
- (e) a creditor or encumbrancer 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 Contractor's assets and such attachment or process is not discharged within 14 days; or
- (f) he dies or is adjudged incapable of managing his affairs within the meaning of Part VII of the Mental Capacity Act 2005; or
- (g) he suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of his business.

H1.3 The Contractor shall seek the prior Approval of the Authority to any change of control within the meaning of section 416 of the Income and Corporation Taxes Act 1988 ("**change of control**"). Where an Approval has not been granted prior to the change of control the Authority may terminate the Contract by notice in writing with immediate effect within six months of:

- (a) being notified that a change of control has occurred; or

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- (b) where no notification has been made, the date that the Authority becomes aware of the change of control.

H2 TERMINATION ON DEFAULT

- H2.1 The Authority may terminate the Contract by written notice to the Contractor with immediate effect if the Contractor commits a Default and if:
 - (a) the Contractor has not remedied the Default to the satisfaction of the Authority within 25 Working Days, or such other period as may be specified by the Authority, after issue of a written notice specifying the Default and requesting it to be remedied; or
 - (b) the Default is not, in the opinion of the Authority, capable of remedy; or
 - (c) the Default is a material breach of the Contract.
- H2.2 In the event that through any Default of the Contractor, data transmitted or processed in connection with the Contract is either lost or sufficiently degraded as to be unusable, the Contractor shall be liable for the cost of reconstitution of that data and shall reimburse the Authority in respect of any charge levied for its transmission and any other costs charged in connection with such Default.
- H2.3 If the Authority fails to pay the Contractor undisputed sums of money when due, the Contractor shall notify the Authority in writing of such failure to pay. If the Authority fails to pay such undisputed sums within 90 Working Days of the date of such written notice, the Contractor may terminate the Contract in writing with immediate effect, save that such right of termination shall not apply where the failure to pay is due to the Authority exercising its rights under clause C3.1 (Recovery of Sums Due).
- H2.4 The Authority reserves the right to terminate the Contract should the Contractor be found to be in breach of any aspect of the law that would, in the opinion of the Authority, bring the Authority into disrepute, including but not limited to, relevant aspects shown in Regulation 57 of Public Contract Regulations 2015 (as amended) relating to rejection criteria.

H3 BREAK

- H3.1 The Authority shall have the right to terminate the Contract at any time by giving 2 Months' written notice to the Contractor.

H4 CONSEQUENCES OF EXPIRY OR TERMINATION

- H4.1 Where the Authority terminates the Contract under clause H2 (Termination on Default) and then makes other arrangements for the supply of Services, the Authority may recover from the Contractor the cost reasonably incurred of making those other arrangements and any additional expenditure incurred by the Authority throughout the remainder of the Contract Period. The Authority shall take all reasonable steps to mitigate such additional expenditure. Where the Contract is terminated under clause H2 (Termination on Default), no further payments shall be payable by the Authority to the Contractor (for Services supplied by the Contractor prior to termination and in accordance with the Contract but where the payment has yet to be made by the Authority), until the Authority has established the final cost of making the other arrangements envisaged under this clause.
- H4.2 Subject to clause G1, where the Authority terminates the Contract under clause H3 (Break), the Authority shall indemnify the Contractor against any commitments, liabilities or expenditure which represent an unavoidable direct loss to the Contractor by reason of the termination of the Contract, provided that the Contractor takes all reasonable steps to mitigate such loss. Where the Contractor holds insurance, the Authority shall only indemnify the Contractor for those unavoidable direct costs that are not covered by the insurance available. The Contractor shall submit a fully itemised and costed list of unavoidable direct loss which it is seeking to recover from the Authority, with supporting evidence, of losses reasonably and actually incurred by the Contractor as a result of termination under clause H3 (Break).
- H4.3 The Authority shall not be liable under clause H4.2 to pay any sum which:
 - (a) was claimable under insurance held by the Contractor, and the Contractor has failed to make a claim on its insurance, or has failed to make a claim in accordance with the procedural requirements of the insurance policy;
 - (b) when added to any sums paid or due to the Contractor under the Contract, exceeds the total sum that would have been payable to the Contractor if the Contract had not been terminated prior to the expiry of the Contract Period; or

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- (c) is a claim by the Contractor for loss of profit, due to early termination of the Contract.

H4.4 Save as otherwise expressly provided in the Contract:

- (a) termination or expiry of the Contract shall be without prejudice to any rights, remedies or obligations accrued under the Contract prior to termination or expiration and nothing in the Contract shall prejudice the right of either Party to recover any amount outstanding at such termination or expiry; and
- (b) termination of the Contract shall not affect the continuing rights, remedies or obligations of the Authority or the Contractor under clauses C2 (Payment and VAT), C3 (Recovery of Sums Due), D1 (Prevention of Corruption), E1 (Data Protection Act), E2 (Official Secrets Acts 1911 to 1989, Section 182 of the Finance Act 1989), E3 (Confidential Information), E4 (Freedom of Information), E7 (Intellectual Property Rights), E8 (Audit), F6 Remedies Cumulative), G1 (Liability, Indemnity and Insurance), G2 (Professional Indemnity), H4 (Consequences of Termination), H6 (Recovery upon Expiry or Termination) and I1 (Governing Law and Jurisdiction).

H5 DISRUPTION

- H5.1 The Contractor shall take reasonable care to ensure that in the performance of its obligations under the Contract it does not disrupt the operations of the Authority, its employees or any other contractor employed by the Authority.
- H5.2 The Contractor shall immediately inform the Authority of any actual or potential industrial action, whether such action be by their own employees or others, which affects or might affect its ability at any time to perform its obligations under the Contract.
- H5.3 In the event of industrial action by the Staff, the Contractor shall seek Approval to its proposals to continue to perform its obligations under the Contract.
- H5.4 If the Contractor's proposals referred to in Condition H5.3 are considered insufficient or unacceptable by the Authority acting reasonably, then the Contract may be terminated with immediate effect by the Authority by notice in writing.
- H5.5 If the Contractor is temporarily unable to fulfil the requirements of the Contract owing to disruption of normal business of the Authority, the Contractor may request a reasonable allowance of time and in addition, the Authority will reimburse any additional expense reasonably incurred by the Contractor as a direct result of such disruption.

H6 RECOVERY UPON TERMINATION

H6.1 On the termination of the Contract for any reason, the Contractor shall:

- (a) immediately return to the Authority all Confidential Information, Personal Data and IP Materials in its possession or in the possession or under the control of any permitted suppliers or sub-contractors, which was obtained or produced in the course of providing the Services;
- (b) immediately deliver to the Authority all Property (including materials, documents, information and access keys) provided to the Contractor under clause B8. Such property shall be handed back in good working order (allowance shall be made for reasonable wear and tear);
- (c) assist and co-operate with the Authority to ensure an orderly transition of the provision of the Services to the Replacement Contractor and/or the completion of any work in progress.
- (d) promptly provide all information concerning the provision of the Services which may reasonably be requested by the Authority for the purposes of adequately understanding the manner in which the Services have been provided or for the purpose of allowing the Authority or the Replacement Contractor to conduct due diligence.

- H6.2 If the Contractor fails to comply with clause H6.1 (a) and (b), the Authority may recover possession thereof and the Contractor grants a licence to the Authority or its appointed agents to enter (for the purposes of such recovery) any premises of the Contractor or its permitted suppliers or sub-contractors where any such items may be held.

- H6.3 Where the end of the Contract Period arises due to the Contractor's Default, the Contractor shall provide all assistance under clause H6(c) and (d) free of charge. Otherwise, the Authority shall pay the Contractor's reasonable costs of providing the assistance and the Contractor shall take all reasonable steps to mitigate such costs.

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H7 FORCE MAJEURE

- H7.1 For the purposes of this Contract the expression “**Force Majeure**” shall mean any cause outside the reasonable control of either Party affecting its performance of its obligations under this Agreement arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control and which are not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party, including acts of God, riots, war or armed conflict, acts of terrorism, acts of government, local government or regulatory bodies, fire, flood, storm or earthquake, or disaster but excluding any industrial dispute relating to the Contractor or the Contractor Personnel or any other failure in the Contractor’s or a Sub-contractor’s supply chain;
- H7.2 Neither Party shall be liable to the other Party for any delay in performing, or failure to perform, its obligations under the Contract (other than a payment of money) to the extent that such delay or failure is a result of Force Majeure. Notwithstanding the foregoing, each Party shall use all reasonable endeavours to continue to perform its obligations under the Contract for the duration of such Force Majeure. However, if such Force Majeure prevents either Party from performing its material obligations under the Contract for a period in excess of 6 Months, either Party may terminate the Contract with immediate effect by notice in writing.
- H7.3 Any failure or delay by the Contractor in performing its obligations under the Contract which results from any failure or delay by an agent, sub-contractor or Contractor shall be regarded as due to Force Majeure only if that agent, sub-contractor or supplier is itself impeded by Force Majeure from complying with an obligation to the Contractor.
- H7.4 If either Party becomes aware of Force Majeure which gives rise to, or is likely to give rise to, any failure or delay on its part as described in Condition H7.1 it shall immediately notify the other by the most expeditious method then available and shall inform the other of the period for which it is estimated that such failure or delay shall continue.

H8 EXIT MANAGEMENT – NOT USED

I. DISPUTES AND LAW

I1 GOVERNING LAW AND JURISDICTION

- I1.1 Subject to the provisions of Condition I2, this Contract will be governed by and construed in accordance with English law and the Contractor hereby irrevocably submits to the jurisdiction of the English courts. The submission to such jurisdiction will not (and will not be construed so as to) limit the right of the Authority to take proceedings against the Contractor in any other court of competent jurisdiction, nor will the taking of proceedings by the Authority in any one or more jurisdictions preclude the taking of proceedings by the Authority in any other jurisdiction, whether concurrently or not.

I2 DISPUTE RESOLUTION

- I2.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Contract by use of the following escalation procedure:

	<u>Authority</u>	<u>Contractor</u>
Level 1	██████████	██████████
Level 2	██████████	██████████

- I2.2 If the dispute cannot be resolved by the Parties pursuant to Condition I2.1 (Dispute Resolution), the dispute may, by agreement between the Parties, be referred to mediation pursuant to Condition I2.4 (Dispute Resolution).
- I2.3 The performance of the Services shall not cease or be delayed by the reference of a dispute to mediation pursuant to Condition I2.2 (Dispute Resolution).
- I2.4 The procedure for mediation and consequential provisions relating to mediation are as follows:
- a) If the dispute or difference is not resolved pursuant to the escalation procedure set out above, either Party may (within fourteen (14) days of the last meeting pursuant to the escalation procedure), before

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resorting to litigation, propose to the other in writing that the dispute be settled by mediation in accordance with the Centre for Effective Dispute Resolution ("CEDR") Model Mediation Procedure (the "Model Procedure").

- b) To initiate mediation, a Party must give notice in writing (an "ADR Notice") to the other Party requesting mediation in accordance with the Model Procedure. A copy of the ADR Notice should be sent to CEDR.
- c) If there is any point on the conduct of the mediation (including as to the nomination of the mediator) upon which the Parties cannot agree within fourteen (14) days from the date of the ADR Notice, CEDR will, at the request of any Party, decide that point for the Parties, having consulted with them.
- d) Mediation will commence no later than twenty-eight (28) days after the date of the ADR Notice.

K CATEGORY SPECIFIC CONDITIONS

K4 TITLE AND RISK

K4.1 The title and risk in any Goods shall pass to the Authority upon acceptance by the Authority, in accordance with Condition K5.

K5 ACCEPTANCE

K5.1 The Authority shall not be deemed to have accepted the goods until one of its officers has been afforded a reasonable opportunity to examine them.

APPENDICES

Appendix A – VARIATION TO CONTRACT FORM

See Condition [F3]

[To be completed according to specific contract and where relevant]

CONTRACT NUMBER: [insert].

CONTRACT TITLE: [insert]

VARIATION NUMBER: [insert]

BETWEEN The Secretary of State for Foreign and Commonwealth Affairs (hereinafter called 'the Authority' and [INSERT CONTRACTOR NAME] (hereinafter called the Contractor')

1. The Contract is varied as follows:

In consideration of [insert] the Parties agree to [insert]

2. Words and expressions in this Variation shall have the meanings given to them in the Contract.

3. The Contract, including any previous Variations, shall remain effective and unaltered except as amended by this Variation.

SIGNED by the Parties in duplicate:

For the Authority

By:

For the Contractor

By:

Full Name:

Title:

Date:

Full Name:

Title:

Date:

SIGNED by the Parties in duplicate

Appendix B – CONFIDENTIALITY UNDERTAKING – NOT USED

See Condition [E3.5]

Appendix C – KEY STAFF – NOT USED

Appendix D – COMMERCIALLY SENSITIVE INFORMATION

See Condition [E4.7]

Note: following condition extracted from 1.1

Note suitability of this Clause - "Commercially Sensitive Information" means the subset of Confidential Information listed in Appendix D comprised of information:

- (a) which is provided by the Contractor to the Authority in confidence for the period set out in that schedule; and/or
- (b) that constitutes a trade secret.

To insert

1. Design
2. Specification
3. Contract Price
- 4.
- 5.
- 6.

Appendix E – CODE OF CONDUCT FOR PSCs AND PSSPs – NOT USED

Appendix F – DELIVERABLES (Specification)

From the Contracting Authority:-

Foreign, Commonwealth & Development Office (FCDO)

To Contractor:-

Berthon RIB Solutions Ltd

On:-

Requirement:-

Rib Model WR880 TTop

Rib Model WR1060

See Appendix I for the detailed specification.

Special Terms:

50% of the Price is payable on the date of order by way of deposit

50% of the Price is payable on satisfactory acceptance of the vessel by the Authority; on receipt of funds by the Contractor, title of the vessel will transfer from the Contractor to the Authority

Appendix G – SCHEDULE OF PROCESSING, PERSONAL DATA AND DATA SUBJECTS – NOT USED

Appendix H – SUPPLIER CODE OF CONDUCT – NOT USED

QUOTATION

[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Date	

Item	Description
[REDACTED]	[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED]	[REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED]	[REDACTED] [REDACTED]
[REDACTED]	[REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED]	[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED]	[REDACTED] [REDACTED] [REDACTED] [REDACTED]

Item	Description
[REDACTED]	[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED]	[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED]	[REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED]	[REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED]	[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED]	[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED]	[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
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Date	19 th December 2024
Reference	BRS- FCDOMON1060CABIN
Build No.	TBC

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Appendix J – PRICE SCHEDULE

Milestone payment

Milestone ref	Milestone Description	Acceptance Criteria	Total Value (ex VAT)	Date
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