

Order Special Schedule 1- Order Special Terms

1 Definitions

- 1.1 In these Order Special Terms unless the context otherwise requires, capitalised expressions shall have the meanings set out in Joint Schedule 1 (Definitions), the Order Form, the Statement of Requirements or as defined in these Order Special Terms.

2 Amendments to definitions

- 2.1 The parties agree that the following definitions set out in DPS Joint Schedule 1 shall be amended as follows for the purposes of this Order Contract (where additions are underlined and deletions are struck through):

“Data Protection Legislation” (i) the GDPR; (ii) the DPA 2018 to the extent that it relates to Processing of personal data and privacy; (iii) all applicable Law about the Processing of personal data and privacy;

“Delay Payments” the amounts (if any) payable by the Supplier to the Buyer in respect of a delay in respect of a Milestone as specified in the ~~Mobilisation Plan~~ Implementation Plan;

“GDPR” Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018, together with the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019;”

“Milestone” an event or task described in the ~~Mobilisation Plan~~ Implementation Plan;

“Milestone Date” the target date set out against the relevant Milestone in the ~~Mobilisation Plan~~ Implementation Plan by which the Milestone must be Achieved;

3 Protection on Information

- 3.1 The Supplier and any of its Subcontractors, shall not access, process, host or transfer Government Data outside the United Kingdom without the prior written consent of the Buyer, and where the Buyer gives consent, the Supplier shall comply with any reasonable instructions notified to it by the Buyer in relation to the Government Data in question. The provisions set out in this paragraph shall apply to Landed Resources.
- 3.2 Where the Buyer has given its prior written consent to the Supplier to access, process, host or transfer Government Data from premises outside the United Kingdom:-
- 3.2.1 the Supplier must notify the Buyer (in so far as they are not prohibited by Law) where any regulatory authority seeks to gain or has gained access to such Government Data;
- 3.2.2 the Supplier shall take all necessary steps in order to prevent any access to, or disclosure of, any Government Data to any regulatory body outside the United Kingdom unless required by Law without any applicable exception or exemption.

4 Pricing and Payments

The parties agree that Clause 4 of the DPS Core Terms shall be deleted and replace with the following paragraphs 4.1 to 4.18 for the purposes of this Order Contract:

- 4.1 In exchange for the Deliverables, the Supplier must invoice the Buyer for the Charges in the Order Form.
- 4.2 All Charges:
- 4.2.1 exclude VAT, which is payable on provision of a valid VAT invoice issued in accordance with Clause 4.11; and
- 4.2.2 include all costs connected with the supply of Deliverables.
- 4.3 Where the Supplier submits an invoice to the Buyer in accordance with Clause 4.4, the Buyer will consider and verify that invoice in a timely fashion.

- 4.4 A Supplier invoice is only valid if it:
- 4.4.1 includes all appropriate references including the Order Contract reference number and other details reasonably requested by the Buyer; and
 - 4.4.2 includes a detailed breakdown of Delivered Deliverables and Milestone(s) (if any); and
 - 4.4.3 includes timesheets and any other records required to demonstrate the Services the invoice relates to and the associated number of staff FTE, day rates and costs that were required to complete these Services.
- 4.5 The Buyer may retain or set-off payment of any amount owed to it by the Supplier under this Order Contract or any other agreement between the Supplier and the Buyer if notice and reasons are provided.
- 4.6 The Supplier must ensure that all Subcontractors are paid, in full, within 30 days of receipt of a valid, undisputed invoice. If this does not happen, the Buyer can publish the details of the late payment or non-payment.
- 4.7 The Supplier shall make all payments due to the Buyer without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Supplier has a valid court order requiring an amount equal to such deduction to be paid by the Buyer to the Supplier.
- 4.8 The Buyer shall pay the Charges due to the Supplier under such an invoice no later than a period of thirty (30) days from the date on which the Buyer has determined that the invoice is valid and undisputed.
- 4.9 Where the Buyer fails to comply with Clause 4.3 and there is an undue delay in considering and verifying the invoice, the invoice shall be regarded as valid and undisputed for the purposes of Clause 4.8 after a reasonable period of time has passed.

- 4.10 Interest shall be payable by the Buyer on the late payment of any undisputed sums of money properly claimed in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 (as amended).
- 4.11 The Supplier shall add VAT to the Charges at the prevailing rate as applicable and the Buyer shall pay VAT to the Supplier following an undisputed claim for payment being notified by the Supplier in accordance with this Clause 4.
- 4.12 Without prejudice to Clause 4.16, for the avoidance of doubt, it shall at all times remain the sole responsibility of the Supplier to:
- 4.12.1 assess the VAT rate(s) and tax liability arising out of or in connection with the Order Contract; and
 - 4.12.2 account for or pay any VAT (and any other tax liability) relating to payments made to the Supplier under the Order Contract to HM Revenue & Customs ("HMRC").
- 4.13 The Buyer shall not be liable to the Supplier in any way whatsoever for any error or failure made by the Supplier (or the Buyer) in relation to VAT, including without limit:
- 4.13.1 where the Supplier is subject to a VAT ruling(s) by HMRC (or such other relevant authority) in connection with the Order Contract;
 - 4.13.2 where the Supplier has assumed that it can recover input VAT and (for whatever reason) this assumption is subsequently held by HMRC (or such other relevant authority) to be incorrect or invalid; and/or
 - 4.13.3 where the Supplier's treatment of VAT in respect of any claim for payment made under the Order Contract is subsequently held by HMRC (or such other relevant authority) for whatever reason to be incorrect or invalid; and/or
 - 4.13.4 where the Supplier has specified a rate of VAT, or a VAT classification, to the Buyer (including, but not limited to, Out of Scope, Exempt, 0%, Standard Rate and Reduced Rate) but the Supplier subsequently regards

such a rate, or such a classification, as being a mistake on its part. Further, in the scenario described in this Clause 4.13.4, the Supplier shall be obliged to repay any overpayment by the Buyer on demand.

- 4.14 Where the Supplier does not include VAT on an invoice, the Buyer will not be liable to pay any VAT for that invoice either when it falls due, or at any later date.
- 4.15 The Supplier acknowledges that the Buyer has advised the Supplier that the Supplier should seek its own specialist VAT advice in relation to the Order Contract and, in the event of any uncertainty following specialist advice, the Supplier should seek clarification of the Order Contract's VAT status with HMRC.
- 4.16 The Supplier shall indemnify the Buyer on a continuing basis against any liability, including any interest, penalties or costs incurred which is levied, demanded or assessed on the Buyer at any time in respect of the Supplier's failure to account for or to pay any VAT relating to payments made to the Supplier under the Order Contract. Any amounts due under this Clause 4.16 shall be paid by the Supplier to the Buyer not less than five (5) Working Days before the date upon which the tax or other liability is payable by the Buyer.
- 4.17 The Supplier may not obtain any third party revenue, income or credit based on the Services and/or copyright works delivered under this Order Contract without the express prior written agreement of the Buyer.
- 4.18 Any overpayment by either Party, whether of the Charges or of VAT or otherwise, shall be a sum of money recoverable by the Party who made the overpayment from the Party in receipt of the overpayment.

5 Termination for exceeding Indicative Total Contract Price

- 5.1 The Parties acknowledge that the Buyer has a need to ensure that the Charges payable under this Order Contract do not exceed its budget. Accordingly the Buyer has the right to immediately terminate its Contract by issuing a Termination Notice to the Supplier in the event that the aggregate Charges paid or payable under this Order Contract exceed the "Indicative Total Contract

Price” as set out in DPS Order Schedule 5 (Pricing Details). For the avoidance of doubt the rights set out in clause 10.8.3 of the Core Terms shall apply.