

[REDACTED]

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[REDACTED]

Date: 16/11/2022

Our ref: FS900283

Dear [REDACTED]

#### **Supply of Understanding SME Provision of Allergen Information in the Non-Prepacked Sector**

Following your tender/ proposal for the supply of Understanding SME Provision of Allergen Information in the Non-Prepacked Sector to Food Standards Agency, we are pleased confirm our intention to award this contract to you.

The attached contract details ("**Order Form**"), contract conditions and the **Annexes** set out the terms of the contract between Food Standards Agency for the provision of the deliverables set out in the Order Form.

We thank you for your co-operation to date and look forward to forging a successful working relationship resulting in a smooth and successful delivery of the deliverables. Please confirm your acceptance of the Conditions by signing and returning the Order Form. Please remember to include the reference number above in any future communications relating to this contract.

We will then arrange for Order Form to be countersigned which will create a binding contract between us.

Yours faithfully,

[REDACTED]

[REDACTED]

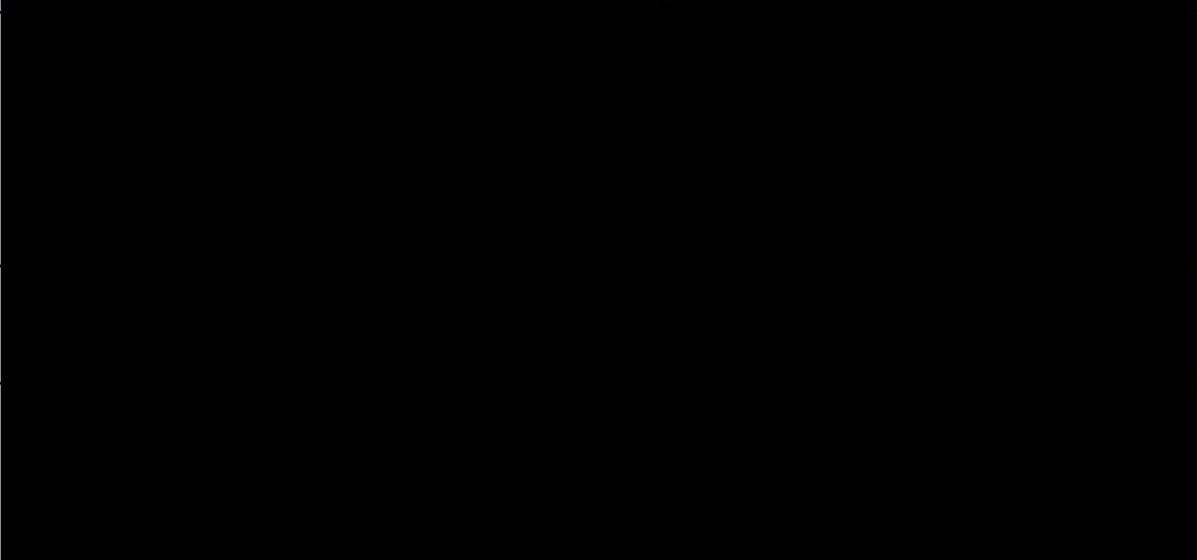
## Order Form

<b>1. Contract Reference</b>	<b>FS900283</b>	
<b>2. Date</b>	18/11/2022	
<b>3. Buyer</b>	<b>Food Standards Agency</b> <b>Clive House</b> <b>70 Petty France</b> <b>London</b> <b>SW1H 9EX</b>	
<b>4. Supplier</b>	Basis Research Limited Hanway House 24 Hanway Street London W1T 1UH	
<b>5. The Contract</b>	<p>The Supplier shall supply the deliverables described below on the terms set out in this Order Form and the attached contract conditions ("<b>Conditions</b>") and any <b>Annexes</b>.</p> <p>Unless the context otherwise requires, capitalised expressions used in this Order Form have the same meanings as in Conditions.</p> <p>In the event of any conflict between this Order Form and the Conditions, this Order Form shall prevail.</p> <p>Please do not attach any Supplier terms and conditions to this Order Form as they will not be accepted by the Buyer and may delay conclusion of the Contract.</p>	
<b>6. Deliverables</b>	<b>Goods</b>	None

	<p><b>Services</b></p> <p>To be performed at <b>Suppliers premises.</b></p> <p><b><i>See Annex 3 – Technical Proposal</i></b></p>
<b>7. Specification</b>	The specification of the Deliverables is as set out in <b>Annex 2</b>
<b>8. Term</b>	<p>The Term shall commence on <b>01/12/2022</b></p> <p>and the Expiry Date shall be <b>07/04/2023</b> unless it is otherwise extended or terminated in accordance with the terms and conditions of the Contract.</p> <p>The Buyer may extend the Contract for a period of up to [3 months] by giving not less than [10 Working Days] notice in writing to the Supplier prior to the Expiry Date. The terms and conditions of the Contract shall apply throughout any such extended period.</p>
<b>9. Charges</b>	The Charges for the Deliverables shall be as set out in <b>Annex 4.</b>
<b>10. Payment</b>	<p>All invoices must be sent, quoting a valid purchase order number (PO Number), to:  <div style="background-color: black; height: 1.2em; width: 200px; margin: 2px 0;"></div> .</p> <p>Within <b>[10]</b> Working Days of receipt of your countersigned copy of this letter, we will send you a unique PO Number. You must be in receipt of a valid PO Number before submitting an invoice.</p> <p>To avoid delay in payment it is important that the invoice is compliant and that it includes a valid PO Number, PO Number item number (if applicable) and the details (name and telephone number) of your Buyer contact (i.e. Contract Manager). Non-compliant invoices will be sent back to you, which may lead to a delay in payment.</p>

<b>11. Buyer Authorised Representative(s)</b> <b>)</b>	For general liaison your contact will continue to be  <div style="background-color: black; height: 1.2em; width: 100%;"></div>
<b>12. Address notices for</b>	<p><b>Buyer:</b></p> <p>FSA Commercial Food Standards Agency Foss House Peasholme Green York YO1 7PR</p> <p><b>Supplier:</b></p> <p>Basis Research Limited Hanway House 24 Hanway Street London W1T 1UH</p>
<b>13. Key Personnel</b>	See <b>Annex 3 – Technical Proposal.</b>

<b>14. Procedures and Policies</b>	<p>The Buyer may require the Supplier to ensure that any person employed in the delivery of the Deliverables has undertaken a Disclosure and Barring Service check.</p> <p>The Supplier shall ensure that no person who discloses that he/she has a conviction that is relevant to the nature of the Contract, relevant to the work of the Buyer, or is of a type otherwise advised by the Buyer (each such conviction a "<b>Relevant Conviction</b>"), or is found by the Supplier to have a Relevant Conviction (whether as a result of a police check, a Disclosure and Barring Service check or otherwise) is employed or engaged in the provision of any part of the Deliverables.</p>
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Signed for and on behalf of the <b>Supplier</b>	Signed for and on behalf of the <b>Buyer</b>
	

## Annex 1 – Authorised Processing Template

Contract:	FS900283
Date:	
Description Of Authorised Processing	Details
Subject matter of the processing	The processing is needed in order to ensure that the Processor can effectively deliver the contract to provide a service to members of the public.
Duration of the processing	Duration of the Contract.
Nature and purposes of the processing	<p>The legal basis is research and the Public Task to is understand the provisions of allergen information in SME food businesses.</p> <p>Processing includes collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure and destruction of data.</p>
Type of Personal Data	<ul style="list-style-type: none"> <li>• Name of respondent</li> <li>• Business name</li> <li>• Business location</li> <li>• Type of business, including sector and size</li> <li>• Email address</li> <li>• Telephone number</li> <li>• Role in organisation</li> <li>• PI information collected through photographs, video, audio and transcript data as part of the interview process</li> </ul>
Categories of Data Subject	Staff within FBOs

## Annex 2 - Specification

### THE SPECIFICATION, INCLUDING PROJECT TIMETABLE AND EVALUATION OF TENDERS

#### GENERAL INTRODUCTION

The Food Standards Agency is an independent Government department working across England, Wales and Northern Ireland to protect public health and consumers wider interest in food. We make sure food is safe and what it says it is.

The Agency is committed to openness, transparency and equality of treatment to all suppliers. As well as these principles, for science projects the final project report will be published on the Food Standards Agency website ([www.food.gov.uk](http://www.food.gov.uk)). For science projects we will encourage contractors to publish their work in peer reviewed scientific publications wherever possible. Also, in line with the Government's Transparency Agenda which aims to encourage more open access to data held by government, the Agency is developing a policy on the release of underpinning data from all its science- and evidence-gathering projects.

Data should be made freely available in an accessible format, as fully and as promptly as possible. Consideration should be given to data management as new contracts are being negotiated. Resource implications for this should be taken into account. The mechanism for publishing underpinning data should allow the widest opportunity for to enable its re-use. Where possible, underpinning data should be included in the final project report. Where data are included in the final report in pdf format, they should also be published separately in a format that can be used for further analysis. Large data sets can be provided separately in an annex to the report, and published, where possible, alongside the final report online. Where it is more appropriate to publish underpinning data in an existing database, archive, repository or other community resource, or for data to be saved in a specialist proprietary format, information will be provided on how the data can be accessed. There will be some circumstances where release of data may need to be restricted or anonymised for reasons of commercial and/or personal sensitivities.

**This work is being commissioned under the FSA's Food Hypersensitivity programme. The programme aims to improve the quality of life for people living with food hypersensitivities and support them to make safe and informed choices to effectively manage risk.**

#### A. THE SPECIFICATION

##### 1. Background

As part of our food hypersensitivity (FHS) programme of work, the FSA is considering options to help people with food hypersensitivities make safe, informed decisions when purchasing non-prepacked food. This is food which is sold loose, or which is packed or served to order, for example, takeaway food and food served in restaurants and cafes. Food hypersensitivity includes food allergy,



intolerance, and coeliac disease. Further details of the Food Hypersensitivity Programme can be found in our [Food Hypersensitivity Strategy](#) and the associated [FSA Board Paper \(January 2020\)](#). Further updates related to our provision of allergen information work have been provided to the FSA Board in [June 2022](#) and [September 2022](#).

From a legislative perspective, in England and Wales the retained EU Regulation on the [Provision of Food Information to Consumers \(FIC\)](#) describes the requirement for businesses to communicate the presence of allergens in food to consumers. In Northern Ireland the [EU Regulation](#) applies. The FIC imposes a duty on food business operators to ensure that all mandatory food allergen information (relating to 14 substances listed in the FIC that are known to cause allergies) is accurate, available, and easily accessible to the consumer.

Therefore, if a FBO sells or provides food to customers directly, for example in a restaurant, they must provide allergen information. This can be done in any number of ways including:

- full allergen information on a menu, chalkboard or in an information pack such as the allergen matrix
- a written notice placed in a clearly visible position explaining how customers can obtain this information - for example by speaking to a member of staff

In addition to providing allergen information, food businesses are required to control allergens within their premises as they would controls other food “hazards” with a view to avoiding or reducing, where possible, the risk of allergen cross-contact in the food they serve to people with FHS.

The FSA is interested in understanding how small and medium enterprises (SMEs) in the non-prepacked sector provide allergen information to consumers and the challenges and opportunities changing the legislative requirements for the provision of allergen information may create.

This work builds on our recent consumer and food business (FBO) ‘[Provision of Allergen Information in the Out of Home Food Sector](#)’ research. The FBO research included qualitative and quantitative approaches. It identified that FBOs provide allergen information in a variety of formats including allergen notices (39%), separate allergen menus (25%), allergen matrixes (24%) and by proactively asking customers (24%).

The qualitative work indicated that changes to legislation for the provision of allergen information across the sector would present FBOs with challenges. In contrast, the quantitative research suggested that FBOs have positive feelings towards the feasibility of providing allergen information in writing (allergens on menus and full ingredients in an allergen matrix) and asking each consumer about allergens.

However, the sampling frame used in the quantitative research, that enabled comparison across businesses sizes, meant that the findings were not nationally representative of business size. Most non-prepacked food businesses are small businesses with 77% having fewer than 9 employees<sup>1</sup>. Whilst larger businesses may have multiple outlets they represent the smallest proportion (<1%) of the total number of food businesses.

Additionally, most of the businesses in the quantitative sample were restaurants, hotels/guest houses, and pubs (68%). There were only a small number of cafes (9%), takeaways (7%) and mobile food

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<https://www.ons.gov.uk/businessindustryandtrade/business/activitysizeandlocation/adhocs/009630foodserviceindustrybynumberofsites>

units (4%). Different types of business can have different models of service. For example, a restaurant or hotel might offer a table service that provides menus and a food server to take the order, whereas a café may offer a counter service and not produce menus. Food businesses offering different service models were less well represented and this could have an impact on the feasibility of changing the requirements for how allergen information is provided to consumers.

We therefore have a gap in our data as to the practicalities of potential legislative change options for different types of SMEs. The focus of this research is to understand in more detail the impact of any potential changes to the provision of allergen information for SMEs across a variety of service models. We are also interested in gathering the views of specialist trade associations.

This research forms part of a wider programme of work that will enable us to develop options for the FSA Board and make recommendations for improving the provision of allergen information to consumers in the non-prepacked sector.

**The budget for this work is £60,000-65,000.**

**The deadline for tenders is 31 October 2022. Work is expected to start in December 2022, and finish by end of March 2023.**

## **2. Objectives**

The aim of this work is to carry out qualitative research with 40 SMEs across a range of different service models within the non-prepacked sector to understand how they are currently providing allergen information to consumers and the challenges and opportunities changing their approach would present. In addition, we would like to gather insight from the 14 trade bodies outlined in Annex A.

We want to understand:

- How SMEs currently provide allergen information to consumers (including any written or digital materials) and the reasons for this approach.
- The challenges SMEs face in providing accurate allergen information to consumers.
- The challenges SMEs face in managing allergen cross-contact.
- The challenges and benefits of a range of different options for providing allergen information to consumers. The FSA will provide guidance to the successful contractor on the options to be discussed.

A list of more detailed research questions is outlined in Annex B. These could form the basis for any research materials.

## **3. Scope**

This contract is for a one-off study to be completed by end of March 2023. Design of research materials, data collection, analysis and reporting will be carried out by the appointed contractor.

The FSA has responsibility in England, Wales and Northern Ireland. Fieldwork for this element will therefore need to cover a representative sample of businesses operating in these nations. Within the results we would expect nation specific analysis.

The FSA believes that a qualitative approach such as in-depth interviews and/or focus groups, which capture more detailed information would be suitable for collecting the relevant data. We also envision data collection will be conducted online or via telephone rather than face to face due to the uncertainties presented by Covid-19. The FSA is, however, open to alternative ideas about the methods and modes of data collection. Suggestions of innovative and creative methods and approaches are welcome, particularly in helping FBOs to think through the challenges and opportunities of different options for providing allergen information to consumers. For instance, we are open to ethnographic or other approaches that would shed light on the material features of SME workplaces that facilitate or hinder the provision of allergen information to consumers or represent challenges to providing accurate allergen information or managing allergen cross-contact.

All proposals must provide detailed information on the approach to gathering data from businesses, which should be robust and fit for purpose. There should also be review points built into the project timeline to discuss initial themes and review the research materials in case amendments are required.

Proposals must be supported by a clear rationale, detailing outputs with a clear link to the FSA brief.

It is anticipated that financial incentives will be required for participating businesses. Tenderers should propose an appropriate financial incentive amount and include these as itemised costs in the financial breakdown.

Tenderers should set out their approach to analysing the data as part of their proposal. The contractor will be required to supply the FSA with a technical appendix documenting the project development work, including fieldwork approach, fieldwork materials, and analysis of any resulting datasets.

The appointed contractor will be responsible for identifying and recruiting a relevant sample of businesses and should outline how they will source this. The sample should capture micro (<9 employees), small (<49 employees) FBOs selling non-prepacked food. This will include businesses such as restaurants, cafes, takeaways, B&Bs, mobile food vans, caterers, leisure and entertainment, pubs and bars serving food. Some of these food businesses may also sell other types of food such as 'prepacked for direct sale' (PPDS). The requirements for full ingredient labelling for PPDS foods were introduced in October 2021. This may impact the views of food businesses who have experience of this recent change.

We are interested in getting views from a wide range of FBOs that see non-prepacked food. We would like to ensure that businesses that are less likely to have a written allergy policy are well represented and that the research covers FBOs with a range of different food service models, e.g., table service, takeaway, counter service. A full list of the types of businesses will be provided. The FSA would also be interested in including FBOs selling food online (such as through online services such as Deliveroo and Just Eat), and food pre-ordered for collection in person. A range of businesses that use menus, display boards or online menus only will need to be recruited.

We envision that the qualitative research will involve around 40 businesses. We are particularly interested to analyze takeaways as a sub-group and would expect a minimum of eight businesses in this sub-group. We would also expect analysis of the results by nation (England, Northern Ireland and Wales). The sample should seek to capture additional variances of business characteristics such as business location, FHRs (Food Hygiene Rating Scheme) rating and type of establishment. Sampling should target personnel within the FBO who have sufficient knowledge of their business' decision-making in relation to allergens/food safety.

The FSA would also be interested in gaining views from several key industry stakeholders that represent small and medium businesses to capture insights into current industry practices from a wider perspective.

Tenderers need to be mindful of the pressures experienced by businesses in relation to Covid-19 when communicating with potential participants. The research will need to be carefully framed, showing understanding of the pressure businesses face, and emphasising that participation is voluntary.

#### **4. Accessibility**

All materials and outputs must meet accessibility standards in line with 'The Public Sector Bodies (Websites and Mobile Applications) Accessibility Regulations 2018'. [Guidance on the accessibility requirements](#). The service should work with [the most common assistive technologies](#) and for different [browsers and devices](#).

Accessibility should apply to all aspects of the end-to end service (including code, content, interactions, and final reports). The contractor will be expected to test and ensure accessibility standards are fully met and publish a compliant accessibility statement.

#### **5. Welsh Language Requirements**

As a public body providing services in Wales, the FSA is legally obliged, under the Welsh Language Act 1993, and Welsh Language Measure 2011, to provide all services in Welsh.

Where the FSA communicates with the public in Wales, it must treat the English and Welsh languages equally. Work carried out on behalf of the Agency is subject to these provisions. This means that contractors must make provisions for this including:

- Research materials to sample members in Wales to be issued bilingually;
- Providing a Welsh speaking service to answer telephone queries from Welsh speakers;
- Sample members in Wales to be offered to participate in the language of their choice (Welsh or English);
- If somebody requests to contribute to the research in Welsh, adequate provision must be made to enable them to do so; and
- All requests should be treated respectfully, always acknowledging the individual's linguistic rights as a Welsh-speaker in Wales. The service provided on the behalf of the FSA must be of equal standard in English and Welsh.

The FSA has an internal Welsh Language Unit who can be consulted on Welsh language / translation arrangements. In some cases, the Unit may be able to undertake the necessary translation work in-house, otherwise, they will advise on FSA-approved translation contractors. These contractors have been approved following a rigorous procurement process where every aspect of their work was thoroughly tested, and the FSA cannot accept work from contractors who have not been through this process. Therefore, it's important that the Unit is consulted at the earliest possible opportunity with regards to research projects, to allow ample time for making translation arrangements.

#### **6. Deliverables and governance**

A delivery plan for the proposed work should be included within the tender.

The following outputs are required:

- 1. A topline summary of initial research findings immediately following fieldwork completion.**
- 2. A draft report containing research findings with standalone summary.**
- 3. A finalised report containing research findings with standalone summary.**
- 4. A technical appendix detailing the research approach and supporting technical information, including details of approaches used to analyse the data.**
- 5. A draft presentation slide deck for an internal FSA workshop on the research findings.**
- 6. Finalised presentation slide deck for an internal FSA workshop on the research findings.**

Usually, reports require two rounds of substantive comments by FSA officials (and any other parties involved in the project as appropriate) and a final round to finalise minor outstanding comments. Unless otherwise agreed, the FSA's project manager will co-ordinate comments and provide them to the contractor and all responses will be recorded.

Final outputs will be subject to external peer review, following which further amendments may be required. Contractors should agree the timetable for reporting and publication with the FSA's project manager but should note that the FSA normally expect at least a week to provide a co-ordinated response per round of substantive comments.

All outputs will be published so they will need to meet WCAG 2.1 AA accessibility requirements [here](#). Copies of the final reports should be provided in Open Document Text format (or MS Word) using the FSA reporting template. Reports should be structured in line with the 1:3:25 principle to ensure they are reader friendly. Please confirm in your proposal how you will meet the FSA's requirements for reporting and accessibility.

## **7. Timing**

It is anticipated that the overall contract will last 4 months, between December 2022 and March 2023. However, tenders should propose an alternative timetable, and rationale for any changes, if the proposed timings are not considered feasible to deliver to.

Details of project timings must be clearly stated in the proposal and must include indicative dates for a start-up meeting, dates for outputs, and other key dates as appropriate. Critical dates should be marked accordingly.

The timetable must allow sufficient time for the FSA to comment on draft materials.

## **8. Personnel**

The successful contractor will be supported by members of the FSA Food Hypersensitivity Policy Team and other relevant FSA departments.

The FSA requires the contractor to provide a sufficient level of resource throughout the duration of the contract to consistently deliver a quality service.

Details of all key personnel who will be working on this project for the contractor must be given in proposals, including their grade, daily rate, number of days' input, and a summary of their relevant skills and experience. The proposal should also include who would be drafting the report.

Should any element of this project be subcontracted, details of subcontracted companies, their key personnel and working arrangements with the contractor should also be included within proposals.



The contractor must demonstrate that their team has the necessary range of skills and knowledge to deliver this project, with evidence of relevant experience and expertise on similar projects provided (please provide at least two examples).

The contractor will also be required to appoint a contract manager who will be fully accountable for the delivery of the project against the contract. A named contract manager must be provided within proposals. They will be required to liaise closely with the FSA's project manager.

## **9. Reporting**

In addition to the outputs specified under Section 7, the contractor will report weekly to the FSA on progress, either by phone, MS Teams or via email.

There should be review points built into the project timeline to discuss initial themes for each objective and review work in case amendment is required.

## **10. Data security**

It is desirable for tenderers to hold Cyber Security Plus certification, or similar, such as certification to the appropriate ISO 27001 – Information security management standards. If tenderers do not hold either of these, then Cyber Essentials certification is necessary.

All information relating to the project and correspondence should be held securely with appropriate safeguards in place to maintain confidentiality of information, outputs and any other materials associated with the development of these outputs.

## **11. Quality**

All reporting and outputs produced must be of publishable standard. Work is expected to have been proofread before submission to the FSA.

A quality plan should be included within the proposal, demonstrating internal quality assurance procedures and how the contractor will achieve high quality outputs to time and budget. It is desirable, not essential, for tenderers to hold ISO 9001 – Quality management<sup>2</sup>.

## **12. Risk management**

The contractor is expected to review, update and communicate risks to the successful conduction of the contracted work, to the FSA as appropriate. Proposals must include a risk register detailing high, medium and low risks, tailored to this specification, and how these will be managed and mitigated against. This includes any reputational risks to the FSA. It is desirable, but not essential for tenderers to hold ISO 3100 – Risk management<sup>3</sup>.

## **13. Cost**

The budget for this work is around £60,000 to £65,000.

Please ensure that your proposal identifies all anticipated costs for conducting the work.

A cost breakdown for staff involvement and days dedicated to the project should be provided for each staff member. In addition, all other associated overheads and expenses should be included in the proposal. Costs should be provided exclusive of VAT and should clearly state whether VAT will be charged.

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<sup>2</sup> [ISO 9001 - quality management](#)

<sup>3</sup> [ISO 3100 - risk management](#)

Payments will be made against key milestones. A payment schedule will be agreed between the FSA's project manager and the successful supplier's contract manager on finalisation of the contract.

## Annex 3 – Technical Proposal

### Tender Application form for a project with the Food Standards Agency



- Applicants should complete each part of this application as fully and as clearly as possible
- Brief instructions are given in the grey boxes at the start of each section.
- Please submit the application through the Agency's eSourcing Portal (Bravo) by the deadline set in the invitation to tender document.

#### LEAD APPLICANT'S DETAILS

Organisation	Basis Social	Department					
Street Address	Hanway House, 24 Hanway Street						
Town/City	London	Country	UK	Postcode	W1T 1UH		
Is your organisation is a <b>small and medium enterprise</b> . (EU recommendation 2003/361/EC refers <a href="http://www.hmrc.gov.uk/manuals/cirdmanual/cird92800.htm">http://www.hmrc.gov.uk/manuals/cirdmanual/cird92800.htm</a> )			Yes				

#### TENDER SUMMARY

##### TENDER TITLE

Understanding SME Provision of Allergen Information in the Non-Prepacked Sector

<b>TENDER REFERENCE</b>	FS900283		
<b>PROPOSED START DATE</b>	01/12/2022	<b>PROPOSED END</b>	07/04/2023

#### 1: TENDER SUMMARY AND OBJECTIVES

##### A. TENDER SUMMARY

Please give a brief summary of the proposed work in no more than 400 words.

[Redacted text block containing the tender summary]















































- Develop and keep up to date a project plan in the form of a Project Inception Document (PID), including a risk register, a detailed timeline highlighting all key dates, holidays, and any actions required by the core team.
- Create a Gantt chart, to ensure interdependencies between tasks are identified, monitored, and managed.
- Develop an incident log for any issues arising on the study.
- Organise weekly online progress meetings with the FSA.
- Complete a Project Update form for the FSA at the end of each week.
- Oversee the recruitment process, including the development of the screener and ongoing checks with Acumen to ensure progress against the sample specification.
- Organise online briefing meetings with the fieldwork team develop a protocol with Acumen for the scheduling of interviews and the ethnographic exercise, including the coordination of Zoom invites.
- Develop consent forms, including details on purpose specification and use limitation.
- Ensure compliance with all ethical, consent, data protection processes, including the development of a PIA
- Ensure reporting completes to schedule.

## 5. RISK MANAGEMENT

In the table provided, please identify all relevant risks in delivering this project on time and to budget. Briefly outline what steps will be taken to minimise these risks and how they will be managed by the project team.

Please add more lines as required

Identified risk	Likelihood of risk (high, medium, low)	Impact of Risk (high, medium, low)	Risk management strategy
Team resource is insufficient to execute the project	Low	High	We have proposed six experienced research team members and have access to a much wider pool of researchers if needed. This capacity enables us to replace team members at short notice should the need arise.
Slippage in timetable impacting on ability to hit end of March deadlines.	Medium	High	At the inception meeting we will agree a detailed timetable and roles/responsibilities and identify potential risks and bottlenecks. Our timetable is kept under constant review and discussed with the FSA on a weekly basis. Any slippage flagged early to allow time for recovery. We have strong project management systems to ensure we deliver as promised, and will prioritise and reallocate of resources as required. Given the Christmas break, together with a break in the fieldwork for a review of the initial themes, plus drafting process for the report, timings are relatively tight. While we can hit your timetable, we'd recommend delivering the draft report at the end of March and final report early April if possible.
Issues recruiting SMEs	Medium	High	Acumen has a lot of experience recruiting small and micro food businesses in research, and have recently recruited 100 such businesses for projects on PAL labelling and allergen risk management. We are confident of achieving the sample in the time

			available and also gaining consent for the 10 ethnographic exercises.
Inadequate review of ethical implications from the study	Low	High	We pride ourselves in undertaking high quality research that is focused on the needs of participants as well as clients. We have provided an assessment of ethical concerns in the section 6B of this document and will adopt a range of privacy and research safeguards to protect businesses taking part.
Technical issues impacting the ability of people to take part	Low	High	<p>Unless there is a preference for telephone, the interviews will be undertaken on Zoom (other than for the interviews that will take part in the ethnography which will be face-to-face).</p> <p>For online interviews, other than network issues, we do not anticipate significant concerns with this mode given the ubiquity of the Zoom platform.</p> <p>For telephone depths, we will audio record directly onto networked devices. Other than poor mobile network coverage for SMEs, do not anticipate technical issues.</p> <p>We will record audio from the face-to-face interviews and part of the ethnography. Photographic images will be taken on mobile phones, which are secure to our network.</p>
Impact of COVID-19 on the research process	Medium	Medium	<p>There is a risk that COVID impacts on the fieldwork, especially if cases rise significantly in the new year. For any businesses affected, we will be able to replace like-for-like. And similarly, we have a wide range of researchers we can draw upon in the event of illness in the core team.</p> <p>As mentioned in the proposal, for the ethnography, we will only focus on business that have some direct contact with customers as part of their day-to-day operations. All members of the research team will undertake a lateral flow test prior to any face-to-face session.</p> <p>In the event of high prevalence or a very rapid increase in infections of COVID in Jan/Feb, we would be happy to only conduct the fieldwork as interviews and lose the ethnographic element.</p> <p>We will conduct an ongoing risk assessment in terms of the potential impact of COVID during the fieldwork period.</p>
Low confidence in the findings for FSA Board	Low	High	We undertake our work in a robust and transparent fashion and will publish full details of our approach in a technical appendix. Our analysis and coding frames are clear and transparent, and through our platform we can link back to the source data for any insight developed. Our reports will clearly



			demonstrate the link between the evidence collected and the conclusions for policy proposals.
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## 6. QUALITY MANAGEMENT

### A. QUALITY MANAGEMENT

Please provide details of the measures that will be taken to manage and assure the quality of work. You should upload your Quality Assurance policy in the supporting documents section of your application.

This should include information on the quality assurance (QA) systems, , which have been implemented or are planned, and should be appropriate to the work concerned. All QA systems and procedures should be clear and auditable, and may include compliance with internationally accepted quality standards specified in the ITT e.g. ISO 9001 and ISO17025.

Specific to science projects and where relevant, applicants must indicate whether they would comply with the [Joint Code of Practice for Research](#) (JCoPR). If applicants do not already fully comply with the JCoPR please provide a statement to this effect to provide an explanation of how these requirements will be met. The FSA reserves the right to audit projects against the code and other quality standards

The lead principle investigator is responsible for all work carried out in the project; (including work supplied by sub-contractors) and should therefore ensure that the project is carried out in accordance with the Joint Code of Practice

Basis Social is committed to quality in our service to clients and in the way we manage our people and our business. We operate in accordance with ISO 20252:2019, the International Standard for market, opinion and social research, and the Data Protection Act 2018. In our 'Research Management System and QA Manual' we have a fully documented process for the project management, collection, analysis and reporting of data fully aligned with ISO and GDPR requirements.

We also abide by the Code of Conduct of the Market Research Society (MRS), the Quality Commitment of the MRS Company Partner Service and the Code of Marketing & Social Research Practice of the European Society for Opinion and Market Research. Below is an outline of our quality control plan:

- **Project Management** - We ensure timely delivery of projects through in-house electronic project management systems detailing committed staff resources against live projects, proposals and personal development activities up to three months in advance. This enables us to forward plan resourcing on projects and mitigate against any potential risks to project delivery and quality assurance. As part of our weekly team meetings, we ensure that projects are resourced appropriately.
- **Recruitment** - We will work with Acumen, who hold ISO 20252 and with whom we have a long standing relationship. Our Project Manager will monitor recruitment at all times, ensuring that we are progressing according to the timetable and achieving the quotas required. Our Project Manager will immediately flag any recruitment risks with the FSA as they arise, present solutions and discuss and agree the appropriate course of action.
- **Ethnography and interviews** - We are using a senior, experienced research team to ensure we conduct the research effectively, particularly given the time pressures involved. For any photos of FBO premises, we will ensure that the data is held securely on networked devices. Images of menus sent in as part of the interview process will either be via a secure app (WhatsApp) or via our secure file share system. We will use the Zoom platform for the interviews, given its familiarity to participants and range of functionality that will meet the needs of the project.
- **Deliverables** - All outputs will be discussed and provisionally agreed at the set-up meeting. Basis Social will inform the FSA of developments in the study that may impact on deliverables and advise on solutions. All



outputs are internally quality assured, with Darren Bhattachary reviewing materials before they are shared with the FSA. Our timetable factors in sufficient time and rounds of revisions for deliverables.

We are happy to comply with the Joint Code of Practice for Research and will ensure we have procedures in place to:

- Define and document **responsibilities** for each member of the team in relation to the project and ensure awareness of these responsibilities.
- Ensure we have the **competence** and skills required to complete the work, and we can provide evidence to this effect.
- Develop a clear, written **project plan** (in the form of a Project Initiation Document) that demonstrates key factors that will influence the project's success, and that risks have been considered and addressed.
- Have appropriate measures and planned processes in place to assure the **quality control** of the research undertaken.
- Fully comply with relevant **Health and Safety** regulatory requirements, including conducting specific risk assessment around COVID and face-to-face fieldwork.
- Ensure our technical **facilities and equipment** work, and we have contingency plans in place in the event of any failure.
- Document the **procedures and methods** used in the research project, to provide a clear audit trail.
- Keep **research and work records** that promote the integrity and security of the study.
- Comply with all relevant environmental legislation for **our field-based research**.

## B. ETHICS

Please identify the key ethical issues for this project and how these will be managed. Please respond to any issues raised in the Specification document

Please describe the ethical issues of any involvement of people, human samples, animal research or personal data in this part. In addition, please describe the ethical review and governance arrangements that would apply to the work done.

Applicants are reminded that, where appropriate, the need to obtain clearance for the proposed project from their local ethics committee. This is the responsibility of the project Lead Applicant. However, if a sub-contractor requires such clearance the project Lead Applicant should ensure that all relevant procedures have been followed. If there are no ethical issues please state this

The ethical issues associated with the research, include:

- the appropriateness of questions and methods involved to elicit information;
- the purposes to which data collected in the project will be used;
- privacy of the individuals involved;
- the security of sensitive and personal and/or business information;
- the discussion of allergen management practices that may pose a risk to consumers.

In our research design, we will be governed by the 5 principles detailed in the Ethical Assurance for Social Research in Government:

1. Sound application and conduct of social research methods and appropriate dissemination and utilisation of the findings.
2. Participation based on valid informed consent.
3. Enabling participation.
4. Avoidance of personal and social harm.
5. Non-disclosure of identity and personal information.

In terms of the research methods, as noted above, we adopt the highest standards of professional quality for our research methods and operate in accordance with ISO 20252. We will limit the collection of personal data only to those items that are necessary to the research purpose and ensure they are not used in any manner incompatible with these



purposes. Through rigorous and transparent analytic procedures, we protect against distortion and bias in the interpretation of findings.

For informed consent, we will ensure consent is free (voluntary and able to be withdrawn at any time); specific (relating identified purposes); and informed (in full awareness of all relevant consequences of giving consent). We will adopt a rights-based approach to consent. This focuses on respect for individuals; ensures harm is not inflicted; and gives people the right to participate in and withdraw from research.

For enabling participation, the primary barriers to participation relate to access to technology to take part, the time available for busy business owners, and language barriers for certain businesses. Respectively we will offer a choice of modes for interview, flexibility on interview timings, and can conduct research in community languages as required

For avoidance of harm, whilst we will adopt stringent processes not to put people or businesses at harm because of participating in the research, we will discuss practices that have the potential to create harm. For privacy considerations, we will not flag to the FSA any business where practices may be in breach of FIC. However, we will signpost them to FSA advice and good practice at the end of the interview. Additionally, we will be very mindful when developing case studies not to provide information that will be identifiable to a specific business. Any illustrations (i.e., converted photos) will be shared back to the business owner for consent to publish. We would also welcome discussing with you whether certain outputs should be publicly available, or rather used internally by the FSA to aid the development of policy options.

In terms of privacy, we describe in depth issues relating to the non-disclosure of personal information in the data protection section next.

Whilst we will work to high ethical standards, we do not propose formal ethical approval for this project.

### C. DATA PROTECTION

Please identify any specific data protection issues for this project and how these will be managed. Please respond to any specific issues raised in the Specification document.

Please note that the successful Applicant will be expected to comply with the Data Protection Act (DPA) 2018 and ensure that any information collected, processed and transferred on behalf of the FSA, will be held and transferred securely.

In this part please provide details of the practices and systems which are in place for handling data securely including transmission between the field and head office and then to the FSA. Plans for how data will be deposited (i.e. within a community or institutional database/archive) and/or procedures for the destruction of physical and system data should also be included in this part (this is particularly relevant for survey data and personal data collected from clinical research trials). The project Lead Applicant will be responsible for ensuring that they and any sub-contractor who processes or handles information on behalf of the FSA are conducted securely.

For the purposes of this study, the FSA will be the data controller and Basis the data processor. We have in place the human and technical resources to perform the contract to ensure compliance with the General Data Protection Regulation and to ensure the protection of the rights of data subjects. Our robust procedures follow both MRS and ESOMAR research codes and guidelines<sup>18,19</sup> and promote the confidentiality, integrity, availability and resilience of our processing systems and services. We regularly test, assess, and evaluate its effectiveness. Basis are cyberessentials accredited.

We would work with the FSA to support the completion of their Privacy Impact Assessment (PIA). This will include a review of the following:

- Ensuring it is clear our research is in the public interest

<sup>18</sup> Esomar (2016). Data Protection checklist [https://www.esomar.org/uploads/public/knowledge-and-standards/codes-and-guidelines/ESOMAR-Data-Protection-Checklist\\_update-April-2016.pdf](https://www.esomar.org/uploads/public/knowledge-and-standards/codes-and-guidelines/ESOMAR-Data-Protection-Checklist_update-April-2016.pdf);

<sup>19</sup> MRS (2019). Code of Conduct. <https://www.mrs.org.uk/pdf/MRS-Code-of-Conduct-2019.pdf>

- Clarifying relationship and responsibilities between the Data Controller and the Processor
- Providing privacy notices to research participants
- Describing in detail how data will be used and processes for anonymisation
- Highlighting the rights of research subjects through the process, including then right to withdraw from the study.

We will limit the collection of personal data only to those items that are necessary to the research purpose and ensure they are not used in any manner incompatible with these purposes. We will highlight to participants all aspects of data collection across the process, both active and passive. We will obtain ongoing, active consent from every participant whose personal data are to be collected. Consent will be recorded and auditable.

At the recruitment stage, sample, personal data, and firmographic information will be password-protected and securely transferred before being saved on our secure servers in accordance with ISO 20252. This information will be used for quota management and recruitment purposes only.

In addition to the above, photographic data will be collected. This will focus on the business premises and not include images of individuals. The images will be saved on our secure servers in accordance with ISO 20252. The data from each client is housed in its own folder on the server separate from other clients, and each project by that client is also segregated into its own folder so there is no merging of data. We will restrict folder access so that only staff working on this project can access the folder.

Quality procedures will be in place to ensure that all data collected is accurate, complete and up to date.

We comply with the rights of data subjects in respect of receiving privacy information, and access, rectification, deletion and portability of personal data. Personal data will be held no longer than is required for the project purposes, which will be defined with advice from the FSA. We will also have in place procedures for responding to requests from individuals about personal data we have collected, and will be able to do this within 10 days of any request.

For data processing, all data will be anonymized and analyzed at aggregate level. We have procedures to separately store or remove identifiers from data records once they are no longer needed. We maintain records of personal data processing activities.

Typically, to allow questions to be answered about how the research was conducted or about the results, including after the research project has been completed, primary records (data files, interview recordings, etc.) and copies of the final versions of all project documents or other records (such as analysis programs) are retained as follows:

- Primary records: at least 12 months after project completion
- Other final versions of documents related to the research project: at least 24 months

As noted in the ethics section, we are keen to use photos to enrich the outputs. These will be made into illustrations to help protect the anonymity of the business. We would seek consent for this at the recruitment phase and provide a full information sheet on how the data will be collected, stored, used and to which audiences.

Our preferred method of transferring sensitive data is via our SFTP. The SFTP server we use provides AES-256 bit server-side encryption on all data within the bucket. It protects data at rest. In order for anyone to connect to the SFTP server with the SFTP protocol, they have to enter an existing username and use the private key file stored on their computer. This key of course has to be copied and pasted into the server, which can only be done by our IT provider who has administrative access to AWS. Data protection in S3 (which holds the data) is backed by Amazon's SLA and is designed to provide 99.999% durability and availability. It is PCI-DSS and GDPR compliant, and HIPAA eligible. In this study, we will not transfer any personal data outside of the EU (and have protocols set up within the Zoom platform to ensure this).



#### D. SUSTAINABILITY

The Food Standards Agency is committed to improving sustainability in the management of operations. Procurement looks to its suppliers to help achieve this goal. You will need to demonstrate your approach to sustainability, in particular how you will apply it to this project taking into account economic, environmental and social aspects. This will be considered as part of our selection process and you must upload your organisations sustainability policies into the eligibility criteria in Bravo.

Please state what(if any) environmental certification you hold or briefly describe your current Environmental Management System (EMS)

As part of our commitment to the environment, Basis Social confirms that the company and its employees are committed to:

- Integrating the consideration of environmental concerns and impacts into all of its decision making and activities
- Promoting environmental awareness amongst employees and encouraging them to work in an environmentally responsible manner
- Training, educating, and informing employees about environmental issues that may affect their work
- Reducing waste through re-use and recycling, and by purchasing recycled, recyclable, or refurbished products and materials where these alternatives are available, economical, and suitable
- Promoting efficient use of materials and resources throughout the office including water, electricity, raw materials and other resources, particularly those that are non-renewable
- Purchasing and using environmentally responsible products accordingly
- Striving to continually improve our environmental performance and to minimise the social impact and damage of activities by periodically reviewing our environmental policy in light of our current and planned future activities
- Beginning the journey towards net-zero and reducing our carbon footprint by conducting a Corporate Carbon Footprint to identify our carbon hotspots and targets to reduce our climate impact
- We also adopt a range of policies across our work, including safeguards around:
  - Anti-slavery and human trafficking
  - Equal opportunities
  - Bullying, harassment and victimisation
  - Labour standards
  - Anti-bribery
  - Whistleblowing
  - Health and safety

Basis does not hold any Environmental Certification. We have environmental management systems in place to support waste disposal, carbon emission reduction and choice of suppliers and clients. Details are included in our Environmental Policy, which has previously been submitted to the FSA.

Around one-third of Basis Social's current projects relate to policy interventions to decarbonise the UK. We have started the journey to put in place our long-term commitments in reducing our environmental impact, educate and engage our staff and our supply chain, and embed good green practices within our business operations, working towards a more sustainable future.

In December 2021, we produced our first Carbon Reduction Plan (CRP) report. This showed our total current carbon emissions as being 68,000 kgCO<sub>2</sub>e. We have commissioned the services of an environmental consultant to assist with the finalised report and the proposed targets for making reductions. The final CRP report will be made accessible via our company website. Through the development of the CRP report, twice yearly we will set objectives and take action to reduce our environmental impact, year on year at the minimum.

We are fully committed to reducing our carbon footprint over the course of this contract. Specific actions that we take include:

- Designated Environmental Officer, who has played a key role in building our Environmental Policy and ensuring all employees are educated and engaged in the commitments specified
- Applying the 5 B Corp Practices for small businesses: Governance, Workers, Community, Environment and Customers. The framework helping us to ensure that we review sustainability from a 360 degree perspective
- Reviewing interactions through a sustainability lens and working with suppliers who also have a net-zero target in place. Collaborating where possible to reduce emissions collectively
- Encouraging hybrid commercial office usage to maximise space and minimise energy usage (including through minimising commuting)
- We operate a largely 'digital first' approach to fieldwork, client and stakeholder engagement. For the face-to-face fieldwork for this study, travel will be via public transport
- Recycling bins are available on every floor. All printer cartridges are placed in special recycling bags and collected accordingly. Electrical items to be disposed of are recycled/ donated to hardware recycling companies wherever possible
- We have implemented eco-friendly changes in the office including single-use-plastic free and locally sourced food for in-office lunches
- The office lighting is on a timer and each room's lighting automatically turns off after 20 minutes of inactivity. The air conditioning/ heating is set to automatically turn off at the end of each day, as well as several points during the day for meeting rooms
- Actively championing cycling to work, including offering the Green Commute Initiative (GCI) Cycle to Work scheme with no limit. This means any bike, any price. The scheme applies to all employees, regardless of mobility and is applicable for specialist or adapted cycles. We also provide secure bike storage

Our Environmental Officer plays a key role in educating and engaging our employees and suppliers. As part of the onboarding process all new employees sign up to the commitments enclosed within our Environmental Policy. More generally, Basis Social is committed to working in partnership with new businesses, supporting others to develop skills, as well as increasing supply chain resilience. Our supply chain management is governed by a thorough and vigorous system which is regularly updated and assessed on a number of key metrics including organisation category (Start-up, SME, VCSE and mutuals), locality and regional diversity, as well as quarterly total spend. In advance of commissioning any new supplier relationship, the system is reviewed as the first stage before progressing. To ensure fairness, we obtain three quotes at a minimum for all opportunities. Since setting up in the business, we are proud that over half of our revenues have gone to supporting other small businesses and charities, including those that support representation of marginalized groups, including those with protected characteristics and disabilities.

On an ad-hoc temporary basis we offer career opportunities to university students. We work with three of the top 25 universities (UCL, Sheffield, and SOAS) across the UK for supporting disadvantaged students, ensuring that our reach is wide and fair. This work, which involves formal training in research methods, is a key means of increasing the supply of qualified labour. It also helps expose both Basis and our clients to new technologies and thinking which can support methodological innovation

We structure our working environment to encourage and promote growth for all businesses. This is performed by the following:

- Prior to awarding subcontracts engage with our suppliers on a monthly basis via our Supply Chain communications platform. Forthcoming contract opportunities are announced and suppliers can express their interest
- Implementing supply chain practices and employment conditions that follow the five foundational principles of quality work set out in the Good Work Plan
- As part of the onboarding process, all new contractors have access to a structured in-house training programme. Though the training schedule is targeted to the project scope, the methods and skills acquired are



often transferable wider than the project itself, equipping the individuals with skillsets that can be used in a range of future growth opportunities

- Providing access to a range of free technologies including the loan of hardware and office supplies at no cost for the duration of the contract
- The option to use our office space, with a range of 'quiet zones' and meeting spaces
- Clear unambiguous payment terms with a prompt payment policy. Guidance on invoice creation to avoid iterations and processing delays
- Abide by an open door policy, encouraging open communication, feedback and discussion. We offer career and mentoring advice regardless of length of contract, connecting suppliers to our range of networks in the industry

We hold ourselves to account on our commitments stated and will maintain transparency in measuring progress.

## **E. DISSEMINATION AND EXPLOITATION**

Where applicable please indicate how you intend to disseminate the results of this project, including written and verbal communication routes if appropriate. Applicants are advised to think carefully about how their research aligns with the FSA strategy, what is the impact that their research has on public health/ consumers and decide how the results can best be communicated to the relevant and appropriate people and organisations in as cost-effective manner as possible. Please provide as much detail as possible on what will be delivered. Any costs associated with this must be documented in the Financial Template.

The applicant should describe plans for the dissemination of the results for the project team as a whole and for individual participants. Details should include anticipated numbers of publications in refereed journals, articles in trade journals etc., presentations or demonstrations to the scientific community, trade organisations and internal reports or publications. Plans to make any information and/or reports available on the internet with the FSA's permission are also useful, however, this does not remove the requirement for Tenderers to think how best to target the output to relevant groups.

If a final report is part of the requirement, please make sure, as part of the executive summary, that aims and results are clear to the general audience and that the impact of the research on public health/consumers and it's alignment to FSA priorities is clearly stated.

Please note that permission to publish or to present findings from work supported by the FSA must be sought in advance from the relevant FSA Project Officer. The financial support of the FSA must also be acknowledged.

Please indicate whether any Intellectual Property (IP) may be generated by this project and how this could be exploited. Please be aware the FSA retains all rights to the intellectual property generated by any contract and where appropriate may exploit the IP generated for the benefit of public health.

In this part Applicants should demonstrate the credibility of the partnership for exploitation of the results and explain the partnership's policy in respect of securing patents or granting licenses for the technology (if applicable). It should deal with any possible agreements between the partners to extend their co-operation in the exploitation phase and with relevant agreements with companies, in particular users, external to the partnership

The main research outputs from this study are:

- A topline summary of initial research findings immediately following fieldwork completion.
- A draft report containing research findings with standalone summary.
- A finalised report containing research findings with standalone summary.
- A technical appendix detailing the research approach and supporting technical information, including details of approaches used to analyse the data.
- A draft presentation slide deck for an internal FSA workshop on the research findings.
- Finalised presentation slide deck for an internal FSA workshop on the research findings.

As noted, will also provide an option for an innovation, graphic novel style output.

We are very happy to support the FSA's social science team to disseminate the findings across governmental networks, such as the government social research network, as well as external conferences.

The rights to any IP generated through the study would be owned by the Agency.



















# Short form Terms

## 1. Definitions used in the Contract

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

<b>"Central Government Body"</b>	means a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics: a) Government Department; b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal); c) Non-Ministerial Department; or d) Executive Agency;
<b>"Charges"</b>	means the charges for the Deliverables as specified in the Order Form;
<b>"Confidential Information"</b>	means all information, whether written or oral (however recorded), provided by the disclosing Party to the receiving Party and which (i) is known by the receiving Party to be confidential; (ii) is marked as or stated to be confidential; or (iii) ought reasonably to be considered by the receiving Party to be confidential;
<b>"Contract"</b>	means the contract between (i) the Buyer and (ii) the Supplier which is created by the Supplier's counter signing the Order Form and includes the Order Form and Annexes;
<b>"Controller"</b>	has the meaning given to it in the GDPR;
<b>"Buyer"</b>	means the person identified in the letterhead of the Order Form;
<b>"Date of Delivery"</b>	means that date by which the Deliverables must be delivered to the Buyer, as specified in the Order Form;
<b>"Buyer Cause"</b>	any breach of the obligations of the Buyer or any other default, act, omission, negligence or statement of the Buyer, of its employees, servants, agents in connection with or in relation to the subject-matter of the Contract and in respect of which the Buyer is liable to the Supplier;
<b>"Data Protection Legislation"</b>	(i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the Data Protection Act 2018 to the extent that it relates to processing

<b>"Data Protection Impact Assessment"</b>	of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy; an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data;
<b>"Data Protection Officer"</b>	has the meaning given to it in the GDPR;
<b>"Data Subject"</b>	has the meaning given to it in the GDPR;
<b>"Data Loss Event"</b>	any event that results, or may result, in unauthorised access to Personal Data held by the Supplier 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;
<b>"Data Subject Access Request"</b>	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;
<b>"Deliver"</b>	means hand over the Deliverables to the Buyer at the address and on the date specified in the Order Form, which shall include unloading and any other specific arrangements agreed in accordance with Clause [ ]. Delivered and Delivery shall be construed accordingly;
<b>"Existing IPR"</b>	any and all intellectual property rights that are owned by or licensed to either Party and which have been developed independently of the Contract (whether prior to the date of the Contract or otherwise);
<b>"Expiry Date"</b>	means the date for expiry of the Contract as set out in the Order Form;
<b>"FOIA"</b>	means the Freedom of Information Act 2000 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation;
<b>"Force Majeure Event"</b>	any event, occurrence, circumstance, matter or cause affecting the performance by either Party of its obligations under the Contract arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control which prevent or materially delay it from performing its obligations under the Contract but excluding: i) any industrial dispute relating to the Supplier, the Supplier Staff (including any subsets of them) or any other failure in the Supplier or the Subcontractor's supply chain; ii) any event, occurrence, circumstance, matter or cause which is attributable to the wilful act, neglect or failure to take reasonable precautions against it by the Party concerned; and iii) any failure of delay caused by a lack of funds;

<b>"GDPR"</b>	the General Data Protection Regulation (Regulation (EU) 2016/679);
<b>"Goods"</b>	means the goods to be supplied by the Supplier to the Buyer under the Contract;
<b>"Good Industry Practice"</b>	standards, practices, methods and procedures conforming to the law and the exercise of 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 within the relevant industry or business sector;
<b>"Government Data"</b>	a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, including any of the Buyer's confidential information, and which: i) are supplied to the Supplier by or on behalf of the Buyer; or ii) the Supplier is required to generate, process, store or transmit pursuant to the Contract; or b) any Personal Data for which the Buyer is the Data Controller;
<b>"Information"</b>	has the meaning given under section 84 of the FOIA;
<b>"Information Commissioner"</b>	the UK's independent authority which deals with ensuring information relating to rights in the public interest and data privacy for individuals is met, whilst promoting openness by public bodies;
<b>"Insolvency Event"</b>	in respect of a person: a) if that person is insolvent; ii) if an order is made or a resolution is passed for the winding up of the person (other than voluntarily for the purpose of solvent amalgamation or reconstruction); iii) if an administrator or administrative receiver is appointed in respect of the whole or any part of the persons assets or business; iv) if the person makes any composition with its creditors or takes or suffers any similar or analogous action to any of the actions detailed in this definition as a result of debt in any jurisdiction;
<b>"Key Personnel"</b>	means any persons specified as such in the Order Form or otherwise notified as such by the Buyer to the Supplier in writing;
<b>"LED"</b>	Law Enforcement Directive (Directive (EU) 2016/680);
<b>"New IPR"</b>	all and intellectual property rights in any materials created or developed by or on behalf of the Supplier pursuant to the Contract but shall not include the Supplier's Existing IPR;
<b>"Order Form"</b>	means the letter from the Buyer to the Supplier printed above these terms and conditions;
<b>"Party"</b>	the Supplier or the Buyer (as appropriate) and "Parties" shall mean both of them;
<b>"Personal Data"</b>	has the meaning given to it in the GDPR;



<b>"Personal Data Breach"</b>	has the meaning given to it in the GDPR;
<b>"Processor"</b>	has the meaning given to it in the GDPR;
<b>"Purchase Order Number"</b>	means the Buyer's unique number relating to the order for Deliverables to be supplied by the Supplier to the Buyer in accordance with the terms of the Contract;
<b>"Regulations"</b>	the Public Contracts Regulations 2015 and/or the Public Contracts (Scotland) Regulations 2015 (as the context requires) as amended from time to time;
<b>"Request for Information"</b>	has the meaning set out in the FOIA or the Environmental Information Regulations 2004 as relevant (where the meaning set out for the term "request" shall apply);
<b>"Services"</b>	means the services to be supplied by the Supplier to the Buyer under the Contract;
<b>"Specification"</b>	means the specification for the Deliverables to be supplied by the Supplier to the Buyer (including as to quantity, description and quality) as specified in the Order Form;
<b>"Staff"</b>	means all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any sub-contractor of the Supplier engaged in the performance of the Supplier's obligations under the Contract;
<b>"Staff Vetting Procedures"</b>	means vetting procedures that accord with good industry practice or, where applicable, the Buyer's procedures for the vetting of personnel as provided to the Supplier from time to time;
<b>"Subprocessor"</b>	any third Party appointed to process Personal Data on behalf of the Supplier related to the Contract;
<b>"Supplier Staff"</b>	all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Subcontractor engaged in the performance of the Supplier's obligations under a Contract;
<b>"Supplier"</b>	means the person named as Supplier in the Order Form;
<b>"Term"</b>	means the period from the start date of the Contract set out in the Order Form to the Expiry Date as such period may be extended in accordance with clause [ ] or terminated in accordance with the terms and conditions of the Contract;
<b>"US-EU Privacy Shield Register"</b>	a list of companies maintained by the United States of America Department for Commerce that have self-certified their commitment to adhere to the European legislation relating to the processing of personal data to non-EU countries which is available online at: <a href="https://www.privacyshield.gov/list">https://www.privacyshield.gov/list</a> ;

<b>"VAT"</b>	means value added tax in accordance with the provisions of the Value Added Tax Act 1994;
<b>"Workers"</b>	any one of the Supplier Staff which the Buyer, in its reasonable opinion, considers is an individual to which Procurement Policy Note 08/15 (Tax Arrangements of Public Appointees) ( <a href="https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees">https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees</a> ) applies in respect of the Deliverables;
<b>"Working Day"</b>	means a day (other than a Saturday or Sunday) on which banks are open for business in the City of London.

## 2. Understanding the Contract

In the Contract, unless the context otherwise requires:

- 2.1 references to numbered clauses are references to the relevant clause in these terms and conditions;
- 2.2 any obligation on any Party not to do or omit to do anything shall include an obligation not to allow that thing to be done or omitted to be done;
- 2.3 the headings in this Contract are for information only and do not affect the interpretation of the Contract;
- 2.4 references to "writing" include printing, display on a screen and electronic transmission and other modes of representing or reproducing words in a visible form;
- 2.5 the singular includes the plural and vice versa;
- 2.6 a reference to any law includes a reference to that law as amended, extended, consolidated or re-enacted from time to time and to any legislation or byelaw made under that law; and
- 2.7 the word 'including', "for example" and similar words shall be understood as if they were immediately followed by the words "without limitation".

## 3. How the Contract works

- 3.1 The Order Form is an offer by the Buyer to purchase the Deliverables subject to and in accordance with the terms and conditions of the Contract.
- 3.2 The Supplier is deemed to accept the offer in the Order Form when the Buyer receives a copy of the Order Form signed by the Supplier.
- 3.3 The Supplier warrants and represents that its tender and all statements made and documents submitted as part of the procurement of Deliverables are and remain true and accurate.

## **4. What needs to be delivered**

### **4.1 All Deliverables**

- (a) The Supplier must provide Deliverables: (i) in accordance with the Specification; (ii) to a professional standard; (iii) using reasonable skill and care; (iv) using Good Industry Practice; (v) using its own policies, processes and internal quality control measures as long as they don't conflict with the Contract; (vi) on the dates agreed; and (vii) that comply with all law.
- (b) The Supplier must provide Deliverables with a warranty of at least 90 days (or longer where the Supplier offers a longer warranty period to its Buyers) from Delivery against all obvious defects.

### **4.2 Goods clauses**

- (a) All Goods delivered must be new, or as new if recycled, unused and of recent origin.
- (b) All manufacturer warranties covering the Goods must be assignable to the Buyer on request and for free.
- (c) The Supplier transfers ownership of the Goods on completion of delivery (including off-loading and stacking) or payment for those Goods, whichever is earlier.
- (d) Risk in the Goods transfers to the Buyer on delivery, but remains with the Supplier if the Buyer notices damage following delivery and lets the Supplier know within three Working Days of delivery.
- (e) The Supplier warrants that it has full and unrestricted ownership of the Goods at the time of transfer of ownership.
- (f) The Supplier must deliver the Goods on the date and to the specified location during the Buyer's working hours.
- (g) The Supplier must provide sufficient packaging for the Goods to reach the point of delivery safely and undamaged.
- (h) All deliveries must have a delivery note attached that specifies the order number, type and quantity of Goods.
- (i) The Supplier must provide all tools, information and instructions the Buyer needs to make use of the Goods.
- (j) The Supplier will notify the Buyer of any request that Goods are returned to it or the manufacturer after the discovery of safety issues or defects that might endanger health or hinder performance and shall indemnify the Buyer against the costs arising as a result of any such request.
- (k) The Buyer can cancel any order or part order of Goods which has not been delivered. If the Buyer gives less than 14 days' notice then it will pay the Supplier's reasonable and proven costs already incurred on the cancelled order as long as the Supplier takes all reasonable steps to minimise these costs.
- (l) The Supplier must at its own cost repair, replace, refund or substitute (at the Buyer's option and request) any Goods that the Buyer rejects because they don't conform with clause 4.2. If the Supplier doesn't do this it will pay the Buyer's costs including repair or re-supply by a third party.
- (m) The Buyer will not be liable for any actions, claims, costs and expenses incurred by the Supplier or any third party during delivery of the Goods unless and to the extent that it is caused by negligence or other wrongful act of the Buyer or its servant or agent. If the Buyer suffers or incurs any damage or injury (whether fatal or otherwise) occurring in the course of delivery or

installation then the Supplier shall indemnify from any losses, charges costs or expenses which arise as a result of or in connection with such damage or injury where it is attributable to any act or omission of the Supplier or any of its [sub-suppliers].

#### **4.3 Services clauses**

- (a) Late delivery of the Services will be a default of the Contract.
- (b) The Supplier must co-operate with the Buyer and third party suppliers on all aspects connected with the delivery of the Services and ensure that Supplier Staff comply with any reasonable instructions including any security requirements.
- (c) The Buyer must provide the Supplier with reasonable access to its premises at reasonable times for the purpose of supplying the Services
- (d) The Supplier must at its own risk and expense provide all equipment required to deliver the Services. Any equipment provided by the Buyer to the Supplier for supplying the Services remains the property of the Buyer and is to be returned to the Buyer on expiry or termination of the Contract.
- (e) The Supplier must allocate sufficient resources and appropriate expertise to the Contract.
- (f) The Supplier must take all reasonable care to ensure performance does not disrupt the Buyer's operations, employees or other contractors.
- (g) On completion of the Services, the Supplier is responsible for leaving the Buyer's premises in a clean, safe and tidy condition and making good any damage that it has caused to the Buyer's premises or property, other than fair wear and tear.
- (h) The Supplier must ensure all Services, and anything used to deliver the Services, are of good quality [and free from defects].
- (i) The Buyer is entitled to withhold payment for partially or undelivered Services, but doing so does not stop it from using its other rights under the Contract.

### **5. Pricing and payments**

- 5.1 In exchange for the Deliverables, the Supplier shall be entitled to invoice the Buyer for the charges in the Order Form. The Supplier shall raise invoices promptly and in any event within 90 days from when the charges are due.
- 5.2 All Charges:
  - (a) exclude VAT, which is payable on provision of a valid VAT invoice;
  - (b) include all costs connected with the supply of Deliverables.
- 5.3 The Buyer must pay the Supplier the charges within 30 days of receipt by the Buyer of a valid, undisputed invoice, in cleared funds to the Supplier's account stated in the Order Form.
- 5.4 A Supplier invoice is only valid if it:
  - (a) includes all appropriate references including the Purchase Order Number and other details reasonably requested by the Buyer;
  - (b) includes a detailed breakdown of Deliverables which have been delivered (if any).

- 5.5 If there is a dispute between the Parties as to the amount invoiced, the Buyer shall pay the undisputed amount. The Supplier shall not suspend the provision of the Deliverables unless the Supplier is entitled to terminate the Contract for a failure to pay undisputed sums in accordance with clause 11.6. Any disputed amounts shall be resolved through the dispute resolution procedure detailed in clause 33.
- 5.6 The Buyer may retain or set-off payment of any amount owed to it by the Supplier if notice and reasons are provided.
- 5.7 The Supplier must ensure that all subcontractors are paid, in full, within 30 days of receipt of a valid, undisputed invoice. If this doesn't happen, the Buyer can publish the details of the late payment or non-payment.

## **6. The Buyer's obligations to the Supplier**

- 6.1 If Supplier fails to comply with the Contract as a result of a Buyer Cause:
- (a) the Buyer cannot terminate the Contract under clause 11;
  - (b) the Supplier is entitled to reasonable and proven additional expenses and to relief from liability under this Contract;
  - (c) the Supplier is entitled to additional time needed to deliver the Deliverables;
  - (d) the Supplier cannot suspend the ongoing supply of Deliverables.
- 6.2 Clause 6.1 only applies if the Supplier:
- (a) gives notice to the Buyer within 10 Working Days of becoming aware;
  - (b) demonstrates that the failure only happened because of the Buyer Cause;
  - (c) mitigated the impact of the Buyer Cause.

## **7. Record keeping and reporting**

- 7.1 The Supplier must ensure that suitably qualified representatives attend progress meetings with the Buyer and provide progress reports when specified in the Order Form.
- 7.2 The Supplier must keep and maintain full and accurate records and accounts on everything to do with the Contract for seven years after the date of expiry or termination of the Contract.
- 7.3 The Supplier must allow any auditor appointed by the Buyer access to their premises to verify all contract accounts and records of everything to do with the Contract and provide copies for the audit.
- 7.4 The Supplier must provide information to the auditor and reasonable co-operation at their request.
- 7.5 If the Supplier is not providing any of the Deliverables, or is unable to provide them, it must immediately:
- (a) tell the Buyer and give reasons;
  - (b) propose corrective action;
  - (c) provide a deadline for completing the corrective action.

- 7.6 If the Buyer, acting reasonably, is concerned as to the financial stability of the Supplier such that it may impact on the continued performance of the Contract then the Buyer may:
- (a) require that the Supplier provide to the Buyer (for its approval) a plan setting out how the Supplier will ensure continued performance of the Contract and the Supplier will make changes to such plan as reasonably required by the Buyer and once it is agreed then the Supplier shall act in accordance with such plan and report to the Buyer on demand
  - (b) if the Supplier fails to provide a plan or fails to agree any changes which are requested by the Buyer or fails to implement or provide updates on progress with the plan, terminate the Contract immediately for material breach (or on such date as the Buyer notifies).

## **8. Supplier staff**

- 8.1 The Supplier Staff involved in the performance of the Contract must:
- (a) be appropriately trained and qualified;
  - (b) be vetted using Good Industry Practice
  - (c) comply with all conduct requirements when on the Buyer's premises.
- 8.2 Where a Buyer decides one of the Supplier's Staff isn't suitable to work on the Contract, the Supplier must replace them with a suitably qualified alternative.
- 8.3 If requested, the Supplier must replace any person whose acts or omissions have caused the Supplier to breach clause 8.
- 8.4 The Supplier must provide a list of Supplier Staff needing to access the Buyer's premises and say why access is required.
- 8.5 The Supplier indemnifies the Buyer against all claims brought by any person employed by the Supplier caused by an act or omission of the Supplier or any Supplier Staff.
- 8.6 The Supplier shall use those persons nominated in the Order Form (if any) to provide the Deliverables and shall not remove or replace any of them unless:
- (a) requested to do so by the Buyer (not to be unreasonably withheld or delayed);
  - (b) the person concerned resigns, retires or dies or is on maternity or long-term sick leave; or
  - (c) the person's employment or contractual arrangement with the Supplier or any subcontractor is terminated for material breach of contract by the employee.

## **9. Rights and protection**

- 9.1 The Supplier warrants and represents that:
- (a) it has full capacity and authority to enter into and to perform the Contract;
  - (b) the Contract is executed by its authorised representative;
  - (c) it is a legally valid and existing organisation incorporated in the place it was formed;

- (d) there are no known legal or regulatory actions or investigations before any court, administrative body or arbitration tribunal pending or threatened against it or its affiliates that might affect its ability to perform the Contract;
  - (e) it maintains all necessary rights, authorisations, licences and consents to perform its obligations under the Contract;
  - (f) it doesn't have any contractual obligations which are likely to have a material adverse effect on its ability to perform the Contract; and
  - (g) it is not impacted by an Insolvency Event.
- 9.2 The warranties and representations in clause 9.1 are repeated each time the Supplier provides Deliverables under the Contract.
- 9.3 The Supplier indemnifies the Buyer against each of the following:
- (a) wilful misconduct of the Supplier, any of its subcontractor and/or Supplier Staff that impacts the Contract;
  - (b) non-payment by the Supplier of any tax or National Insurance.
- 9.4 If the Supplier becomes aware of a representation or warranty that becomes untrue or misleading, it must immediately notify the Buyer.
- 9.5 All third party warranties and indemnities covering the Deliverables must be assigned for the Buyer's benefit by the Supplier.

## **10. Intellectual Property Rights (IPRs)**

- 10.1 Each Party keeps ownership of its own Existing IPRs. The Supplier gives the Buyer a non-exclusive, perpetual, royalty-free, irrevocable, transferable worldwide licence to use, change and sub-license the Supplier's Existing IPR to enable it and its sub-licensees to both:
- (a) receive and use the Deliverables;
  - (b) use the New IPR.
- 10.2 Any New IPR created under the Contract is owned by the Buyer. The Buyer gives the Supplier a licence to use any Existing IPRs for the purpose of fulfilling its obligations under the Contract and a perpetual, royalty-free, non-exclusive licence to use any New IPRs.
- 10.3 Where a Party acquires ownership of intellectual property rights incorrectly under this Contract it must do everything reasonably necessary to complete a transfer assigning them in writing to the other Party on request and at its own cost.
- 10.4 Neither Party has the right to use the other Party's intellectual property rights, including any use of the other Party's names, logos or trademarks, except as provided in clause 10 or otherwise agreed in writing.
- 10.5 If any claim is made against the Buyer for actual or alleged infringement of a third party's intellectual property arising out of, or in connection with, the supply or use of the Deliverables (an "**IPR Claim**"), then the Supplier indemnifies the Buyer against all losses, damages, costs or expenses (including professional fees and fines) incurred as a result of the IPR Claim.

- 10.6 If an IPR Claim is made or anticipated the Supplier must at its own expense and the Buyer's sole option, either:
- (a) obtain for the Buyer the rights in clauses 10.1 and 10.2 without infringing any third party intellectual property rights;
  - (b) replace or modify the relevant item with substitutes that don't infringe intellectual property rights without adversely affecting the functionality or performance of the Deliverables.

## **11. Ending the contract**

- 11.1 The Contract takes effect on the date of or (if different) the date specified in the Order Form and ends on the earlier of the date of expiry or termination of the Contract or earlier if required by Law.

- 11.2 The Buyer can extend the Contract where set out in the Order Form in accordance with the terms in the Order Form.

### **11.3 Ending the Contract without a reason**

The Buyer has the right to terminate the Contract at any time without reason or liability by giving the Supplier not less than 90 days' written notice and if it's terminated clause 11.5(b) to 11.5(g) applies.

### **11.4 When the Buyer can end the Contract**

- (a) If any of the following events happen, the Buyer has the right to immediately terminate its Contract by issuing a termination notice in writing to the Supplier:
  - (i) there's a Supplier Insolvency Event;
  - (ii) if the Supplier repeatedly breaches the Contract in a way to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms and conditions of the Contract;
  - (iii) if the Supplier is in material breach of any obligation which is capable of remedy, and that breach is not remedied within 30 days of the Supplier receiving notice specifying the breach and requiring it to be remedied;
  - (iv) there's a change of control (within the meaning of section 450 of the Corporation Tax Act 2010) of the Supplier which isn't pre-approved by the Buyer in writing;
  - (v) if the Buyer discovers that the Supplier was in one of the situations in 57(1) or 57(2) of the Regulations at the time the Contract was awarded;
  - (vi) the Court of Justice of the European Union uses Article 258 of the Treaty on the Functioning of the European Union (TFEU) to declare that the Contract should not have been awarded to the Supplier because of a serious breach of the TFEU or the Regulations;
  - (vii) the Supplier or its affiliates embarrass or bring the Buyer into disrepute or diminish the public trust in them.
- (b) If any of the events in 73(1) (a) to (c) of the Regulations (substantial modification, exclusion of the Supplier, procurement infringement) happen, the Buyer has the right to immediately terminate the Contract and clause 11.5(b) to 11.5(g) applies.



**11.5 What happens if the Contract ends**

Where the Buyer terminates the Contract under clause 11.4(a) all of the following apply:

- (a) the Supplier is responsible for the Buyer's reasonable costs of procuring replacement deliverables for the rest of the term of the Contract;
- (b) the Buyer's payment obligations under the terminated Contract stop immediately;
- (c) accumulated rights of the Parties are not affected;
- (d) the Supplier must promptly delete or return the Government Data except where required to retain copies by law;
- (e) the Supplier must promptly return any of the Buyer's property provided under the Contract;
- (f) the Supplier must, at no cost to the Buyer, give all reasonable assistance to the Buyer and any incoming supplier and co-operate fully in the handover and re-procurement;
- (g) the following clauses survive the termination of the Contract: [3.2.10, 6, 7.2, 9, 11, 14, 15, 16, 17, 18, 34, 35] and any clauses which are expressly or by implication intended to continue.

**11.6 When the Supplier can end the Contract**

- (a) The Supplier can issue a reminder notice if the Buyer does not pay an undisputed invoice on time. The Supplier can terminate the Contract if the Buyer fails to pay an undisputed invoiced sum due and worth over 10% of the total Contract value or £1,000, whichever is the lower, within 30 days of the date of the reminder notice.
- (b) If a Supplier terminates the Contract under clause 11.6(a):
  - (i) the Buyer must promptly pay all outstanding charges incurred to the Supplier;
  - (ii) the Buyer must pay the Supplier reasonable committed and unavoidable losses as long as the Supplier provides a fully itemised and costed schedule with evidence - the maximum value of this payment is limited to the total sum payable to the Supplier if the Contract had not been terminated;
  - (iii) clauses 11.5(d) to 11.5(g) apply.

**11.7 Partially ending and suspending the Contract**

- (a) Where the Buyer has the right to terminate the Contract it can terminate or suspend (for any period), all or part of it. If the Buyer suspends the Contract it can provide the Deliverables itself or buy them from a third party.
- (b) The Buyer can only partially terminate or suspend the Contract if the remaining parts of it can still be used to effectively deliver the intended purpose.
- (c) The Parties must agree (in accordance with clause 24) any necessary variation required by clause 11.7, but the Supplier may not either:
  - (i) reject the variation;
  - (ii) increase the Charges, except where the right to partial termination is under clause 11.3.
- (d) The Buyer can still use other rights available, or subsequently available to it if it acts on its rights under clause 11.7.

## **12. How much you can be held responsible for**

- 12.1 Each Party's total aggregate liability under or in connection with the Contract (whether in tort, contract or otherwise) is no more than 125% of the Charges paid or payable to the Supplier.
- 12.2 No Party is liable to the other for:
- (a) any indirect losses;
  - (b) loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect).
- 12.3 In spite of clause 12.1, neither Party limits or excludes any of the following:
- (a) its liability for death or personal injury caused by its negligence, or that of its employees, agents or subcontractors;
  - (b) its liability for bribery or fraud or fraudulent misrepresentation by it or its employees;
  - (c) any liability that cannot be excluded or limited by law.
- 12.4 In spite of clause 12.1, the Supplier does not limit or exclude its liability for any indemnity given under clauses 4.2(j), 4.2(m), 8.5, 9.3, 10.5, 13.2, 14.26(e) or 30.2(b).
- 12.5 Each Party must use all reasonable endeavours to mitigate any loss or damage which it suffers under or in connection with the Contract, including any indemnities.
- 12.6 If more than one Supplier is party to the Contract, each Supplier Party is fully responsible for both their own liabilities and the liabilities of the other Suppliers.

## **13. Obeying the law**

- 13.1 The Supplier must, in connection with provision of the Deliverables, use reasonable endeavours to:
- (a) comply and procure that its subcontractors comply with the Supplier Code of Conduct appearing at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/779660/20190220-Supplier\\_Code\\_of\\_Conduct.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779660/20190220-Supplier_Code_of_Conduct.pdf) and such other corporate social responsibility requirements as the Buyer may notify to the Supplier from time to time;
  - (b) support the Buyer in fulfilling its Public Sector Equality duty under S149 of the Equality Act 2010;
  - (c) not use nor allow its subcontractors to use modern slavery, child labour or inhumane treatment;
  - (d) meet the applicable Government Buying Standards applicable to Deliverables which can be found online at: <https://www.gov.uk/government/collections/sustainable-procurement-the-government-buying-standards-gbs>
- 13.2 The Supplier indemnifies the Buyer against any costs resulting from any default by the Supplier relating to any applicable law to do with the Contract.
- 13.3 The Supplier must appoint a Compliance Officer who must be responsible for ensuring that the Supplier complies with Law, Clause 13.1 and Clauses 27 to 32

- 13.4 "Compliance Officer" the person(s) appointed by the Supplier who is responsible for ensuring that the Supplier complies with its legal obligations;

## **14. Data protection**

- 14.1 The Buyer is the Controller and the Supplier is the Processor for the purposes of the Data Protection Legislation.
- 14.2 The Supplier must process Personal Data and ensure that Supplier Staff process Personal Data only in accordance with this Contract.
- 14.3 The Supplier must not remove any ownership or security notices in or relating to the Government Data.
- 14.4 The Supplier must make accessible back-ups of all Government Data, stored in an agreed off-site location and send the Buyer copies every six Months.
- 14.5 The Supplier must ensure that any Supplier system holding any Government Data, including back-up data, is a secure system that complies with the security requirements specified [in writing] by the Buyer.
- 14.6 If at any time the Supplier suspects or has reason to believe that the Government Data provided under the Contract is corrupted, lost or sufficiently degraded, then the Supplier must notify the Buyer and immediately suggest remedial action.
- 14.7 If the Government Data is corrupted, lost or sufficiently degraded so as to be unusable the Buyer may either or both:
- (a) tell the Supplier to restore or get restored Government Data as soon as practical but no later than five Working Days from the date that the Buyer receives notice, or the Supplier finds out about the issue, whichever is earlier;
  - (b) restore the Government Data itself or using a third party.
- 14.8 The Supplier must pay each Party's reasonable costs of complying with clause 14.7 unless the Buyer is at fault.
- 14.9 Only the Buyer can decide what processing of Personal Data a Supplier can do under the Contract and must specify it for the Contract using the template in Annex 1 of the Order Form (*Authorised Processing*).
- 14.10 The Supplier must only process Personal Data if authorised to do so in the Annex to the Order Form (*Authorised Processing*) by the Buyer. Any further written instructions relating to the processing of Personal Data are incorporated into Annex 1 of the Order Form.
- 14.11 The Supplier must give all reasonable assistance to the Buyer in the preparation of any Data Protection Impact Assessment before starting any processing, including:
- (a) a systematic description of the expected processing and its purpose;
  - (b) the necessity and proportionality of the processing operations;
  - (c) the risks to the rights and freedoms of Data Subjects;
  - (d) the intended measures to address the risks, including safeguards, security measures and mechanisms to protect Personal Data.

- 14.12 The Supplier must notify the Buyer immediately if it thinks the Buyer's instructions breach the Data Protection Legislation.
- 14.13 The Supplier must put in place appropriate Protective Measures to protect against a Data Loss Event which must be approved by the Buyer.
- 14.14 If lawful to notify the Buyer, the Supplier must notify it if the Supplier is required to process Personal Data by Law promptly and before processing it.
- 14.15 The Supplier must take all reasonable steps to ensure the reliability and integrity of any Supplier Staff who have access to the Personal Data and ensure that they:
- (a) are aware of and comply with the Supplier's duties under this clause 11;
  - (b) are subject to appropriate confidentiality undertakings with the Supplier or any Subprocessor;
  - (c) are informed of the confidential nature of the Personal Data and do not provide any of the Personal Data to any third Party unless directed in writing to do so by the Buyer or as otherwise allowed by the Contract;
  - (d) have undergone adequate training in the use, care, protection and handling of Personal Data.
- 14.16 The Supplier must not transfer Personal Data outside of the EU unless all of the following are true:
- (a) it has obtained prior written consent of the Buyer;
  - (b) the Buyer has decided that there are appropriate safeguards (in accordance with Article 46 of the GDPR);
  - (c) the Data Subject has enforceable rights and effective legal remedies when transferred;
  - (d) the Supplier meets its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred;
  - (e) where the Supplier is not bound by Data Protection Legislation it must use its best endeavours to help the Buyer meet its own obligations under Data Protection Legislation; and
  - (f) the Supplier complies with the Buyer's reasonable prior instructions about the processing of the Personal Data.
- 14.17 The Supplier must notify the Buyer 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 the request is required or claims to be required by Law;
  - (f) becomes aware of a Data Loss Event.

- 14.18 Any requirement to notify under clause 14.17 includes the provision of further information to the Buyer in stages as details become available.
- 14.19 The Supplier must promptly provide the Buyer with full assistance in relation to any Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 14.17. This includes giving the Buyer:
- (a) full details and copies of the complaint, communication or request;
  - (b) reasonably requested assistance so that it can comply with a Data Subject Access Request within the relevant timescales in the Data Protection Legislation;
  - (c) any Personal Data it holds in relation to a Data Subject on request;
  - (d) assistance that it requests following any Data Loss Event;
  - (e) assistance that it requests relating to a consultation with, or request from, the Information Commissioner's Office.
- 14.20 The Supplier must maintain full, accurate records and information to show it complies with this clause 14. This requirement does not apply where the Supplier employs fewer than 250 staff, unless either the Buyer determines that the processing:
- (a) is not occasional;
  - (b) includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR;
  - (c) is likely to result in a risk to the rights and freedoms of Data Subjects.
- 14.21 The Supplier must appoint a Data Protection Officer responsible for observing its obligations in this Schedule and give the Buyer their contact details.
- 14.22 Before allowing any Subprocessor to process any Personal Data, the Supplier must:
- (a) notify the Buyer in writing of the intended Subprocessor and processing;
  - (b) obtain the written consent of the Buyer;
  - (c) enter into a written contract with the Subprocessor so that this clause 14 applies to the Subprocessor;
  - (d) provide the Buyer with any information about the Subprocessor that the Buyer reasonably requires.
- 14.23 The Supplier remains fully liable for all acts or omissions of any Subprocessor.
- 14.24 At any time the Buyer can, with 30 Working Days notice to the Supplier, change this clause 14 to:
- (a) replace it with any applicable standard clauses (between the controller and processor) or similar terms forming part of an applicable certification scheme under GDPR Article 42;
  - (b) ensure it complies with guidance issued by the Information Commissioner's Office.
- 14.25 The Parties agree to take account of any non-mandatory guidance issued by the Information Commissioner's Office.
- 14.26 The Supplier:
- (a) must provide the Buyer with all Government Data in an agreed open format within 10 Working Days of a written request;

- (b) must have documented processes to guarantee prompt availability of Government Data if the Supplier stops trading;
- (c) must securely destroy all Storage Media that has held Government Data at the end of life of that media using Good Industry Practice;
- (d) securely erase all Government Data and any copies it holds when asked to do so by the Buyer unless required by Law to retain it;
- (e) indemnifies the Buyer against any and all Losses incurred if the Supplier breaches clause 14 and any Data Protection Legislation.

## **15. What you must keep confidential**

### **15.1 Each Party must:**

- (a) keep all Confidential Information it receives confidential and secure;
- (b) not disclose, use or exploit the disclosing Party's Confidential Information without the disclosing Party's prior written consent, except for the purposes anticipated under the Contract;
- (c) immediately notify the disclosing Party if it suspects unauthorised access, copying, use or disclosure of the Confidential Information.

### **15.2 In spite of clause 15.1, a Party may disclose Confidential Information which it receives from the disclosing Party in any of the following instances:**

- (a) where disclosure is required by applicable Law or by a court with the relevant jurisdiction if the recipient Party notifies the disclosing Party of the full circumstances, the affected Confidential Information and extent of the disclosure;
- (b) if the recipient Party already had the information without obligation of confidentiality before it was disclosed by the disclosing Party;
- (c) if the information was given to it by a third party without obligation of confidentiality;
- (d) if the information was in the public domain at the time of the disclosure;
- (e) if the information was independently developed without access to the disclosing Party's Confidential Information;
- (f) to its auditors or for the purposes of regulatory requirements;
- (g) on a confidential basis, to its professional advisers on a need-to-know basis;
- (h) to the Serious Fraud Office where the recipient Party has reasonable grounds to believe that the disclosing Party is involved in activity that may be a criminal offence under the Bribery Act 2010.

### **15.3 The Supplier may disclose Confidential Information on a confidential basis to Supplier Staff on a need-to-know basis to allow the Supplier to meet its obligations under the Contract. The Supplier Staff must enter into a direct confidentiality agreement with the Buyer at its request.**

### **15.4 The Buyer may disclose Confidential Information in any of the following cases:**

- (a) on a confidential basis to the employees, agents, consultants and contractors of the Buyer;
- (b) on a confidential basis to any other Central Government Body, any successor body to a Central Government Body or any company that the Buyer transfers or proposes to transfer all or any part of its business to;
- (c) if the Buyer (acting reasonably) considers disclosure necessary or appropriate to carry out its public functions;

- (d) where requested by Parliament;
- (e) under clauses 5.7 and 16.

- 15.5 For the purposes of clauses 15.2 to 15.4 references to disclosure on a confidential basis means disclosure under a confidentiality agreement or arrangement including terms as strict as those required in clause 15.
- 15.6 Information which is exempt from disclosure by clause 16 is not Confidential Information.
- 15.7 The Supplier must not make any press announcement or publicise the Contract or any part of it in any way, without the prior written consent of the Buyer and must take all reasonable steps to ensure that Supplier Staff do not either.

## **16. When you can share information**

- 16.1 The Supplier must tell the Buyer within 48 hours if it receives a Request For Information.
- 16.2 Within the required timescales the Supplier must give the Buyer full co-operation and information needed so the Buyer can:
- (a) comply with any Freedom of Information Act (FOIA) request;
  - (b) comply with any Environmental Information Regulations (EIR) request.
- 16.3 The Buyer may talk to the Supplier to help it decide whether to publish information under clause 16. However, the extent, content and format of the disclosure is the Buyer's decision, which does not need to be reasonable.

## **17. Invalid parts of the contract**

If any part of the Contract is prohibited by Law or judged by a court to be unlawful, void or unenforceable, it must be read as if it was removed from that Contract as much as required and rendered ineffective as far as possible without affecting the rest of the Contract, whether it's valid or enforceable.

## **18. No other terms apply**

The provisions incorporated into the Contract are the entire agreement between the Parties. The Contract replaces all previous statements and agreements whether written or oral. No other provisions apply.

## **19. Other people's rights in a contract**

No third parties may use the Contracts (Rights of Third Parties) Act (CRTPA) to enforce any term of the Contract unless stated (referring to CRTPA) in the Contract. This does not affect third party rights and remedies that exist independently from CRTPA.

## **20. Circumstances beyond your control**

- 20.1 Any Party affected by a Force Majeure Event is excused from performing its obligations under the Contract while the inability to perform continues, if it both:

- (a) provides written notice to the other Party;
- (b) uses all reasonable measures practical to reduce the impact of the Force Majeure Event.

20.2 Either party can partially or fully terminate the Contract if the provision of the Deliverables is materially affected by a Force Majeure Event which lasts for 90 days continuously.

20.3 Where a Party terminates under clause 20.2:

- (a) each party must cover its own losses;
- (b) clause 11.5(b) to 11.5(g) applies.

## **21. Relationships created by the contract**

The Contract does not create a partnership, joint venture or employment relationship. The Supplier must represent themselves accordingly and ensure others do so.

## **22. Giving up contract rights**

A partial or full waiver or relaxation of the terms of the Contract is only valid if it is stated to be a waiver in writing to the other Party.

## **23. Transferring responsibilities**

23.1 The Supplier cannot assign the Contract without the Buyer's written consent.

23.2 The Buyer can assign, novate or transfer its Contract or any part of it to any Crown Body, public or private sector body which performs the functions of the Buyer.

23.3 When the Buyer uses its rights under clause 23.2 the Supplier must enter into a novation agreement in the form that the Buyer specifies.

23.4 The Supplier can terminate the Contract novated under clause 23.2 to a private sector body that is experiencing an Insolvency Event.

23.5 The Supplier remains responsible for all acts and omissions of the Supplier Staff as if they were its own.

23.6 If the Buyer asks the Supplier for details about Subcontractors, the Supplier must provide details of Subcontractors at all levels of the supply chain including:

- (a) their name;
- (b) the scope of their appointment;
- (c) the duration of their appointment.

## **24. Changing the contract**

24.1 Either Party can request a variation to the Contract which is only effective if agreed in writing and signed by both Parties. The Buyer is not required to accept a variation request made by the Supplier.



**25. How to communicate about the contract**

- 25.1 All notices under the Contract must be in writing and are considered effective on the Working Day of delivery as long as they're delivered before 5:00pm on a Working Day. Otherwise the notice is effective on the next Working Day. An email is effective when sent unless an error message is received.
- 25.2 Notices to the Buyer or Supplier must be sent to their address in the Order Form.
- 25.3 This clause does not apply to the service of legal proceedings or any documents in any legal action, arbitration or dispute resolution.

**26. Preventing fraud, bribery and corruption**

- 26.1 The Supplier shall not:
- (a) commit any criminal offence referred to in the Regulations 57(1) and 57(2);
  - (b) offer, give, or agree to give anything, to any person (whether working for or engaged by the Buyer or any other public body) an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of the Contract or any other public function or for showing or refraining from showing favour or disfavour to any person in relation to the Contract or any other public function.
- 26.2 The Supplier shall take all reasonable steps (including creating, maintaining and enforcing adequate policies, procedures and records), in accordance with good industry practice, to prevent any matters referred to in clause 26.1 and any fraud by the Staff and the Supplier (including its shareholders, members and directors) in connection with the Contract and shall notify the Buyer immediately if it has reason to suspect that any such matters have occurred or is occurring or is likely to occur.
- 26.3 If the Supplier or the Staff engages in conduct prohibited by clause 26.1 or commits fraud in relation to the Contract or any other contract with the Crown (including the Buyer) the Buyer may:
- (a) terminate the Contract and recover from the Supplier the amount of any loss suffered by the Buyer resulting from the termination, including the cost reasonably incurred by the Buyer of making other arrangements for the supply of the Deliverables and any additional expenditure incurred by the Buyer throughout the remainder of the Contract; or
  - (b) recover in full from the Supplier any other loss sustained by the Buyer in consequence of any breach of this clause.

**27. Equality, diversity and human rights**

- 27.1 The Supplier must follow all applicable equality law when they perform their obligations under the Contract, including:
- (a) protections against discrimination on the grounds of race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise;
  - (b) any other requirements and instructions which the Buyer reasonably imposes related to equality Law.

- 27.2 The Supplier must take all necessary steps, and inform the Buyer of the steps taken, to prevent anything that is considered to be unlawful discrimination by any court or tribunal, or the Equality and Human Rights Commission (or any successor organisation) when working on the Contract.

## **28. Health and safety**

- 28.1 The Supplier must perform its obligations meeting the requirements of:
- (a) all applicable law regarding health and safety;
  - (b) the Buyer's current health and safety policy while at the Buyer's premises, as provided to the Supplier.
- 28.2 The Supplier and the Buyer must as soon as possible notify the other of any health and safety incidents or material hazards they're aware of at the Buyer premises that relate to the performance of the Contract.

## **29. Environment**

- 29.1 When working on Site the Supplier must perform its obligations under the Buyer's current Environmental Policy, which the Buyer must provide.
- 29.2 The Supplier must ensure that Supplier Staff are aware of the Buyer's Environmental Policy.

## **30. Tax**

- 30.1 The Supplier must not breach any tax or social security obligations and must enter into a binding agreement to pay any late contributions due, including where applicable, any interest or any fines. The Buyer cannot terminate the Contract where the Supplier has not paid a minor tax or social security contribution.
- 30.2 Where the Supplier or any Supplier Staff are liable to be taxed or to pay National Insurance contributions in the UK relating to payment received under the Off Contract, the Supplier must both:
- (a) comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax, the Social Security Contributions and Benefits Act 1992 (including IR35) and National Insurance contributions;
  - (b) indemnify the Buyer against any Income Tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made during or after the Contract Period in connection with the provision of the Deliverables by the Supplier or any of the Supplier Staff.
- 30.3 If any of the Supplier Staff are Workers who receive payment relating to the Deliverables, then the Supplier must ensure that its contract with the Worker contains the following requirements:
- (a) the Buyer may, at any time during the term of the Contract, request that the Worker provides information which demonstrates they comply with clause 30.2, or why those requirements do not apply, the Buyer can specify the information the Worker must provide and the deadline for responding;

- (b) the Worker's contract may be terminated at the Buyer's request if the Worker fails to provide the information requested by the Buyer within the time specified by the Buyer;
- (c) the Worker's contract may be terminated at the Buyer's request if the Worker provides information which the Buyer considers isn't good enough to demonstrate how it complies with clause 30.2 or confirms that the Worker is not complying with those requirements;
- (d) the Buyer may supply any information they receive from the Worker to HMRC for revenue collection and management.

### **31. Conflict of interest**

- 31.1 The Supplier must take action to ensure that neither the Supplier nor the Supplier Staff are placed in the position of an actual or potential conflict between the financial or personal duties of the Supplier or the Supplier Staff and the duties owed to the Buyer under the Contract, in the reasonable opinion of the Buyer.
- 31.2 The Supplier must promptly notify and provide details to the Buyer if a conflict of interest happens or is expected to happen.
- 31.3 The Buyer can terminate its Contract immediately by giving notice in writing to the Supplier or take any steps it thinks are necessary where there is or may be an actual or potential conflict of interest.

### **32. Reporting a breach of the contract**

- 32.1 As soon as it is aware of it the Supplier and Supplier Staff must report to the Buyer any actual or suspected breach of law, clause 13.1, or clauses 26 to 31.
- 32.2 The Supplier must not retaliate against any of the Supplier Staff who in good faith reports a breach listed in clause 32.1.

### **33. Resolving disputes**

- 33.1 If there is a dispute between the Parties, their senior representatives who have authority to settle the dispute will, within 28 days of a written request from the other Party, meet in good faith to resolve the dispute.
- 33.2 If the dispute is not resolved at that meeting, the Parties can attempt to settle it by mediation using the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure current at the time of the dispute. If the Parties cannot agree on a mediator, the mediator will be nominated by CEDR. If either Party does not wish to use, or continue to use mediation, or mediation does not resolve the dispute, the dispute must be resolved using clauses 33.3 to 33.5.
- 33.3 Unless the Buyer refers the dispute to arbitration using clause 33.4, the Parties irrevocably agree that the courts of England and Wales have the exclusive jurisdiction to:
  - (a) determine the dispute;
  - (b) grant interim remedies;
  - (c) grant any other provisional or protective relief.

- 33.4 The Supplier agrees that the Buyer has the exclusive right to refer any dispute to be finally resolved by arbitration under the London Court of International Arbitration Rules current at the time of the dispute. There will be only one arbitrator. The seat or legal place of the arbitration will be London and the proceedings will be in English.
- 33.5 The Buyer has the right to refer a dispute to arbitration even if the Supplier has started or has attempted to start court proceedings under clause 33.3, unless the Buyer has agreed to the court proceedings or participated in them. Even if court proceedings have started, the Parties must do everything necessary to ensure that the court proceedings are stayed in favour of any arbitration proceedings if they are started under clause 33.4.
- 33.6 The Supplier cannot suspend the performance of the Contract during any dispute.

#### **34. Which law applies**

This Contract and any issues arising out of, or connected to it, are governed by English law.

## APPENDIX A - VARIATION REQUEST FORM

Contract / Project Title:											
Contract / Project Ref No (FS /FSA No):											
<b>Full Description of Variation Request:</b> A full justification and impact assessment including any supplementary evidence must be provided. Any supporting information should be appended to this form.											
<b>Area (s) Impacted: -</b> <table style="width: 100%; border: none;"> <tr> <td style="text-align: center;">Price <input type="checkbox"/></td> <td style="text-align: center;">Duration <input type="checkbox"/></td> <td style="text-align: center;">Price &amp; Duration <input type="checkbox"/></td> <td style="text-align: center;">Scope of work <input type="checkbox"/></td> <td style="text-align: center;">Key Personnel <input type="checkbox"/></td> <td style="text-align: center;">Other <input type="checkbox"/></td> </tr> </table>						Price <input type="checkbox"/>	Duration <input type="checkbox"/>	Price & Duration <input type="checkbox"/>	Scope of work <input type="checkbox"/>	Key Personnel <input type="checkbox"/>	Other <input type="checkbox"/>
Price <input type="checkbox"/>	Duration <input type="checkbox"/>	Price & Duration <input type="checkbox"/>	Scope of work <input type="checkbox"/>	Key Personnel <input type="checkbox"/>	Other <input type="checkbox"/>						
<b>Requester:</b>  Signature:  Team / Organisation  Date:											
<b>Supplier Contact Details</b>  Supplier Name : Contact Name : Contact Address : Telephone No : Email Address :											
<b>FSA Use Only (Business Area)</b>  Amount Approved:  Authorised By:- <input type="checkbox"/> Cost Centre Manager <input type="checkbox"/> Investment Board  Signed :  Date of Approval:											
<b>Please submit this form to <a href="mailto:fsa.procurement@food.gov.uk">fsa.procurement@food.gov.uk</a></b>											

**Procurement Use Only (confirm contract allows for requested variation)**

Variation Request No:

Variation Request Approved by:

Date of Approval:

On full approval of this Request for Variation, Procurement will produce a Variation Form for agreement and approval by both parties to append to the Agreement / Contract.

## APPENDIX B VARIATION FORM

**PROJECT TITLE:**

**DATE:**

**VARIATION No:**

**BETWEEN:**

**The Food Standards Agency (hereinafter called “the Client”) & Basis Research Ltd (hereinafter called “the Supplier”)**

1. The Contract is varied as follows:

**Contract**

x

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

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

**SIGNED:**

For: The Client

For: The Supplier

By: .....

By: .....

Full Name: .....

Full Name: .....

Position: .....

Title: .....

Date: .....

Date: .....