



**Southwest Police Procurement Department**  
**Regional Collaboration Programme**

(1) **POLICE AND CRIME COMMISSIONER FOR [ ]**  
**-and-**

(2) **[NAME OF CONTRACTOR ]**

## **CONTRACT**

**for the purchase of Services**

**[ENTER TITLE OF THE CONTRACT]**

**[ENTER CONTRACT REFERENCE]**

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**THIS CONTRACT** is dated [ENTER THE DATE ONLY AFTER BOTH THE AUTHORITY AND CONTRACTOR HAVE SIGNED]

**BETWEEN:**

- (1) The Police and Crime Commissioner for [ ] who registered office is situated at [ ] (the “**Authority**” which expression shall include its successors and assignees); and,

Chief Constable of Devon & Cornwall Police whose office is situated at Middlemoor, Exeter, EX2 7HQ.

Police and Crime Commissioner for Dorset whose office is situated at Winfrith, Dorchester, Dorset, DT2 8TZ.

- (2) [ ] a company registered in England and Wales with company registration number [ ] whose registered office is situated at [ ] (the “**Contractor**”)

(together the “**Parties**”).

**BACKGROUND**

- (A) The Contractor is engaged in the business of providing [ ].
- (B) The Authority wishes to appoint the Contractor to provide the Services described in the Contract to the Authority and the Contractor is willing to provide the same and to accept such appointment upon the terms and conditions of this Contract.

## **IT IS AGREED THAT**

### **1 GENERAL PROVISIONS**

#### **1.1 Definitions and Interpretations**

1.1.1 In this Contract unless the context otherwise requires the following provisions shall have the meanings given to them below:

“Additional Sub-Contractor” means a sub-contractor who is not an Approved Sub-Contractor.

“Approval” means the written consent of the Authority.

“Approved Sub-contractor” means a sub-contractor between the Contractor and an Approved Sub-contractor.

“Approved Sub-contractor” means a sub-contractor approved by the Authority.

“Authorised Representative” means the authorised representative of the Authority notified to the Contractor.

“Authority” means the Police and Crime Commissioner for Devon & Cornwall and/or, the Police and Crime Commissioner for Dorset.

“Commencement Date” means [REDACTED].

“Complaints Procedure Schedule” means the complaints procedure schedule annexed to this Contract;

“Confidential Information” means any information which has been designated as confidential by either Party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information the disclosure of which would, or would be likely to, prejudice the commercial interests of any person, trade secrets, Intellectual Property Rights and know-how of either Party and all personal data and sensitive personal data within the meaning of the DPA. Confidential Information shall not include information which:

1.1.1.1 was public knowledge at the time of disclosure (otherwise than by breach of clause 5.3 (Confidential Information));

- 1.1.1.2 was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party;
- 1.1.1.3 is received from a third party (who lawfully acquired it) without restriction as to its disclosure; or
- 1.1.1.4 is independently developed without access to the Confidential Information.

“Contract” means this written agreement between the Authority and the Contractor consisting of these Terms and Conditions, the Schedules or and all other documents attached to this document.

“Contractor” means [name of company] of [address of company].

“Contract Manager” means the Contractor’s Contract Manager notified to the Authority.

“Contract Price” means the price (exclusive of any applicable VAT), payable to the Contractor by the Authority under the Contract, as set out in the Pricing Schedule, for the full and proper performance by the Contractor of its obligations under the Contract but before taking into account the effect of any adjustment of price in accordance with clause 3.4 (Price Adjustment).

“Contract Term” means the period from the Commencement Date to the date of expiry set out in clause 1.2 or such earlier date of termination or partial termination of the agreement in accordance with the Law or the provisions of the Contract.

“Default” means any breach of the obligations of the relevant Party (including but not limited to fundamental breach or breach of a fundamental term) or any other default, act, omission, negligence or negligent statement of the relevant Party or the Staff in connection with or in relation to the subject-matter of the Contract and in respect of which such Party is liable to the other.

“Equipment” means the Contractor’s equipment, plant, materials and such other items supplied and used by the Contractor in the performance of its obligations under the Contract.

“Exit Plan” means [the exit plan set out in the exit strategy schedule].

“Exit Strategy Schedule” means the exit strategy schedule annexed to this Contract.

“Expert” means the person appointed by the mutual agreement of the Parties, or in accordance with clause 9.2, the cost of whose appointment shall be equally borne by the Parties.

“Force Majeure” means in relation to either Party any event which is beyond the reasonable control of that Party and which materially and adversely affects its ability to perform its obligations under the Contract.

“Good Industry Practice” means standards, practices, methods and procedures conforming to the Law and the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar type of undertaking under the same or similar circumstances.

“Insurance Schedule” means the Schedule of that name containing details of the insurance(s) that the Contractor is required to effect and maintain.

“Intellectual Property Rights” means patents, inventions, trade marks, service marks, logos, design rights (whether registerable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, trade or business names, moral rights and other similar rights or obligations whether registerable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off.

“IPCC Regulations” means the Independent Police Complaints Commission (Complaints and Misconduct) (Contractors) Regulations 2015.

“Key Personnel” means the Contractor’s Key Personnel listed in the Specification Schedule.

“KPI Failure” [the monitoring schedule/KPIs will be designed surrounding the final funded project/service/product].

“Law” means any applicable Act of Parliament, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, exercise of the royal prerogative, enforceable community right within the meaning of Section 2 of the European Communities Act 1972, regulatory policy, guidance or industry code, judgment of a relevant court of law, or directives or requirements or any Regulatory Body with which the Contractor is bound to comply.

“Minimum Service Threshold” [has the meaning in the Monitoring Schedule].

“Monitoring Schedule” means the Monitoring Schedule annexed to this Contract. [the monitoring schedule/KPIs will be designed surrounding the final funded project/service/product].

“Party” means a party to the Contract.

“Performance Indicator” means the measures used to measure the performance of the Services as set out in the **Monitoring Schedule**.

“Premises” means the location where the Services are to be supplied, as set out in the **Specification Schedule**.

“Pricing Schedule” means the Schedule containing details of the Contract Price.

“Property” means the property, other than real property, issued or made available to the Contractor by the Authority in connection with the Contract.

“Purchase Order Number” means the order number issued by the Authority which must be quoted on all invoices in order for payment to be made.

“Quality Standards” means the quality standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardization or other reputable or equivalent body, (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Contractor would reasonably and ordinarily be expected to comply with, and as may be further detailed in the Specification Schedule.

“Related Supply” means any services used by the Contractor or the Staff in the supply of the Services, but such services shall not include the Services themselves.

“Replacement Contractor” means any third party provider appointed by the Authority to supply any Services which are substantially similar to any of the Services and which the Authority receives in substitution for any of the Services following the expiry, termination or partial termination of the Contract.

“Services” means the [ ] services to be supplied by the Contractor (or by the Contractor’s sub-contractor) under the Contract as specified in the Specification.

“Service Credits” means the credits to be paid by the Contractor to the Authority in accordance with the Monitoring Schedule.

“Service Period” means **[has the meaning in the Monitoring Schedule]**.

“Specification” means the description of the Services to be supplied under the Contract as set out in the Specification Schedule including, where appropriate, the Key Personnel, the Premises, and the Quality Standards.



“Specification Schedule” means the schedule setting out the Specification annexed to this Contract.

"Staff" means all employees, staff, workers, agents and consultants of the Contractor, and of any sub-contractor or other third party with whom the Contractor contracts in order to source the Services or any part of them, who are engaged in the provision of the Services from time to time.

“Staff Transfer Schedule” means the staff transfer schedule annexed to this Contract.

“Tender” means the document(s) submitted by the Contractor to the Authority in response to the Authority’s invitation to suppliers for formal offers to supply it with the Services.

“TUPE” means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246)

“2015 Regulations” means the Public Contracts Regulations 2015.

“Value for Money Schedule” means the value for money schedule annexed to this Contract.

“Working Day” means a day (other than a Saturday or Sunday) on which banks are open for business in the City of London.

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

- 1.1.2.1 words importing the singular meaning include where the context so admits the plural meaning and vice versa;
- 1.1.2.2 words importing the masculine include the feminine and the neuter;
- 1.1.2.3 reference to a clause is a reference to the whole of that clause unless stated otherwise;
- 1.1.2.4 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 amended by any subsequent enactment, modification, order, regulation or instrument as subsequently amended or re-enacted;

1.1.2.5 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;

1.1.2.6 the words “include”, “includes” and “including” are to be construed as if they were immediately followed by the words “without limitation”;

1.1.2.7 headings are included in the Contract for ease of reference only and shall not affect the interpretation or construction of the Contract; and

1.1.2.8 references to the Authority include the police officers and staff of the police force maintained by the Authority

1.1.3 The schedules to this Contract shall have effect.

## **1.2 Contract Term**

1.2.1 The Contract shall take effect on the Commencement Date and shall expire automatically on [ENTER DATE], unless it is otherwise terminated in accordance with the provisions of the Contract, or otherwise lawfully terminated.

## **1.3 Contractor’s Status**

1.3.1 At all times during the Contract Term the Contractor shall be an independent contractor and nothing in the Contract shall create a contract of employment, a relationship of agency or partnership or a 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 the Contract.

## **1.4 Authority’s Obligations**

1.4.1 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.

## **1.5 Notices**

1.5.1 Any notice or consent which is to be given by either Party to the other shall only be valid if given by letter which can be sent by hand, first class post, recorded delivery or special delivery, by way of an attachment to an email or by facsimile transmission. Any such notice or consent shall be deemed to have been duly received:

1.5.1.1 if hand delivered, at the time of actual delivery;

1.5.1.2 if dispatched by first class post, recorded delivery or special delivery, 2 Working Days after the day on which the relevant letter was posted to the correct address;

1.5.1.3 if sent by email, the time of actual receipt of the email;

1.5.1.4 if dispatched by facsimile transmission, 4 hours after successful transmission to the correct number;

1.5.2 Provided in each case that if the deemed receipt time occurs either on a day that is not a Working Day or after 1700 hours on a Working Day, then the notice or consent in question shall not in fact be deemed to have been received until 1000 hours on the next following Working Day (such times being local time at the address of the recipient).

## **1.6 Mistakes in Information**

1.6.1 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.

## **1.7 Conflicts of Interest**

1.7.1 The Contractor shall take appropriate steps to ensure that neither the Contractor nor any Staff is placed in a position 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 the Contract. The Contractor will

disclose to the Authority full particulars of any such conflict of interest which may arise.

- 1.7.2 The Authority reserves the right to terminate the Contract immediately by notice in writing and/or to take such other 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 the Contract. The actions of the Authority pursuant to this clause shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Authority.

## **2 SUPPLY OF SERVICES**

### **2.1 The Services**

- 2.1.1 The Contractor shall supply the Services during the Contract Term 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.
- 2.1.2 The Contractor shall supply the Services when required to do so by the Authority.
- 2.1.3 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.
- 2.1.4 The Contractor shall ensure that all Staff supplying the Services shall do so with all due skill, care and diligence and shall possess such qualifications, skills and experience as are necessary for the proper supply of the Services.
- 2.1.5 The Contractor shall at all times comply with the Quality Standards, and where applicable shall maintain accreditation with the relevant Quality Standards authorisation body. To the extent that the standard of Services has not been specified in the Contract, the Contractor shall agree the relevant standard of the Services with the Authority prior to the supply of the Services and, in any event, the Contractor shall perform its obligations under the Contract in accordance with the Law and Good Industry Practice.

- 2.1.6 During the Contract Term the Contractor shall perform the Services (and any modifications authorised by or under this Contract) efficiently, effectively and safely and in a manner totally consistent with the terms of this Contract and to the entire satisfaction of the Authority.
- 2.1.7 In providing the Services the Contractor shall use all reasonable endeavours, throughout the Contract Term, to deliver value for money to the Authority.
- 2.1.8 The Contractor shall secure continuous improvement in the way in which it delivers the Services having regard to a combination of economy efficiency and effectiveness.

## **2.2 Provision and Removal of Equipment**

- 2.2.1 The Contractor shall provide all the Equipment necessary for the supply of the Services.
- 2.2.2 The Contractor shall not deliver any Equipment nor begin any work on the Premises without obtaining prior Approval.
- 2.2.3 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.
- 2.2.4 The Contractor shall maintain all items of Equipment within the Premises in a safe, serviceable and clean condition.
- 2.2.5 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.

- 2.2.6 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

## **2.3 Key Personnel**

- 2.3.1 The Contractor acknowledges that the Key Personnel are essential to the proper provision of the Services to the Authority. The Key Personnel shall be responsible for the delivery of Services.
- 2.3.2 The Key Personnel shall not be released from supplying the Services without the agreement of the Authority, except by reason of long-term sickness, maternity leave, paternity leave or termination of employment and other extenuating circumstances.
- 2.3.3 Any replacements to the Key Personnel shall be subject to the agreement of the Authority. Such replacements shall be of at least equal status or of equivalent experience and skills to the Key Personnel being replaced and be suitable for the responsibilities of that person in relation to the Services.
- 2.3.4 The Authority shall not unreasonably withhold its agreement under clauses 2.3.2 or 2.3.3. Such agreement shall be conditional on appropriate arrangements being made by the Contractor to minimise any adverse impact on the Contract which could be caused by a change in Key Personnel

## **2.4 Licence to occupy Premises**

- 2.4.1 Any land or Premises made available from time to time to the Contractor by the Authority in connection with the Contract, shall be made available to the Contractor on a non-exclusive licence basis free of charge and shall be used by the Contractor solely for the purpose of performing its obligations under the Contract. The Contractor shall have the use of such land or Premises as licensee and shall vacate the same on completion, termination or abandonment of the Contract.
- 2.4.2 The Contractor shall limit access to the land or Premises to such Staff as is necessary to enable it to perform its obligations under the Contract and the Contractor shall co-operate (and ensure that its Staff co-operate) with such

other persons working concurrently on such land or Premises as the Authority may reasonably request.

2.4.3 Should the Contractor require modifications to the Premises, such modifications shall be subject to prior Approval and shall be carried out by the Authority at the Contractor's expense. The Authority shall undertake approved modification work without undue delay. Ownership of such modifications shall rest with the Authority.

2.4.4 The Contractor shall (and shall ensure that its Staff shall) observe and comply with such rules and regulations as may be in force at any time for the use of such Premises as determined by the Authority, and the Contractor shall pay for the cost of making good any damage caused by the Contractor or its Staff other than fair wear and tear. For the avoidance of doubt, damage includes damage to the fabric of the buildings, plant, fixed equipment or fittings therein.

2.4.5 The Parties agree that there is no intention on the part of the Authority to create a tenancy of any nature whatsoever in favour of the Contractor or its Staff and that no such tenancy has or shall come into being and, notwithstanding any rights granted pursuant to the Contract, the Authority retains the right at any time to use any premises owned or occupied by it in any manner it sees fit

## **2.5 Property**

2.5.1 Where the Authority issues Property free of charge to the Contractor such Property shall be and remain the property of the Authority and the Contractor irrevocably licences the Authority and its agents to enter upon any premises of the Contractor during normal business hours on reasonable notice to recover any such Property. The Contractor shall not in any circumstances have a lien or any other interest on the Property and the Contractor shall at all times possess the Property as fiduciary agent and bailee of the Authority. The Contractor shall take all reasonable steps to ensure that the title of the Authority to the Property and the exclusion of any such lien or other interest are brought to the notice of all sub-contractors and other appropriate persons and shall, at the Authority's request, store the Property separately and ensure that it is clearly identifiable as belonging to the Authority.

2.5.2 The Property shall be deemed to be in good condition when received by or on behalf of the Contractor unless the Contractor notifies the Authority otherwise within 5 Working Days of receipt.

- 2.5.3 The Contractor shall maintain the Property in good order and condition (excluding fair wear and tear), and shall use the Property solely in connection with the Contract and for no other purpose without prior Approval.
- 2.5.4 The Contractor shall ensure the security of all the Property whilst in its possession, either on the Premises or elsewhere during the supply of the Services, in accordance with the Authority's reasonable security requirements as required from time to time.
- 2.5.5 The Contractor shall be liable for all loss of, or damage to, the Property (excluding fair wear and tear), unless such loss or damage was caused by the Authority's Default. The Contractor shall inform the Authority within [2] Working Days of becoming aware of any defects appearing in, or losses or damage occurring to, the Property.

## **2.6 Services Improvement**

- 2.6.1 The Contractor shall have an ongoing obligation throughout the Contract Term to identify, and engage and co-operate with the Authority in relation to the development of, new or potential improvements to the Services, including but not limited to:
- 2.6.1.1 the emergence of new and evolving relevant technologies which could improve the Services, and those technological advances potentially available to the Contractor and the Authority which the parties may wish to adopt; and/or
  - 2.6.1.2 new or potential improvements relating to the Services including the quality, responsiveness, procedures, benchmarking methods, likely performance mechanisms and customer support services in relation to the Services; and/or
  - 2.6.1.3 changes in management processes and ways of working that would enable the Services to be delivered at lower costs and/or at greater benefits to the Authority.
- 2.6.2 The Contractor shall ensure that any information that it provides to the Authority for the purposes of clause 2.6.1 shall be sufficient for the Authority to decide whether any improvement should be implemented.



2.6.3 If the Authority wishes to incorporate any improvement identified by the Contractor the Authority shall send the Contractor a request for a variation of the Contract and the parties shall:

2.6.3.1 develop a plan for the implementation of the improvement within 20 Working Days of the Authority's request for the variation of the Contract for the approval of the Authority; and

2.6.3.2 implement the improvement in accordance with the provisions of an implementation plan approved by the Authority.

## **2.7 Contractor's Staff**

2.7.1 The Authority may, by written notice to the Contractor, refuse to admit onto, or withdraw permission to remain in the Premises:

2.7.1.1 any member of the Staff; or

2.7.1.2 any person employed or engaged by any member of the Staff,

whose admission or continued presence would, in the reasonable opinion of the Authority, be undesirable.

2.7.2 At the Authority's written request, the Contractor shall provide a list of the names and addresses of all persons who may require admission in connection with the Contract to the Premises, specifying the capacities in which they are concerned with the Contract and giving such other particulars as the Authority may reasonably request.

2.7.3 The Contractor shall ensure that its Staff, engaged on the Premises, comply with such rules, regulations and requirements (including those relating to security arrangements) as may be in force from time to time for the conduct of personnel when at or outside the Premises.

2.7.4 The Contractor acknowledges that the Authority shall be free to search any member of Staff and shall procure that its Staff co-operate fully with the Authority for these purposes. The Contractor shall also ensure that all of its Staff carry out their duties and act while on the Premises or while providing the Services in an orderly and appropriate manner, having regard to the nature of their duties and that they shall at all times be dressed appropriately in view of their job category and the Services they are to provide.

- 2.7.5 If and when requested by the Authority, the Contractor shall procure (in respect of its Staff) from each person identified by the request a signed statement that he understands that the Official Secrets Acts 1911 to 1989 applies to him both during the carrying out and after expiry or termination of the Contract.
- 2.7.6 The Contractor shall comply with all requirements of the Authority's policies in force from time to time in respect of vetting the identity and bona fides of any Staff requiring admission to the Authority's premises in connection with the Contract. The decision of the Authority as to any person being undesirable or failing such vetting procedures shall be final and conclusive.
- 2.7.7 The Contractor shall ensure that only such of its Staff as have been authorised by the Authority be permitted access to the Premises, information or assets or otherwise have any involvement in the provision of the Services.
- 2.7.8 The Contractor undertakes only to nominate such persons as it believes, acting reasonably and in good faith, will require vetting pursuant to this clause 2.7 in order to carry out work pursuant to the Contract. The Authority reserves the right to charge a fee to the Contractor in respect of the vetting procedure carried out in relation to those persons nominated by the Contractor for vetting.
- 2.7.9 Those persons authorised to carry out work in respect of the Contract may, at the discretion of the Authority, be issued with a photopass confirming their identity. The Contractor shall ensure, at its costs, that all relevant persons attend any location as the Authority shall direct for the issue of such photopasses.
- 2.7.10 Where the photopasses are required:
- 2.7.10.1 the Contractor shall issue an authenticated photopass to each person authorised to carry out work in respect of the Contract and required to have access to the relevant premises in order to do so and shall provide a second copy of each photopass for retention by the Authority;
  - 2.7.10.2 the Contractor shall retrieve and destroy photopasses from any person that ceases to be authorised to carry out work in relation to the Contract or to require access to the relevant premises in order to do so;
  - 2.7.10.3 photopasses will be valid for a period of 3 years or such shorter period as the Authority may direct and in order that the Authority

may be assured of the continuing suitability of staff to be employed in relation to the Contract the Contractor shall ensure that completed security questionnaires are submitted in respect of relevant staff not less than 6 weeks before the expiry of any existing pass.

2.7.11 The Contractor shall be required to submit a completed security questionnaire for each of its Staff who require access to any confidential information in relation to the performance of its obligations under the Contract. The security questionnaires must be completed by the individuals concerned and submitted not later than 6 weeks prior to work commencing. In the case of additional or replacement Staff being nominated by the Contractor, completed security questionnaires must be submitted no later than 6 weeks prior to the date on which the relevant individuals are required to commence work. Whether authority shall be given to any individual shall be for the Authority to decide and its decision in this matter shall be final and conclusive.

2.7.12 The Contractor shall only employ or engage persons in connection with the provision of the Services who satisfy ACPO National Vetting Policy (NVP) compliant Non Police Personnel Vetting (NPPV) security clearance processes at Level [ ]. [SECURITY LEVEL TO BE DETERMINED AND AGREED WITH STAKEHOLDER/INFORMATION MANAGEMENT].

## **2.8 Provision of Information**

2.8.1 Without prejudice to any other provisions in the Contract, including those in the Monitoring Schedule (if used), the Contractor shall provide such information in relation to the performance of its obligations and compliance with the Law required under the Contract (including information in respect of claims, progress against relevant timescales or milestones and information required by the Authority for the purposes of re-tendering provision of the Services) as the Authority may reasonably request from time to time, such information to be provided in the format and within the timescales reasonably specified by the Authority. The Contractor shall ensure that all such information is accurate and complete and, in respect of any information required by the Authority for re-tendering purposes, shall notify the Authority without delay of any changes to information previously provided to the Authority.

## **3 PAYMENT AND CONTRACT PRICE**

### **3.1 Contract Price**

3.1.1 In consideration of the Contractor's performance of its obligations under the Contract, the Authority shall pay the Contract Price in accordance with clause 3.2 (Payment and VAT).

3.1.2 The Authority shall, in addition to the Contract Price and following receipt of a valid VAT invoice, pay the Contractor a sum equal to the VAT chargeable on the value of the Services supplied in accordance with the Contract.

## **3.2 Payment and VAT**

3.2.1 The Parties agree that:

3.2.1.1 any payment due under this Contract from the Authority to the Contractor is to be made no later than the end of a period of 30 days from the date on which the Authority completes any process of verification that the invoice is value and undisputed;

3.2.1.2 the Authority is to consider and verify any invoice submitted by the Contractor within 30 days with a view to ascertaining whether the invoice is valid and undisputed; and

3.2.1.3 the Contractor will include in any subcontract which it awards provisions:

3.2.1.3.1 imposing, as between the parties to that subcontract, requirements to the same effect as those clauses 3.2.1.1 and 3.2.1.2 of this Contract refer to; and

3.2.1.3.2 requiring the subcontractor party to that subcontract to include in any subcontract which it in turn awards provisions imposing, as between the parties to that subcontract, requirements to the same effect as those referred to in clauses 3.2.1.3.1 and 3.2.1.3.2 of this Contract; and

3.2.1.4 they shall have regard to any guidance issued by the Minister for the Cabinet Office under regulation 113(4) of the 2015 Regulations.

3.2.2 The Contractor shall ensure that each invoice contains the information set out in clause 3.6 and that it is supported by any other documentation reasonably

required by the Authority to substantiate the invoice. Without prejudice to the generality of the previous sentence, the Contractor shall ensure that each invoice contains details of the appropriate Purchase Order Number issued by the Authority in respect of the Services in question. The Authority may withhold payment if a Purchase Order Number is not included on the invoice.

3.2.3 The Contractor shall add VAT to the Contract Price at the prevailing rate as applicable.

3.2.4 The Contractor shall indemnify the Authority on a continuing basis against any liability, including any interest, penalties or costs incurred, which is levied, demanded or assessed on the Authority at any time in respect of the Contractor's failure to account for or to pay any VAT relating to payments made to the Contractor under the Contract. Any amounts due under this clause 3.2.4 shall be paid by the Contractor to the Authority not less than 5 Working Days before the date upon which the tax or other liability is payable by the Authority.

3.2.5 The Contractor shall not suspend the supply of the Services unless the Contractor is entitled to terminate the Contract under clause 8.2.3 (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, such interest to accrue on a daily basis at the rate of 1% per annum above the Bank of England base rate for the time being.

### **3.3 Recovery of Sums Due**

3.3.1 Wherever under the Contract any sum of money is recoverable from or payable by the Contractor (including any sum which the Contractor is liable to pay to the Authority in respect of any breach of the Contract), the Authority may unilaterally deduct that sum from any sum then due, or which at any later time may become due to the Contractor under the Contract or under any other agreement or contract with the Authority.

3.3.2 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.

3.3.3 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.

- 3.3.4 Unless otherwise specified in the Contract, any sum payable by the Contractor to the Authority under the Contract or by either Party to the other under clause 3.3.2 shall be paid in cleared funds, within 5 Working Days of a demand for the same being notified by the recipient Party to the paying Party, to such bank or building society account as the recipient Party may from time to time direct.

### **3.4 Price Adjustment**

- 3.4.1 The Contract Price shall apply for the first 12 months of the Contract Term from the Commencement Date.
- 3.4.2 The mechanism for reviewing the Contract Price is set out in the Pricing Schedule.

### **3.5 Euro**

- 3.5.1 Any requirement of Law to account for the Services in Euro's (or to prepare for such accounting) instead of and/or in addition to Sterling, shall be implemented by the Contractor free of charge to the Authority.

### **3.6 Form of Invoice**

- 3.6.1 Unless otherwise agreed in writing by the Authority, all invoices shall include the following information:
- 3.6.1.1 the Contract number;
  - 3.6.1.2 the Purchase Order Number;
  - 3.6.1.3 the specification number;
  - 3.6.1.4 an invoice number;
  - 3.6.1.5 the project number;
  - 3.6.1.6 a detailed description of the Services and any other deliverables under this Contract;
  - 3.6.1.7 a detailed description of any recoverable expenses and the amounts of such;
  - 3.6.1.8 the location, date or time period of delivery of the Services;

- 3.6.1.9 the Contractor's VAT number;
- 3.6.1.10 the amount due exclusive of VAT, other duty or early settlement discount;
- 3.6.1.11 the VAT rate and VAT amount;
- 3.6.1.12 the amount of any other duty or early settlement discount;
- 3.6.1.13 the amount due inclusive of VAT and any other duty or early settlement discount;
- 3.6.1.14 the source/name of the person at the Authority responsible for the order to which the invoice relates;
- 3.6.1.15 the source of authorisation of payment;
- 3.6.1.16 details of the Contract's BACS details or other method of payment;
- 3.6.1.17 the Contractor's contact details; and
- 3.6.1.18 the date of the invoice.

all invoices should be addressed to [REDACTED].

## **4 STATUTORY OBLIGATIONS AND REGULATIONS**

### **4.1 Prevention of Corruption**

#### **4.1.1 The Contractor shall:**

- 4.1.1.1 comply with all applicable laws, statutes and regulations relating to anti-bribery and anti-corruption, including but not limited to the Bribery Act 2010 (the "Relevant Requirements");
- 4.1.1.2 not commit to any Prohibited Act or engage in any activity, practice or conduct that would constitute a Prohibited Act by it, or the Authority if such activity, practice or conduct had been carried out in the United Kingdom;

4.1.1.3           devise, implement and enforce throughout the Contract Term its own written policies and procedures, including adequate procedures under the Bribery Act 2010, in order to ensure compliance by:

4.1.1.3.1       the Contractor;

4.1.1.3.2       the Staff; and,

4.1.1.3.3       any other associated persons of the Contractor,

with the Relevant Requirements and clause 4.1.1 (4.1.1.2), and the Contractor shall produce to the Authority copies of such written policies and procedures within 7 days of signature of this Contract and at any time upon request by the Authority;

4.1.1.4           promptly report to the Authority any request or demand for any undue financial or other advantage of any kind received by the Contractor in connection with the performance of this Contract;

4.1.1.5           immediately notify the Authority in writing if a foreign public official becomes an officer or employee of the Contractor or acquires a direct or indirect interest in the Contractor, and the Contractor warrants that it has no foreign public officials as officers, employees or direct or indirect owners at the date of this Contract;

4.1.1.6           within 2 months of the Commencement Date, and annually thereafter, certify to the Authority in writing signed by an officer of the Contractor, compliance with this clause 4.1.1 by the Contractor and all persons associated with it under clause 4.1.2. The Contractor shall provide such supporting evidence of compliance as the Authority may reasonably request.

4.1.2           The Contractor shall ensure that any person associated with the Contractor who is performing services in connection with this Contract does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Contractor in this clause 4.1 (the "Relevant Terms"), the Contractor shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to the Authority for any breach of the Relevant Terms, and shall be directly



liable to the Authority for any breach by such persons of any of the Relevant Terms.

4.1.3 If the Contractor (including any member of the Contractor's Staff, Sub-contractor, third party or agent, in all cases whether or not acting in the Contractor's knowledge) engages in conduct prohibited by this clause 4.1 or commits any offence under the Bribery Act 2010, the Authority may:

4.1.3.1 terminate this Contract with immediate effect 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 Term; or

4.1.3.2 recover in full from the Contractor any other loss sustained by the Authority in consequence of any breach of the conditions set out in this clause.

4.1.4 For the purposes of this clause 4.1:

4.1.4.1 the meaning of "adequate procedures" and "foreign public official" and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively;

4.1.4.2 a person associated with the Contractor includes but is not limited to any Sub-contractor or third party of the Contractor; and

4.1.4.3 'Prohibited Act' means any of the following:

4.1.4.3.1 offering, giving or agreeing 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:

4.1.4.3.2 for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the

obtaining or execution of this Contract, or any other contract with the Authority or any other public body; or

4.1.4.3.3 for showing or refraining from showing favour or disfavour to any person in relation to this Contract or any such contract;

4.1.4.3.4 paying commission or agreeing to pay any 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 this Contract, or any other contract with the Authority, or any other public body or person employed by or on behalf of the Authority, or any other public body; or

4.1.4.3.5 committing any offence:

4.1.4.3.5.1 under the Bribery Act 2010; or

4.1.4.3.5.2 under any Law creating offences in respect of fraudulent acts; or

4.1.4.3.5.3 at common law in respect of fraudulent acts,

in relation to this Contract, or any other contract with the Authority, or any other public body or person employed by or on behalf of the Authority, or any other public body.

## **4.2 Prevention of Fraud**

4.2.1 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.

4.2.2 The Contractor shall notify the Authority immediately if it has reason to suspect that any fraud in relation to any contracts with the Authority has occurred or is occurring or is likely to occur.

4.2.3 If the Contractor or its Staff commits fraud in relation to this Contract or any contract with the Authority, the Authority may:

4.2.3.1 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 Term ; or

4.2.3.2 recover in full from the Contractor any other loss sustained by the Authority in consequence of any breach of this clause.

### **4.3 Discrimination**

4.3.1 The Contractor shall not unlawfully discriminate either directly or indirectly on such grounds 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 Human Rights Act 1998, the Equality Act 2010 or other relevant or equivalent legislation, or any statutory modification or re-enactment thereof.

4.3.2 The Contractor acknowledges that:

4.3.2.1 in performing its obligations under this agreement it may be deemed a public authority for the purposes of the Human Rights Act 1998;

4.3.2.2 that it is unlawful to exercise functions deemed to be of a public nature in a way that is incompatible with those rights contained in the European Convention of Human Rights and incorporated into English law by the Human Rights Act 1998;

4.3.2.3 in providing the Services the Contractor shall for the duration of the Term at its own cost be subject to the same duty in respect of human rights in the same way as if it were the Authority.

4.3.3 The Contractor shall undertake such actions or refrain from undertaking such actions as the Contractor may request so as to enable the Authority to discharge its duty under the Human Rights Act 1998.

#### **4.4 The Contracts (Rights of Third Parties) Act 1999**

- 4.4.1 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 clause 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.

#### **4.5 Environmental**

- 4.5.1 The Contractor shall comply with all relevant environmental Law.

#### **4.6 Health and Safety**

- 4.6.1 The Contractor shall, and shall ensure that all Staff and Sub-contractors shall, when working on any site in connection with the Contract comply with all relevant health and safety legislation, codes of practice and any other appropriate standards, policies, procedures and documentation notified by the Authority. This will include, but is not limited to, the following:

- 4.6.1.1 Health and Safety at Work etc Act 1974;
- 4.6.1.2 Management of Health and Safety at Work Regulations 1999;
- 4.6.1.3 Workplace (Health, Safety and Welfare) Regulations 1992;
- 4.6.1.4 Control of Substances Hazardous to Health Regulations 2002;
- 4.6.1.5 Provision and Use of Work Equipment Regulations 1998;
- 4.6.1.6 Personal Protective Equipment at Work Regulations 1992;
- 4.6.1.7 Construction (Design and Management) Regulations 2007;
- 4.6.1.8 Electricity at Work Regulations 1989;
- 4.6.1.9 Personal Protective Equipment Regulations;
- 4.6.1.10 The Authority's Safety Rules for contractors and sub-contractors;
- 4.6.1.11 Work at Heights Regulations 2005;

- 4.6.1.12 any legislation which is equivalent to any of the legislation referred to in this clause 4.6 and which is in force in any other jurisdiction in which any activities are carried out under or in connection with the Contract by the Contractor or any of its Staff or Sub-contractors.

The Authority may carry out an inspection or audit of the Contractors systems and procedures for complying with its legal responsibilities at anytime.

- 4.6.2 The Contractor shall provide applicable hazard information such as material safety data sheets and shall inform the Authority of all regulations, guidance and significant risk (statutory or otherwise) which the Contractor knows or believes to be associated with the Services and/or any combination of the Services with another product/service, in the event of any release or spillage of substances hazardous to the environment, the Contractor will notify the Authority and the appropriate statutory bodies immediately and ensure that all necessary remedial action is taken to protect the environment.
- 4.6.3 The Contractor shall notify the Authority of past enforcement action taken against the Contractor and provide such details of prosecutions, fines, accident history and frequency rate as may be considered necessary by the Authority.
- 4.6.4 The Contractor shall provide the Authority on request with a copy of its health and safety policy, risk assessments, method statements and safe systems and procedures. Notwithstanding this, the Contractor shall ensure that its Staff and Sub-Contractors comply at all times with the Authority's "Health and Safety Policy and Safety Rules for Contractors and Sub Contractors" (or any applicable replacement policy or rules from time to time) in so far as it or they are relevant to the Contract.
- 4.6.5 The Contractor shall comply with any health and safety related conditions stipulated by the Authority from time to time. Such conditions override details contained in the Contractor's internal documentation.
- 4.6.6 The Contractor shall notify the Authority in writing without delay of all incidents, which either could have lead, or did lead, to injury and/or damage. Where incidents are reportable under the Reporting of Injuries, Diseases and Dangerous Occurrence Regulations 1995, a completed copy of form F2508 and an investigation report shall be supplied.

4.6.7 The Contractor shall ensure that sufficiently trained and competent employees will be provided to undertake the duties defined in the Contract and shall provide evidence of competency where required by the Authority.

4.6.8 The Contractor shall provide product specifications, technical supporting information, user instructions and maintenance information relating to any Services to be supplied to the Authority.

#### **4.7 Corporate Social Responsibility**

4.7.1 The Contractor shall conduct an annual self-assessment of its corporate social responsibility policy to include equality and diversity 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 and environmental and socio-economic practices. The Contractor shall report such findings to the Authority's representative in such format as the Authority's representative may request.

4.7.2 When complying with its obligations under Clause 4.7.1, the Contractor shall use any self assessment tool that the Authority, in its absolute discretion, shall provide to the Contractor.

4.7.3 The Contractor shall provide such information as the Authority may reasonable request relating to:

4.7.3.1 any strategy the Contractor has for engaging with small and medium enterprises ("SMEs") or increasing spend on SMEs in the Contractor 's supply chain; and,

4.7.3.2 the Contractor's quarterly expenditure on SMEs.

#### **4.8 Modern Slavery**

4.8.1 The Contractor undertakes, warrants and represents that:

4.8.1.1 neither the Contractor nor any of its officers, employees, agents or subcontractors has:

(i) committed an offence under the Modern Slavery Act 2015 (a "MSA Offence"); or

(ii) been notified that it is subject to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015; or

- (iii) is aware if any circumstances within its supply chain that could give rise to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015.

4.8.1.2 it shall comply with the Modern Slavery Act 2015;

4.8.1.3 it shall notify the Authority immediately in writing if it becomes aware or has reason to believe that it, or any of its officers, employees, agents or subcontractors have, breached or potentially breached any of the Contractor's obligations under this Clause 4.8. Such notice to set out full details of the circumstances concerning the breach or potential breach of the Contractor's obligations.

4.8.2 If there is any breach of this clause 4.8 by the Contractor, the Authority may terminate this Contract with immediate effect.

#### **4.9 Change in Law**

4.9.1 The Contractor shall neither be relieved of its obligations to supply the Services in accordance with this Contract nor be entitled to an increase in the Contract Price as a result of any change in Law.

## **5 PROTECTION OF INFORMATION**

### **5.1 Data Protection Act 1998**

5.1.1 The Information Management Schedule shall have effect.

### **5.2 Official Secrets Act 1911 to 1989, S182 of the Finance Act 1989**

5.2.1 The Contractor shall comply with, and shall ensure that its Staff comply with, the provisions of:

5.2.1.1 the Official Secrets Acts 1911 to 1989; and

5.2.1.2 Section 182 of the Finance Act 1989.

5.2.2 In the event that the Contractor or its Staff fail to comply with this clause, the Authority reserves the right to terminate the Contract by giving notice in writing to the Contractor.

### **5.3 Confidential Information**

5.3.1 The Contractor shall keep confidential and shall use its best endeavours to ensure that its staff keep confidential any and all information (written electronic or oral) which is learnt or obtained by the Contractor and/or its Staff in the provision of the Services and shall restrict disclosure of the same only to those staff who need to know said information in order to provide the Services. This provision shall continue in perpetuity but shall not apply to disclosures which the Contractor or its Staff are required to make by law or under the provisions or rules of their professional body.

### **5.4 Freedom of Information**

5.4.1 The Contractor acknowledges that the Authority is subject to the Freedom of Information Act (FOIA) and the Environmental Information Regulations and the Contractor shall assist and cooperate with the Authority (at the Contractor's expense) to enable the Authority to comply with these information disclosure requirements.

5.4.2 The Contractor shall provide required information, and use its best endeavours to procure that its agents, employees and contractors provide information, to the Authority within the timeframes requested by the Authority.



5.4.3 The Authority shall be responsible for determining at its absolute discretion whether any information:

5.4.3.1 is exempt from disclosure;

5.4.3.2 is to be disclosed in response.

5.4.4 The Contractor acknowledges that the Authority may be obliged to disclose information without consulting with the Contractor or following consultation with the Contractor and having taken its views into account.

5.4.5 The Contractor shall ensure that all information produced during the Contract Term or relating to the Services is retained for disclosure and shall permit the Authority to inspect such records as requested from time to time.

5.4.6 The Contractor shall not respond directly to a request for information from a third party unless expressly authorised to do so by the Authority.

5.4.7 The Contractor acknowledges that any lists or schedules provided by it outlining confidential Information are of indicative value only and that the Authority may nevertheless be obliged to disclose Confidential Information in accordance with the Freedom of Information Act 1998 or other relevant legislation.

## **5.5 Publicity, Media and Official Enquiries**

5.5.1 The Contractor shall not make any press announcement or publicise the Contract or any part thereof in any way, except with the Approval of the Authority.

5.5.2 The Contractor shall take all reasonable steps to ensure that its Staff, Contractors and professional advisors comply with clause 5.5.

## **5.6 Security**

5.6.1 The Authority shall be responsible for maintaining the security of the Premises in accordance with its standard security requirements. The Contractor shall comply, and shall ensure that all Staff comply, with all applicable security requirements of the Authority from time to time, including (where applicable) all security requirements in respect of the Premises and/or any Confidential Information of the Authority (including documents containing confidential and/or secret information).

## **5.7 Intellectual Property Rights**

5.7.1 All Intellectual Property Rights in any guidance, specifications, instructions, toolkits, plans, data, drawings, databases, patents, patterns, models, designs or other material (the "IP Materials"):

5.7.1.1 furnished to or made available to the Contractor by or on behalf of the Authority shall remain the property of the Authority; and

5.7.1.2 prepared by or for the Contractor on behalf of the Authority for use, or intended use, in relation to the performance by the Contractor of its obligations under the Contract shall belong to the Authority;

and the Contractor shall not, and shall ensure that the Staff shall not, (except when necessary for the performance of the Contract) without prior Approval, use or disclose any Intellectual Property Rights in the IP Materials.

5.7.2 The Contractor hereby assigns to the Authority, with full title guarantee, all Intellectual Property Rights which may subsist in the IP Materials prepared in accordance with clause 5.7.1(b). This assignment shall take effect on the date of the Contract or as a present assignment of future rights that will take effect immediately on the coming into existence of the Intellectual Property Rights produced by the Contractor. The Contractor shall execute all documentation necessary to execute this assignment.

5.7.3 The Contractor shall waive or procure a waiver of any moral rights subsisting in copyright produced by the Contract or the performance of the Contract.

5.7.4 The Contractor shall ensure that the third party owner of any Intellectual Property Rights that are or which may be used to perform the Contract grants to the Authority a non-exclusive licence or, if itself a licensee of those rights, shall grant to the Authority an authorised sub-licence, to use, reproduce, modify, develop and maintain the Intellectual Property Rights in the same. Such licence or sub-licence shall be non-exclusive, perpetual, royalty free and irrevocable and shall include the right for the Authority to sub-license, transfer, and novate or assign to other Contracting Authorities, the Replacement Contractor or to any other third party supplying services to the Authority.

5.7.5 The Contractor shall not infringe any Intellectual Property Rights of any third party in supplying the Services and the Contractor shall, during and after the Contract Period, indemnify and keep indemnified and hold the Authority and

the Crown harmless from and against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which the Authority or the Crown may suffer or incur as a result of or in connection with any breach of this clause, except where any such claim arises from:

5.7.5.1 items or materials based upon designs supplied by the Authority;  
or

5.7.5.2 the use of data supplied by the Authority which is not required to be verified by the Contractor under any provision of the Contract.

5.7.6 The Authority shall notify the Contractor in writing of any claim or demand brought against the Authority for infringement or alleged infringement of any Intellectual Property Right in materials supplied or licensed by the Contractor.

5.7.7 The Contractor shall at its own expense conduct all negotiations and any litigation arising in connection with any claim for breach of Intellectual Property Rights in materials supplied or licensed by the Contractor, provided always that the Contractor:

5.7.7.1 shall consult the Authority on all substantive issues which arise during the conduct of such litigation and negotiations;

5.7.7.2 shall take due and proper account of the interests of the Authority; and

5.7.7.3 shall not settle or compromise any claim without the Authority's prior written consent (not to be unreasonably withheld or delayed).

5.7.8 The Authority shall at the request of the Contractor afford to the Contractor all reasonable assistance for the purpose of contesting any claim or demand made or action brought against the Authority or the Contractor by a third party for infringement or alleged infringement of any third party Intellectual Property Rights in connection with the performance of the Contractor's obligations under the Contract and the Contractor shall indemnify the Authority for all costs and expenses (including, but not limited to, legal costs and disbursements) incurred in doing so. The Contractor shall not, however, be required to indemnify the Authority in relation to any costs and expenses incurred in relation to or arising out of a claim, demand or action which relates to the matters in clause 5.7.5.1 or 5.7.5.1.

5.7.9 The Authority shall not make any admissions which may be prejudicial to the defence or settlement of any claim, demand or action for infringement or alleged infringement of any Intellectual Property Right by the Authority or the Contractor in connection with the performance of its obligations under the Contract.

5.7.10 If a claim, demand or action for infringement or alleged infringement of any Intellectual Property Right is made in connection with the Contract or in the reasonable opinion of the Contractor is likely to be made, the Contractor shall notify the Authority and, at its own expense and subject to the consent of the Authority (not to be unreasonably withheld or delayed), use its best endeavours to:

5.7.10.1 modify any or all of the Services without reducing the performance or functionality of the same, or substitute alternative Services of equivalent performance and functionality, so as to avoid the infringement or the alleged infringement, provided that the provisions herein shall apply mutates mutandis to such modified Services or to the substitute Services; or

5.7.10.2 procure a licence to use and supply the Services, which are the subject of the alleged infringement, on terms which are acceptable to the Authority,

and in the event that the Contractor is unable to comply with clauses 5.7.7.1 or 5.7.7.2 within 20 Working Days of receipt of the Contractor's notification the Authority may terminate the Contract with immediate effect by notice in writing.

5.7.11 The Contractor grants to the Authority a royalty-free, irrevocable and non-exclusive licence (with a right to sub-licence) to use any Intellectual Property Rights that the Contractor owned or developed prior to the Commencement Date and which the Authority reasonably requires in order exercise its rights and take the benefit of this Contract including the Services provided.

## **5.8 Audit**

- 5.8.1 The Contractor shall keep and maintain until 6 years after the end of the Contract Term, or as long a period as may be agreed between the Parties, full and accurate records of the Contract including the Services supplied under it, all expenditure reimbursed by the Authority, and all payments made by the Authority. The Contractor shall on request afford the Authority and/or the National Audit Office (or any other applicable national audit body from time to time) and their respective representatives such access to those records as may be requested by the Authority in connection with the Contract.

## **5.9 Transparency**

- 5.9.1 The Contractor acknowledges that the Authority is subject to the Elected Local Policing Bodies (Specified Information) Order 2011 and hereby gives its consent for the Authority to publish this Contract when the Authority is required to do so.
- 5.9.2 The Authority at its sole discretion may redact all or part of the Contract Information prior to its publication. In doing so the Authority will take account of the FOIA. The Authority may consult with the Contractor regarding any redactions to this Contract to be published pursuant to this clause. The final decision regarding publication and/or redaction of the Contract Information shall be that of the Authority.
- 5.9.3 The Contractor shall assist and cooperate with the Authority to enable the Authority to publish the Contract.

## **6 CONTROL OF THE CONTRACT**

### **6.1 Transfer and Sub-Contracting**

- 6.1.1 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.
- 6.1.2 The Authority consents to the engagement of any sub-contractor(s) to which they have pre-approved.
- 6.1.3 The Contractor shall only sub-contract its obligations under this Contract to an Approved Sub-contractor or, where there is a requirement for an Additional

Sub-contractor, with the prior written consent of the Authority in accordance with the following provisions of this clause 6.1.

6.1.4 Without prejudice to the generality of clause 6.1.3, the Authority may withhold or delay its consent to an Additional Sub-contractor where it considers that:

6.1.4.1 the appointment of a proposed sub-contractor may prejudice the provision of the Services or may be contrary to the interests of the Authority;

6.1.4.2 the proposed sub-contractor is considered to be unreliable and/or has not provided reasonable services to its other customers; and/or

6.1.4.3 the proposed sub-contractor employs unfit persons.

6.1.5 In making a request pursuant to clause 6.1.3 the Contractor shall provide the Authority with the following information about the proposed sub-contractor:

6.1.5.1 its name, registered office and company registration number;

6.1.5.2 a copy of the proposed sub-contract;

6.1.5.3 the purposes for which the proposed sub-contractor will be employed, including the scope of any Services to be provided by the proposed sub-contractor;

6.1.5.4 if relevant, confirmation that the sub-contract requires the proposed sub-contractor to comply with any relevant Service Levels;

6.1.5.5 where the proposed sub-contractor is also an affiliate of the Contractor, evidence that demonstrates to the reasonable satisfaction of the Authority that the proposed sub-contract has been agreed on "arms-length" terms;

6.1.5.6 an evaluation of the sub-contractor's financial stability;

6.1.5.7 all information reasonably required by the Authority to determine whether the performance by the sub-contractor of the sub-contracted Services will comply with the service standards and security requirements of this Contract; and

any further information reasonably requested by the Authority.

- 6.1.6 The Contractor shall ensure, except where the Authority has given its prior written consent under clause 6.1.3, that each material sub-contract shall include:
- 6.1.6.1 a right under the Contracts (Rights of Third Parties) Act 1999 for the Authority to enforce the terms of that sub-contract as if it were the Contractor;
  - 6.1.6.2 a provision enabling the Contractor to assign, novate or otherwise transfer any of its rights and/or obligations under the sub-contract to the Authority;
  - 6.1.6.3 a provision requiring the sub-contractor to enter into a direct confidentiality agreement with the Authority on the same terms as set out in clause 5.3 of this Contract;
  - 6.1.6.4 a provision requiring the sub-contractor to comply with protection of data requirements pursuant to clause 5.1 of this Contract;
  - 6.1.6.5 a provision requiring the Sub-contractor to comply with the prevention of corruption obligations pursuant to clause 4.1 of this Contract;
  - 6.1.6.6 a provision restricting the ability of the sub-contractor to further sub-contract elements of the service provided to the Contractor without first seeking the consent of the Authority; and
  - 6.1.6.7 payment terms as set out in clause 3.2 of this Contract.
- 6.1.7 The Contractor shall not terminate or materially amend the terms of any Approved Sub-contract without the Authority's prior written consent, which shall not be unreasonably withheld or delayed.
- 6.1.8 The Authority may require the Contractor to terminate any Approved Sub-contract where the acts or omissions of the relevant Approved Sub-contractor have given rise to the Authority's right of termination under this Contract.
- 6.1.9 The Authority may require the Contractor to terminate the relevant Approved Sub-contract if there is change control (as defined in clause 8.1.4 of this Contract) of an Approved Sub-contractor.

6.1.10 If the Authority is able to obtain from any sub-contractor or any other third party more favourable commercial terms with respect to the supply of any Related Supply, then the Authority may:

6.1.10.1 require the Contractor to replace its existing commercial terms with that person with the more favourable commercial terms obtained by the Authority in respect of the relevant Related Supply; or

6.1.10.2 subject to clause 6.1.12, enter into a direct agreement with that Sub-contractor or third party in respect of the relevant Related Supply.

6.1.11 If the Authority exercises either of its options pursuant to clause 6.1.10, then the Contract Price shall be reduced by an amount that is agreed in accordance with the relevant process for varying the Contract.

6.1.12 The Authority's right to enter into a direct agreement for the supply of the relevant Related Supply is subject to:

6.1.12.1 the Authority making the relevant Related Supply available to the Contractor where this is necessary for the Contractor to provide the Services; and

6.1.12.2 any reduction in the Contract Price taking into account any unavoidable costs payable by the Contractor in respect of the substituted Related Supply, including in respect of any licence fees or early termination charges.

6.1.13 Despite the Contractor's right to sub-contract pursuant to this clause 6.1, the Contractor shall remain responsible for all acts and omissions of its sub-contractors and the acts and omissions of those employed or engaged by the sub-contractors as if they were its own. An obligation on the Contractor to do, or to refrain from doing, any act or thing shall include an obligation upon the Contractor to procure that its employees, staff, agents and sub-contractors' employees, staff and agents also do, or refrain from doing, such act or thing.

## **6.2 Waiver**

6.2.1 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.

6.2.2 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 clause 1.4 (Notices).

6.2.3 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.

### **6.3 Variation**

6.3.1 This Contract shall not be varied or amended unless such variation or amendment is agreed in writing by a duly authorised representative on behalf of the Authority and by a duly authorised representative of the Contractor.

### **6.4 Severability**

6.4.1 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.

### **6.5 Remedies in the event of inadequate performance**

6.5.1 Where there is a failure to comply with the Contract and the failure is not remedied to the satisfaction of the Authority within 14 days it will be considered a material breach.

6.5.2 In the event that the Authority is of the reasonable opinion that there has been a material breach of the Contract by the Contractor, then the Authority may, without prejudice to its rights under clause 8.2 (Termination on Default), do any of the following:

6.5.2.1 without terminating the Contract, itself supply or procure the supply of all or part of the Services until such time as the Contractor shall have demonstrated to the reasonable satisfaction of the Authority that the Contractor will once more be able to supply all or such part of the Services in accordance with the Contract and for the avoidance of doubt, in such

circumstances, the Authority shall have no liability to pay the Contract Price in respect of those Services which the Authority has itself supplied or procured;

6.5.2.2 without terminating the whole of the Contract, terminate the Contract in respect of part of the Services only (whereupon a corresponding reduction in the Contract Price shall be made) and thereafter itself supply or procure a third party to supply such part of the Services; and/or

6.5.2.3 terminate, in accordance with clause 8.2 (Termination on Default), the whole of the Contract.

6.5.3 Without prejudice to its right under clause 3.3 (Recovery of Sums Due), the Authority may charge the Contractor for any costs reasonably incurred and any reasonable administration costs in respect of the supply of any part of the Services by the Authority or a third party (including pursuant to clause 6.5.2) to the extent that such costs exceed the payment which would otherwise have been payable to the Contractor for such part of the Services and provided that the Authority uses its reasonable endeavours to mitigate any additional expenditure in obtaining replacement Services.

6.5.4 If the Contractor fails to supply any of the Services in accordance with the provisions of the Contract and such failure is capable of remedy, then the Authority shall be entitled to instruct the Contractor to remedy the failure, in which event the Contractor shall at its own cost and expense remedy such failure (and any damage resulting from such failure) within 10 Working Days or such other period of time as the Authority may direct.

6.5.5 In the event that:

6.5.5.1 the Contractor fails to comply with clause 6.5.4 and the failure is materially adverse to the interests of the Authority or prevents the Authority from discharging a statutory duty; or

6.5.5.2 the Contractor persistently fails to comply with clause 6.5.4;

the Authority may terminate the Contract with immediate effect by notice in writing.

## **6.6 Remedies Cumulative**

- 6.6.1 Except as otherwise expressly provided by the Contract, all rights and remedies available to either Party under the Contract or otherwise are cumulative and may be exercised concurrently or separately, and the exercise of any one right or remedy shall not be deemed an election of such right remedy to the exclusion of, and shall be without prejudice to the availability of, any other right or remedy.

## **6.7 Monitoring of Contract Performance**

- 6.7.1 The Contractor shall comply with the monitoring arrangements set out in the Monitoring Schedule in relation to the monitoring and reporting on its performance against the Performance Indicators.
- 6.7.2 The Contractor shall provide the Services in such a manner so as to meet or exceed the Minimum Service Threshold for each Performance Indicator.
- 6.7.3 If in any Service Period a KPI Failure occurs Service Credits shall be deducted from the Contract Price in accordance with the Monitoring Schedule.

## **6.8 Entire Agreement**

- 6.8.1 The Contract constitutes the entire agreement between the Parties in respect of the matters dealt with therein. The Contractor acknowledges and agrees that it has not been induced to enter into the Contract in reliance upon, and in connection with the Contract does not have any remedy and waives all rights in respect of, any warranty, representation, statement, agreement or undertaking of any nature whatsoever other than as expressly set out in the Contract, except that this clause shall not exclude liability in respect of any fraudulent misrepresentation.
- 6.8.2 In the event of, and only to the extent of, any conflict or inconsistency between the clauses of the Contract, the Schedules and any other documents referred to in or attached to the Contract, the conflict or inconsistency shall be resolved in accordance with the following order of precedence:
- 6.8.2.1 first priority, the clauses of the Contract;
- 6.8.2.2 second priority, the Schedules (including the Specification);
- 6.8.2.3 third priority, any other document referred to in or attached to the Contract.

## **6.9 Counterparts**

- 6.9.1 This Contract may be executed in counterparts, each of which when executed and delivered shall constitute an original but all counterparts together shall constitute one and the same instrument.

## **7 LIABILITIES**

### **7.1 Liability, Indemnity and Insurance**

- 7.1.1 Neither Party excludes or limits liability to the other Party for:
- 7.1.1.1 death or personal injury caused by its negligence; or
  - 7.1.1.2 fraud; or
  - 7.1.1.3 fraudulent misrepresentation; or
  - 7.1.1.4 any breach of any obligations implied by Section 2 of the Supply of Goods and Services Act 1982; or
  - 7.1.1.5 any liability arising under any indemnity provision in the Contract, save for the indemnity set out at clause 7.1.2, or (in the case of the Contractor only) any liability arising under clause 4.1.3 (Prevention of Corruption).

- 7.1.2 Subject to clauses 7.1.3 and 7.1.4, the Contractor shall indemnify and keep indemnified the Authority from and against any loss, damages, liabilities, claims, demands, proceedings, actions, costs, or expenses suffered by the Authority and legal fees and costs incurred by the Authority resulting from:
- 7.1.2.1 any breach of this Contract by the Contractor;
  - 7.1.2.2 any act, neglect or default of the Contractor or the Contractor's Staff;
  - 7.1.2.3 any breaches in respect of any matter arising from the performance of the Services resulting in any successful claim by any third party; and
  - 7.1.2.4 any failure for any reason by the Contractor to perform the Services in accordance with this Contract which results in the Authority making alternative provision for the Services.
- 7.1.3 Subject always to clause 7.1.1, the liability of either Party for Defaults shall be subject to the following limits:
- 7.1.3.1 save as provided by clause 7.1.3.3, the liability of either Party for any single Default resulting in loss of or damage to the property of the other Party shall not exceed [REDACTED];
  - 7.1.3.2 save as provided by clause 7.1.3.3, the aggregate liability under the Contract of either Party for any and all Defaults (other than a Default covered by clause 7.1.3.1) shall not exceed [REDACTED].
  - 7.1.3.3 to the extent that the liability of the Contractor for any particular Default is (or, but for any breach of the Contract by the Contractor, would be) covered by any insurance which the Contractor is required under the Contract to maintain, the Contractor shall at a minimum be liable to the Authority in respect of that Default up to the Insurance Limit, even if this results in the liability of the Contractor under the Contract exceeding the limits specified in clauses 7.1.3.1 or 7.1.3.2, as applicable.
- 7.1.4 Without prejudice to its liability to indemnify the Authority under the Contract, the Contractor shall take out and maintain, or procure the taking out and maintenance of the insurances specified in the Insurance Schedule ("the

Required Insurances”), together with any other insurances as may be required by Law. All insurances of the kind specified in the Insurance Schedule shall comply in all respects with the requirements set out in the Insurance Schedule.

7.1.5 The Contractor shall ensure that the Required Insurances are taken out with insurers of good financial standing and of good repute in the United Kingdom insurance market and that the relevant policies are effective in each case not later than the date on which the relevant risk commences.

7.1.6 The Contractor shall not (and shall use all reasonable endeavours to procure that none of its sub-contractors shall) take any action or fail to take any reasonable action, or (insofar as it is reasonably within its power) permit anything to occur in relation to it, which would entitle any insurer to refuse to pay any claim under any policy in which the Contractor is an insured, a co-insured or additional insured person.

7.1.7 The Contractor shall in respect of the Required Insurances:

7.1.7.1 provide for 5 Working Days prior written notice of their cancellation or non-renewal to be given to the Authority. Failure to do so will be deemed to be a material breach of the Contract;

7.1.7.2 insofar as they relate to damage to assets, cover the same for the full reinstatement or replacement value;

7.1.7.3 in respect of third party public and products liability insurance, procure that this shall contain an indemnity to principals clause under which the Authority shall be indemnified in respect of claims made against the Authority arising from death or bodily injury or third party property damage and for which the insured is legally liable in the provision of the Services or in connection with the Contract.

7.1.8 The Contractor shall provide on request by the Authority:

7.1.8.1 evidence of the Required Insurances in a form satisfactory to the Authority;

7.1.8.2 evidence in a form satisfactory to the Authority, that the premiums payable under the Required Insurances have been

paid and that those insurances are in full force and effect and meet the insurance requirements of the Contractor in respect thereof,

provided that neither inspection, nor receipt of such evidence shall constitute acceptance by the Authority of the terms thereof, nor be a waiver of the Contractor's liability under the Contract.

- 7.1.9 Renewal certificates or cover notes, in a form satisfactory to the Authority, in relation to any of the Required Insurances shall be obtained by the Contractor as and when requested and certified copies shall be forwarded to the Authority as soon as possible but in any event no later than 10 Working Days following the request.
- 7.1.10 If the Contractor is in breach of clause 7.1.5 in respect of any Required Insurance, the Authority may pay any premiums required to keep such insurance in force or itself procure such insurance and may, in either case, recover such amounts from the Contractor on written demand, together with all expenses incurred in procuring such insurance.
- 7.1.11 The Contractor shall promptly notify to insurers any matter arising from or in relation to the Contract for which it may be entitled to claim under any of the Required Insurances and diligently pursue any valid insurance claim.
- 7.1.12 In the event that the Authority receives a claim relating to the Services or the Contract, the Contractor shall co-operate with the Authority or its insurers and assist it in dealing with such claims including without limitation providing information and documentation in a timely manner.
- 7.1.13 The Contractor shall:
  - 7.1.13.1 (except where the Authority is the claimant party) give the Authority notification within 10 Working Days after any claim in excess of £50,000 relating to the provision of the Services or the Contract on any of the Required Insurances or which, but for the application of the applicable policy excess, would be made on any of the application of the applicable policy excess, would be made on any of the Required Insurances and (if required by the Authority) provide full details of the incident giving rise to the claim;

- 7.1.13.2 promptly and diligently deal with all claims received relating to the Required Insurances and in accordance with the relevant insurers' requirements;
- 7.1.13.3 (except where the Authority is the claimant party) in relation to all claims relating to the Required Insurances, give the Authority details of the value and nature of all such claims relating to the provision of the Services or the Contract as may from time to time be required by the Authority.

## **7.2 Warranties and Responsibilities**

7.2.1 The Contractor warrants and represents that:

- 7.2.1.1 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;
- 7.2.1.2 in entering the Contract it has not committed any fraud;
- 7.2.1.3 it has not committed any offence under the Bribery Act 2010;
- 7.2.1.4 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;
- 7.2.1.5 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;
- 7.2.1.6 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;
- 7.2.1.7 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;

7.2.1.8 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;

7.2.1.9 in the 3 years prior to the date of the Contract:

7.2.1.9.1 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;

7.2.1.9.2 it has been in full compliance with all applicable securities and tax laws and regulations in the jurisdiction in which it is established; and

7.2.1.9.3 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.

## **8 DEFAULT, DISRUPTION AND TERMINATION**

### **8.1 Termination on insolvency and change of control**

8.1.1 The Authority may terminate the Contract with immediate effect by giving notice in writing where the Contractor is a body corporate (where a limited company, a limited liability partnership or otherwise) and in respect of the Contractor:

8.1.1.1 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

- 8.1.1.2 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 or any other step is taken with a view to it being determined that it be wound-up (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation); or
- 8.1.1.3 a petition is presented for its winding up (which is not dismissed within 10 Working Days of its service) or an application is made for the appointment of a provisional liquidator or a creditors' meeting is convened pursuant to the Insolvency Act 1986; or
- 8.1.1.4 a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or asset; or
- 8.1.1.5 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
- 8.1.1.6 it is or becomes unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or
- 8.1.1.7 in the reasonable opinion of the Authority, there is a material detrimental change in the financial standing and/or the credit rating of the Contractor which:
- 8.1.1.7.1 adversely impacts on the Contractor's ability to supply the Services in accordance with the Contract; or
- 8.1.1.7.2 could reasonably be expected to have an adverse impact on the Contractor's ability to supply the Services in accordance with the Contract; or
- 8.1.1.8 the Contractor demerges into two or more firms, merges with another firm, incorporates or otherwise changes its legal form and the new entity has or could reasonably be expected to

- have a materially less good financial standing or weaker credit rating than the Contractor
- 8.1.1.9 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
- 8.1.1.10 it is for any reason dissolved or struck-off the register of companies; or
- 8.1.1.11 any event similar to those listed in clauses 8.1.1.1 to 8.1.1.10 occurs under the law of any jurisdiction.
- 8.1.2 The Authority may terminate the Contract with immediate effect by giving notice in writing where the Contractor is an individual and:
- 8.1.2.1 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
- 8.1.2.2 a petition is presented and not dismissed within 14 days or an order is made for the Contractor’s bankruptcy; or
- 8.1.2.3 a receiver, a 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
- 8.1.2.4 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
- 8.1.2.5 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 10 Working Days; or
- 8.1.2.6 he dies or adjudged incapable of managing his affairs within the meaning of Part VII of the Mental Capacity Act 2005; or

- 8.1.2.7            he suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of his business
  
- 8.1.3            The Authority may terminate the Contract with immediate effect by giving notice in writing where the Contractor is a partnership and in respect of the Contractor:
  - 8.1.3.1            a proposal is made for a voluntary arrangement within Article 4 of the Insolvent Partnerships Order 1994 or a proposal is made for any other composition, scheme, arrangement with, or assignment for the benefit of, its creditors;
  
  - 8.1.3.2            it is for any reason dissolved;
  
  - 8.1.3.3            a petition is presented for its winding-up or for the making of any administration order, or an application is made for the appointment of a provisional liquidator;
  
  - 8.1.3.4            a receiver, or similar officer, is appointed over the whole or any part of its assets;
  
  - 8.1.3.5            the partnership is deemed unable to pay its debts within the meaning of section 222 or 223 of the Insolvency Act 1986 as applied and modified by the Insolvent Partnerships Order 1994;
  
  - 8.1.3.6            any of the following occurs in relation to any of its partners:
    - 8.1.3.6.1            an application for an interim order is made pursuant to Section 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, his creditors;
  
    - 8.1.3.6.2            a petition is presented for his bankruptcy;
  
    - 8.1.3.6.3            a receiver, or similar officer is appointed over the whole or any part of his assets.
  
- 8.1.4            The Contractor shall notify the Authority immediately if the Contractor undergoes a change of control within the meaning of section 4.16 of the Income and Corporation Taxes Act 1988 ("change control"). The Authority may terminate the Contract with immediate effect by giving notice in writing within 6 months of:

8.1.4.1 being notified that a change of control has occurred; or

8.1.4.2 where no notification has been made, the date that the Authority becomes aware of the change of control,

but shall not be permitted to terminate where an Approval was granted prior to the change of control.

## **8.2 Termination on Default**

8.2.1 The Authority may terminate the Contract with immediate effect by giving written notice to the Contractor if the Contractor commits a Default and if:

8.2.1.1 the Contractor has not remedied the Default to the reasonable satisfaction of the Authority within 10 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

8.2.1.2 the Default is not, in the reasonable opinion of the Authority, capable of remedy; or

8.2.1.3 the Default, in the reasonable opinion of the Authority, is a material breach of the Contract; or

8.2.1.4 the Default relates to a failure to meet and/or rectify performance in respect of particular service levels or key performance indicators and the failure in question is of a severity that permits the Authority by reference to other provisions in the Contract (where in a Schedule of otherwise) to terminate the Contract.

8.2.2 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.

8.2.3 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 60 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 failure to pay is due to the Authority exercising its rights under clause 3.3.1 (Recovery of Sums Due).

### **8.3 Termination under the 2015 Regulations**

8.3.1 In the event that any of the grounds in regulation 73(1) of the 2015 Regulations applies to this Contract or the Contractor, the Authority may terminate the Contract by giving reasonable notice to the Contractor.

### **8.4 Break**

8.4.1 The Authority shall have the right to terminate the Contract at any time for any reason by giving not less than [ ] months prior written notice.

8.4.2 The Contractor shall have the right to terminate the Contract at any time by giving not less than [ ] months prior written notice.

8.4.3 In the event that either the Authority or the Contractor terminate the Contract (in part or whole), both parties will have the right to recover reasonable costs, incurred as a direct result of such termination, from whomever terminated the Contract. Any costs will have to be properly and accurately evidenced.

### **8.5 Consequences of Expiry or Termination**

8.5.1 Where the Authority terminates the Contract under clauses 4.1 (Prevention of Corruption), 4.2 (Prevention of Fraud), 4.6 (Health and Safety), 5.2 (Official Secrets and the Finance Act), 5.3 (Confidentiality), 5.7 (Intellectual Property), 6.5 (Remedies in the event of inadequate performance), 8.1 (Termination on insolvency), 8.2 (Termination on Default) or 8.6 (Disruption) 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 Term.

8.5.2 Save as otherwise expressly provided in the Contract 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.

8.5.3 Termination of the Contract shall not affect the continuing rights, remedies or obligations of the Authority or the Contractor under clauses 3.2 (Payment and

VAT), 3.3 (Recovery of Sums Due), 4.1 (Prevention of Corruption), 5.1 (Data Protection Act), 5.2 (Official Secrets Act 1911 to 1989, Section 182 of the Finance Act 1989), 5.3 (Confidential Information), 5.4 (Freedom of Information), 5.7 (Intellectual Property Rights), 5.8 (Audit), 6.6 (Remedies Cumulative), 7.1 (Liability, Indemnity and Insurance), 8.5 (Consequences of Expiry of Termination), 8.7 (Recovery upon Expiry or Termination), 8.9 (Cooperation with Retendering) and 9.1 (Governing Law and Jurisdiction).

- 8.5.4 The parties shall comply with the provisions of the Exit Strategy Schedule and any current Exit Plan in relation to the orderly transition of the Services to the Authority or a Replacement Contractor.

## **8.6 Disruption**

- 8.6.1 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.

## **8.7 Recovery upon Termination**

- 8.7.1 On the termination of the Contract for any reason, the Contractor shall:

8.7.1.1 immediately return to the Authority all information and documentation belonging to the Authority;

8.7.1.2 assist and co-operate with the Authority with any re-tender; and

8.7.1.3 promptly provide all information concerning the provision of the Services which may reasonably be requested by the Authority.

## **8.8 Force Majeure**

- 8.8.1 The Contractor shall not be liable to the Authority under this Contract if it is unable to perform its obligations by reason of a Force Majeure event, provided that the Contractor shall use all reasonable endeavours to minimise the effect of the Force Majeure and to resume performance of its obligations as soon as practicable.

- 8.8.2 Where Force Majeure has a material effect on the provision of the Services for longer than 20 Working Days, the Authority may terminate this Contract immediately at any time on or after the 21<sup>st</sup> Working Day.

## **8.9 Business Continuity**

- 8.9.1 The Contractor shall maintain a business continuity plan and make available to the Authority on request setting out the contingencies that the Contractor will maintain in place to ensure that in the event of a disaster or incident that interrupts Contractor's business, it would be able to resume the Services in a timely manner. The Contractor shall keep the business continuity plan under review throughout the Contract Period and shall update it as necessary to ensure that it continues effectively to address all likely risks affecting the provision of Services under this Contract. The Contractor shall advise the Authority of any changes made to the business continuity plan and explain the purpose of such changes in a written statement at the time when such changes are made.

## **8.10 Cooperation with Retendering**

- 8.10.1 In the event that the Authority decides to re-tender the provision of the Services the Contractor shall, if requested by the Authority, provide the Authority with such information as is relevant to the Services and which may reasonably be required in connection with the preparation of a tender for the provision of the Services by a person submitting such a tender.

- 8.10.2 In the event that the Authority decides to re-tender the provision of the Services the Contractor shall within 10 Working Days of being so requested by the Authority fully and accurately disclose to the Authority for the purposes of TUPE all information relating to its employees engaged in providing Services under the Contract in particular, but not necessarily restricted to, the following:

8.10.2.1 The total number of personnel whose employment with the Contractor is liable to be terminated at the expiry of this Contract but for any operation of law; and

8.10.2.2 for each person, age and gender, details of their salary, and pay settlements covering that person which relate to future dates but which have already been agreed and their redundancy entitlements (the names of individual members of staff do not have to be given);



- 8.10.2.3 the contract of employment;
  - 8.10.2.4 sick pay and any entitlement to private medical insurance;
  - 8.10.2.5 details of any entitlement to any insurance scheme of any kind;
  - 8.10.2.6 if a company car is provided as a benefit in kind, the age and make of the vehicle, the mileage and the presence of any extras;
  - 8.10.2.7 any bonus schemes in which the Contractor's employees participate or are entitled to participate;
  - 8.10.2.8 details of any discretionary arrangement that may benefit the Contractor's employees, such as share schemes and full details of the discretion and how it is operated;
  - 8.10.2.9 full details of any claim being made or anticipated to be made by the Contractor's employees such as personal injury claim or harassment;
  - 8.10.2.10 full details of any enhanced redundancy scheme operated for the benefit of the Contractor's employees;
  - 8.10.2.11 holiday entitlement.
- 8.10.3 The Authority may disclose any such information as is referred to in clauses 8.9.1 or 8.9.2 to any third party who has expressed an interest in tendering for the provision of the Services. The Contractor will co-operate with the re-tendering of the Services by allowing the Replacement Contractor to communicate and meet the affected employees and/or their representatives.
- 8.10.4 In the event that the information provided by the Contractor in accordance with clauses 8.9.1 and 8.9.2 becomes inaccurate for any reason the Contractor shall notify the Authority of the inaccuracies and provide the amended information.
- 8.10.5 The Contractor shall indemnify the Authority and/or any Replacement Contractor against all costs expenses and liabilities arising out of or in connection with any claim or demand or other legal recourse against the Authority and/or any Replacement Contractor by or in respect of any individual employed or engaged or formerly employed or engaged in the provision of any of the Services who claims (where correctly or not) that the Authority and/or the

Replacement Contractor has inherited any contract of employment or liability in respect of them by virtue of TUPE.

#### **8.11 Staff Transfers**

- 8.11.1 The parties acknowledge that the commencement and / or expiry or termination of this Contract may constitute a relevant transfer for the purposes of TUPE. The provisions of the Staff Transfer Schedule will apply on such commencement or expiry or termination.

### **9 DISPUTES LAW AND COMPLAINTS**

#### **9.1 Governing Law and Jurisdiction**

- 9.1.1 Subject to the provisions of clause 9.2, the Authority and the Contractor accept the exclusive jurisdiction of the English courts and agree that the Contract and all non-contractual obligations and other matters arising from or connected with it are to be governed and construed to English Law.

#### **9.2 Dispute Resolution**

- 9.2.1 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 within 20 Working Days of either Party notifying the other of the dispute and such efforts shall involve the escalation of the dispute to the [ ] of each Party.
- 9.2.2 Nothing in this dispute resolution procedure shall prevent the Parties from seeking from any court of competent jurisdiction an interim order restraining the other Party from doing any act or compelling the other Party to do any act.
- 9.2.3 If the dispute cannot be resolved by the Parties pursuant to clause 9.2.1 the Parties shall refer it to mediation pursuant to the procedure set out in clause 9.2.5 unless (a) the Authority considers that the dispute is not suitable for resolution by mediation; or (b) the Contractor does not agree to mediation.
- 9.2.4 The obligations of the Parties under the Contract shall not cease, or be suspended or delayed by the reference of a dispute to mediation (or arbitration) and the Contractor and the Staff shall comply fully with the requirements of the Contract at all times.
- 9.2.5 The procedure for mediation and consequential provisions relating to mediation are as follows:

- 9.2.5.1 a neutral adviser or mediator (the “Mediator”) shall be chosen by agreement between the Parties or, if they are unable to agree upon a Mediator within 10 Working Days after a request by one Party to the other or if the Mediator agreed upon is unable or unwilling to act, either Part shall within 10 Working Days from the date of the proposal to appoint a Mediator or within 10 Working Days of notice to either Party that he is unable or unwilling to act, apply to an appropriate mediation provider to appoint a Mediator.
- 9.2.5.2 The Parties shall within 10 Working Days of the appointment of the Mediator meet with him in order to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiation to be held. If considered appropriate, the Parties may at any stage seek assistance from an appropriate mediation provider to provide guidance on a suitable procedure.
- 9.2.5.3 Unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings.
- 9.2.5.4 If the Parties reach agreement on the resolution of the dispute, the agreement shall be recorded in writing and shall be binding on the Parties once it is signed by their duly authorised representatives.
- 9.2.5.5 If the Parties fail to reach agreement in the structured negotiations within 60 Working Days of the Mediator being appointed or such longer period as may be agreed by the Parties, then any dispute or difference between them may be referred to the Courts (unless the dispute is referred to arbitration pursuant to the procedures set out in clause 9.2.6).
- 9.2.6 Subject to clause 9.2.2 the Parties shall not instigate court proceedings until the procedures set out in clauses 9.2.1 and 9.2.3 have been completed save that:
- 9.2.6.1 the Authority may at any time before court proceedings are commenced serve a notice on the Contractor requiring the

dispute to be referred to and resolved by arbitration in accordance with clause 9.2.7.

9.2.6.2 if the Contractor intends to commence court proceedings, it shall serve written notice on the Authority of its intentions and the Authority shall have 21 days following receipt of such notice to serve a reply on the Contractor requiring the dispute to be referred to and resolved by arbitration in accordance with clause 9.2.7.

9.2.6.3 the Contractor may request by notice in writing to the Authority that any dispute be referred and resolved by arbitration in accordance with clause 9.2.7, to which the Authority may consent as it sees fit.

9.2.7 In the event that any arbitration proceedings are commenced pursuant to clause 9.2.6:

9.2.7.1 the arbitration shall be governed by the provisions of the Arbitration Act 1996;

9.2.7.2 the Authority shall give a written notice of arbitration to the Contractor (the "Arbitration Notice") stating:

9.2.7.2.1 that the dispute is referred to arbitration; and

9.2.7.2.2 providing details of the issues to be resolved;

9.2.7.3 the London Court of International Arbitration ("LCIA") procedural rules in force at the date that the dispute was referred to arbitration in accordance with 9.2.7.2 shall be applied and are deemed to be incorporated by reference to the Contract and the decision of the arbitrator shall be binding on the Parties in the absence of any material failure to comply with such rules;

9.2.7.4 the tribunal shall consist of a sole arbitrator to be agreed by the Parties;

9.2.7.5 if the Parties fail to agree the appointment of the arbitrator within 10 Working Days of the Arbitration Notice being issued by the Authority under clause 9.2.7.2 or if the person

appointed is unable to unwilling to act, the arbitrator shall be appointed by the LCIA;

9.2.7.6 the arbitration proceedings shall take place in London and in the English language; and

9.2.7.7 the arbitration proceedings shall be governed by and interpreted in according with English law.

### **9.3 Complaints**

9.3.1 The IPCC has oversight of complaints and other matters relating to a contractor who has entered into a contract with a Police and Crime Commissioner or a Chief Constable to provide a service to a Chief Constable.

9.3.2 This includes persons working for a contractor that has a contract with a Police and Crime Commissioner or a Chief Constable and also includes subcontractors.

9.3.3 Contractors must ensure compliance with “contractor standards” which means the behaviours and standards that they are required to comply with under the Contractor’s conduct and performance policies that apply to the particular contract between the Contractor and a Police and Commissioner or a Chief Constable.

9.3.4 Complaints and other matters relating to the Contractor arising under this Contract to which the IPCC Regulations apply shall be handled in accordance with the IPCC Regulations.

9.3.5 Complaints and other matters relating to a Contractor arising under this Contract to which the IPCC Regulations do not apply shall be handled in accordance with the Complaints Procedure Schedule.

**IN WITNESS** of which this Contract has been duly executed by the parties.

**SIGNED** for and on behalf of

**[ENTER APPROPRIATE BODY]**

Signature.....

Name .....

Position .....

Date .....

**SIGNED** for and on behalf of

[ENTER APPROPRIATE CONTRACTOR]

Signature.....

Name .....

Position .....

Date .....

## SPECIFICATION SCHEDULE

### **Guidance Notes:**

This schedule should be completed from the winning supplier's tender return. Any clarifications that result in changes to the original tendered response need to be incorporated, and should not just be included as additional information in this schedule.

This schedule needs to be reviewed to ensure that the responses are clear, unambiguous and enforceable.

Any changes made from the original response in drafting this schedule need to be agreed with the supplier.

## PRICING SCHEDULE

### Guidance Notes:

This schedule should include two parts:

#### Part 1

Pricing / charges, which will be completed from the winning supplier(s) tender return.

#### Part 2

Include the mechanism for any price variations during the contract term. Also needs to be included in the outgoing ITT as it will impact the supplier(s) commercial offering.



## INSURANCE SCHEDULE

### Third Party Public and Products Liability Insurance

#### *Insured*

The Contractor

#### *Interest/Insured Risks*

To indemnify the Insured in respect of all sums that it may become legally liable to pay as damages (including claimant's costs and expenses) in respect of accidental:

- (i) death, bodily injury to, or sickness, anguish or shock whether mental or otherwise, or illness or disease contracted by any person (other than employees of the Contractor);
- (ii) loss or damage to property;

happening during the Period of Insurance (as defined below) and arising out of or in connection with the provision of the Services and/or the Contract.

#### *Limit of Indemnity*

Not less than £5,000,000 (five million pounds) in respect of any one occurrence the number of occurrences being unlimited, but in respect of products liability not less than £5,000,000 (five million pounds) for each and every occurrence and in the aggregate per annum and, in respect of pollution liability (to the extent pollution liability is insured by the policy), not less than £1,000,000 (one million pounds) for each and every occurrence.

#### *Territorial Limits*

United Kingdom

#### *Jurisdiction relating to policy interpretation*

Courts of England and Wales

#### *Choice of Law*

This insurance shall be governed in accordance with the laws of England and Wales

#### *Period of Insurance*

From the date of the Contract for the duration of the Contract.

#### Professional Indemnity Insurance

##### *Insured*

Contractor

##### *Interest/Insured Risks*

To indemnify the Insured in respect of all sums that it may become legally liable to pay (including claimants costs and expenses) as a result of any claim or claims first made against the Insured during the Period of Insurance (as defined below) by reason of any negligent act, error and/or omission arising from or in connection with the provision of the Services and/or the Contract.

##### *Limit of Indemnity*

Not less than £1,000,000 (one million pounds) per claim and in the aggregate per annum.

##### *Territorial Limits*

United Kingdom

##### *Jurisdiction relating to policy interpretation*

Courts of England and Wales

##### *Choice of Law*

This insurance shall be governed in accordance with the laws of England and Wales.

#### *Period of Insurance*

From the date of the Contract for the duration of the Contract and for a further period of 6 years following the expiry or earlier termination of the Contract.

#### Compulsory Insurance

The Contractor and any sub-contractors of the Contractor are required to meet their United Kingdom statutory insurance obligations in full. Insurances required to comply with all statutory requirements including, but not limited to, United Kingdom employers' liability and motor third party liability insurance.

The limit of indemnity for the employers' liability insurance shall not be less than GBP 5,000,000 (five million pounds sterling) (or such other limit as may be required by law from time to time) for any one occurrence inclusive of costs, the number of occurrences being unlimited.

## MONITORING SCHEDULE

### Guidance Notes:

Appropriate service levels and indicators to be included here and also whether service credits should be applied for failure or consistent failure of those service levels and KPI's.

This needs to be completed once the solution has been realised.

## VALUE FOR MONEY SCHEDULE

### Guidance Notes:

Appropriate value for money clauses to be included here if required.

## COMPLAINTS PROCEDURE SCHEDULE

### Guidance Notes:

This will be completed once awarded with whatever the complaints procedure the winning supplier has in place.

## **EXIT STRATEGY SCHEDULE**

## **STAFF TRANSFER SCHEDULE**

NOT USED



## BUSINESS CONTINUITY SCHEUDLE

NOT USED

# INFORMATION MANAGEMENT SCHEDULE

## PART 1 - PROCESSING PERSONAL DATA

### DEFINITIONS

The following definitions shall apply in this schedule:

**Data Protection Legislation:** to the extent applicable, all of: (a) European Union Directives 95/46/EC and 2002/58/EC (as amended by Directive 2009/139/EC); (b) from and including 25 May 2018 the GDPR and LED; (c) any legislation and/or regulation implementing or made pursuant to the legislation in (a) or (b), including but not limited to the Privacy and Electronic Communications (EC Directive) Regulations 2003, DPA 1998 and any subsequent UK legislation which replaces the DPA 1998; and (d) any other applicable data protection laws and regulations, together with all amendments, subordinate legislation, directions of any competent privacy regulator, common law decisions, relevant regulatory guidance and codes of practice.

**Data Protection Impact Assessment:** an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data.

**Controller, Processor, Data Subject, Personal Data, Personal Data Breach, and Data Protection Officer:** have the meaning given in the GDPR.

**Data Loss Event:** any event that results, or may result, in unauthorised access to personal Data held by the Contractor under this Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of this Contract, including any Personal Data Breach.

**Data Subject Access Request:** 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 1998:** Data Protection Act 1998.

**DPA 2018:** Data Protection Act 2018.

**GDPR:** the General Data Protection Regulation (Regulation (EU) 2016/679).

**LED:** Law Enforcement Directive (Directive (EU) 2016/680).

**Protective Measures:** 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, regularly assessing and evaluating the effectiveness of such measures adopted by it, and any measures required under Article 32 of GDPR.

**Sub-processor:** any third Party appointed to process Personal Data on behalf of the Contractor related to this Contract

1. The Parties agree that the processing of the Personal Data is necessary [Article 6(1) of GDPR needs to be applied here].
2. The Parties agree that the Contractor shall process the Personal Data as a Data Processor for the Authority.
3. The Contractor shall perform its obligations under this Contract in full compliance with Data Protection Law.
4. The Contractor shall at all times perform its obligations under this Contract in such a manner as not to cause the Authority in any way to be in breach of Data Protection Law.
5. The Parties acknowledge that for the purposes of the Data Protection Legislation, the Authority is the Controller and the Contractor is the Processor. The only processing that the Contractor is authorised to do is listed in the Annex to this Information Management Schedule by the Authority and may not be determined by the Contractor.
6. The Contractor shall notify the Authority immediately if it considers that any of the Authority's instructions infringe the Data Protection Legislation.
7. The Contractor shall provide all reasonable assistance to the Authority in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Authority, 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.
8. The Contractor shall, in relation to any Personal Data processed in connection with its obligations under this Contract:

- (a) process that Personal Data only in accordance with this Information Management Schedule, unless the Contractor is required to do otherwise by Law. If it is so required the Contractor shall promptly notify the Authority before processing the Personal Data unless prohibited by Law;
- (b) ensure that it has in place Protective Measures, which have been reviewed and approved by the Authority as appropriate to protect against a Data Loss Event having taken account of the:
  - (i) nature of the data to be protected;
  - (ii) (ii) harm that might result from a Data Loss Event;
  - (iii) (iii) state of technological development; and
  - (iv) (iv) cost of implementing any measures;

(c) ensure that:

- (i) the Contractor Personnel do not process Personal Data except in accordance with this Information Management Schedule;
- (ii) it takes all reasonable steps to ensure the reliability and integrity of any Contractor Personnel who have access to the Personal Data and ensure that they:
  - (a) are aware of and comply with the Contractor's duties under this paragraph;
  - (b) are subject to appropriate confidentiality undertakings with the Contractor 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 Authority or as otherwise permitted by this Contract; and
  - (d) have undergone adequate training in the use, care, protection and handling of Personal Data; and
  - (e) not transfer Personal Data outside of the EU unless the prior written consent of the Authority has been obtained and the following conditions are fulfilled:
    - (i) the Authority or the Contractor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Authority;
    - (ii) the Data Subject has enforceable rights and effective legal remedies;
    - (iii) the Contractor 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 Authority in meeting its obligations); and,

- (iv) the Contractor complies with any reasonable instructions notified to it in advance by the Authority with respect to the processing of the Personal Data;
  - (f) at the written direction of the Authority, delete or return Personal Data (and any copies of it) to the Authority on termination of the Contract unless the Contractor is required by Law to retain the Personal Data;
  - (g) at the request of the Authority provide a written description of and rationale for the Protective Measures implemented or to be implemented to protect the Personal Data against unauthorised or unlawful processing and accidental loss.
- 9. Subject to paragraph 10, the Contractor shall notify the Authority 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 Contract;
  - (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.
- 10. The Contractor's obligation to notify under paragraph 9 shall include the provision of further information to the Authority in phases, as details become available.
- 11. Taking into account the nature of the processing, the Contractor shall provide the Authority with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under paragraph 9 (and insofar as possible within the timescales reasonably required by the Authority) including by promptly providing:
  - (a) the Authority with full details and copies of the complaint, communication or request;

- (b) such assistance as is reasonably requested by the Authority to enable the Authority to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
  - (c) the Authority, at its request, with any Personal Data it holds in relation to a Data Subject;
  - (d) assistance as requested by the Authority following any Data Loss Event;
  - (e) assistance as requested by the Authority with respect to any request from the Information Commissioner's Office, or any consultation by the Authority with the Information Commissioner's Office.
12. The Contractor shall maintain complete and accurate records and information to demonstrate its compliance with this paragraph.
13. The Contractor shall allow for audits of its Data Processing activity by the Authority or the Authority's designated auditor.
14. The Contractor shall designate a data protection officer if required by the Data Protection Legislation.
15. Before allowing any Sub-processor to process any Personal Data related to this Contract, the Contractor must:
- (a) notify the Authority in writing of the intended Sub-processor and processing;
  - (b) obtain the written consent of the Authority;
  - (c) enter into a written Contract with the Sub-processor which give effect to the terms set out in this schedule such that they apply to the Sub-processor; and
  - (d) provide the Authority with such information regarding the Sub-processor as the Authority may reasonably require.
16. The Contractor shall remain fully liable for all acts or omissions of any Sub-processor.
17. The Authority may, at any time on not less than 30 Working Days' notice, revise this paragraph by replacing it with any applicable controller to processor standard paragraphs or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Contract).

18. The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Authority may on not less than 30 Working Days' notice to the Contractor amend this Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office.
19. Without prejudice to paragraphs 1 to 18 of this schedule it is a requirement of GDPR that this Contract stipulates:
  - 19.1 The Contractor shall process the Personal Data only on documented instructions from the Authority, including with regard to transfers of Personal Data to a third country or an international organisation, unless required to do so by Union or Member State law to which the Contractor is subject; in such a case, the Contractor shall inform the Authority of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest;
  - 19.2 The Contractor shall ensure that persons authorised to process the Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.
  - 19.3 The Contractor shall take all measures required under Article 32 of GDPR.
  - 19.4 The Contractor shall respect the conditions referred to in paragraphs 2 and 4 of Article 28 of GDPR for engaging another processor.
  - 19.5 The Contractor shall take into account the nature of the processing, assist the Authority by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the Authority's obligation to respond to requests for exercising the data subject's rights laid down in Chapter III of GDPR.
  - 19.6 The Contractor shall assist the Authority in ensuring compliance with the obligations pursuant to Articles 32 to 36 of GDPR taking into account the nature of processing and the information available to the Contractor.
  - 19.7 The Contractor shall at the choice of the Authority delete or return all the Personal Data to the Authority after the end of the provision of the Services relating to processing and delete existing copies unless Union or Member State law requires storage of the Personal Data.
  - 19.8 The Contractor shall make available to the Authority all information necessary to demonstrate compliance with the obligations laid down in Article 28 of GDPR and allow for and contribute to audits, including inspections, conducted by the Authority or another auditor mandated by the Authority.



20. The Contractor shall indemnify and keep indemnified the Authority against all costs claims losses damages and expenses (including legal expenses) incurred by the Authority arising out of or in connection with any breach of this [Information Management Schedule] by the Contractor its employees agents and / or sub-contractors.

## **Annex to Part 1**

1. The Contractor shall comply with any further written instructions with respect to processing by the Authority.
2. Any such further instructions shall be incorporated into this Schedule.

### **Description Details**

#### **Subject matter of the processing**

[This should be a high level, short description of what the processing is about i.e. its subject matter]

#### **Duration of the processing**

[Clearly set out the duration of the processing including dates]

#### **Nature and purposes of the processing**

[Please be as specific as possible, but make sure that you cover all intended purposes. The nature of the processing means any operation such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means) etc. The purpose might include: employment processing, statutory obligation, recruitment assessment, etc]

#### **Type of Personal Data**

[Examples here include: name, address, date of birth, NI number, telephone number, pay, images, biometric data, etc]

#### **Categories of Data Subject**

[Examples include: Staff (including volunteers, agents, and temporary workers), customers/clients, suppliers, patients, students / pupils, members of the public, users of a particular website etc]

#### **Plan for return and destruction of the data once the processing is complete UNLESS requirement under union or member state law to preserve that type of data**

[Describe how long the data will be retained for, how it be returned or destroyed]

## **PART 2**

### **CONTRACTOR'S OBLIGATIONS IF IT IS PROCESSING NON PERSONAL DATA ON BEHALF OF THE AUTHORITY**

1. The CONTRACTOR shall not delete or remove any proprietary notices contained within or relating to the Data.
2. The CONTRACTOR shall not store, copy, disclose, or use the Data except as necessary for the performance by the CONTRACTOR of its obligations under this Contract or as otherwise expressly authorised in writing by the AUTHORITY.
3. To the extent that Data is held and/or processed by the CONTRACTOR, the CONTRACTOR shall supply that Data to the AUTHORITY as requested by the AUTHORITY in the format notified by the Authority to the Contractor.
4. The CONTRACTOR shall take responsibility for preserving the integrity of Data and preventing the corruption or loss of Data.
5. The CONTRACTOR shall perform secure back-ups of all Data and shall ensure that up-to-date back-ups are stored off-site in accordance with the Security Requirements.
6. The CONTRACTOR shall ensure that such back-ups are available to the AUTHORITY at all times upon request and are delivered to the AUTHORITY within the timescale notified by the Authority.
7. The CONTRACTOR shall ensure that any system on which the CONTRACTOR holds any Data, including back-up data, is a secure system that complies with the Security Requirements.
8. If the Data is corrupted, lost or sufficiently degraded as a result of the CONTRACTOR's default so as to be unusable, the AUTHORITY may:

require the CONTRACTOR (at the CONTRACTOR's expense) to restore or procure the restoration of the Data to the extent and in accordance with the requirements of the Authority; and/or

itself restore or procure the restoration of Data, and shall be repaid by the CONTRACTOR any reasonable expenses incurred in doing so to the extent and in accordance with the requirements of the Authority.

9. If at any time the CONTRACTOR suspects or has reason to believe that AUTHORITY Data has or may become corrupted, lost or sufficiently degraded in any way for any

reason, then the CONTRACTOR shall notify the AUTHORITY immediately and inform the AUTHORITY of the remedial action the CONTRACTOR proposes to take.

10. The Contractor shall implement appropriate technical and organisational measures to protect the Data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure. These measures shall be appropriate to the harm which might result from any unauthorised or unlawful processing, accidental loss, destruction or damage to the Data and having regard to the nature of the Data which is to be protected.