

to be effective from 15th October 2018 until 31st March 2020 unless varied by extension.

TSSW ("Supplier"), Office 9, Victoria Commercial Centre, Station Approach, Victoria, Cornwall, PL26 8LG

and

Food Standards Agency ("Client") having its main or registered office at Clive House, 70 Petty France, London SW1H 9EX

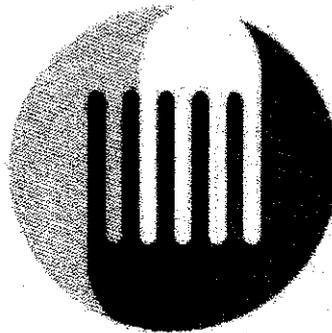
This document forms the contract for the Services between;

Reference Number: FSA615

Imported Feed and Primary Production e-Learning Modules

CONTRACT FOR THE PROVISION OF:

Food Standards Agency
food.gov.uk



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CONTRACT

WHEREAS

The Food Standards Agency has selected the Supplier to act as a Supplier in the performance of activities connected with the Project described on the title page of this contract, for The Food Standards Agency, the Supplier shall undertake to provide the same on the terms and conditions as set out in this Contract. Unless and until directed otherwise, nothing in this Contract, shall be construed as giving a guarantee of any remunerative work whatsoever unless or until such work is requested and confirmed by means of a duly authorised Purchase Order.

CROWN REPRESENTATIVES

Where any supplier has been adjudged to fall under the auspices of a "Crown Representative" then any resultant terms and conditions will be subject to, where appropriate, any central contracts and/or negotiation or procurement processes involving such suppliers.

IT IS AGREED AS FOLLOWS:

1. TERMS and CONDITIONS

1.1 As used in this Contract:

- a) the terms and expressions set out in Schedule 1 shall have the meanings set out therein;
- b) the masculine includes the feminine and the neuter;
- c) the singular includes the plural and vice versa; and
- d) the words "include", "includes" and "including" are to be construed as if they were immediately followed by the words "without limitation".

1.2. A reference to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent statute, enactment, order, regulation or instrument or as contained in any subsequent re-enactment thereof.

1.3. A reference to any document other than as specified in Clause 1.2 shall be construed as a reference to the document as at the date of execution of this Contract.

1.4. Headings are included in this Contract for ease of reference only and shall not affect the interpretation or construction of this Contract.

1.5. References to "Clauses" and "Schedules" are, unless otherwise provided, references to the Clauses of and Schedules to this Contract.

- 1.6. Terms or expressions contained in this Contract which are capitalised but which do not have an interpretation in Schedule 1 shall be interpreted in accordance with the common interpretation within the legal services market where appropriate. Otherwise they shall be interpreted in accordance with the dictionary meaning.
- 1.7. In the event and to the extent only of any conflict or inconsistency in the provisions of the Clauses of this Contract and to the provisions of the Schedules, the following order of precedence shall prevail:
 - a) the duly authorised Client Purchase Order;
 - b) the Schedules; and
 - c) this Contract
- 2. THE SERVICES
 - 2.1. This Contract shall govern the overall relationship of the Supplier and the Client with respect to the provision of the Ordered Services.
 - 2.2. The Supplier shall provide the Ordered Services and meet its responsibilities and obligations hereunder in accordance with the provisions of Schedule 2 (Ordered Services) and Schedule 3 (Specific Obligations).
 - 2.3. Notwithstanding clause 2.1, the Supplier shall perform the Ordered Services to the agreed satisfaction of the Client's Representative.
 - 2.4. The Supplier shall notify the Client as soon as it becomes aware of an event occurring or which it believes is likely to occur which will cause material delay to or materially impede the performance of any Ordered Services or any part thereof and the Supplier shall take all necessary steps consistent with good practice to obviate and/or minimise the delay to the Client.
 - 2.5. In the event that the Supplier fails due to its Default to fulfill an obligation by the date specified in any Purchase Order for such fulfillment, the Supplier shall, at the request of the Client and without prejudice to the Client's other rights and remedies, arrange all such additional resources as are necessary to either obviate the delay or to fulfill the said obligation as early as practicable thereafter, at no additional charge to the Client.
 - 2.6. In the event that any obligation of the Supplier specified in the Contract is delayed as a result of a Default by the Client, then:
 - a) The date associated with the relevant obligation(s) as specified in the Purchase Order (and the dates similarly associated with any subsequent obligations specified in the Purchase Order) shall be amended by a period of time equal to the period of such Client Default (or such other period as the parties agree in writing); and
 - b) Both parties shall use all reasonable endeavors to obviate and/or mitigate the impact of such delay and to recover any resultant delay to the performance of the Ordered Services.

- 2.7. Nothing in this document, or any Purchase Order, shall have the effect of making the Supplier or any of the Supplier's other employees or agents, the employee of the Client.
- 2.8. Nothing in this document or any Purchase Order shall constitute the parties as partners of each other.

3. STANDARDS AND REGULATIONS

- 3.1. The Supplier shall at all times comply with the Health and Safety provisions, security requirements and personal conduct obligations, of any premises visited and shall exercise all due care and attention when visiting such premises.
- 3.2. The Supplier shall comply with all applicable national and local laws and regulations (including Data Protection Requirements) and obtain and maintain at its own cost throughout the duration of the Contract all the consents (including Data Protection Requirements), licences, permits and approvals which are necessary for the Supplier to perform its duties under this Contract and to enable the provision of the Ordered Services.
- 3.3. Without prejudice to the provisions of Clause 3.2, the Supplier shall ensure that he/she does not work in excess of the working time limits specified in the Working Time Regulations 1998. The Supplier shall maintain appropriate records regarding their working hours. Without prejudice to the obligations under this Clause 3.3, the Supplier shall make available to the Client any information of which it is aware concerning appointments held by an individual concurrently with the obligations of this Contract.

- 3.4. The Supplier shall be responsible for the administration and deduction of any income tax and national insurance in respect of payments made to such individuals, including in respect of any obligations under the Pay As You Earn system. The Supplier will, or procure that its Sub-Suppliers will, account to the appropriate authorities for any income tax, national insurance (if any), VAT and all other liabilities, charges and duties arising out of any payment made to the Supplier under any Purchase Order. The Supplier will indemnify and keep indemnified the Client against any income tax, national insurance (if any), VAT or any other tax liability including any interest, penalties or costs incurred in connection with the same which may at any time be levied, demanded or assessed on the Client by any statutory Agency in respect of payments made to the Supplier.
- 3.5. Nothing in this Contract shall be construed or have effect as constituting any relationship of employer and employee between the Client and the Supplier or its Sub-Suppliers. The Supplier shall indemnify and keep indemnified the Client, its officers, employees and agents against all actions, claims, demands, reasonable costs, charges and reasonable expenses incurred by or made against the Client, its officers, employees or agents arising out of or in connection with any services provided under any Purchase Order asserting that they are an employee of the Client or otherwise alleging any breach of any employment related legislation except where such claim arises as a result of any breach of obligations (whether contractual, statutory, at common law or otherwise).

4. MATERIAL BREACH

- 4.1. If the Supplier: -

- 7.1. All engagements of the Supplier by the Client, of whatever nature, under the terms of the Agreement must be confirmed by means of a Purchase Order before commencement of the work.
- 7.2. All Charges on any Purchase Order placed under the terms and conditions of this Contract shall utilise the rates as per Schedule 4 as their basis.

7. CHARGES FOR ORDERED SERVICES

The responsibilities for the Parties are set out in Schedule 2 and Schedule 3

6. PARTIES RESPONSIBILITIES & OBLIGATIONS

The parties agree that during the term of the appointment as described in any Purchase Order and for a period of twelve (12) months thereafter, they will not, whether directly or indirectly, solicit with a view to offering employment the other party and/or its employees or consultants. In the event that either party breaches this Clause, the defaulting party shall pay to the affected party all unavoidable and reasonable costs incurred by the affected party including but not limited to a sum equal to the gross salary of the employee or the consultant due under any relevant notice. This Clause shall not restrict either party from appointing any person, whether employee or consultant of the other or not, who has applied in response to an advertisement properly and publicly placed in the normal course of business.

5. NON-SOLICITATION

- 4.1. Any activities performed prior to cessation under 4.1 shall be reimbursed on a *quantum meruit* basis.
- 4.2. Notwithstanding the foregoing, the Client may, at any time, deny access to the Client's or its associates' premises without giving any reason for doing so.
- 4.3. Upon receipt of a notice under Clause 4.1 the Supplier shall immediately cease all activities in connection with the Client's instructions.
- 4.4. Then the Client may serve a notice on the Supplier requesting that the Supplier immediately cease activities under any Purchase Order.
- 4.5. In the reasonable opinion of the Client's Representative is in some other ways unsuitable for to which he has been assigned pursuant to any Purchase Order;
- 4.6. In the reasonable opinion of the Client's Representative, a risk to the reputation of Her Majesty's Government; or
- 4.7. Presents, in the reasonable opinion of the Client's Representative, a risk to security; or
- 4.8. Fails to follow reasonable instructions given by the Client's Representative in the course of his or her work for the Client; or
- 4.9. Does not, in the reasonable opinion of the Client Representative have the skills and experience required for the role of Supplier; or

- 7.3. In consideration of the performance of the Ordered Services in accordance with this Contract, the Client shall pay the Charges in accordance with the Invoicing Procedure.
- 7.4. Payment shall be made within thirty (30) days of receipt by the Client (at its nominated address for invoices) of a valid invoice (which shall be issued in arrears) from the Supplier.
- 7.5. The Charges are exclusive of Value Added Tax. The Client shall pay the Value Added Tax on the Charges at the rate and in the manner prescribed by law, from time to time.
- 7.6. "VAT on VAT" Prevention:
The Supplier shall not invoice, nor shall the Client be responsible for, any "VAT on VAT" payment. For the avoidance of doubt, in the event that:
- a) the Supplier has incurred expenditure for goods or services from a third-party provider in respect of which the Supplier is entitled to reimbursement by the Client under the Contract; and
 - b) the third-party provider with whom the expenditure has been incurred has charged the Supplier UK VAT on the price of the relevant goods or services;
- 7.7. Interest shall be payable on any late payments under the Contract in accordance with the Late Payment of Commercial Debts (Interest) Act 1998.
- 7.8. The Supplier shall follow the Purchase Order and Invoice process as set out in Schedule 5. All invoices must reference the duly authorised Purchase Order number. Any invoices which do not reference the Purchase Order number shall be returned as unacceptable.
- 7.9. The Supplier shall continuously indemnify the Client against any liability, including any interest, penalties or reasonable costs incurred which is levied, demanded or assessed on the Client at any time in respect of the Supplier's failure to account for or to pay any Value Added Tax relating to payments made to the Supplier under this Contract. Any amounts due under this Clause 7.8 shall be paid in cleared funds by the Supplier to the relevant Agency not less than five (5) Working Days before the date upon which the tax or other liability is payable by the Client.
- 7.10. The Supplier shall accept the Government Procurement Card (GPC) as a means of payment for Ordered Services where GPC is agreed with the Client to be a suitable means of payment.
- 7.11. The Supplier shall accept payment electronically via the Banks Automated Clearing Service (BACS).

7.12. Euro

In the event that the United Kingdom joins the Economic and Monetary Union (and provided always that the exchange rate for conversion between Sterling and the Euro has been fixed), the Client shall at any time thereafter upon three (3) Months notice to the Supplier, be entitled to require the Supplier at no additional charge to convert the Charges from Sterling into Euros (in accordance with EC Regulation number 1103/97). The Supplier shall thereafter submit valid invoices denominated in Euros.

7.13. Efficiency

The Supplier shall be obliged at all times to seek to improve its efficiency in providing Services to the Client and to review the level of Charges in light of possible efficiency gains. Where such improved efficiency is achieved the Supplier shall propose a reduction in the level of Charges and effect such reduction by agreement with the Client.

8. AMENDMENTS and VARIATIONS TO THIS CONTRACT

No amendment to the provisions of this Contract or Special Terms specified in any Purchase Order shall be effective unless agreed in writing on a Variation form by both parties. Any increases in scope or value shall be the subject of separate negotiation but shall, in any event, be upon no less favourable terms than those contained herein.

9. COMMUNICATIONS

Except as otherwise expressly provided, no communication from one party to the other shall have any validity unless made in writing; nor shall any amendment to any Purchase Order be effected unless made by a duly authorised Purchase Order revision/Contract Variation.

10. TERM AND TERMINATION

10.1. This Contract shall take effect from the agreed start date and shall terminate when all requirements are satisfied.

10.2. The contract shall be subject to termination for convenience by either party subject to three months notice.

10.3. The Client may at any time by notice in writing terminate any Purchase Order, or a part thereof, at 20 days notice without charge. Terminations at less than 20 days notice shall be subject to the Supplier's standard terms and conditions

11. CONSEQUENCES OF TERMINATION AND EXPIRY

11.1. In the event of termination in accordance with Clauses 10.2 or 10.3 the Client shall reimburse the Supplier any Charges incurred prior to termination which are wholly, reasonably and properly chargeable by the Supplier in connection with the Contract. The Client shall not be liable to pay any severance payment or compensation to the Supplier for loss of profits suffered as a result of the termination. Determination of such Charges shall be on a *quantum meruit* basis.

11.2. Termination, or partial termination, or expiry in accordance with Clause 10 shall not prejudice or affect any right of action or remedy that shall have accrued or shall thereafter accrue to either party.

11.3. In the event of termination of the Contract for any reason:

a) the Supplier shall return to the Client all Client Property and all Client Data and other items belonging to the Client in its possession;

b) subject to the payment of the appropriate portion for work completed, the Supplier shall provide the Client with a copy of all work undertaken to date (whether completed or not), and

c) Upon expiry or termination for any reason, the Supplier shall render reasonable assistance to the Client (and any third parties appointed by the Client) if requested, to the extent necessary to effect an orderly cessation of the Services.

12. WARRANTIES AND REPRESENTATIONS

12.1. The Supplier warrants and represents that:

a) it has full capacity and all necessary consents to enter into and to perform the duties as specified herein;

- 13.1. Neither the Client nor the Supplier excludes or limits liability to the other for death or personal injury arising from its negligence or any breach of any obligations implied by Section 12 of the Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Services Act 1982 or for fraud or fraudulent misrepresentation.
- 13.2. Nothing in this Clause 13 shall be taken as limiting the liability of the Supplier in respect of Clause 14, Clause 15, and Clause 16.
- 13.3. In respect of any claims of liability arising out of the willful default of the Supplier, its employees, servants, the Supplier will have unlimited liability for all reasonably foreseeable loss suffered by the Client as a result of such act, omission or event giving rise to the claim.
- 13.4. Subject always to the provisions of Clauses 13.1, 13.2 and 13.3, the aggregate liability of the Client and the Supplier for each Year for all Defaults whether arising under contract, tort (including negligence) or otherwise in connection with this Contract shall in no event exceed whichever is the greater of five hundred thousand pounds or a sum equivalent to one hundred and twenty five percent (125%) of the total charges paid or payable to the Supplier under all contracts entered into during a twelve (12) Month period specified by the claiming party, such twelve (12) Month period including the date on which at least one such Default arose.
- 13.5. Subject always to the provisions of Clauses 13.1, 13.2 and 13.3, in no event shall either the Client or the Supplier be liable to the other for:

13. LIMITATION OF LIABILITY

- b) this Contract shall be performed in compliance with all applicable laws, enactments, orders, regulations and other similar instruments as amended from time to time;
- c) the Supplier warrants that the Ordered Services shall be provided and carried out by appropriately experienced, qualified and trained personnel with all due skill, care and diligence;
- d) it shall discharge its obligations hereunder with all due skill, care and diligence including good industry practice and (without limiting the generality of this Clause 12, in accordance with its own established internal procedures;
- e) it owns, has obtained or shall obtain valid licences for all Intellectual Property Rights that are necessary for the performance of this Contract and the use of the Ordered Services by the Client;
- f) it has taken and shall continue to take all reasonable steps, in accordance with good industry practice, to prevent the introduction, creation or propagation of any disruptive element (including any virus, worm and/or trojan horse) onto the Ordered Service and into systems, data, software or Confidential Information (held in electronic form) owned by or under the control of, or used by, the Client;
- g) it shall take all reasonable measures to avoid any and all data loss and data corruption during the provision of the Ordered Services in accordance with good industry practice;

- 14.5 The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Controller, include the Controller's instructions infringe the Data Protection Legislation.
- 14.4 The Processor shall notify the Client immediately if it considers that any of the Controller's instructions infringe the Data Protection Legislation.
- 14.3 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Client is the Controller and the Supplier is the Processor unless otherwise specified in Schedule 12. The only processing that the Processor is authorised to do is listed in Schedule 12 by the Controller and may not be determined by the Processor.
- 14.2 The Supplier shall be liable for and shall indemnify (and keep indemnified) the Client against each and every action, proceeding, liability, reasonable cost, claim, loss, reasonable expense (including reasonable legal fees and disbursements on a solicitor and Agency basis) and demand incurred by the Client which arise directly or in connection with the Supplier's data processing activities under this Contract, including without limitation those arising out of any third party demand, claim or action, or any breach of contract, negligence, fraud, willful misconduct, breach of statutory duty or non-compliance with any part of the Data Protection Requirements by the Supplier or its employees, servants, agents or Sub-Suppliers.
- 14.1 The Supplier shall comply at all times with the Data Protection Requirements and shall not perform its obligations under this Contract in such a way as to cause the Client to breach any of its applicable obligations under the Data Protection Requirements.

14. DATA PROTECTION

- 13.7 The Client and the Supplier expressly agree that should any limitation or provision contained in this Clause 13 be held to be invalid under any applicable statute or rule of law it shall to that extent be deemed omitted, but if any either of them thereby becomes liable for loss or damage which would otherwise have been excluded such liability shall be subject to the other limitations and provisions set out herein.
- 13.6 Subject always to the provisions of Clauses 13.1, 13.2 and 13.3, and 13.4, the provisions of Clause 13.5 shall not be taken as limiting the right of either the Client or the Supplier to claim from the other for:
- a) reasonable additional operational and administrative costs and expenses;
 - b) any reasonable costs or expenses rendered nugatory; and
 - c) damage due to the loss of data, but only to the extent that such losses relate to the costs of working around any loss of data and the direct costs of recovering or reconstructing such data, resulting directly from the Default of the other party.
- 13.7 The Client and the Supplier expressly agree that should any limitation or provision contained in this Clause 13 be held to be invalid under any applicable statute or rule of law it shall to that extent be deemed omitted, but if any either of them thereby becomes liable for loss or damage which would otherwise have been excluded such liability shall be subject to the other limitations and provisions set out herein.

the discretion of the Controller, include:

- (a) a systematic description of the envisaged processing operations and the purpose of the processing;
- (b) an assessment of the necessity and proportionality of the processing operations in relation to the Services;
- (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
- (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

14.6 The Processor shall, in relation to any Personal Data processed in connection with its obligations under this Agreement:

- (a) process that Personal Data only in accordance with Schedule 12, unless the Processor is required to do otherwise by Law. If it is so required the Processor shall promptly notify the Controller before processing the Personal Data unless prohibited by Law;
- (b) ensure that it has in place Protective Measures, which are appropriate to protect against a Data Loss Event, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures), having taken account of the:
 - (i) nature of the data to be protected;
 - (ii) harm that might result from a Data Loss Event;
 - (iii) state of technological development; and
 - (iv) cost of implementing any measures;

(c) ensure that :

- (i) the Processor Personnel do not process Personal Data except in accordance with this Agreement (and in particular Schedule 12;
- (ii) it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:

- (A) are aware of and comply with the Processor's duties under this clause;
- (B) are subject to appropriate confidentiality undertakings with the Processor or any sub-processor;
- (C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Controller or as otherwise permitted by this Agreement; and
- (D) have undergone adequate training in the use, care, protection and handling of Personal Data; and

(d) not transfer Personal Data outside of the EU unless the prior written consent of the

Controller has been obtained and the following conditions are fulfilled:

- (v) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Controller;
- (vi) the Data Subject has enforceable rights and effective legal remedies;
- (vii) the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and
- (viii) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the processing of the Personal Data;
- (e) at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Agreement unless the Processor is required by Law to retain the Personal Data.

14.7

Subject to clause 1.6, the Processor shall notify the Controller immediately if it:

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

14.8

The Processor's obligation to notify under clause 1.5 shall include the provision of further information to the Controller in phases, as details become available.

14.9

Taking into account the nature of the processing, the Processor shall provide the Controller with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 1.5 (and insofar as possible within the timescales reasonably required by the Controller) including by promptly providing:

- (a) the Controller with full details and copies of the complaint, communication or request;
- (b) such assistance as is reasonably requested by the Controller to enable the Controller to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
- (c) the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;

(d) assistance as requested by the Controller following any Data Loss Event;

(e) assistance as requested by the Controller with respect to any request from the Information Commissioner's Office, or any consultation by the Controller with the Information Commissioner's Office.

14.10 The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this clause. This requirement does not apply where the Processor employs fewer than 250 staff, unless:

- (a) the Controller determines that the processing is not occasional;
- (b) the Controller determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and
- (c) the Controller determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.

14.11 The Processor shall allow for audits of its Data Processing activity by the Controller or the Controller's designated auditor.

14.12 The Processor shall designate a data protection officer if required by the Data Protection Legislation.

14.13 Before allowing any Sub-processor to process any Personal Data related to this Agreement, the Processor must:

- (a) notify the Controller in writing of the intended Sub-processor and processing;
- (b) obtain the written consent of the Controller;
- (c) enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause such that they apply to the Sub-processor; and
- (d) provide the Controller with such information regarding the Sub-processor as the Controller may reasonably require.

14.14 The Processor shall remain fully liable for all acts or omissions of any Sub-processor.

14.15 The Controller may, at any time on not less than 30 Working Days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement).

14.16 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Controller may on not less than 30 Working Days' notice to the Processor amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner's

14.17 Where the Parties include two or more Joint Controllers as identified in Schedule 12 in accordance with GDPR Article 26, those Parties shall enter into a Joint Controller Agreement based on the terms outlined in Schedule 12a in replacement of Clauses 14.3-14.14.16 for the Personal Data under Joint Control.

15. INTELLECTUAL PROPERTY RIGHTS

15.1. Save as granted under this Contract, neither the Client nor the Supplier shall acquire any right, title or interest in the other's Pre-Existing Intellectual Property Rights respectively save that each party hereby grants a license to the other party to use its Pre-Existing Intellectual Property Rights to the extent necessary to perform its obligations under this Contract.

15.2. All Intellectual Property Rights that are created by the Supplier in the provision of the Services to the Client shall be proprietary to and owned by the Client and the Supplier shall enter into such documentation and perform such acts as the Client shall request to properly vest such Intellectual Property Rights in the Client. Accordingly the Supplier hereby assigns (by way of present assignment or future intellectual property rights) all such Intellectual Property Rights.

15.3. The Supplier shall procure that the provision of the Ordered Services shall not infringe any Intellectual Property Rights of any third party.

15.4. The Supplier shall indemnify the Client against all claims, demands, actions, costs, expenses (including legal costs and disbursements on a solicitor and Agency basis), losses and damages arising from or incurred by reason of any infringement or alleged infringement (including the defence of such alleged infringement) of any Intellectual Property Right in connection with the provision of the Ordered Services, except to the extent that such liabilities have resulted directly from the Client failure properly to observe its obligations under this Clause 15.

15.5. Each of the parties shall notify the other if it receives notice of any claim or potential claim relating to the other party's Pre-Existing Intellectual Property Rights

16. CONFIDENTIALITY

16.1. Without prejudice to the application of the Official Secrets Acts 1911 to 1989 to any Confidential Information, the Client and the Supplier acknowledge that any Confidential Information originating from:

- a) the Client, its servants or agents is the property of the Client; and
- b) the Supplier, its employees, servants or agents is the property of the Supplier.

16.2. The Supplier and the Client shall procure that:

a) to any other department, office or agency of Her Majesty's Government ("Crown Bodies"), provided that the Client has required that such information is treated as confidential by such Crown Bodies and their servants, including, where appropriate, requiring servants to enter into a confidentiality agreement prior to disclosure of the Confidential Information and the Client shall have no further liability for breach of confidentiality in respect of the departments, offices and agencies. All Crown Bodies in receipt of such Confidential Information shall be considered as parties to this Contract within Section 1(1) of the Contracts (Rights of Third Parties) Act 1999 for the purpose only of being entitled to further disclose the Confidential Information to other Crown Bodies on such terms; and

16.4. Nothing in this Clause 16 shall be deemed or construed to prevent the Client from disclosing any Confidential Information obtained from the Supplier.

f) is required to be disclosed by a competent regulatory Agency (including the Law Society or Solicitors Disciplinary Tribunal) or pursuant to any applicable rules of professional conduct.

e) must be disclosed pursuant to a statutory, legal or parliamentary obligation placed upon the party making the disclosure, including any requirements for disclosure under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.

d) is independently developed without access to the Confidential Information; or

c) is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure; or

b) is in the possession of the recipient without restriction in relation to disclosure before the date of receipt from the disclosing party; or

a) is or becomes public knowledge other than by breach of this Clause 16; or

16.3. The provisions of Clause 16.1 and Clause 16.2 shall not apply to any information which:

d) without prejudice to the generality of the foregoing neither the Client nor the Supplier nor any person engaged by them whether as a servant or a consultant or otherwise shall use the Confidential Information for the solicitation of business from the other or from any third party.

c) they shall take all necessary precautions to ensure that all Confidential Information is treated as confidential and not disclosed (save as aforesaid) or used other than for the purposes of this Contract by their employees, servants, agents or Sub-Suppliers; and

b) any person employed or engaged by them in connection with this Contract shall not, in the course of such employment or engagement, disclose any Confidential Information to any third party without the prior written consent of the other party;

a) any person employed or engaged by them (in connection with this Contract in the course of such employment or engagement) shall only use Confidential Information for the purposes of this Contract;

b) to any consultant, Supplier or other person engaged by the Client in connection herewith, provided that the Client shall have required that such information be treated as confidential by such consultant, Supplier or other person, together with their servants including, where appropriate, requiring servants to enter into a confidentiality agreement prior to disclosure of the Confidential Information and the Client shall have no further liability for breach of confidentiality in respect of consultants, Suppliers or other people.

16.5. The Supplier shall, prior to commencing any work, enter into a confidentiality undertaking in the form set out in Schedule 7.

16.6. If required by the Client, the Supplier shall procure that any of its Staff or associates enters into a confidentiality undertaking in the form set out in Schedule 7 or such alternative form as the Client may substitute from time to time

16.7. Nothing in this Clause 16 shall prevent the Supplier or the Client from using data Processing techniques, ideas and know-how gained during the performance of this Contract in the furtherance of its normal business, to the extent that this does not relate to a disclosure of Confidential Information or an infringement by the Client or the Supplier of any Intellectual Property Rights.

17. PUBLICITY

17.1. The Supplier shall not make any press announcements or publicise this Contract in any way without the Client's prior written consent.

17.2. Notwithstanding the provisions of Clause 17.1, the Supplier shall be entitled to make any announcement required by any securities exchange or regulatory Agency or government body to which it subscribes whether or not the requirement has the force of law.

18. DISPUTE RESOLUTION

18.1. Subject to the provisions of Clause 18.2, any dispute arising under, or in connection with this Contract shall be dealt with in accordance with this Clause 18, and neither the Client nor the Supplier shall be entitled to commence or pursue any legal proceedings under the jurisdiction of the courts in connection with any such dispute, until the procedures set out in this Clause 18 have been exhausted.

18.2. Clause 18.1 shall be without prejudice to the rights of termination stated in Clause 10 and in addition shall not prevent the Client or the Supplier from applying for injunctive relief in the case of:

a) breach or threatened breach of confidentiality;

b) infringement or threatened infringement of its Intellectual Property Rights; or

c) infringement or threatened infringement of the Intellectual Property Rights of a third party, where such infringement could expose the Client or the Supplier to liability.

18.3. All disputes between the Client and the Supplier arising out of or relating to any Purchase Order shall be referred by Client's Representative or the nominated head of the Supplier's Accountant Management Team to the other for resolution.

- 21.1. The Supplier shall notify the Client of all statutory provisions and approved safety standards applicable to the Ordered Services and their provision and shall be responsible for obtaining all licenses, consents or permits required for the performance of this Contract.
- 21.2. The Supplier shall inform the Client if the Ordered Services are hazardous to health or safety and of the precautions that should be taken in respect thereto.

21. STATUTORY REQUIREMENTS

provided that the terms of such other agreement provide for sums of money due from the Supplier under that agreement to be recovered by way of a deduction from sums of money due to the Supplier under this Contract (albeit that this Contract may not be referenced specifically under that agreement).

b) any other agreement between the Supplier and the Client;

a) this Contract;

- 20.1. The Client shall be permitted to deduct and withhold from any sum due to the Supplier under this Contract any sum of money due from the Supplier under either:

20. RECOVERY OF SUMS DUE

- 19.4. The terms of any insurance or the amount of cover shall not relieve the Supplier of any liabilities under this Contract. It shall be the responsibility of the Supplier to ensure that the amount of insurance cover is adequate to enable it to satisfy all its potential liabilities subject to the limit of liability specified in Clause 13 of this Contract.

- 19.3. The Supplier shall produce to the Client's Representative, within five (5) Working Days of request, copies of all insurance policies referred to in Clause 19.1 and Clause 19.2 or such other evidence as agreed between the Client and the Supplier that will confirm the extent of the cover given by those policies, together with receipts or other evidence of payment of the latest premiums due under those policies.

- 19.2. The Supplier shall hold employer's liability insurance in respect of its employees in accordance with any legal requirement for the time being in force.

- 19.1. The Supplier shall effect and maintain policies of insurance to provide a level of cover sufficient for all risks which may be incurred by the Supplier under this Contract, including death or personal injury, or loss of or damage to property.

19. INSURANCE

- 18.4. If any dispute cannot be resolved pursuant to the provisions of Clause 18.3 within ten (10) Working Days either party may refer the dispute to the Client's Head of Procurement for resolution.
- 18.5. If any dispute cannot be resolved pursuant to the provisions of Clause 18.4 within ten (10) Working Days, then either party may refer the dispute to mediation and if necessary thereafter to the courts in accordance with the provisions of Schedule 6.

21.3. The Supplier shall, and shall ensure that its personnel, agents and Sub-Suppliers, take all measures necessary to comply with the requirements of the Health and Safety at Work etc. Act 1974 and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to those involved in the performance of this Contract.

22. STATUTORY INVALIDITY

The Client and the Supplier expressly agree that should any limitation or provision contained in this Contract be held to be invalid under any particular statute or law, or any rule, regulation or bye-law having the force of law, it shall to that extent be deemed to be omitted but, if either the Client or the Supplier thereby becomes liable for loss or damage which would have otherwise been excluded, such liability shall be subject to the other limitations and provisions set out herein.

23. ENVIRONMENTAL REQUIREMENTS

23.1. The Supplier shall comply in all material respects with all applicable environmental laws and regulations in force from time to time in relation to the Services. Without prejudice to the generality of the foregoing, the Supplier shall promptly provide all such information regarding the environmental impact of the Services as may reasonably be requested by the Client.

23.2. The Supplier shall meet all reasonable requests by the Client for information evidencing compliance with the provisions of this Clause 23 by the Supplier.

24. DISCRIMINATION

24.1. The Supplier shall not unlawfully discriminate either directly or indirectly on such grounds as race, colour, ethnic or national origin, disability, sex or sexual orientation, religion or belief, or age and without prejudice to the generality of the foregoing the Supplier shall not unlawfully discriminate within the meaning and scope of the Equality Act 2010, the Human Rights Act 1998 or other relevant or equivalent legislation, or any statutory modification or re-enactment thereof. The Supplier shall take all reasonable steps to secure the observance of this Clause by all Staff.

24.2. The Supplier shall take all reasonable steps to secure the observance of the provisions of Clause 24.1 by any Sub-Supplier(s) employed in the execution of this Contract.

25. SUPPLIER'S SUITABILITY

25.1. The Client reserves the right under this Contract to refuse to admit to any premises occupied by or on behalf of the Client the Supplier, whose admission has become, in the opinion of the Client, undesirable.

25.2. If the Supplier shall fail to comply with Clause 25.1 and if the Client (whose decision shall be final and conclusive) shall decide that such failure is prejudicial to the interests of the State and if the Supplier does not comply with the provisions of Clause 25.1 within a reasonable time of written notice so to do, then the Client may terminate the any Purchase Order provided always that such termination shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Client.

The Supplier shall take all reasonable steps to ensure that he and all people employed by him or his agents and Sub-Suppliers in connection with this Contract are aware of the Official Secrets Act 1989 and where appropriate, with the provisions of the Atomic Energy Act 1946, and that these Acts apply to them during the execution of this Contract and after the expiry or termination of this Contract.

27. CORRUPT GIFTS AND PAYMENTS OF COMMISSION

27.1. The Supplier shall not:

- a) offer or give or agree to give any person in Her Majesty's Service any gift or consideration of any kind as an inducement or reward for doing, forbearing to do, or for having done or forborne to do any act in relation to the obtaining or execution of this Contract or any other contract for Her Majesty's Service or for showing favour or disfavour to any person in relation to this or any other contract for Her Majesty's Service;
- b) enter into this Contract or any other contract with a person in Her Majesty's Service in connection with which commission has been paid or agreed to be paid by him or on his behalf, or to his knowledge, unless before this Contract are accepted, made particulars of any such commission and of the terms and conditions of any agreement for the payment thereof have been disclosed in writing to the Client.

27.2. Any breach of Clause 27.1 by the Supplier or by anyone employed by him or acting on his behalf (whether with or without the knowledge of the Supplier) or the commission of any offence by the Supplier or by anyone employed by him or acting on his behalf under the Prevention of Corruption Acts 1889 to 1916, in relation to this Contract or any other contract with Her Majesty's Service shall entitle the Client to terminate any Purchase Order and recover from the Supplier the amount of any direct loss resulting from such termination and/or to recover from the Supplier the amount or value of any such gift, consideration or commission.

27.3. Any dispute, difference or question arising in respect of the interpretation of this Clause 27, the right of the Client to terminate any Purchase Order or the amount or value of any such gift, consideration or commission shall be decided by the Client, whose decision shall be final and conclusive.

27.4. Either Party may terminate this contract and recover all its losses if the other Party, their employees or anyone acting on their behalf:

- a. Corruptly offers, gives or agrees to give to anyone any inducement or reward in respect of this Contract; or
- b. Commits an offence under the Bribery Act 2010.

28. TRANSFER AND SUB-CONTRACTING

- 28.1. Sub-contracting will be allowed, subject to written authorisation from the Client.
- 28.2. The Client shall be entitled to nominate sub-Suppliers at its discretion.

32. FREEDOM OF INFORMATION

Subject to the provisions of Clause 22, if any provision of this Contract is held invalid, illegal or unenforceable for any reason, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if this Contract had been accepted with the invalid provision eliminated. In the event of a holding of invalidity so fundamental as to prevent the accomplishment of the purpose of this Contract, the Client and the Supplier shall immediately commence good faith negotiations to remedy such invalidity.

31. SEVERABILITY

30.3. Neither the Supplier, nor any Subsupplier nor any other person shall have a lien on any Client Property for any sum due to the Supplier, Subsupplier or other person and the Supplier shall take all reasonable steps to ensure that the title of the Client and the exclusion of any such lien are brought to the notice of all Subsuppliers and other persons dealing with any Client Property.

30.2. The Supplier undertakes the safe custody of and the due return of all Client Property and shall be responsible for all reasonably foreseeable loss thereof from whatever cause and shall indemnify the Client against such loss.

30.1. All Client Property shall remain the property of the Client and shall be used only for the purposes of the Contract.

30. CLIENT PROPERTY

29.2. Except as provided in Clause 29.1, a person who is not a party to this Contract shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Contract. This Clause 29.2 does not affect any right or remedy of any person that exists or is available otherwise than pursuant to that Act.

29.1. To the extent that this Contract are expressed to confer rights or benefits on a party who is not a party to this Contract, that party shall by virtue of the Contracts (Rights of Third Parties) Act 1999, be entitled to enforce those rights as if it was a party to this Contract. For the avoidance of doubt the consent of any person other than the Client (or the Supplier, as the case may be) is not required to vary or terminate this Contract.

29. RIGHTS OF THIRD PARTIES

28.5. The Client shall be entitled to assign or otherwise dispose of its rights and obligations under this Contract and/or any relevant Purchase Order to any other body (including any private sector body) which substantially performs any of the functions that previously had been performed by the Client.

28.4. Any sub-contract must allow for full disclosure under 'transparency' requirements.

28.3. The Supplier shall be entitled to Sub-Contract its obligations under this Contract, or any resultant Purchase Order, solely with the express permission of the Client Representative; such permission shall not be unreasonably withheld.

32.1. The Supplier acknowledges that the Client is subject to the requirements of the Code of Practice on Government Information, FOIA and the Environmental Information Regulations and shall assist and cooperate with the Client to enable the Client to comply with its information disclosure obligations.

32.2. The Supplier shall, and shall procure that its Sub-Suppliers shall:

- transfer to the Client all Requests for Information that it receives as soon as practicable and in any event within two Working Days of receiving a Request for Information;
- provide the Client with a copy of all Information in its possession, or power in the form that the Client requires within five Working Days (or such other period as the Client may specify) of the Client's request; and
- provide all necessary assistance as reasonably requested by the Client to enable the Client to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations.

32.3. The Client shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Contract or any other contract whether the Commercially Sensitive Information and/or any other information is exempt from disclosure in accordance with the provisions of the Code of Practice on Government Information, FOIA or the Environmental Information Regulations.

32.4. In no event shall the Supplier respond directly to a Request for Information unless expressly authorised to do so by the Client.

32.5. The Supplier acknowledges that (notwithstanding the provisions of Clause 42 – Transparency, the Client may, be obliged under the FOIA, or the Environmental Information Regulations to disclose information concerning the Supplier or the Services:

- in certain circumstances without consulting the Supplier; or
- following consultation with the Supplier and having taken their views into account;

provided always that where [reference] applies the Client shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Supplier advanced notice, or failing that, to draw the disclosure to the Supplier's attention after any such disclosure.

32.6. The Supplier shall ensure that all information is retained for disclosure and shall permit the Client to inspect such records as requested from time to time.

32.7. The Supplier acknowledges that the Commercially Sensitive Information listed in Schedule 9 (if any) is of indicative value only and that the Client may be obliged to disclose it in accordance with clause 32.

33. FORCE MAJEURE

- 33.1. For the purposes of this Contract the expression "Force Majeure" shall mean any cause affecting the performance by either the Client or the Supplier of its obligations arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control including (but without limiting the generality thereof) governmental regulations, fire, flood, or any disaster or an industrial dispute affecting a third party for which a substitute third party is not reasonably available. Any act, event, omission, happening or non-happening will only be considered Force Majeure if it is not attributable to the willful act, neglect or failure to take reasonable precautions of the affected party, its employees, servants or agents or the failure of either the Client or the Supplier to perform its obligations under any Purchase Order.
- 33.2. It is expressly agreed that any failure by the Supplier to perform or any delay by the Supplier in performing its obligations under any Purchase Order which results from any failure or delay in the performance of its obligations by any person, firm or company with which the Supplier shall have entered into any contract, supply arrangement or Sub-Contract or otherwise shall be regarded as a failure or delay due to Force Majeure only in the event that such person firm or company shall itself be prevented from or delayed in complying with its obligations under such Purchase Order, supply arrangement or Sub-Contract or otherwise as a result of circumstances of Force Majeure.
- 33.3. Both the Client and the Supplier agree that any acts, events, omissions, happenings or non-happenings resulting from the adoption of the Euro by the United Kingdom government shall not be considered to constitute Force Majeure under this Contract.
- 33.4. Neither the Client nor the Supplier shall in any circumstances be liable to the other for any loss of any kind whatsoever including but not limited to any damages or abatement of Charges whether directly or indirectly caused to or incurred by the other party by reason of any failure or delay in the performance of its obligations which is due to Force Majeure. Notwithstanding the foregoing, both the Client and the Supplier shall use all reasonable endeavors to continue to perform, or resume performance of, (and having resumed to catch up to the required level of performance existing immediately prior to the Force Majeure event), such obligations hereunder for the duration of such Force Majeure event.
- 33.5. If either the Client or the Supplier become aware of circumstances of Force Majeure which give rise to or which are likely to give rise to any such failure or delay on its part it shall forthwith notify the other by the most expeditious method then available and shall inform the other of the period which it is estimated that such failure or delay shall continue.
- 33.6. It is hereby expressly declared that the only events that shall afford relief from liability for failure or delay shall be any event qualifying for Force Majeure hereunder.

34. LEGISLATIVE CHANGE

34.1. The Supplier shall bear the cost of ensuring that the Ordered Services shall comply with all applicable statutes, enactments, orders, regulations or other similar instruments and any amendments thereto, except where any such amendment could not reasonably have been foreseen by the Supplier at the date hereof.

34.2. Where such reasonably unforeseeable amendments are necessary, the Client and the Supplier shall use all reasonable endeavors to agree upon reasonable adjustments to the Charges as may be necessary to compensate the Supplier for such additional costs as are both reasonably and necessarily incurred by the Supplier in accommodating such amendments.

35. CONFLICTS OF INTEREST

The Supplier shall disclose to the Client's Representative as soon as is reasonably practical after becoming aware of any actual or potential conflict of interest relating to provision of the Services by the Supplier or any event or matter (including without limitation its reputation and standing) of which it is aware or anticipates may justify the Client taking action to protect its interests.

36. ASSIGNED STAFF

36.1. As soon as the Supplier becomes aware of any intended changes to the Account Management Team, they shall inform the Client Representative.

36.2. The Client may require the Supplier to attend a meeting and/or submit written notification of the steps it intends to take to mitigate any issues which may result from such changes.

37. INVESTIGATIONS

The Supplier shall immediately notify the Client Representative in writing if any investigations are instituted into the affairs of the Supplier, its partners or key managers under the Companies, Financial Services or Banking Acts, or in the event of any police or Serious Fraud Office enquiries, enquires into possible fraud, any involvement in DTI investigations or any investigations by the Office for the Supervision of Solicitors which might result in public criticism of the Supplier.

38. STATUTORY AUDITORS' ACCESS

For the purposes of the examination and certification of the Client accounts or any examination, pursuant if appropriate to Section 6(1) of the National Audit Act 1983 or any re-enactment thereof, or pursuant to any equivalent legislation, of the economy, efficiency and effectiveness with which the Client has used its resources, the Client's statutory auditors may examine such documents as they may reasonably require which are owned, held or otherwise within the control of the Supplier and may require the Supplier to produce such oral or written explanations as they consider necessary. For the avoidance of doubt it is hereby declared that the carrying out of an examination, if appropriate, under section 6(3) (d) of the National Audit Act 1983 or any re-enactment thereof, or under any equivalent legislation, in relation to the Supplier is not a function exercisable under this clause 38.

39. ELECTRONIC INSTRUCTION

The Supplier shall use its reasonable endeavors to interface with any system introduced by the Client for issuing electronic instructions, in particular the FSA's Purchase Order system, and to accept such instruction.

40. WAIVER

40.1. The failure of the Supplier or the Client to insist upon strict performance of any provision of this Contract or to exercise any right or remedy to which it is entitled hereunder, shall not constitute a waiver thereof and shall not cause a diminution of the obligations established by this Contract.

40.2. A waiver of any default shall not constitute a waiver of any other default.

40.3. No waiver of any of the provisions of this Contract shall be effective unless it is expressed to be a waiver communicated by notice, in accordance with the provisions of Clause 9.

41. LAW AND JURISDICTION

Subject to the provisions of Clause 18, the Client and the Supplier accept the exclusive jurisdiction of the English and Welsh courts and agree that this Contract is to be governed by and construed according to the law of England and Wales.

42. TRANSPARENCY

42.1. The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of these Terms and Conditions and any Purchase Order is not Confidential Information.

42.2. The Client shall be responsible for determining in its absolute discretion whether any content of any Purchase Order is exempt from disclosure in accordance with the provisions of the FOIA. Notwithstanding any other term of these Terms and Conditions, the Supplier gives his consent for the Client to publish any Contract or Purchase Order in its entirety, (but with any information which is exempt from disclosure in accordance with the provisions of the FOIA redacted), to the general public.

42.3. The Client may consult with the Supplier to inform its decision regarding any redactions but the Client shall have the final decision in its absolute discretion.

43. SECURITY PROVISIONS

Supplier Personnel – Staffing Security

43.1 The Supplier shall comply with the staff vetting procedures in respect of all Supplier Personnel employed or engaged in the provision of the Services. The Supplier confirms that all Supplier Personnel employed or engaged by the Supplier at the Effective Date were vetted and recruited on such a basis that is equivalent to and no less strict than the Staff Vetting procedures as laid out by Cabinet Office:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/200551/HMG_Baseline_Personnel_Security_Standard_V3_2_Apr-2013.pdf

43.2 The Supplier shall provide training on a continuing basis for all Supplier Personnel employed or engaged in the provision of the Services in compliance with the Security Policy – Table of Policies – See Annex D.

43.3 The Supplier agrees to conform to the below standards as directed by the Client:

Baseline Standard

- a) The **Baseline Standard** is not a formal security clearance but aims to provide an appropriate level of assurance as to the trustworthiness, integrity and probable reliability of prospective **Suppliers** and/or their **Staff**.
- b) It should be applied to all private sector **Employees** working on government **Contracts** (e.g. **Suppliers** and consultants), who require access to the **Agency's** premises, or knowledge or custody of, government assets protectively marked up to and including **CONFIDENTIAL**.
- c) The outcome of checks should be recorded on the **Baseline Standard Verification Record**. This will be carried out by the **Agency's Representative**.

Enhanced Baseline Standard

Some **Contracts** may require the **Baseline Standard** to be supplemented with additional checks (e.g. a Criminal Record Check (including spent convictions) or a Credit Worthiness Check). A Criminal Record Check could take up to **2 Weeks** to process.

43.4 The **Baseline Standard** comprises verification of the following four main elements:

- a) Identity
- b) Employment history (past 3 years)
- c) Nationality and Immigration Status
- d) Criminal record (unspent convictions only)

43.5 Additionally, **Suppliers** and their staff are required to give a reasonable account of any significant periods (6 months or more in the past 3 years) of time spent abroad.

43.6 Verification of identity is essential before any individual can begin working on the Client's premises or have access to assets/documents as described above.
Before a contract is awarded **Suppliers** and their staff who will work on the Client's premises or have access to assets/documents as described above will be asked to provide the following:

a) Confirmation of name, date of birth and address. (ID should be corroborated by original documents i.e. full passport, national ID card, current UK full driving license, birth certificate, bank correspondence or utility bills.)

b) National insurance number or other unique personal identifying number where appropriate.

c) Full details of previous employers (name, address and dates), over the past 3 years.

d) Confirmation of any necessary qualifications/licenses.

e) Educational details and references where someone is new to the workforce.

f) Confirmation of permission to work in the UK if appropriate.

43.7 Client Data

a) The Supplier shall not delete or remove any proprietary notices contained within or relating to the Client Data.

b) The Supplier shall not store, copy, disclose, or use the Client Data except as necessary for the performance by the Supplier of its obligations under this Contract or as otherwise expressly authorised in writing by the Client.

43.8 To the extent that Client Data is held and/or processed by the Supplier, the

Supplier shall supply that Client Data to the Client as requested by the Client in the format specified herein:

43.9 The Supplier shall take responsibility for preserving the integrity of Client Data and preventing the corruption or loss of Client Data.

43.10 The Supplier shall perform secure back-ups of all Client Data and shall ensure that up-to-date back-ups are stored off-site in accordance with the Business Continuity and Disaster Recovery Plan. The Supplier shall ensure that such back-ups are available to the Client at all times upon request and are delivered to the Client at no less than monthly intervals.

43.11 The Supplier shall ensure that any system on which the Supplier holds any Client Data, including back-up data, is a secure system that complies with the Security Policy.

43.12 If the Client Data is corrupted, lost or sufficiently degraded as a result of the Supplier's Default so as to be unusable, the Client may:

- require the Supplier (at the Supplier's expense) to restore or procure the restoration of Client Data to the extent and in accordance with the requirements specified in herein and the Supplier shall do so as soon as practicable but not later than two working days; and/or

- process the Personal Data only in accordance with instructions from the Client (which may be notified by the Client to the Supplier during the Term);
- process the Personal Data only to the extent, and in such manner, as is necessary for the provision of the Services or as is required by Law or any Regulatory Body;
- implement appropriate technical and organisational measures to protect the Personal Data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure. These measures shall be appropriate to the harm which might result from any unauthorised or unlawful Processing, accidental loss, destruction or damage to the Personal Data and having regard to the nature of the Personal Data which is to be protected;
- take reasonable steps to ensure the reliability of any Supplier Personnel who have access to the Personal Data;
- obtain prior written consent from the Client in order to transfer the Personal Data to any Sub-suppliers or Affiliates for the provision of the Services;
- ensure that all Supplier Personnel required to access the Personal Data are informed of the confidential nature of the Personal Data and comply with the obligations set out in this clause 4.3; ensure that none of Supplier Personnel publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Client;
- notify the Client (within five Working Days) if it receives:
 - a request from a Data Subject to have access to that person's Personal Data; or
 - a complaint or request relating to the Client's obligations under the Data Protection Legislation;
- provide the Client with full cooperation and assistance in relation to any complaint or request made, including by:
 - providing the Client with full details of the complaint or request;
 - complying with a data access request within the relevant timescales set out in the Data Protection Legislation and in accordance with the Client's instructions;
 - providing the Client with any Personal Data it holds in relation to a Data Subject (within the timescales required by the Client); and
 - providing the Client with any information requested by the Client;

4.3.14 With respect to the parties' rights and obligations under this Contract, the parties agree that the Client is the Data Controller and that the Supplier is the Data Processor. The Supplier shall:

Protection of Personal Data

- 4.3.13 If at any time the Supplier suspects or has reason to believe that Client Data has or may become corrupted, lost or sufficiently degraded in any way for any reason, then the Supplier shall notify the Client immediately and inform the Client of the remedial action the Supplier proposes to take.
- itself restore or procure the restoration of Client Data, and shall be repaid by the Supplier any reasonable expenses incurred in doing so to the extent and in accordance with the requirements specified herein

43.19 The Supplier shall not, and shall procure that the Supplier Personnel do not, use any of the Client's Confidential Information received otherwise than for the purposes of this Contract.

43.18 The Supplier may only disclose the Client's Confidential Information to the Supplier Personnel who are directly involved in the provision of the Services and who need to know the information, and shall ensure that such Supplier Personnel are aware of and shall comply with these obligations as to confidentiality.

- such disclosure is a requirement of Law placed upon the party making the disclosure, including any requirements for disclosure under the FOIA, Code of Practice on Access to Government Information or the Environmental Information Regulations pursuant to clause 32 (Freedom of Information);
- such information was in the possession of the party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;
- such information was already in the public domain at the time of disclosure otherwise than by a breach of this Contract; or
- it is independently developed without access to the other party's Confidential Information.

43.17 Clause 43.13 shall not apply to the extent that:

- treat the other party's Confidential Information as confidential [and safeguard it accordingly]; and
- not disclose the other party's Confidential Information to any other person without the owner's prior written consent.

43.16 Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in this Contract, each party shall

Confidentiality

43.15 The Supplier shall comply at all times with the Data Protection Legislation and shall not perform its obligations under this Contract in such a way as to cause the Client to breach any of its applicable obligations under the Data Protection Legislation.

- permit the Client or the Client Representative (subject to reasonable and appropriate confidentiality undertakings), to inspect and audit, in accordance with clause 38 (Audits), the Supplier's data Processing activities (and/or those of its agents, subsidiaries and Sub-suppliers) and comply with all reasonable requests or directions by the Client to enable the Client to verify and/or procure that the Supplier is in full compliance with its obligations under this Contract;
- provide a written description of the technical and organisational methods employed by the Supplier for processing Personal Data (within the timescales required by the Client); and
- not Process Personal Data outside the European Economic Area without the prior written consent of the Client and, where the Client consents to a transfer, to comply with:
 - the obligations of a Data Controller under the Eighth Data Protection Principle set out in Schedule 1 of the Data Protection Act 1998 by providing an adequate level of protection to any Personal Data that is transferred; and
 - any reasonable instructions notified to it by the Client.

43.20 At the written request of the Client, the Supplier shall procure that those members of the Supplier Personnel identified in the Client's notice signs a confidentiality undertaking prior to commencing any work in accordance with this Contract.

43.21 Nothing in this Contract shall prevent the Client from disclosing the Supplier's Confidential Information:

- to other Crown Bodies or other Contracting Authorities on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any Crown Body or any Contracting Agency;
- to any consultant, supplier or other person engaged by the Client or any person conducting an Office of Government Commerce gateway review;
- for the purpose of the examination and certification of the Client's accounts; or
- for any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Client has used its resources.

43.22 The Client shall use all reasonable endeavours to ensure that any government department, Contracting Agency, employee, third party or Sub-Supplier to whom the Supplier's Confidential Information is disclosed pursuant to clause 43 is made aware of the Client's obligations of confidentiality.

43.23 Nothing in this clause 43 shall prevent either party from using any techniques, ideas or know-how gained during the performance of the Contract in the course of its normal business to the extent that this use does not result in a disclosure of the other party's Confidential Information or an infringement of IPR.

Security Requirements

43.24 The Supplier shall comply, and shall procure the compliance of the Supplier Personnel, with the Security Policy (see Table of Policies – See Annex D) and the Supplier shall ensure that the Security Plan produced by the Supplier fully complies with the Security Policy.

43.25 The Client shall notify the Supplier of any changes or proposed changes to the Security Policy.

43.26 If the Supplier believes that a change or proposed change to the Security Policy will have a material and unavoidable cost implication to the Services it may submit a Change Request. In doing so, the Supplier must support its request by providing evidence of the cause of any increased costs and the steps that it has taken to mitigate those costs. Any change to the Charges shall then be agreed in accordance with the Change Control Procedure.

43.27 Until and/or unless a change to the Charges is agreed by the Client pursuant to clause 43 the Supplier shall continue to perform the Services in accordance with its existing obligations.

Malicious Software

43.28 The Supplier shall, as an enduring obligation throughout the Term, use the latest versions of anti-virus definitions available from an industry accepted anti-virus software vendor to check for and delete Malicious Software from the ICT Environment.

- 43.29 Notwithstanding clause 43, if Malicious Software is found, the parties shall co-operate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of Client Data, assist each other to mitigate any losses and to restore the Services to their desired operating efficiency.
- 43.30 Any cost arising out of the actions of the parties taken in compliance with the provisions of clause 43 shall be borne by the parties as follows.
- by the Supplier where the Malicious Software originates from the Supplier Software, the Third Party Software or the Client Data (whilst the Client Data was under the control of the Supplier); and
 - by the Client if the Malicious Software originates from the Client Software or the Client Data (whilst the Client Data was under the control of the Client);
- Warranties**
- 43.31 The Supplier warrants, represents and undertakes for the duration of the Term that all personnel used to provide the Services will be vetted in accordance with good industry practice and the Supplier's usual staff vetting procedures.
- 44. ACCEPTANCE TESTING**
- 44.1 The Supplier shall ensure that, prior to the delivery of any Deliverables which are specified in the Purchase Order as being subject to Acceptance Testing such Deliverables, it will have successfully completed its internal testing procedures. On provision of the Deliverables to the Client, the Supplier will provide to the Client a certificate confirming the successful completion of its internal testing procedures.
- 44.2 As soon as practicable after such provision of the Deliverables, the Client shall start to carry out Acceptance Testing of the Deliverables in accordance with the Acceptance Tests and the Client shall complete the Acceptance Tests and notify the Supplier of the results of the Acceptance Tests by the time specified in the Purchase Order. Any failure by the Client to communicate to the Supplier the results of the Acceptance Tests by the time ten (10) Business Days after the Acceptance Tests were due to complete as specified in the Purchase Order without completing the Acceptance Tests shall constitute deemed acceptance of such Deliverables. The Supplier shall provide the assistance in respect of such Acceptance Testing as set out in the Acceptance Tests for the duration set out in the Purchase Order and the Supplier shall be permitted to be present at such Acceptance Tests. In the event that the Supplier can demonstrate to the Client's reasonable satisfaction that such failure was a direct result of a breach of the Client's obligations under this Contract, the Client shall in respect of any further assistance that is provided by the Supplier in respect of the Acceptance Tests, pay for such assistance at the applicable rates set out in Schedule 4 save that any such charges must be approved by the Client in advance. The Supplier shall immediately notify the Client Representative in the event of any deemed acceptance under this clause 44.
- 44.3 If, in the reasonable opinion of the Client, the Deliverables meet all of the Acceptance Criteria, the Deliverables shall have passed their Acceptance Tests. Unless there is deemed acceptance of the

Deliverables in accordance with clause 44.2, the only evidence of such acceptance shall be an acceptance certificate in a form acceptable to both parties. The Client shall notify the Supplier within ten (10) Business Days of completion of the Acceptance Tests whether or not the Deliverables have passed their Acceptance Tests.

44.4. If the Deliverables do not pass their Acceptance Tests, the Client shall provide the Supplier with written reasons for such failure. Except where the Acceptance Test Due Date has passed or passes prior to the Deliverables passing their Acceptance Tests (in which case clause 44.5 shall apply), the Supplier shall be given the opportunity to correct any errors in the Deliverables and resubmit them for Acceptance Testing in accordance with this clause 44. In such circumstances, this clause 43.4 shall also apply to such resubmission.

44.5. If the Deliverables have not passed their Acceptance Tests or are not deemed under clause 44.2 to have passed their Acceptance Tests by the Acceptance Test Due Date, the Client shall, at its sole option, have the following rights, save that if the Supplier can demonstrate to the Client's reasonable satisfaction that the delay is solely due to a breach by the Client of its obligations under this Contract, the Acceptance Test Due Date shall be extended by one (1) day in respect of each day of such delay:

a) without prejudice to the Client's other rights and remedies, to accept by written notice such part of the Deliverables as the Client specifies in which case the Client, shall pay such amount to the Supplier as the Client reasonably believes reflects a fair and reasonable proportion of the Charges and the Client shall, at its sole option, elect in such notice whether the Supplier should no longer be required to provide the Services in respect of such Deliverables that are not so accepted; or
b) to extend the Acceptance Test Due Date for such period as the Client may specify, in which case (but only if) the Acceptance Test Due Date is specified to be a Final Acceptance Test Due Date; or
c) without prejudice to the Client's other rights and remedies, to terminate the appropriate Purchase Order without any cost and liability whatsoever, in which event the Client shall obtain a full refund from the Supplier of all Charges paid to the Supplier under the relevant Purchase Order.

44.6. If the Deliverables have not passed their Acceptance Tests by the date 10 (ten) Business Days (or such other period as may be agreed in the Purchase Order) after the Acceptance Test Due Date, the Client shall, at its sole option, have the right, without prejudice to the Client's other rights and remedies, to terminate the Purchase Order without any cost and liability whatsoever, in which event the Client shall obtain a full refund from the Supplier of all Charges paid to the Supplier for the respective Deliverable or if agreed in a Purchase Order, a Milestone, save that if the Supplier can demonstrate to the Client's reasonable satisfaction that the delay is solely due to a breach by the Client of its obligations under this Contract or the applicable Purchase Order, the Acceptance Test Due Date shall be extended by one (1) day in respect of each day of such delay.

44.7. In the event that the Client extends the Acceptance Test Due Date pursuant to clause 44.5(b) and the Deliverables have not passed their Acceptance Test by such extended Acceptance Test Due Date, clause 44.6 shall apply.

44.8. If, without the Supplier's consent, the Client puts a Deliverable into the production environment before that Deliverable has passed its Acceptance Tests, the Supplier shall not be liable for any loss and

- 45.1. On receipt of notice to terminate this Contract or a Purchase Order or expiration of this Contract or a Purchase Order, however and whenever occurring, the Parties shall comply with the Exit Management Requirements as may be set out in any appropriate Purchase Order.
- 45.2. During the Exit Period the Charges shall continue to apply, even where the Exit Period continues after the expiry of the Term.
- 45.3. In order to facilitate the Exit Management Requirements, the Supplier shall, if requested by the Client to do so, extend the Term of this Contract or a Purchase Order.
- 45.4. No right or licence is granted to either Party or their advisers in relation to any Confidential Information except as expressly set out in this Contract.
- (Depending on the complexity of the services a separate Schedule (see Schedule 11) may be required)

45. EXIT MANAGEMENT

- 44.10. For the avoidance of doubt, if the Client puts a Deliverable into the production environment before that Deliverable has passed its Acceptance Tests, and even if deemed acceptance has already occurred, the Client may then carry out such Acceptance Tests and from the date the Client has completed such Acceptance Tests, the rights granted to the Client under clauses 44.5 and 44.6 shall apply and the relief granted to the Supplier under clause 44.8 shall cease to apply.
- 44.11. The Supplier acknowledges and agrees that it shall not be entitled to charge the Client for any corrective work undertaken on any Deliverables to meet the Acceptance Criteria where the Deliverables fail their Acceptance Tests provided the relevant failure was not directly caused by a breach of the Client of its obligations under this Contract or a Purchase Order.
- 44.9. Clause 44.8 shall not apply in respect of any Deliverable where:
- the reason that the Client has put that Deliverable into the production environment before that Deliverable has passed its Acceptance Tests, is that delays have been caused predominantly by the Supplier, the Sub-Suppliers or any other person acting on behalf of the Supplier; and
 - the Client notifies the Supplier that it is putting, or has put, that Deliverable into the production environment before that Deliverable has passed its Acceptance Tests; and
 - the Client acting reasonably, believes it is necessary or desirable to put that Deliverable into the production environment before that Deliverable has passed its Acceptance Tests.
- 44.10. For the avoidance of doubt, if the Client puts a Deliverable into the production environment before that Deliverable has passed its Acceptance Tests, and even if deemed acceptance has already occurred, the Client may then carry out such Acceptance Tests and from the date the Client has completed such Acceptance Tests, the rights granted to the Client under clauses 44.5 and 44.6 shall apply and the relief granted to the Supplier under clause 44.8 shall cease to apply.
- 44.11. The Supplier acknowledges and agrees that it shall not be entitled to charge the Client for any corrective work undertaken on any Deliverables to meet the Acceptance Criteria where the Deliverables fail their Acceptance Tests provided the relevant failure was not directly caused by a breach of the Client of its obligations under this Contract or a Purchase Order.
- 44.8 shall not give any relief to the Supplier in respect of loss and damage caused after the date upon which such Deliverable passes its Acceptance Tests.
- 44.9. Clause 44.8 shall not apply in respect of any Deliverable where:
- the reason that the Client has put that Deliverable into the production environment before that Deliverable has passed its Acceptance Tests, is that delays have been caused predominantly by the Supplier, the Sub-Suppliers or any other person acting on behalf of the Supplier; and
 - the Client notifies the Supplier that it is putting, or has put, that Deliverable into the production environment before that Deliverable has passed its Acceptance Tests; and
 - the Client acting reasonably, believes it is necessary or desirable to put that Deliverable into the production environment before that Deliverable has passed its Acceptance Tests.

46. ENTIRE AGREEMENT

This Contract constitutes the entire understanding between the Client and the Supplier relating to the subject matter.

46.1. Neither the Client nor the Supplier has relied upon any representation or promise except as expressly set out in this Contract.

46.2. Both the Client and the Supplier unconditionally waives any rights it may have to claim damages against the other on the basis of any statement made by the other (whether made carelessly or not) not set out or referred to in this Contract (or for breach of any warranty given by the other not so set out or referred to) unless such statement or warranty was made or given fraudulently.

46.3. Both the Client and the Supplier unconditionally waives any rights it may have to seek to rescind this Contract on the basis of any statement made by the other (whether made carelessly or not) whether or not such statement is set out or referred to in this Contract unless such statement was made fraudulently.

This contract is deemed to have commenced at the date given on page 1.

Signed for and on behalf of the **Foods Standards Agency:**

By

[Redacted Signature]

Name.....

[Redacted Name]

Title.....

Procurement Category Manager

Date 7 November 2018

Date: 23 October 2018

Title: CHAIR OF THE BOARD OF DIRECTORS

By: [Redacted Signature] Name: [Redacted Name]

Signed for and on behalf of TSSW:

**SCHEDULE 1
INTERPRETATIONS**

Account Management Team	The Supplier's personnel who have been designated as their point(s) of contact for management of this contract
Agreement	means this contract
Client Property	means anything issued or otherwise furnished in connection with the Contract by or on behalf of the Client, other than any real property.
Client's Representative	means the member of the Client staff who shall be the main contact point under the Contract or any relevant Purchase Order
Charges	means charges payable by the Client to the supplier for the performance of the Services, which must be itemised in full on any relevant Purchase Order
Confidential Information	means any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel and suppliers of either party, including Intellectual Property Rights, together with all information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential.
Supplier Personnel	means all directors, officers, employees, agents, consultants and Suppliers of the Supplier and/or of any Sub-Supplier engaged in the performance of its obligations under this Agreement.
Controller, Processor, Data Subject, Personal Data, Personal Data Breach, Data Protection Officer	take the meaning given in the GDPR

<p>Data Loss Event</p> <p>means any event that results, or may result, in unauthorised access to Personal Data held by the Supplier under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach</p>	<p>Data Protection Impact Assessment</p> <p>means an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data.</p>	<p>Data Protection Legislation</p> <p>(i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 [subject to Royal Assent] to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy.</p>	<p>Data Protection Requirements</p> <p>mean the Data Protection Act 1998, the EU Data Protection Directive 95/46/EC, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all applicable laws and regulations relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner.</p>	<p>Data Subject Access Request</p> <p>means a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.</p>	<p>Default</p> <p>means any breach of the obligations of any party (including but not limited to fundamental breach or breach of a fundamental term) or any default, act, omission, negligence or statement of any party, its employees, agents or Sub-Suppliers in connection with or in relation to the subject matter of this Contract and in respect of which such party is liable to the other.</p>	<p>DPA 2018</p> <p>Data Protection Act 2018</p>
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Environmental Information Regulations	mean the Environmental Information Regulations 2004 and any guidance and/or codes of practice issued by the Information Commissioner in relation to such regulations.
Equipment	means any computers, laptops, servers, networks, internet broadband, wireless or other connections, other computer associated equipment or presentation equipment
FOIA	means the Freedom of Information Act 2000 and any subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner in relation to such legislation.
GDPR	the General Data Protection Regulation (Regulation (EU) 2016/679)
Government Accounting	means HM Treasury's manual of accounting principles for government as updated from time to time
Government Procurement Card (GPC)	means the UK Government's VISA purchasing card.
Industry Regulator	means any statutory or non-statutory body with responsibility for regulating (or promoting self regulation) of the provision on the type of services being provided by the Supplier.
Information	has the meaning given under section 84 of the Freedom of Information Act 2000.
Intellectual Property Rights	means patents, trademarks, service marks, design rights (whether registrable or otherwise), applications for any of the foregoing, copyright, database rights, trade or business names and other similar rights or obligations whether registrable or not in any country (including but not limited to the United Kingdom).
Invoicing Procedure	means the procedure by which the Supplier invoices the Client, as set out in <u>Schedule 5</u> .
Joint Controllers	where two or more Controllers jointly determine the purposes and means of processing.

Law	means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Supplier is bound to comply.
LED	Law Enforcement Directive (Directive (EU) 2016/680)
Mediator	has the meaning ascribed to it in <u>Schedule 6</u> .
Month	means a calendar month and "Monthly" shall be similarly construed.
Nominated Sub-Supplier	means any sub-Supplier engaged by the Supplier, at the direction of the Client, in connection with the provision of Ordered Services
Ordered Services	means the services which the Client has instructed the Supplier to carry out in any Purchase Order, subject to <u>Schedule 2</u> .
Party	means a Party to this Agreement
Personal Data	shall have the same meaning as set out in the Data Protection Act 1998.
Pre-Existing Intellectual Property Rights	shall mean any Intellectual Property rights vested in or licensed to the Supplier or Client prior to or independently of the performance by the Supplier or Client of their obligations under this Contract.
Private Agency	means a commercial organisation to which service provision has been outsourced by a Contracting Agency, which assumes the role and responsibilities of the Agency under a Contract.
Processor Personnel	means all directors, officers, employees, agents, consultants and contractors of the Processor and/or of any Sub-Processor engaged in the performance of its obligations under this Agreement.

Protective Measures	means appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it including those outlined in Schedule [x] (Security).
Purchase Order	means an order for Services served by the Client on the Supplier by means of the Client's i-Procurement system
Quarter	means a three (3) month period beginning on 1 st January, 1 st April, 1 st July or 1 st October. The term 'Quarterly' shall be similarly construed.
Regulatory Body	means those government departments and regulatory, statutory and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this Contract or any other affairs of the Client and "Regulatory Body" shall be construed accordingly.
Requests for Information	means a request for information or an apparent request under the Code of Practice on Access to Government Information, FOIA or the Environmental Information Regulations.
Services	means services which the Supplier has agreed to provide under any Purchase Order.
Special Terms	means additional Client specific terms, to which the Supplier's has agreed
Specific Obligations	means any obligations entered at Schedule 3
Staff	means employees, agents and Suppliers of the Supplier
Sub-Supplier	means any sub-Supplier engaged by the Supplier in connection with the provision of Ordered Services.
Sub-Processor	means any third Party appointed to process Personal Data on behalf of that Processor related to this Agreement

Supplier	The person identified in the Contract their employees, agents or any other persons under the control of the Supplier
Working Days	means Monday to Friday inclusive, excluding English public and bank holidays.
Year	means a calendar year.

SCHEDULE 2

THE ORDERED SERVICES

1. INTRODUCTION

This Schedule 2 specifies the Ordered Services to be provided to the Client by the Supplier for this Project FSA615.

This Schedule will be completed by reference to the Clients Specification and Deliverables as detailed below

2. SPECIFICATION

BACKGROUND

SCHEDULE 1 – TRAINING SPECIFICATION

BACKGROUND

In 2013 the FSA commissioned TSSW (previously SWERCOTS) to develop Feed at Primary Production (PP) eLearning course, and in 2014 Import Controls (IC) eLearning course. Both courses have been "Live" for several years now, with over 350 students participating in the PP module and over 150 participating in the IC course.

The platform the courses currently sit on is Drupal 6, which will not be supported beyond 2018. Alongside this requirement to update the hosting arrangements for the course, both courses have been impacted due to changes in legislation and the revisions to the Feed Law Code of Practice (England) 2018, nor are the modules UK wide.

The IC course will be impacted by the implications of BREXIT and, requires review and amendments to reflect the forthcoming changes on Day 1, in particular the importance of communications between points of entry and with inland authorities.

Whilst the PP module needs review to reflect the change in focus for interventions to higher risk farms (i.e. those mixing with additives or pre-mixtures or drying grain other than by means of air and registered as a R10 or R14 activity¹, the implications of HACCP and reflect changes in the Feed Law Codes of Practice, in particular earned recognition and the animal feed law risk rating systems across the UK. Both courses require development of a detailed chapter on sampling covering all aspects of sampling in the prescribed manner².

¹ <https://www.food.gov.uk/business-guidance/starting-an-animal-feed-business>

² In accordance with the requirements of Regulation (EC) No. 1831/2003 laying down the methods of sampling and analysis for the official control of feed

DELIVERABLES

To deliver a refreshed and enhanced UK wide fully interactive e-learning experience in respect of feed controls at the point of entry, sampling and the level of primary production, which:

a) Incorporates changes in legislation since 2013;

b) Incorporates changes to the UK Central Competent Authorities Feed Law Codes of Practice and Practice Guidance documents;

c) Reflects the impact of EU exit Day 1;

d) Incorporates the corrections under the European Union (Withdrawal) Act 2018 (EUWA) to retained EU law relating to animal feed safety and hygiene, where applicable, with particular regard to the functions of certain EU bodies and institutions; and

e) By undertaking officers can demonstrate competency under the relevant Codes of Practice in England, Scotland, Wales and Northern Ireland.

REQUIREMENTS

PROJECT 1 – TO DEVELOP AND ENHANCE THE FSA FEED E-LEARNING IMPORT CONTROLS MODULE TO A UK WIDE PLATFORM

To include:

• Review and update any flaws/weaknesses/resources bank in the current IC module;

• Updating voiceover, editing film and amending scripts;

• Making the module applicable for NI, Scotland and Wales Additional chapter to be developed covering sampling bulk and packaged (uniform/non-uniform distribution);

• Chapter on exiting the EU to cover Day 1 controls and specifically communications to include

importance of communications inland and between POE's. Extend LA audience to both feed controls at POE and inland (will reach all feed officers not just those undertaking official controls at POE); and

• Updating content and the resources bank to reflect changes to:

– legislation and guidance since 2013;

– incorporates the corrections under the European Union (Withdrawal) Act 2018 (EUWA) to retained EU law relating to animal feed safety and hygiene; and

– the UK Feed Law Codes of Practice and Practice Guidance documents.

Appendix 1a details the proposed content for the revised Import Control Course.

PROJECT 2 - DEVELOPMENT AND ENHANCEMENT OF THE FSA FEED E-LEARNING PRIMARY PRODUCTION MODULE TO A UK WIDE PLATFORM

Primary Production Module

To include:

- Review and update any flaws/weaknesses/resources bank in the current PP module);
- Make the module applicable for NI, Scotland and Wales;
- New Chapter covering R10/R14 farms who are required to implement HACCP requirements;
- New Chapter covering sampling in the prescribed manner;
- Preparing scripts based on existing video content; and
- Updating content and the resources bank to reflect changes to:

– legislation and guidance since 2013;

– incorporates the corrections under the European Union (Withdrawal) Act 2018 (EUWA) to retained EU law relating to animal feed safety and hygiene; and

– the UK Feed Law Codes of Practice and Practice Guidance documents.

Appendix 1b details the proposed content for the revised Primary Production Course.

CONTENT REQUIREMENTS

Both e-learning modules must:

- Subsequent to completing a module, provide sufficient content for officers to demonstrate they meet the competency requirements as set out in Annex 4 of the Feed Law Practice Guidance (England) April 2018, and the equivalent Codes in Wales, Scotland and Northern Ireland) in respect of the following areas where relevant to each module³:

– Lead Feed Officers (LFO)

– Officers undertaking official controls, at FEBEs required to comply with feed law which undertake solely, one of the activities R10, R11, R13 and R14 or, a combination of these

– Officers carrying out Official Controls at Points of Entry

– Officers sampling feed for analysis

³ The ability to assign parts of the course to match a delegate's competency requirements is out of scope of this project

- A management system - enabling TSSW to monitor progress and report to the FSA, as required.
 - Improve the service offered to partners
 - Meet eLearning best practice now and in the future
 - Long term security
 - Both courses must be based on Moodle to meet the following business requirements:
 - Technical terms used in the course must be capable of being explained as they are presented
 - The resources function in both modules must include version control
 - Film must be formatted for html5 to maximise accessibility, whether on mobile or desktop devices
- Include:

TECHNICAL/FUNCTIONAL REQUIREMENTS

- The completion of on-line tests at the end of each chapter which will test the competency requirements in the Feed Law Practice Guidance, relevant to each module
- Links to relevant pro forma forms and other relevant materials including guidance
- Links to relevant legislation
- Ensure interactive elements to include:
 - Be broken down into chapters and sections
 - Attract 6 hours CPD but not take more than 6 hours for an officer to complete any one module (the exact number of hours will be evaluated once the training has been evaluated)
- Each chapter will utilize a knowledge check / test to assess competency
- The structure of both modules must be consistent in format
- Where video footage is used, each section must not take longer than 10 minutes and be pertinent to explaining the subject.
- Be an interactive experience using a variety of types of media, including video footage/clips/photographs, to engage the audience and demonstrate various practical aspects of official feed control activities
- Take account of other guidance issued by the FSA, Food Standards Scotland, National Trading Standards, the feed industry and the European Commission, where relevant
- Officers using enforcement powers and undertaking reactive investigations

b) e-Learning in the back office

a) Set up of staff logins - each user has their own secure login to the NTS platform and is allocated access to each

Quarterly reporting will be provided to the FSA on the following:

ADMINISTRATIVE SUPPORT FROM TSSW

and take on average half an hour per week.
 editing user access to courses is managed out of office hours by 2.0, these are managed in bulk once a week
 conducted every 12 hours and performance reports are generated every-day for 2.0 to review. Adding and
 reviewing support issues raised. The site will be monitored for performance and security. Backups are
 applied per year. A sandbox site will be run in order to review all updates prior to implementation and for
 provide complete security patching and upgrades to the system, and the server. On average 2 upgrades will be
 developers (2.0 Ltd) provide second line support. Contact with 2.0 will be via TSSW at all times. 2.0 will
 First line support will be provided by TSSW regional office (e.g. user set ups, basic queries), whereas our

Maintenance and support.

This contract is for up to 1500 student licenses for each course, every subsequent user is charged at £1 per
 annum. TSSW will monitor access and completion of the core chapters (as measured by the date of
 completion of a test) and report these on a quarterly basis to the FSA.

- Interaction of the eBook will with the IC and PE learning modules.
- Utilisation of technology to enable navigation between sections in the Code and Practice Guidance, to
 link to forms and other websites. This will include a resource wide search facility, and

To include:

PROJECT 3 - TO DEVELOP THE FEED CODE OF PRACTICE AND PRACTICE GUIDANCE AS AN EBOOK ON MOODLE

- Users can only access resources which they are invited to

- System administrators manage the access rights of all users

- The system automatically logs inactive users out of the system

- All users in the organisation have a unique name and password

• The following key security features:

- User login, option to request a new password.

- Automated certificates linked to CPPD core competencies

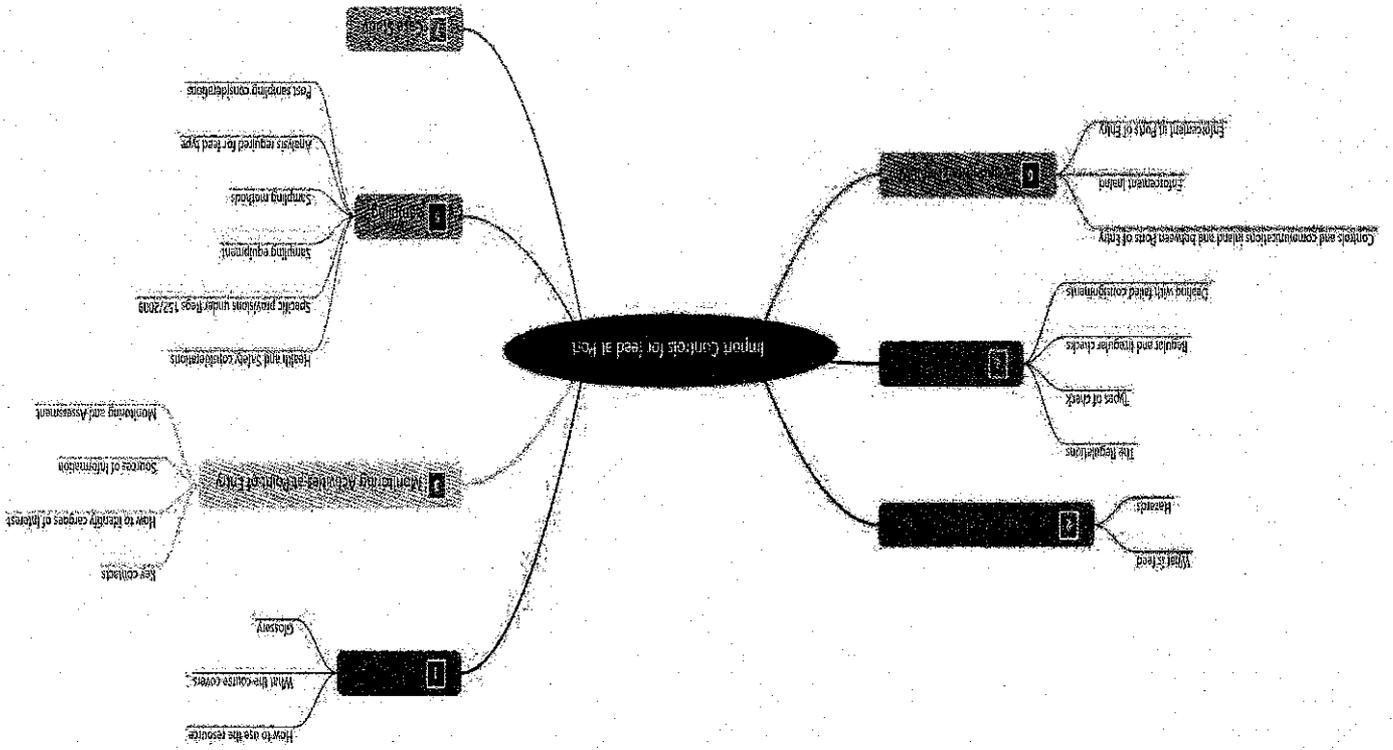
- Student progress/tracking

1. Transfer of the existing materials – all content text to be provided by the FSA as PDF and Word docs
2. Access – admin and basic user
3. Admin – TSSW will manage site content and updates requested by the FSA (updates will be completed within a 21-day turnaround)
4. Basic user – needs to be able to run a search for the content they need to view, print pages (which include the version control information) and export forms
5. Navigation – such that users can access materials via a search function, via chapter and sub-chapters titles and via weblinks in the core text (e.g. to other chapters or to forms)
6. Accessibility and usability – the site must be easy to use
7. Version control – both on core text and forms
8. Archive – occasionally users need to be able to access older versions. These are to be available via an archive area, such that a complete PDF of the book can be accessed (that should be clearly labelled as “archive and date”) – accessible for both admin and basic user
9. Security & Backup – need adequate security and regular / daily backup
10. Web statistics – Be able to access basic reports on statistics on a quarterly basis, to inform the FSA of the most visited pages/how many unique visitors to the site etc

TECHNICAL FUNCTIONALITY PROJECT 3

- c) Reporting on access / delegate progress – we will provide details regarding, user set up and user progress (based on completion of tests at the end of each chapter)
- d) Reporting on the testing – we will provide details of PASS, FAIL or MERIT for each knowledge check / test

Appendix 1a Mind map of proposed content for the revised Import Control Course



FSA615

OFFICIAL

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SCHEDULE 2 - DELIVERABLES

PROJECTS 1 & 2 - PHASES OF DEVELOPMENT AND DEPLOYMENT

Who	Dates for completion	Tasks and actions (Projects 1 & 2)
FSA FSA/TSSW	14 September 2018 15 October 2018	<p>Preparation</p> <ul style="list-style-type: none"> • Project brief approved by FSA • FSA contract signed (deposit to be paid at time of signing)
FSA FSA/TSSW/2.0 TSSW/2.0 FSA/FSS	22 nd October 2018 12 November 2018 By 31 December 2018 Ongoing and final sign-off by 09 January 2019	<p>Content drafting</p> <ul style="list-style-type: none"> • Approve mind maps and link to competencies • Progress meeting • Modify existing content and create new elements - TSSW to provide to the FSA • FSA and Food Standards Scotland to approve (including discussion with the devolved administrations)
TSSW 2.0 TSSW/2.0/FSA/FSS 2.0	By 30 September 2018 By 30 th November 2018 By 31 st December 2018 3 rd /4 th January 2019 By 31 st January 2019	<p>IT development</p> <ul style="list-style-type: none"> • Exercise briefing – options to be provided to TSSW / FSA • Beta to be created (4 weeks) • Review of Beta • Meeting to discuss beta and comments from FSA/FSS • Population of Live site (4 weeks)
2.0/FSA/FSS/TSSW	W/C 4 th February 2019	<p>Final Sign-off</p> <ul style="list-style-type: none"> • Final sign-off meeting of site content

	Tasks and actions (Projects 1 & 2)	Dates for completion	Who
5	<p>Pilot Phase</p> <ul style="list-style-type: none"> • TSSW and CENTSA regions to pilot new courses and provide feedback (min of 15 per course) • FSA/FSS to send letter to LAs regarding launch of the new platform and LA access registration • TSSW to collate and set up LA access • Meeting to review pilot feedback • Respond to findings and make any final changes before launch 	<p>Between 18th February and 4th March 2019 W/C 18th February 2019 By 15th March 2019 7th/8th March 2019 By 11th March 2019</p>	<p>TSSW/CENTSA FSA/FSS TSSW 2.0/FSA/FSS/TSSW 2.0/TSSW</p>
6	<p>Go Live</p>	<p>On 18th March 2019</p>	<p>2.0/TSSW/FSA/FSS</p>

PROJECT 3 - PHASES OF DEVELOPMENT AND DEPLOYMENT

Development schedule (Project 3)		To be completed by	Who
1	Project brief and contract signed	14 October 2018	FSA
2	2.0Ltd to develop beta platform (on test server) to test navigation, site functionality etc. (1 month)	16 November 2018	2.0 / TSSW
3	TSSW / FSA to review of the proof of concept beta (2 weeks)	30 November 2018	TSSW / FSA
4	Teleconference to feedback comments to 2.0Ltd	05 December 2018	All
5	Amends to site to be made by 2.0Ltd (2 weeks)	21 December 2018	2.0
6	Transfer to the Live server	07 January 2019	2.0
7	FSA to send out a request for set ups	28 January 2019	FSA
8	2.0Ltd to complete population of the Live site (1 month)	04 February 2019	2.0 / TSSW
9	FSA to sign off prior to launch	12 February 2019	FSA
10	TSSW to collate a list of users	12 February 2019	TSSW
11	Launch	18 February 2019	2.0 / TSSW/FSA

In conjunction with the Client representative, the Supplier shall develop, maintain and improve performance and service with a view to enhancing the overall delivery of service. This may include but shall not be limited to review sessions (formal and informal).

3. CONTINUOUS IMPROVEMENT

SPECIFIC OBLIGATIONS

SCHEDULE 3

1. SUPPLIER'S OBLIGATIONS

This Schedule specifies the Ordered Services to be provided to the Client by the Supplier in the services required for FSA615.

This Schedule will be completed by reference to the Clients Specification and Deliverables as per Schedule 2.

2. CLIENT'S OBLIGATIONS

Notwithstanding the collaboration necessary with the Supplier to enable the provision of Support and Development services, the Client shall be responsible for:

- Reporting incidents as soon as possible, and for providing all relevant information to enable the Supplier to progress resolution of the incident

- Provision of suitable premises and facilities such as desks, chairs, overhead projectors, where appropriate and essential to the delivery of services

- Provision of access to the appropriate equipment and sites to enable the Supplier to undertake specific responsibilities in the supply of Support and Development services

3. REVIEW MEETINGS

This Clause shall be developed in conjunction with the successful tenderer(s) dependant on the nature and progress of the services.

The parties shall attend and fully participate in the undernoted meetings.

These shall take place at the Client's premises at Foss House, York, unless otherwise agreed in which case they could be held by phone or via video-conference.

Meeting	Activities	Inputs	Outputs	Attendees
SERVICE REVIEW	<ul style="list-style-type: none"> • Review of performance. • Ensure escalated issues and risks are actioned. • Contract Coverage - Ensure all work has been agreed prior to start and is covered under the contract and within a Purchase Order. 	<ul style="list-style-type: none"> • Agenda / minutes of last meeting • Minutes of Contract Review (where appropriate) 	<ul style="list-style-type: none"> • Minutes / actions of meeting • Key messages for Client teams 	Client Representative (Chair) (presently XX) Supplier Representative (presently XX) Optional Invitees: Service Delivery Lead
Frequency: Monthly				

To be agreed with the FSA representative.

<p>• Key messages for Supplier teams</p> <p>• Rolling forecast of demand</p> <p>Procurement Business Partner (presently XX)</p> <p>Or their nominated deputies</p>	<p>• Supplier's MI</p> <p>• Active PO list / aged debt position</p> <p>• Demand Forecast</p>	<p>• Agenda / minutes of last meeting</p> <p>• Minutes of Client business meetings</p> <p>• Escalations</p> <p>• Suggested Contract improvements</p>	<p>• Financial Management - Review spend against plans; resolving any escalated invoicing or payment issues. Review of overall financial risk.</p> <p>• Capacity Planning - Reviewing demand and supply forecasts, driving alignment in the relationship, look for economies over time as well as improving ways of matching demand and supply.</p> <p>• Contract Review and Administration - Ensure the contract is kept up to date, review list of amendments and/ or issues that need to be resolved.</p>	<p>CONTRACT REVIEW</p> <p>Frequency: Every three months</p>
<p>Primary Budget holder (Chair) (presently XX)</p> <p>Client Representative (presently XX)</p> <p>Procurement Business Partner (presently XX)</p> <p>Supplier Representative (presently XX)</p> <p>Or their nominated deputy</p>	<p>• Minutes/ actions of meeting</p> <p>• Key messages for Client units</p>	<p>• Review the state of the relationship</p> <p>• Is the relationship still driving strategic benefits? What have been the major successes and or issues?</p> <p>• Where can the relationship improve to align to the Client strategy and apply consistency</p> <p>• think strategically.</p> <p>• Relationship Direction</p> <p>• Improvements to the service</p>	<p>• Strategic Direction</p>	

Totals	Breakdown

PROJECTS 1 & 2 DEVELOPMENT COSTS

SCHEDULE OF FEES

This Schedule 4 specifies the Ordered Services to be provided to the Client by the Supplier in the services required for FSA615.

This Schedule will be completed by reference to the pricing detailed below

PRICING

SCHEDULE 4

Stages	Costs

PROJECT 3 DEVELOPMENT & HOSTING COSTS

Breakdown	Totals

Projects 1 & 2 Annual ongoing hosting and maintenance costs

PAYMENT SCHEDULE

OFFICIAL

1. INTRODUCTION

1.1 This Schedule 4 sets out the Basis of Charging that shall apply to this Contract and any attendant Purchase Orders.

1.1 Other than as provided in this schedule, or agreed in writing in a relevant Purchase Order no additional Charges shall be payable by the Client to the Supplier for any additional costs associated with the execution of the Services or the Deliverables, including, without limitation, administrative and overhead costs.

2. BASIC PRINCIPLES

2.1 In general, all prices charged by the Supplier to the Client for all services (Support and Development) throughout the duration of this agreement shall be calculated from the Charges Schedule:

2.2 In addition the Client will reimburse travel and subsistence expenses which are reasonable and agreed in advance as set out in the table below, where Tenderers have indicated such expenses will be applicable within their Qualifications to Schedule 7, Charges:

Expenses	Reimbursement
Rail travel	Standard class
Mileage	£0.45 per mile for the first 10,000 miles in a financial year £0.25 per mile for any mileage in excess of 10,000 miles in a financial year

Subsistence	Up to a maximum of £21 for a 24 hour period
Overnight hotel accommodation	Up to £85 per night outside London Up to £130 per night in London

SCHEDULE 5

INVOICING PROCEDURE & NO PO/NO PAY

1. INVOICES SHALL SPECIFY:

- Trading Name of Supplier
- Supplier Address
- Supplier Tel Number/ E mail
- Unique Purchase Order Number – To be advised
- Invoice Number
- Detailed description of the Services provided
- Detailed description of any expenses and the amounts of such
- Location, date or time period of delivery of the Services and/or Deliverables
- Supplier's VAT number
- Amount due exclusive of VAT, other duty or early settlement discount, with the calculation for the charges clearly shown in terms of days and confirmed daily rate
- VAT rate
- Amount due inclusive of VAT and any other duty or early settlement discount
- Details of the Supplier's BACS details or other method of payment
- Date of the invoice.

2. INVOICE SUBMITTAL

Invoicing the FSA:

Please submit invoices to Accounts-Payable.fsa@sscl.gse.gov.uk for work with FSA.

Please include the referring FSA purchase order number in the email title and within the invoice to allow Invoice/Purchase Order matching.

Note that invoices that do not include reference to FSA Purchase Order number will be returned unpaid with a request for valid purchase order through email.

3. INVOICE PAYMENT

3.1 The Client shall pay all valid invoices submitted in accordance with the provisions of this Schedule 3 in accordance with the provisions of Clause 7.

3.2 In the event of a disputed invoice, the Client shall make payment in respect of any undisputed amount in accordance with the provisions of Clause 7 and return the invoice to the Supplier within ten (10) Working Days of receipt with a covering statement proposing amendments to the invoice and/or the reason for any non-payment. The Supplier shall respond within ten (10) Working Days of receipt of the returned invoice stating whether or not the Supplier accepts the Client proposed amendments. If it does then the Supplier shall supply with the response a replacement valid invoice. If it does not then the matter shall be dealt with in accordance with the provisions of Clause 18.

3.3 NO PURCHASE ORDER, NO PAY.

The Food Standards Agency is currently moving purchasing activity to an electronic purchasing solution. This brings supplier organizations a number of benefits, including limiting purchasing to preferred suppliers and faster payment processing.

To implement the solution, the undernoted changes will be implemented with effect from the contract commencement date.

To prevent unauthorised individuals requesting goods and services only FSA branded Purchase Orders from these email addresses should be accepted as FSA

commitment: SSDprocurementagencies@defra.gsi.gov.uk; OR Procurement@foodstandards.gov.uk. The FSA will not pay invoices that do not originate from Purchase Orders from these email addresses.

Any other requests for goods or services from the FSA should be referred to the Procurement Business Partner.

4. CORRESPONDENCE

Correspondence to the Client relating to this Contract (but not the invoice) shall be appropriately referenced and sent to the following address:
Enter FSA Nominated Contact details

Name [Redacted]
Address 1 Food Standards Agency
Address 2 Clive House, 70 Petty France
Address 3 London
Post code SW1H 9EX

Correspondence to the Supplier relating to this Contract shall be appropriately referenced and sent to the following address:
Enter contact details

Name [Redacted]
Address 1 Trading Standards South West
Address 2 Office 9, Victoria Commercial Centre, Station Approach
Address 3 Victoria, Cornwall
Post code PL26 8LG

OFFICIAL

OFFICIAL

SCHEDULE 6

DISPUTE RESOLUTION PROCEDURE

1. INTRODUCTION

1.1. In the event that a dispute cannot be resolved by the Client and Supplier representatives nominated under Clause 18.2 within a maximum of ten (10) Working Days after referral, the dispute shall be further referred to mediation in accordance with the provisions of Clause 18.4.

1.2. Subject always to the provisions of Clause 21, nothing in this dispute resolution procedure shall prevent the Client or the Supplier from seeking from any court of the competent jurisdiction an interim order restraining the other party from doing any act or compelling the other to do any act.

2. MEDIATION

2.1. The procedure for mediation pursuant to Clause 18 and consequential provisions relating to mediation shall be as follows:

2.1.1. a neutral adviser or mediator ('the Mediator') shall be chosen by agreement between the Client and the Supplier or, if they are unable to agree upon the identity of the Mediator within ten (10) Working Days after a request by one party to the other (provided that there remains agreement for mediation), or if the Mediator agreed upon is unable or unwilling to act, either party shall within ten (10) Working Days from the date of the proposal to appoint a Mediator or within ten (10) Working Days of notice to either party that he is unable or unwilling to act, apply to the Centre for Effective Dispute Resolution ('CEDR') to appoint a Mediator;

2.1.2. the Client and the Supplier shall within ten (10) Working Days of the appointment of the Mediator meet with him in order to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiations to be held. The parties may at any stage seek assistance from the CEDR to provide guidance on a suitable procedure.

2.2. Unless otherwise agreed by the Client and the Supplier, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the parties in any future proceedings.

2.3. In the event that the Client and the Supplier reach agreement on the resolution of the dispute, the agreement shall be reduced to writing and shall be binding on both parties once it is signed by the Client's Head of Procurement and the Supplier.

2.4. Failing agreement, either the Client or Supplier may invite the Mediator to provide a non-binding but informative opinion in writing.

2.5. The Client and the Supplier shall each bear their own costs in relation to any reference made to the Mediator and the fees and all other costs of the Mediator shall be borne jointly in equal proportions by both parties unless otherwise directed by the Mediator.

2.6. Work and activity to be carried out under this Contract shall not cease or be delayed during the mediation process.

2.7. In the event that the Client and the Supplier fail to reach agreement in the structured negotiations within forty (40) Working Days of the Mediator being appointed, or such longer period as may be agreed, then any dispute or difference between them may be referred to the Courts in accordance with the provisions of Clause 41.

SCHEDULE 7

CONFIDENTIALITY UNDERTAKING

1. INTRODUCTION

1.1. This Schedule 7 contains the model confidentiality undertaking to be signed by Supplier in the event of Contract Award.

CONFIDENTIALITY UNDERTAKING

I **THE SUCCESSFUL TENDERER** HAVE BEEN INFORMED THAT I MAY BE ASSIGNED TO WORK AS A SUPPLIER IN PROVIDING SERVICES TO THE FOOD STANDARDS AGENCY.

I UNDERSTAND THAT INFORMATION IN THE POSSESSION OF THE CLIENT MUST BE TREATED AS CONFIDENTIAL.

I HEREBY GIVE A FORMAL UNDERTAKING TO THE CLIENT, THAT:

1. I WILL NOT COMMUNICATE ANY OF THAT INFORMATION, OR ANY OTHER KNOWLEDGE I ACQUIRE IN THE COURSE OF MY WORK FOR THE CLIENT TO ANYONE WHO IS NOT AUTHORISED TO RECEIVE IT IN CONNECTION WITH THAT WORK.

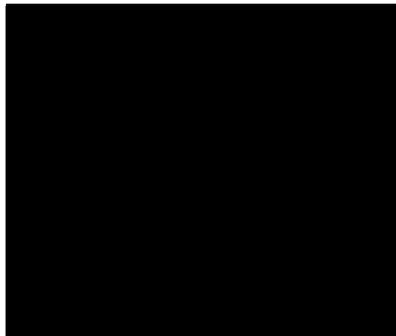
2. I WILL NOT MAKE USE OF ANY OF THAT INFORMATION OR KNOWLEDGE FOR ANY PURPOSE OUTSIDE THAT WORK.

I ACKNOWLEDGE THAT THIS APPLIES TO ALL INFORMATION WHICH IS NOT ALREADY A MATTER OF PUBLIC KNOWLEDGE AND THAT IT APPLIES TO BOTH WRITTEN AND ORAL INFORMATION.

I ALSO ACKNOWLEDGE THAT THIS UNDERTAKING WILL CONTINUE TO APPLY AT ALL TIMES IN THE FUTURE, EVEN WHEN THE WORK HAS FINISHED AND WHEN I HAVE LEFT MY EMPLOYMENT.

I HAVE ALSO BEEN INFORMED THAT I WILL BE BOUND BY THE PROVISIONS OF THE OFFICIAL SECRETS ACTS OF 1911 AND 1989. I AM AWARE THAT UNDER THOSE PROVISIONS IT IS A CRIMINAL OFFENCE FOR ANY PERSON EMPLOYED BY A GOVERNMENT SUPPLIER TO DISCLOSE ANY DOCUMENT OR INFORMATION WHICH IS LIKELY TO RESULT IN AN OFFENCE BEING COMMITTED, OR WHICH MIGHT PROVIDE ASSISTANCE IN AN ESCAPE FROM LEGAL CUSTODY OR ANY OTHER ACT AFFECTING THE DETENTION OF PEOPLE IN LEGAL CUSTODY. I AM AWARE THAT SERIOUS CONSEQUENCES MAY FOLLOW FROM ANY BREACH OF THAT ACT.

SIGNED:



NAME:

DATE OF SIGNATURE:

23 October 2018

Not applicable

Schedule 8 – Staff Transfer – “TUPE”

None identified

Schedule 9 – Commercially Sensitive Information

Schedule 10 – Variation Notice – Request for Variation

1 General principles of the Variation Procedure

- 1.1 This Schedule sets out the procedure for instruction and evaluation of Variations to the Framework.
- 1.2 Under this Variation procedure:

1.2.1 Either party may seek to vary the Service(s) at any time during the Term of the Framework. Each party will do its utmost to give the other reasonable notice of any major changes, preferably a minimum of 3 months notice, and to respond within the timeframe stated in Clause 24.

1.2.2 Variation requests are to be submitted using the format at Appendix A.

1.2.3 Where a Variation is proposed, the Supplier will provide an estimate of the financial/resource implications to the Client, with an estimated timetable for implementation, for the Client's approval.

1.2.4 The evaluation of any Variation is the responsibility of the relevant Director and Head of Procurement, in consultation with the Supplier, in the context of the Review Meetings described in Governance contained in the Framework. The date of implementation of any consequent amendment to the services, and/or payment to the Supplier, will be confirmed in writing by the Client within seven days of the evaluation using the Variation Form at Appendix B.

1.2.5 The Client shall have the right to request amendments to a Variation Request (prior to approval), approve it or reject it. The Supplier shall be under no obligation to make such amendments to the Variation Request; however the Supplier shall not unreasonably refuse such a request. In the event that the Client chooses to reject a Variation Request made by the Supplier the Client shall accept responsibility for the outcome.

1.3 Any discussions, negotiations or other communications which may take place between the Client and the Supplier in connection with any proposed variation shall be without prejudice to each party's other rights under this Framework.

2 Costs

2.1 Each party shall bear its own costs in relation to the preparation and agreement of each Variation.

3 Change Authorisation

3.1 Any Variation and/or amendment to payment arising from a Variation will be executed by the Client's Head of Procurement and confirmed in writing to the Supplier.

3.2 The variation shall not be deemed effective until the Variation form at Appendix B has been signed by both parties.

OFFICIAL

'NONE IDENTIFIED'

Schedule 11 – Exit Management

OFFICIAL

Schedule 12 Processing, Personal Data and Data Subjects

This Schedule shall be completed by the Controller, who may take account of the view of the Processors, however the final decision as to the content of this Schedule shall be with the Controller at its absolute discretion.

1. The contact details of the Controller's Data Protection Officer are:

Food Standards Agency

Floors 6 and 7, Clive House, 70 Petty France, London, SW1H 9EX

Email: [REDACTED]

Mobile: [REDACTED]

2. The contact details of the Processor's Data Protection Officer are:

[REDACTED] Trading Standards South West, Office 9, Victoria Commercial Centre, Station Approach, Victoria, Cornwall, PL26 8LG

Tel: [REDACTED]

Email: [REDACTED]

3. The Processor shall comply with any further written instructions with respect to processing by the Controller.

4. Any such further instructions shall be incorporated into this Schedule.

Description	Details
Identity of the Controller and Processor The Parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Controller and the Contractor is the Processor in accordance with Clause 14.3. The scope of the personal data is details of the individuals signed up to undertake the IC and/or PP e-Learning courses. This information will be collected at the start of the courses and used to track progress of delegates through the course and will be shared between the controller and processor	Subject matter of the processing The processing is needed in order to ensure the contractor can effectively deliver the contract to provide access to the two e-Learning courses.

<p>15th October to 31st March 2020</p>	<p>Duration of the processing</p>
<p>Personal information will be collected on each person undertaking either of the IC or PP e-Learning courses. This data will be stored on secure cloud-based services and will be disclosed by the processor to the controller and used to track progress of individuals course completion and results tests. This information will be shared by the controller with FSA Wales, FSA Northern Ireland and Food Standards Scotland.</p> <p>The nature of the processing means any operation such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination, or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means) etc.</p> <p>The purpose might include: employment processing, statutory obligation, recruitment assessment etc]</p>	<p>Nature and purposes of the processing</p>
<p>Name, address, telephone number, email address, job role, organisation.</p>	<p>Type of Personal Data being Processed</p>
<p>Competent Authority officers in England, Wales, Northern Ireland and Scotland undertaking official feed control activities</p>	<p>Categories of Data Subject</p>
<p>We retain personal information only for as long as necessary, and in line with FSA and TSSW retention policies. This means that information will be retained for 6 years from receipt.</p> <p>All the personal data we process is located on servers within the European Union. FSA cloud-based services have been procured through the government framework agreements and these services have been assessed against the national cyber security centre cloud security principles.</p>	<p>Plan for return and destruction of the data once the processing is complete</p> <p>UNLESS requirement under union or member state law to preserve that type of data</p>



APPENDIX A VARIATION REQUEST FORM

Variation Request No: Date:	Project Title : Project Ref No:	Raised By:	Action Proposed:	Full Description of Variation Request:	Area(s) impacted (Optional)	Signed By: Full Name: Date:	Supplier Contact Details Supplier Name : Contact Name : Contact Address : Telephone No : Email Address :
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APPENDIX B VARIATION FORM

PROJECT TITLE:

DATE:

VARIATION No:

BETWEEN:

The Food Standards Agency (hereinafter called "the Client") & SUPPLIER (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:

Full Name:

Position:

Date:

APPENDIX C - TABLE OF POLICIES



Table of Policies

<p>Use of Internet and Intranet - Working Remotely - Personal Web Logs and Websites</p>	<p>The Food Standards Agency provides networks and equipment to its staff to be used as a source of business information which supports the work of the Agency. Inappropriate use of the Agency's networks exposes the Food Standards Agency to risks including virus attacks, compromise of network systems and services, and legal issues.</p> <p>The Acceptable Use Policy sets out the ways in which the network and systems may be used, safeguarding the FSA and its employees against potential legal action and protecting the security of the Agency's IT infrastructure. It is vital in informing the agency's employees of the behaviour expected of them as users of our Information Technology systems.</p>	<p>Acceptable Use of Computers and Networks</p>
<p>- Processing Personal Data - Sensitive Personal Data - Failure to Comply - Data Subject</p>	<p>The Data Protection Act defines UK law on the processing of data about living people. In order to process personal data and sensitive personal data the Food Standards Agency must comply with the Principles of the Act. Failure to comply could result in the Agency or the individual involved having criminal or civil proceedings brought against them.</p> <p>The Food Standards Agency is committed to protecting personal data and as such the Data Protection Policy was created to safeguard the Agency and its employees by informing staff of their responsibilities and rights when handling personal data.</p>	<p>Data Protection</p>
<p>- Organisational Records - Management Requirements - Records Standards - Registration Records Management - Process and System Requirements - Technical specification of records - Access to records - Security of records - Preservation of records</p>	<p>Food Standards Agency information and records are valuable assets that play a vital role in documenting the policy making and inspection activities of the Agency. Best practice in records management is vital in supporting the Agency to deliver its strategic plan, document business intelligence, demonstrate accountability and protect its interests.</p> <p>The Information and Records Management Policy informs users of their responsibilities when handling information and records and allows the Agency to maintain a framework of standards to maintain compliance with the Public Records Act 1958, Freedom of Information Act and ISO 27001.</p>	<p>Information and Records Management Policy</p>
<p>- Electronic Mail (Email) - Personal Use - Use of Instant Messaging</p>	<p>The Food Standards Agency provides and encourages the use of its Electronic Communication Systems to its employees for the purposes of business communication.</p>	<p>Electronic Communications</p>

	<p>This policy has been developed to ensure the Electronic Communications Systems are safeguarded for the efficient exchange of business information within the Food Standards Agency and to ensure that all employees are made aware of their responsibilities and adhere to the relevant legislations.</p>	
<p>- Passwords - Mobile Computing and Remote Access - Virtual Private Networks - Secure Data Storage - Data Backup and Recovery - Workstation Security - Encryption - Software Movements - Security of Equipment Off-Premises - Removal of Property - Secure Equipment Storage and Access</p>	<p>Security is required to counter threats from external penetration, internal users and environmental events beyond FSA control. Appropriate measures must be in place to control access, preserve the confidentiality, integrity and availability of data and protect each ICT system. In addition the Agency must ensure security standards are maintained to satisfy the requirements of legislation, the HMG Security Policy Framework and industry standards such as ISO27001. This policy defines the FSA security principles and measures to ensure employees understand their responsibilities, managers can identify what is expected of staff and auditors can ascertain that the correct measures are being applied.</p>	<p>Users ICT Security Policy (for all staff)</p>
<p>- Mobile Computing and Remote Access - Passwords - Network Security - Perimeter Management - Secure Data Backup and Recovery - Encryption - Agency Software - Software Rollout - Software & Hardware Disposal - Software Movements - Software Audit - Patch Management - Equipment Security - Supporting Utilities - Cabling Security - Equipment Maintenance - Security of Equipment Off-Premises - Removal of Property - Secure Equipment Storage and Access - ICT Systems Security - Control of Development Environments - Change Control - Design and Acceptance of Development - Contingency Planning - Technical Compliance Checking - Technical Review of Operating System Changes</p>	<p>The purpose of the policy is as above but with greater detail and extended content in recognition of the increased system access ISTED staff require, and to ensure standards in the development/suppor/maintenance of our systems are met. It was recognised that detailing the principles that apply to both users and ISTED staff within one length security policy confused the key issues and areas of responsibility and alienated the user audience.</p>	<p>ICT Security Policy (for IT staff ONLY)</p>
<p>- Definition of FSA Remote working tools - Connectivity options - Computer Equipment - Who is eligible - Roles & responsibilities</p>	<p>The FSA did not have policy for the supply of mobile voice and data tools for Agency staff e.g. Laptops and Blackberries. A policy was needed to allow potential suppliers to give an accurate quote for services, driving better value for money for the FSA. The policy was developed to maximise the efficiency of the mobile voice and data contracts by ensuring that the right people have the right equipment to fulfil their roles. The policy sets out criteria by which these tools are issued together with the a principle that each user will be issued with only one mobile data contract</p>	<p>Mobile Voice and Data Policy</p>

