



Crown
Commercial
Service

The Office of Government Property

- and -

Improvement and Development Agency

ANNEXES

relating to

One Public Estate Programme Managed Services

CCCC19A68

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Agreement Annexes - Services

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ANNEX 1 – TERMS AND CONDITIONS

1 INTERPRETATION

1.1 In these terms and conditions:

- “Agreement” means the contract between (i) the Customer acting as part of the Crown and (ii) the Supplier constituted by the Supplier’s countersignature of the Award Letter and includes the Award Letter;
- “Approved” means the prior written consent of the Customer and "Approve" and "Approved" shall be construed accordingly;
- “Award Letter” (a) means the letter (including the Annexes thereto) from the Customer to the Supplier via the e-Sourcing Suite at the point of award;
- “Central Government Body” means a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics:
- (b) Government Department;
 - (c) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);
 - (d) Non-Ministerial Department; or
Executive Agency;
- “Charges” means the charges for the Services as specified in the Award Letter;
- “Confidential Information” means all information, whether written or oral (however recorded), provided by the disclosing Party to the receiving Party and which (i) is known by the receiving Party to be confidential; (ii) is marked as or stated to be confidential; or (iii) ought reasonably to be considered by the receiving Party to be confidential;
- “Controller” has the meaning given to it in the GDPR;
- “Customer” means the Contracting Authority/Customer named in the Award Letter;
- “Customer Data” means:
- a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, including any Customer’s Confidential Information, and which:
 - i) are supplied to the Supplier by or on behalf of the Customer; or
 - ii) the Supplier is required to generate, process, store or transmit pursuant to this Agreement; or
 - b) any Personal Data for which the Customer is the Data Controller;

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“Data Loss Event”	any event that results, or may result, in unauthorised access to Personal Data held by the Processor under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach;
“Data Protection Legislation”	(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;
“Data Protection Impact Assessment”	an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data.
“Data Protection Officer”	has the meaning given to it in the GDPR;
“Data Subject”	has the meaning given to it in the GDPR;
“Data Subject Request”	a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.
“Delivery”	means delivery in accordance with the terms of and accepted by the Customer and "Deliver" and "Delivered" shall be construed accordingly
“DPA”	means the Data Protection Act 2018;
“Employment Regulations”	means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) ('TUPE') which implements the Acquired Rights Directive;
“Exclusive Assets”	means those Supplier Assets used by the Supplier or a Key Sub-Contractor which are used exclusively in the provision of the Services;
“Expiry Date”	means the date for expiry of the Agreement as set out in the Award Letter;
“Exit Information”	the exit information required under paragraph 2 of Annex 6;
“Exit Manager”	means the person appointed by each Party pursuant to Annex 6 for managing the Parties' respective obligations under that Annex;
“FOIA”	means the Freedom of Information Act 2000;
“Information”	has the meaning given under section 84 of the FOIA;
“Key Personnel”	means any persons specified as such in the Award Letter or otherwise notified as such by the Customer to the Supplier in writing;
“Law”	means any law, subordinate legislation within the meaning of Section

21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Processor is bound to comply;

“Net Value”	Book	means the net book value of the relevant Supplier Asset(s) calculated in accordance with the depreciation policy of the Supplier set out in the letter in the agreed form from the Supplier to the Customer of even date with this Call Off Contract;
“Party”		means the Supplier or the Customer (as appropriate) and “Parties” shall mean both of them;
“Personal Data”		has the meaning given to it in the GDPR;
“Personal Data Breach”		has the meaning given to it in the GDPR;
“Processor”		has the meaning given to it in the GDPR;
“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;
“Purchase Order Number”		means the Customer’s unique number relating to the supply of the Services;
“Request for Information”		has the meaning set out in the FOIA or the Environmental Information Regulations 2004 as relevant (where the meaning set out for the term “request” shall apply);
“Registers”		means the register and configuration database referred to in paragraphs 3.1.1 and 3.1.2 of Annex 6;
“Relevant Transfer”		A transfer of employment to which the Employment Regulations applies.
“Replacement Supplier”		means any third party provider of Replacement Services appointed by or at the direction of the Customer from time to time or where the Customer is providing Replacement Services for its own account, shall also include the Customer;
“Replacement Services”		Any services which are the same as or substantially similar to any of the Services and which the Customer receives in substitution for any of the Services after the expiry or termination or partial termination of the Agreement, whether those services are provided by the Customer or a third party.
“Services”		means the services to be supplied by the Supplier to the Customer under the Agreement;
“Service Transfer”		any transfer of the Services (or any part of the Services), for whatever reason, from the Supplier or any Sub-Contractor to a Replacement Supplier or a Replacement SubContractor;
“Service		the date of a Service Transfer or, if more than one, the date of the

“Transfer Date”	relevant Service Transfer as the context requires;
“Sites”	means any premises (including the Customer Premises, the Supplier’s premises or third party premises) from, to or at which: a) the Services are (or are to be) provided; or b) the Supplier manages, organises or otherwise directs the provision or the use of the Services;
“Specification”	means the specification for the Services (including as to quantity, description and quality) as specified in the Award Letter;
“Start Date”	means the commencement date of the Agreement as set out in the Award Letter;
“Staff”	means all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any sub-contractor of the Supplier engaged in the performance of the Supplier’s obligations under the Agreement;
“Staffing Information”	means the information set out in Appendix 2 of Annex 6;
“Staff Vetting Procedures”	means vetting procedures that accord with good industry practice or, where requested by the Customer, the Customer’s procedures for the vetting of personnel as provided to the Supplier from time to time;
“Sub-Contract”	means any contract or agreement (or proposed contract or agreement) pursuant to which a third party: a) provides the Services (or any part of them); b) provides facilities or services necessary for the provision of the Services (or any part of them); and/or c) is responsible for the management, direction or control of the provision of the Services (or any part of them);
“Sub-Contractor”	means any person other than the Supplier, who is a party to a Sub-Contract and the servants or agents of that person;
“Sub-processor”	any third Party appointed to process Personal Data on behalf of that Processor related to this Agreement
“Supplier”	means the person named as Supplier in the Award Letter;
“Supplier Assets”	means all assets and rights used by the Supplier to provide the Services in accordance with this Agreement but excluding any of the customer’s assets;
“Supplier’s Final Personnel List”	a list provided by the Supplier of all Supplier Personnel who will transfer under the Employment Regulations on the Service Transfer Date;
“Supplier Personnel”	means all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Sub-Contractor engaged in the performance of the Supplier’s obligations under this Agreement;
“Term”	means the period from the Start Date of the Agreement set out in the Award Letter to the Expiry Date as such period may be extended in

	accordance with clause 4.2 or terminated in accordance with the terms and conditions of the Agreement;
“Transferable Assets”	means those of the Exclusive Assets which are capable of legal transfer to the Customer;
“Transferring Contracts”	has the meaning given to it in paragraph 15.2.2 of Annex 6;
“Transferring Supplier Employees”	means those employees of the Supplier and/or the Supplier’s Sub-Contractors to whom the Employment Regulations will apply on the Service Transfer Date;
“VAT”	means value added tax in accordance with the provisions of the Value Added Tax Act 1994; and
“Working Day”	means a day (other than a Saturday or Sunday) on which banks are open for business in the City of London.

1.2 In these terms and conditions, unless the context otherwise requires:

- 1.2.1 references to numbered clauses are references to the relevant clause in these terms and conditions;
- 1.2.2 any obligation on any Party not to do or omit to do anything shall include an obligation not to allow that thing to be done or omitted to be done;
- 1.2.3 the headings to the clauses of these terms and conditions are for information only and do not affect the interpretation of the Agreement;
- 1.2.4 any reference to an enactment includes reference to that enactment as amended or replaced from time to time and to any subordinate legislation or byelaw made under that enactment; and
- 1.2.5 the word ‘including’ shall be understood as meaning ‘including without limitation’.

2 BASIS OF AGREEMENT

- 2.1 The Award Letter constitutes an offer by the Customer to purchase the Services subject to and in accordance with the terms and conditions of the Agreement.
- 2.2 The offer comprised in the Award Letter shall be deemed to be accepted by the Supplier on receipt by the Customer, within 7 days of the date of the award letter, of a copy of the Award Letter countersigned by the Supplier.

3 SUPPLY OF SERVICES

- 3.1 In consideration of the Customer’s agreement to pay the Charges, the Supplier shall supply the Services to the Customer for the Term subject to and in accordance with the terms and conditions of the Agreement.
- 3.2 In supplying the Services, the Supplier shall:
 - 3.2.1 co-operate with the Customer in all matters relating to the Services and comply with all the Customer’s instructions;
 - 3.2.2 perform the Services with all reasonable care, skill and diligence in accordance with good industry practice in the Supplier’s industry, profession or trade;
 - 3.2.3 use Staff who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier’s obligations are

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fulfilled in accordance with the Agreement;

- 3.2.4 ensure that the Services shall conform with all descriptions, requirements, service levels and specifications set out in the Specification;
 - 3.2.5 comply with all applicable laws; and
 - 3.2.6 provide all equipment, tools and vehicles and other items as are required to provide the Services.
- 3.3 The Customer may by written notice to the Supplier at any time request a variation to the scope of the Services. In the event that the Supplier agrees to any variation to the scope of the Services, the Charges shall be subject to fair and reasonable adjustment to be agreed in writing between the Customer and the Supplier.

4 TERM

- 4.1 The Agreement shall take effect on the Start Date and shall expire on the Expiry Date, unless it is otherwise extended in accordance with clause 4.2 or terminated in accordance with the terms and conditions of the Agreement.
- 4.2 The Customer may extend the Agreement for a period of up to 12 months for two periods by giving not less than 12 weeks' notice in writing to the Supplier prior to the Expiry Date. The terms and conditions of the Agreement shall apply throughout any such extended period.

5 CHARGES, PAYMENT AND RECOVERY OF SUMS DUE

- 5.1 The Charges for the Services shall be as set out in the Award Letter and shall be the full and exclusive remuneration of the Supplier in respect of the supply of the Services. Unless otherwise agreed in writing by the Customer, the Charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.
- 5.2 All amounts stated are exclusive of VAT which shall be charged at the prevailing rate. The Customer shall, following the receipt of a valid VAT invoice, pay to the Supplier a sum equal to the VAT chargeable in respect of the Services.
- 5.3 The Supplier shall invoice the Customer as specified in the Agreement. Each invoice shall include such supporting information required by the Customer to verify the accuracy of the invoice, including the relevant Purchase Order Number and a breakdown of the Services supplied in the invoice period.
- 5.4 In consideration of the supply of the Services by the Supplier, the Customer shall pay the Supplier the invoiced amounts no later than 30 days after verifying that the invoice is valid and undisputed and includes a valid Purchase Order Number. The Customer may, without prejudice to any other rights and remedies under the Agreement, withhold or reduce payments in the event of unsatisfactory performance.
- 5.5 If the Customer fails to consider and verify an invoice in a timely fashion the invoice shall be regarded as valid and undisputed for the purpose of paragraph 5.4 after a reasonable time has passed.
- 5.6 If there is a dispute between the Parties as to the amount invoiced, the Customer shall pay the undisputed amount. The Supplier shall not suspend the supply of the Services unless the Supplier is entitled to terminate the Agreement for a failure to pay undisputed sums in accordance with clause 16.4. Any disputed amounts shall be resolved through the dispute resolution procedure detailed in clause 19.

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- 5.7 If a payment of an undisputed amount is not made by the Customer by the due date, then the Customer shall pay the Supplier interest at the interest rate specified in the Late Payment of Commercial Debts (Interest) Act 1998.
- 5.8 Where the Supplier enters into a sub-contract, the Supplier shall include in that sub-contract:
- 5.8.1 provisions having the same effects as clauses 5.3 to 5.7 of this Agreement; and
 - 5.8.2 a provision requiring the counterparty to that sub-contract to include in any sub-contract which it awards provisions having the same effect as 5.3 to 5.8 of this Agreement.
 - 5.8.3 In this clause 5.8, “sub-contract” means a contract between two or more suppliers, at any stage of remoteness from the Customer in a subcontracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Agreement.
- 5.9 If any sum of money is recoverable from or payable by the Supplier under the Agreement (including any sum which the Supplier is liable to pay to the Customer in respect of any breach of the Agreement), that sum may be deducted unilaterally by the Customer from any sum then due, or which may come due, to the Supplier under the Agreement or under any other agreement or contract with the Customer. The Supplier shall not be entitled to assert any credit, set-off or counterclaim against the Customer in order to justify withholding payment of any such amount in whole or in part.

6 PREMISES AND EQUIPMENT

- 6.1 If necessary, the Customer shall provide the Supplier with reasonable access at reasonable times to its premises for the purpose of supplying the Services. All equipment, tools and vehicles brought onto the Customer’s premises by the Supplier or the Staff shall be at the Supplier’s risk.
- 6.2 If the Supplier supplies all or any of the Services at or from the Customer’s premises, on completion of the Services or termination or expiry of the Agreement (whichever is the earlier) the Supplier shall vacate the Customer’s premises, remove the Supplier’s plant, equipment and unused materials and all rubbish arising out of the provision of the Services and leave the Customer’s premises in a clean, safe and tidy condition. The Supplier shall be solely responsible for making good any damage to the Customer’s premises or any objects contained on the Customer’s premises which is caused by the Supplier or any Staff, other than fair wear and tear.
- 6.3 If the Supplier supplies all or any of the Services at or from its premises or the premises of a third party, the Customer may, during normal business hours and on reasonable notice, inspect and examine the manner in which the relevant Services are supplied at or from the relevant premises.
- 6.4 The Customer shall be responsible for maintaining the security of its premises in accordance with its standard security requirements. While on the Customer’s premises the Supplier shall, and shall procure that all Staff shall, comply with all the Customer’s security requirements.
- 6.5 Where all or any of the Services are supplied from the Supplier’s premises, the Supplier shall, at its own cost, comply with all security requirements specified by the Customer in

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writing.

- 6.6 Without prejudice to clause 3.2.6, any equipment provided by the Customer for the purposes of the Agreement shall remain the property of the Customer and shall be used by the Supplier and the Staff only for the purpose of carrying out the Agreement. Such equipment shall be returned promptly to the Customer on expiry or termination of the Agreement.
- 6.7 The Supplier shall reimburse the Customer for any loss or damage to the equipment (other than deterioration resulting from normal and proper use) caused by the Supplier or any Staff. Equipment supplied by the Customer shall be deemed to be in a good condition when received by the Supplier or relevant Staff unless the Customer is notified otherwise in writing within 5 Working Days.

7 STAFF AND KEY PERSONNEL

- 7.1 If the Customer reasonably believes that any of the Staff are unsuitable to undertake work in respect of the Agreement, it may, by giving written notice to the Supplier:
- 7.1.1 refuse admission to the relevant person(s) to the Customer's premises;
 - 7.1.2 direct the Supplier to end the involvement in the provision of the Services of the relevant person(s); and/or
 - 7.1.3 require that the Supplier replace any person removed under this clause with another suitably qualified person and procure that any security pass issued by the Customer to the person removed is surrendered,

and the Supplier shall comply with any such notice.

- 7.2 The Supplier shall:
- 7.2.1 ensure that all Staff are vetted in accordance with the Staff Vetting Procedures;
 - 7.2.2 if requested, provide the Customer with a list of the names and addresses (and any other relevant information) of all persons who may require admission to the Customer's premises in connection with the Agreement; and
 - 7.2.3 procure that all Staff comply with any rules, regulations and requirements reasonably specified by the Customer.
- 7.3 Any Key Personnel shall not be released from supplying the Services without the agreement of the Customer, except by reason of long-term sickness, parental leave and termination of employment or other extenuating circumstances.
- 7.4 Any replacements to the Key Personnel shall be subject to the prior written agreement of the Customer (not to be unreasonably withheld). Such replacements shall be of at least equal status or of equivalent experience and skills to the Key Personnel being replaced and be suitable for the responsibilities of that person in relation to the Services.

8 ASSIGNMENT AND SUB-CONTRACTING

- 8.1 The Supplier shall not without the written consent of the Customer assign, sub-contract, novate or in any way dispose of the benefit and/ or the burden of the Agreement or any part of the Agreement. The Customer may, in the granting of such consent, provide for additional terms and conditions relating to such assignment, sub-contract, novation or disposal. The Supplier shall be responsible for the acts and omissions of its sub-contractors as though those acts and omissions were its own.
- 8.2 Where the Customer has consented to the placing of sub-contracts, the Supplier shall, at the request of the Customer, send copies of each sub-contract, to the Customer as

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soon as is reasonably practicable.

- 8.3 The Customer may assign, novate, or otherwise dispose of its rights and obligations under the Agreement without the consent of the Supplier provided that such assignment, novation or disposal shall not increase the burden of the Supplier's obligations under the Agreement.

9 INTELLECTUAL PROPERTY RIGHTS

- 9.1 All intellectual property rights in any materials provided by the Customer to the Supplier for the purposes of this Agreement shall remain the property of the Customer or the respective owner of such intellectual property rights but the Customer hereby grants the Supplier a royalty-free, non-exclusive and non-transferable licence to use such materials as required until termination or expiry of the Agreement for the sole purpose of enabling the Supplier to perform its obligations under the Agreement.

- 9.2 All intellectual property rights in any materials created or developed by the Supplier pursuant to the Agreement or arising as a result of the provision of the Services shall vest in the Supplier. If, and to the extent, that any intellectual property rights in such materials vest in the Customer by operation of law, the Customer hereby assigns to the Supplier by way of a present assignment of future rights that shall take place immediately on the coming into existence of any such intellectual property rights all its intellectual property rights in such materials (with full title guarantee and free from all third party rights).

- 9.3 The Supplier hereby grants the Customer:

9.3.1 a perpetual, royalty-free, irrevocable, non-exclusive licence (with a right to sub-license) to use all intellectual property rights in the materials created or developed pursuant to the Agreement and any intellectual property rights arising as a result of the provision of the Services; and

9.3.2 a perpetual, royalty-free, irrevocable and non-exclusive licence (with a right to sub-license) to use:

- (a) any intellectual property rights vested in or licensed to the Supplier on the date of the Agreement; and
- (b) any intellectual property rights created during the Term but which are neither created or developed pursuant to the Agreement nor arise as a result of the provision of the Services,

including any modifications to or derivative versions of any such intellectual property rights, which the Customer reasonably requires in order to exercise its rights and take the benefit of the Agreement including the Services provided.

- 9.4 The Supplier shall indemnify, and keep indemnified, the Customer in full against all costs, expenses, damages and losses (whether direct or indirect), including any interest, penalties, and reasonable legal and other professional fees awarded against or incurred or paid by the Customer as a result of or in connection with any claim made against the Customer for actual or alleged infringement of a third party's intellectual property arising out of, or in connection with, the supply or use of the Services, to the extent that the claim is attributable to the acts or omission of the Supplier or any Staff.

10 GOVERNANCE AND RECORDS

- 10.1 The Supplier shall:

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- 10.1.1 attend progress meetings with the Customer at the frequency and times specified by the Customer and shall ensure that its representatives are suitably qualified to attend such meetings; and
- 10.1.2 submit progress reports to the Customer at the times and in the format specified by the Customer.
- 10.2 The Supplier shall keep and maintain until 6 years after the end of the Agreement, or as long a period as may be agreed between the Parties, full and accurate records of the Agreement including the Services supplied under it and all payments made by the Customer. The Supplier shall on request afford the Customer or the Customer's representatives such access to those records as may be reasonably requested by the Customer in connection with the Agreement.

11 CONFIDENTIALITY, TRANSPARENCY AND PUBLICITY

- 11.1 Subject to clause 11.2, each Party shall:
- 11.1.1 treat all Confidential Information it receives as confidential, safeguard it accordingly and not disclose it to any other person without the prior written permission of the disclosing Party; and
- 11.1.2 not use or exploit the disclosing Party's Confidential Information in any way except for the purposes anticipated under the Agreement.
- 11.2 Notwithstanding clause 11.1, a Party may disclose Confidential Information which it receives from the other Party:
- 11.2.1 where disclosure is required by applicable law or by a court of competent jurisdiction;
- 11.2.2 to its auditors or for the purposes of regulatory requirements;
- 11.2.3 on a confidential basis, to its professional advisers;
- 11.2.4 to the Serious Fraud Office where the Party has reasonable grounds to believe that the other Party is involved in activity that may constitute a criminal offence under the Bribery Act 2010;
- 11.2.5 where the receiving Party is the Supplier, to the Staff on a need to know basis to enable performance of the Supplier's obligations under the Agreement provided that the Supplier shall procure that any Staff to whom it discloses Confidential Information pursuant to this clause 11.2.5 shall observe the Supplier's confidentiality obligations under the Agreement; and
- 11.2.6 where the receiving Party is the Customer:
- (a) on a confidential basis to the employees, agents, consultants and contractors of the Customer;
 - (b) on a confidential basis to any other Central Government Body, any successor body to a Central Government Body or any company to which the Customer transfers or proposes to transfer all or any part of its business;
 - (c) to the extent that the Customer (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions; or

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- (d) in accordance with clause 12 and for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the customer under this clause 11.

11.3 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of the Agreement is not Confidential Information and the Supplier hereby gives its consent for the Customer to publish this Agreement in its entirety to the general public (but with any information that is exempt from disclosure in accordance with the FOIA redacted) including any changes to the Agreement agreed from time to time. The Customer may consult with the Supplier to inform its decision regarding any redactions but shall have the final decision in its absolute discretion whether any of the content of the Agreement is exempt from disclosure in accordance with the provisions of the FOIA.

11.4 The Supplier shall not, and shall take reasonable steps to ensure that the Staff shall not, make any press announcement or publicise the Agreement or any part of the Agreement in any way, except with the prior written consent of the Customer.

12 FREEDOM OF INFORMATION

12.1 The Supplier acknowledges that the Customer is subject to the requirements of the FOIA and the Environmental Information Regulations 2004 and shall:

12.1.1 provide all necessary assistance and cooperation as reasonably requested by the Customer to enable the Customer to comply with its obligations under the FOIA and the Environmental Information Regulations 2004;

12.1.2 transfer to the Customer all Requests for Information relating to this Agreement that it receives as soon as practicable and in any event within 2 Working Days of receipt;

12.1.3 provide the Customer with a copy of all Information belonging to the Customer requested in the Request for Information which is in its possession or control in the form that the Customer requires within 5 Working Days (or such other period as the Customer may reasonably specify) of the Customer's request for such Information; and

12.1.4 not respond directly to a Request for Information addressed to the Customer or in respect of information held by the Supplier on behalf of the Customer unless authorised in writing to do so by the Customer.

12.2 The Supplier acknowledges that the Customer may be required under the FOIA and the Environmental Information Regulations 2004 to disclose Information concerning the Supplier or the Services (including commercially sensitive information) without consulting or obtaining consent from the Supplier. In these circumstances the Customer shall, in accordance with any relevant guidance issued under the FOIA, take reasonable steps, where appropriate, to give the Supplier advance notice, or failing that, to draw the disclosure to the Supplier's attention after any such disclosure.

12.3 Notwithstanding any other provision in the Agreement, the Customer shall be responsible for determining in its absolute discretion whether any Information relating to the Supplier or the Services is exempt from disclosure in accordance with the FOIA

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and/or the Environmental Information Regulations 2004.

12.4 The Customer acknowledges that the Supplier has made a public statement that it is not subject to the FOIA and the Environmental Information Regulations 2004 but that it will comply with request made under the legislation as if it were. The Parties acknowledge and agree that the Supplier's public statement for the purposes of this Agreement (and its commitment to comply with a request), is only intended to apply to requests for information where the request is not for information which is held by the Customer or by the Supplier on behalf of the Customer. The provisions of this Clause 12 shall continue to apply to all Requests for Information where the Customer holds the information or where the Supplier holds Customer information on the Customer's behalf.

13 PROTECTION OF PERSONAL DATA AND SECURITY OF DATA

13.1 The Supplier shall, and shall procure that all Staff shall, comply with any notification requirements under Data Protection Legislation and both Parties shall duly observe all their obligations under Data Protection Legislation which arise in connection with the Agreement.

13.2 REPLACED BY ANNEX 6 IN RELATION TO PROTECTION OF PERSONAL DATA

13.3 When handling Customer data (whether or not Personal Data), the Supplier shall ensure the security of the data is maintained in line with the security requirements of the Customer as notified to the Supplier from time to time.

14 LIABILITY

14.1 The Supplier shall not be responsible for any injury, loss, damage, cost or expense suffered by the Customer if and to the extent that it is caused by the negligence or wilful misconduct of the Customer or by breach by the Customer of its obligations under the Agreement.

14.2 Subject always to clauses 14.3 and 14.4:

14.2.1 the aggregate liability of the Supplier in respect of all defaults, claims, losses or damages howsoever caused, whether arising from breach of the Agreement, the supply or failure to supply of the Services, misrepresentation (whether tortious or statutory), tort (including negligence), breach of statutory duty or otherwise shall in no event exceed a sum equal to 125% of the Charges paid or payable to the Supplier; and

14.2.2 except in the case of claims arising under clauses 9.4 and 18.3, in no event shall the Supplier be liable to the Customer for any:

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

14.3 Nothing in the Agreement shall be construed to limit or exclude either Party's liability for:

14.3.1 death or personal injury caused by its negligence or that of its Staff;

14.3.2 fraud or fraudulent misrepresentation by it or that of its Staff; or

14.3.3 any other matter which, by law, may not be excluded or limited.

14.4 The Supplier's liability under the indemnity in clause 9.4 and 18.3 shall be unlimited.

15 FORCE MAJEURE

Neither Party shall have any liability under or be deemed to be in breach of the Agreement for any delays or failures in performance of the Agreement which result from circumstances beyond the reasonable control of the Party affected. Each Party shall promptly notify the other Party in writing when such circumstances cause a delay or failure in performance and when they cease to do so. If such circumstances continue for a continuous period of more than two months, either Party may terminate the Agreement by written notice to the other Party.

16 TERMINATION

16.1 The Customer may terminate the Agreement at any time by notice in writing to the Supplier to take effect on any date falling at least 12 weeks later than the date of service of the relevant notice.

16.2 Without prejudice to any other right or remedy it might have, the Customer may terminate the Agreement by written notice to the Supplier with immediate effect if the Supplier:

16.2.1 (without prejudice to clause 16.2.5), is in material breach of any obligation under the Agreement which is not capable of remedy;

16.2.2 repeatedly breaches any of the terms and conditions of the Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms and conditions of the Agreement;

16.2.3 is in material breach of any obligation which is capable of remedy, and that breach is not remedied within 30 days of the Supplier receiving notice specifying the breach and requiring it to be remedied;

16.2.4 undergoes a change of control within the meaning of section 416 of the Income and Corporation Taxes Act 1988;

16.2.5 breaches any of the provisions of clauses 7.2, 11, 12, 13 and 17;

16.2.6 becomes insolvent, or if an order is made or a resolution is passed for the winding up of the Supplier (other than voluntarily for the purpose of solvent amalgamation or reconstruction), or if an administrator or administrative receiver is appointed in respect of the whole or any part of the Supplier's assets or business, or if the Supplier makes any composition with its creditors or takes or suffers any similar or analogous action (to any of the actions detailed in this clause 16.2.6) in consequence of debt in any jurisdiction; or

16.2.7 fails to comply with legal obligations in the fields of environmental, social or labour law.

16.3 The Supplier shall notify the Customer as soon as practicable of any change of control as referred to in clause 16.2.4 or any potential such change of control.

16.4 The Supplier may terminate the Agreement by written notice to the Customer if the Customer has not paid any undisputed amounts within 90 days of them falling due.

16.5 Termination or expiry of the Agreement shall be without prejudice to the rights of either Party accrued prior to termination or expiry and shall not affect the continuing rights of the Parties under this clause and clauses 2, 3.2, 6.1, 6.2, 6.6, 6.7, 7, 9, 10.2, 11, 12, 13, 14, 16.6, 17.4, 18.3, 19 and 20.7 or any other provision of the Agreement that either

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expressly or by implication has effect after termination.

16.6 Upon termination or expiry of the Agreement, the Supplier shall:

- 16.6.1 give all reasonable assistance to the Customer and any incoming supplier of the Services; and
- 16.6.2 return all requested documents, information and data to the Customer as soon as reasonably practicable.

17 COMPLIANCE

17.1 The Supplier shall promptly notify the Customer of any health and safety hazards which may arise in connection with the performance of its obligations under the Agreement. The Customer shall promptly notify the Supplier of any health and safety hazards which may exist or arise at the Customer's premises and which may affect the Supplier in the performance of its obligations under the Agreement.

17.2 The Supplier shall:

- 17.2.1 comply with all the Customer's health and safety measures while on the Customer's premises; and
- 17.2.2 notify the Customer immediately in the event of any incident occurring in the performance of its obligations under the Agreement on the Customer's premises where that incident causes any personal injury or damage to property which could give rise to personal injury.

17.3 The Supplier shall:

- 17.3.1 perform its obligations under the Agreement in accordance with all applicable equality Law and the Customer's equality and diversity policy as provided to the Supplier from time to time; and
- 17.3.2 take all reasonable steps to secure the observance of clause 17.3.1 by all Staff.

17.4 The Supplier shall supply the Services in accordance with the Customer's environmental policy as provided to the Supplier from time to time.

17.5 The Supplier shall comply with, and shall ensure that its Staff shall comply with, the provisions of:

- 17.5.1 the Official Secrets Acts 1911 to 1989; and
- 17.5.2 section 182 of the Finance Act 1989.

18 PREVENTION OF FRAUD AND CORRUPTION

18.1 The Supplier shall not offer, give, or agree to give anything, to any person an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of the Agreement or for showing or refraining from showing favour or disfavour to any person in relation to the Agreement.

18.2 The Supplier shall take all reasonable steps, in accordance with good industry practice, to prevent fraud by the Staff and the Supplier (including its shareholders, members and directors) in connection with the Agreement and shall notify the Customer immediately if it has reason to suspect that any fraud has occurred or is occurring or is likely to occur.

18.3 If the Supplier or the Staff engages in conduct prohibited by clause 18.1 or commits fraud in relation to the Agreement or any other contract with the Crown (including the Customer) the Customer may:

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- 18.3.1 terminate the Agreement and recover from the Supplier the amount of any loss suffered by the Customer resulting from the termination, including the cost reasonably incurred by the Customer of making other arrangements for the supply of the Services and any additional expenditure incurred by the Customer throughout the remainder of the Agreement; or
- 18.3.2 recover in full from the Supplier any other loss sustained by the Customer in consequence of any breach of this clause.

19 DISPUTE RESOLUTION

- 19.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Agreement and such efforts shall involve the escalation of the dispute to an appropriately senior representative of each Party.
- 19.2 If the dispute cannot be resolved by the Parties within one month of being escalated as referred to in clause 19.1, the dispute may by agreement between the Parties be referred to a neutral adviser or mediator (the “**Mediator**”) chosen by agreement between the Parties. All negotiations connected with the dispute shall be conducted in confidence and without prejudice to the rights of the Parties in any further proceedings.
- 19.3 If the Parties fail to appoint a Mediator within one month, or fail to enter into a written agreement resolving the dispute within one month of the Mediator being appointed, either Party may exercise any remedy it has under applicable law.

20 GENERAL

- 20.1 Each of the Parties represents and warrants to the other that it has full capacity and Customer, and all necessary consents, licences and permissions to enter into and perform its obligations under the Agreement, and that the Agreement is executed by its duly authorised representative.
- 20.2 A person who is not a party to the Agreement shall have no right to enforce any of its provisions which, expressly or by implication, confer a benefit on him, without the prior written agreement of the Parties.
- 20.3 The Agreement cannot be varied except in writing signed by a duly authorised representative of both the Parties.
- 20.4 The Agreement contains the whole agreement between the Parties and supersedes and replaces any prior written or oral agreements, representations or understandings between them. The Parties confirm that they have not entered into the Agreement on the basis of any representation that is not expressly incorporated into the Agreement. Nothing in this clause shall exclude liability for fraud or fraudulent misrepresentation.
- 20.5 Any waiver or relaxation either partly, or wholly of any of the terms and conditions of the Agreement shall be valid only if it is communicated to the other Party in writing and expressly stated to be a waiver. A waiver of any right or remedy arising from a breach of contract shall not constitute a waiver of any right or remedy arising from any other breach of the Agreement.
- 20.6 The Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Parties other than the contractual relationship expressly provided for in the Agreement. Neither Party shall have, nor represent that it has, any Customer to make any commitments on the other Party's behalf.

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- 20.7 Except as otherwise expressly provided by the Agreement, all remedies available to either Party for breach of the Agreement (whether under the Agreement, statute or common law) are cumulative and may be exercised concurrently or separately, and the exercise of one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.
- 20.8 If any provision of the Agreement is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from the Agreement and rendered ineffective as far as possible without modifying the remaining provisions of the Agreement, and shall not in any way affect any other circumstances of or the validity or enforcement of the Agreement.

21 NOTICES

- 21.1 Any notice to be given under the Agreement shall be in writing and may be served by personal delivery, first class recorded or, subject to clause 21.3, e-mail to the address of the relevant Party set out in the Award Letter, or such other address as that Party may from time to time notify to the other Party in accordance with this clause:
- 21.2 Notices served as above shall be deemed served on the Working Day of delivery provided delivery is before 5.00pm on a Working Day. Otherwise delivery shall be deemed to occur on the next Working Day. An email shall be deemed delivered when sent unless an error message is received.
- 21.3 Notices under clauses 15 (Force Majeure) and 16 (Termination) may be served by email only if the original notice is then sent to the recipient by personal delivery or recorded delivery in the manner set out in clause 21.1.

22 GOVERNING LAW AND JURISDICTION

The validity, construction and performance of the Agreement, and all contractual and non-contractual matters arising out of it, shall be governed by English law and shall be subject to the exclusive jurisdiction of the English courts to which the Parties submit.



ANNEX 2 – PRICE SCHEDULE

The Supplier's monthly rates are below as per submission on Tuesday 22nd October 2019.
These rates will remain firm for the duration of the contract.

Redacted

ANNEX 3 – STATEMENT OF REQUIREMENTS

1. PURPOSE

- 1.1 The Office of Government Property (OGP) wishes to contract the Improvement and Development Agency, part of the Local Government Association (LGA), to work in collaboration with OGP to deliver the One Public Estate (OPE) programme.

2. BACKGROUND TO THE CONTRACTING AUTHORITY

- 2.1 The Office of Government Property (then the Government Property Unit) was established in 2010 within the Cabinet Office. The unit has central oversight over government land and property and works collaboratively across the Civil Service to:
- 2.1.1 create an effective and efficient government estate
 - 2.1.2 provide value for money for the taxpayer
 - 2.1.3 dispose of surplus property in a way that maximises financial return
 - 2.1.4 boost growth and create new homes
- 2.2 The OPE programme, run jointly by OGP and the LGA, supports collaboration on land and property initiatives at a local level and helps local authorities take a leading role locally on asset management.

3. BACKGROUND TO REQUIREMENT/OVERVIEW OF REQUIREMENT

- 3.1 The OPE Programme is a pioneering initiative delivered by OGP in collaboration with the LGA. The programme channels funding and practical and technical support through local authorities to deliver collaborative property-focused projects with central government and other partners. The OGP and LGA collaboration is critical to the programme's credibility, influence and impact with local government, and supports the development of central government policy that tackles cross-public sector property issues.
- 3.2 The OPE programme has four core objectives:
- 3.2.1 Create economic growth, including new homes and jobs
 - 3.2.2 Deliver more integrated and customer-focused services
 - 3.2.3 Generate capital receipts
 - 3.2.4 Reduce running costs
- 3.3 Joint delivery of the programme between OGP and the LGA helps to create an effective way of working between local and central government and the wider public sector. As the representative body of local government, the LGA is the only organisation that has the relevant experience, knowledge and expertise in local government to help deliver the OPE programme.

- 3.4 Joint delivery of the programme is achieved through a combined, regionally based delivery team, details of which can be found in Annex A – Team Structure.
- 3.5 The LGA has an in-depth understanding of the political landscape and challenges of local government that are invaluable to the programme’s successful delivery. The LGA have a trusted and established relationship with all local authorities in England, which provides the credibility to directly manage OPE’s engagement with them. This could not be achieved by OGP working alone and is critical to the delivery of the programme.
- 3.6 In 2017, OPE entered into a partnership with the Ministry for Housing, Communities and Local Government (MHCLG) to deliver the £45m Land Release Fund (LRF). The LRF aims to accelerate the release of council land to meet the ambition to release land for new homes. The OPE programme is critical to supporting the LRF programme targets, including monitoring progress and unblocking issues.
- 3.7 Through its governance structure, OPE currently reports programme benefits to the SROs for OPE and LRF, OGP SMT, Property Leaders, and EXCO. Land released for housing data is also reported to the MHCLG Land for Housing Board as part of the ambition to meet the respective 160,000 homes targets for local and central government. The Minister for the Cabinet Office is also updated regularly on programme performance and OPE will be reporting benefits on a quarterly basis to CO Finance and HMT.
- 3.8 The OGP will hereafter be referred to as ‘the Authority’ and the LGA will hereafter be referred to as ‘the Supplier’.

4. DEFINITIONS

Expression or Acronym	Definition
OPE	One Public Estate programme
LRF	Land Release Fund
OGP	Office of Government Property (Cabinet Office)
MHCLG	Ministry of Housing, Communities and Local Government
LGA	Local Government Association
PEG	Programme Executive Group
SLT	Senior Leadership Team

5. SCOPE OF REQUIREMENT

- 5.1 The scope of the Supplier’s contribution sits within the OPE programme, including all aspects of its delivery as outlined in The Requirement (section 6) in collaboration with the Authority, with a specific responsibility to take the lead on local government aspects.

6. THE REQUIREMENT

- 6.1 The Supplier will work as a blended team with the Authority, provide practical advice, challenge and support to local authorities and public sector partnerships to drive delivery of local OPE and LRF programmes and enable them to achieve expected outcomes. This includes the employment of a team (as outlined in Annex A – Team Structure) of Regional Programme Managers to provide support and challenge to local OPE partnerships.
- 6.2 The Supplier shall contribute to influence change across the public sector assets landscape, including participating in seminars, workshops and conferences. The Supplier will engage in discussions on new tools for local authorities, public sector bodies and with experts to develop proposals for new offers throughout the programme, e.g. investment.
- 6.3 The Supplier shall work as a blended team with the Authority to support OPE partnerships. They will facilitate dialogue with, and secure engagement of other key public estate holders in localities for the aim of identifying, developing and delivering OPE projects. This includes delivering the homes this country needs, in particular making the most of surplus land already in public ownership and supporting Local Authorities to release their land.
- 6.4 The Supplier will be expected to complete the following activities in relation to strategic relationship engagement and management:
- 6.4.1 Support local government to maintain robust and sustainable OPE governance arrangements at a senior level (senior directors and chief executives) in all OPE Partnerships, with membership reflecting local area partners.
 - 6.4.2 Actively seek opportunities to increase the impact and visibility of the programme.
 - 6.4.3 Broker relationships between local public sector partners and act as neutral mediators in delivery issues.
 - 6.4.4 Attend OPE Partnership boards.
 - 6.4.5 Recruit and maintain a skilled programme team representative of regional operational staff, programme leadership and support staff.
- 6.5 The Supplier shall support delivery and obtain information on land assets and disposal plans using existing OPE partnerships (coverage of 95% of Local Authorities). They will also support effective governance of the programme within OPE partnerships and centrally with the Authority's programme team.
- 6.6 The Supplier shall deliver day-to-day management of the programme alongside the Authority's programme team to develop working relationships with OPE partnerships, enabling the realisation of the benefits to wider place-based working. This will include providing ongoing programme intelligence, best practice and shared learning for local government to help the OPE programme support all partnerships. This will include the following tasks:

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- 6.6.1 Support benefits delivery through engagement with and assistance provided to OPE Partnerships and project owners.
 - 6.6.2 Assistance to unblock barriers to delivery and partnership working.
 - 6.6.3 Seek and support innovative solutions to challenges in delivering OPE funded projects
 - 6.6.4 Sharing programme best practice
 - 6.6.5 Enabling local social value to be achieved through economic growth
 - 6.6.6 Developing and maintaining a library of case studies and best practise examples.
 - 6.6.7 Facilitating opportunities workshops.
 - 6.6.8 Promoting the Pool of Experts.
- 6.7 The Supplier shall administer the local partnerships application process for OPE funding, bid assessment process within the OPE team and other government departments. They will also award funding to successful projects and provide detailed feedback to each bidding partnership. This will include the following tasks:
- 6.7.1 Support the launch and delivery of funding rounds and distribution of subsequent funding documentation; maximising the allocation of available funding.
 - 6.7.2 Promoting the programme and encouraging acceptable bids from partnerships.
 - 6.7.3 Support OPE Partnerships to submit accurate proposals and meet the pre-selection criteria.
 - 6.7.4 Obtain and accurately collate bank details for each partnership awarded funding.
 - 6.7.5 Distributing and collating project delivery plans and agreements with Partnerships.
- 6.8 The Supplier shall support the OPE programme reporting procedures and provide ongoing monitoring and management of projects and partnerships to realise benefits. They will assemble and share relevant data on land and property, including local partner asset mapping. This will include the following activities:
- 6.8.1 Support the completion of OPE's tri-annual reporting process and maintenance of the quality of the programme data set, by contributing to the delivery of dashboards and reports to PEG.

- 6.8.2 Providing support to OPE Partnerships to complete tri-annual reports.
- 6.8.3 Ensuring accurate and quality data is collated and input into the Mastersheet.
- 6.8.4 Identify and raise any risks to the delivery of reports to PEG.
- 6.8.5 Compile accurate content for inclusion in PEG papers.
- 6.8.6 Collation of appropriate evidence from Partnerships to enable the validation of benefits tri-annually.
- 6.9 The Supplier is expected to effectively deliver management of individual project and partnership programme risk through the development of agreed risk processes and implementation of prioritised approaches to delivery to minimise risk. This will include the following activities:
 - 6.9.1 Identification and monitoring of individual project risks and OPE Partnership risks. Consideration of programme level risks. Development and implementation of activity to mitigate risks.
 - 6.9.2 Identifying, assessing, addressing, reporting, escalating and reviewing risks.
- 6.10 The Supplier will provide robust change management by providing early warning of proposed changes that will affect programme delivery. This will include the following activities:
 - 6.10.1 Support effective management of changes that will affect programme delivery.
 - 6.10.2 Communicating the change request process to OPE Partnerships
 - 6.10.3 Supporting partnerships to identify the need for change requests.
 - 6.10.4 Retain and support a change control log
 - 6.10.5 Assess change requests from partnerships and negotiate acceptable changes.
 - 6.10.6 Provide change request recommendations to SLT/PEG.
- 6.11 They should ensure that projects are effectively evaluated including learning reviews and project closure processes including:
 - 6.11.1 Support the development of an effective Project Closure and Evaluation process.
 - 6.11.2 Contributing to the Project Closure and Evaluation Strategy.
 - 6.11.3 Contributing to the development of the process for the completion of project learning reviews.

- 6.12 The Supplier shall enable and support programme growth by seeking innovative approaches to programme investment. This will include the following activities:
- 6.12.1 Enable and support programme growth through innovative approaches to programme investment.
 - 6.12.2 Identifying and developing alternative funding models with partnerships.
 - 6.12.3 Support partnership OPE bids to include sustainable grant proposals.
 - 6.12.4 Identify sustainable and innovative OPE activity and share best practices.
- 6.13 They will contribute to the programmes strategic communications, by developing a communications plan, identifying opportunities to promote the programme and through having a presence at events. This will include the following activities:
- 6.13.1 Increase the profile of OPE and LRF.
 - 6.13.2 Identifying opportunities to promote OPE and LRF to relevant stakeholders.
 - 6.13.3 Promote OPE and LRF to relevant stakeholders
 - 6.13.4 Support the development of a library of case studies to reflect the breadth of the programme.
- 6.14 The Authority and the Supplier are jointly responsible for the delivery of the OPE programme. This means at any point, either party may take more of a lead in facilitating OPE relationships.
- 6.15 The Authority and the Supplier will work in collaboration to identify who is best suited to support the activity required. This could include the Authority leading the development of links between OPE and Government Departments or the Supplier engaging local authorities with sensitive or difficult messages
- 6.16 The Authority are responsible for agreeing funding awards, authorising spend and making grant payments, in line with Cabinet Office policies and procedures.

7. KEY MILESTONES AND DELIVERABLES

7.1 The following Contract milestones/deliverables shall apply:

Milestone/Deliverable	Description	Timeframe or Delivery Date
1	Support delivery of OPE programme benefits of £615m capital receipts, £158m running cost savings, 44,000 jobs, and land released for 25,000 new homes by the end of 2021.	By December 2021

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2	Working with the Authority, MHCLG and Homes England to help deliver the aims of the Land Release Fund programme, and help to meet the government's key housing ambition to build 300,000 new homes a year.	By the mid-2020s.
3	Provide support to enable OPE partnerships to report benefits accurately and with acceptable supporting evidence.	Tri-annually

8. MANAGEMENT INFORMATION/REPORTING

- 8.1 In collaboration with the Authority, the Supplier will support the process of monitoring and reporting on OPE project delivery throughout the programme. This involves the Regional Programme Managers from both parties monitoring progress at a local level and reporting to the central programme team.
- 8.2 The OPE programme should support local authorities to robustly forecast and track benefits, formally collecting and collating data to report progress against capital receipts, running cost savings, jobs created and land released for housing.
- 8.3 The OPE, LRF and MHCLG senior team meet weekly to oversee and guide the programme's strategic direction and implementation, informed by the reporting data collated.
- 8.4 The Programme Management Office, involving the Authority, the Supplier and MHCLG staff, also meets weekly to manage the day-to-day running of the programme as well as risks and issues.

9. VOLUMES

- 9.1 The volume of work to be undertaken is likely to increase year on year. With the commencement of the future programmes, such as LRF2 and OPE Phase 8, which we expect to launch in 2019/2020, subject to approvals. It is anticipated that this will result in a larger number of projects to oversee and support, as well as a larger number of funding applications to assess than in previous years.
- 9.2 Funding rounds may also differ in timing each year and is dependent upon approvals.
- 9.3 Volumes of work will be reviewed on an annual basis (31st March annually) to enable effective workload planning for OPE programme delivery.

10. CONTINUOUS IMPROVEMENT

- 10.1 Through the Programme Management Office, the Authority and the Supplier will continually review OPE and LRF systems, processes and programme delivery to ensure the programmes continue to be delivered effectively and efficiently, and opportunities to improve are identified and implemented.

- 10.2 The Supplier will be expected to continually improve the way in which the required Services are to be delivered throughout the Contract duration.
- 10.3 The Supplier should present new ways of working to the Authority during quarterly Contract review meetings.
- 10.4 Changes to the way in which the Services are to be delivered must be brought to the attention of the central programme team and agreed prior to any changes being implemented that affect the core purpose of the OPE programme.

11. SUSTAINABILITY

- 11.1 The OPE programme is encouraging partnerships to move to a more self-sustaining funding model, embedding a long-term way of working. To support this, OPE will look to diversify its funding streams, including private sector investment in local projects.
- 11.2 The OPE programme team will encourage self-funding of OPE projects, the take-up of sustainable grant funding and help to seek suitable match funding from other partners.
- 11.3 OPE will support partnerships to develop proposals for OPE funding maximising local and self-investment in projects, enabling place-based working.
- 11.4 The Supplier will support activity to engage private sector stakeholders and explore investment and innovation opportunities.

12. QUALITY

- 12.1 No specific quality accreditations are deemed appropriate for this requirement.
- 12.2 The Supplier will ensure high-quality services are delivered through the OPE programme as outlined in section 14. Staff and Customer Service.
- 12.3 Further quality requirements will be monitored through section 15. Service Levels and Performance - Key Performance Indicators.

13. PRICE

- 13.1 The price for the Supplier's services will not exceed £1.29m per annum on a time and materials basis. This will cover staff costs and related expenses necessary for the delivery of the programme.
- 13.2 An overhead of no more than 5% can be charged in addition to staff costs. This is to be reflected within the rate provided for each role.
- 13.3 Prices are to be submitted via the e-Sourcing Suite Attachment 4 – Price Schedule excluding VAT.

14. STAFF AND CUSTOMER SERVICE

- 14.1 The Supplier shall provide a sufficient level of resource throughout the duration of the Contract in order to consistently deliver a quality service.
- 14.2 The Supplier's staff assigned to the Contract shall have the relevant qualifications and experience to deliver the Contract to the required standard.

14.3 The Supplier shall ensure that staff understand the Authority's vision and objectives and will provide excellent customer service to the Authority throughout the duration of the Contract.

15. SERVICE LEVELS AND PERFORMANCE

15.1 The Authority will manage the delivery of agreed service levels for programme process management, performance management and change controls.

15.2 The Authority will measure the quality of the delivery by monitoring key performance indicators that contribute towards the achievement of the OPE objectives to create economic growth through new homes and jobs, deliver more integrated, customer-focused services and through generating efficiencies, resulting from capital receipts and reduced running costs.

15.3 The Authority will measure the quality of the Supplier's delivery by:

KPI/SLA	Service Area	KPI/SLA description	Target
1	Strategic Relationship Engagement and Management	Maintain engagement with a minimum of 95% of Local Authorities, this will be monitored tri-annually. Engage with each partnership on a minimum of a quarterly basis.	Engagement with 95% of Local Authorities Quarterly engagement with each partnership
2	OPE/LRF Funding Rounds	The Supplier shall ensure that bids submitted are to be evaluated in accordance with the published criteria. The verification of all data is collated for payments. MoU's are to include accurate information and to be distributed in accordance with the grant award timeline.	100%
3	Programme Monitoring and Project Management	Engage with all OPE Partnerships regarding report completion on a tri-annual basis. Collate and update the Mastersheet with tri-annual	All activities to be delivered on a tri-annual basis

		<p>reports in accordance with the programme plan.</p> <p>Verify all local government benefits evidence received, on a tri-annual basis.</p> <p>Draft content for PEG papers on a tri-annual basis.</p>	
4	Risk Management	<p>Risks should be regularly reported in a timely manner to the SLT and PEG.</p> <p>Completion of regional level risk registers on a tri-annual basis.</p>	All activities to be delivered on a tri-annual basis
5	Change Control	<p>All project change requests to be logged.</p> <p>All change requests to follow the OPE programme's agreed change request approval process.</p>	100%
6	Supporting OPE-funded project delivery	<p>Retain a regional plan for each OPE region, prioritising support to partnerships and projects to enable benefits realisation.</p> <p>Each region to host two regional networking events per annum.</p>	<p>Five regional plans to be maintained.</p> <p>Two regional networking events per annum.</p>
7	Evaluation/Project/Programme Closure	<p>Contribute to the Project Closure and Evaluation strategy and gain SLT approval.</p> <p>Once established, support the completion of project learning reviews for all projects.</p>	<p>SLT approval by December 2019.</p> <p>Support 100% of project learning reviews</p>

8	Sustainability and Innovation	Establish and maintain a log of investment and innovation opportunities presented to SLT tri-annually.	Tri-annual presentation to SLT
9	Strategic Communications	<p>Develop a communications plan by December 2019 for SLT approval.</p> <p>Maintain a communications plan tri-annually including a detailed events schedule to promote the OPE Programme to core audiences.</p> <p>Ensure the website is accurate and up to date on a tri-annual basis.</p> <p>Ensure case study library contains at least two up to date case studies per region.</p>	<p>Communications plan in place by December 2019.</p> <p>Maintain a communications plan and website accuracy tri-annually.</p> <p>Two up to date case studies per region.</p>
10	Cost of Delivery	<p>Manage the costs of delivery within the assigned programme budget.</p> <p>Ensure travel and subsistence expenses comply with the Authority's internal policy.</p> <p>Ensure the annual invoiced amount does not exceed the agreed contract value.</p>	Submit invoices on a quarterly basis.

- 15.4 Performance will be monitored on a quarterly basis throughout the duration of the contract to ensure that key milestones and SLA's are adhered to.

16. SECURITY AND CONFIDENTIALITY REQUIREMENTS

- 16.1 The Supplier's staff will undertake baseline checks as standard to work in Horse Guards Road and to share data on OPE.
- 16.2 The Supplier shall be expected to work in line with the Authority's IT policy included in Annex B.

17. PAYMENT AND INVOICING

- 17.1 Payment can only be made following satisfactory delivery of pre-agreed certified products and deliverables.
- 17.2 Before payment can be considered, each invoice must include a breakdown of work completed and the associated costs.
- 17.3 Invoices should be submitted to: Redacted
- 17.4 Invoices should detail the specific purchase order details provided by The Authority, the Supplier should note that invoices not detailing the correct purchase order number may be rejected for payment. The invoices should appropriately apply VAT.
- 17.5 Payment will be made quarterly, in arrears.
- 17.6 Expenses for travel and subsistence outside the base location will be charged at cost and evidenced by the supplier as requested by the Authority. Expenses will be reasonable and aligned to the Authority's expenses policy, Annex C Subsistence Rates.
- 17.7 Any changes to the team structure that would lead to an increase in costs, must be approved by the Programme Director within OGP, prior to any changes taking place.

18. CONTRACT MANAGEMENT

- 18.1 The Supplier will nominate an appropriate senior member of staff to attend quarterly contract review meetings with the Authorities OPE Contract Manager.
- 18.2 Both parties will schedule an annual review of the contract and requirements and make appropriate updates as deemed necessary for programme delivery.
- 18.3 Attendance at Contract Review meetings shall be at the Supplier's own expense.
- 18.4 Any escalation throughout the programme will be raised with The Authorities Programme Director.



19. LOCATION

- 19.1 The location of the Services will be carried out at LGA offices which will be classed as the base location, and other places of work, most notably on location with stakeholders.
- 19.2 The current LGA headquarters is:
Redacted



ANNEX 4 – SUPPLIERS RESPONSE

The Supplier's response as per submission on Tuesday 22nd October 2019.

Redacted



ANNEX 5 – CLARIFICATIONS

Not Applicable

ANNEX 6 – ADDITIONAL TERMS & CONDITIONS

1. Data Protection
 - 1.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Controller and the Supplier is the Processor. The only processing that the Supplier is authorised to do is listed in Annex 1 to this Annex (Processing Personal Data) by the Customer and may not be determined by the Supplier.
 - 1.2 The Supplier shall notify the Customer immediately if it considers that any of the Customer's instructions infringe the Data Protection Legislation.
 - 1.3 The Supplier shall provide all reasonable assistance to the Customer in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Customer, include:
 - (a) a systematic description of the envisaged processing operations and the purpose of the processing;
 - (b) an assessment of the necessity and proportionality of the processing operations in relation to the Services;
 - (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
 - (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
 - 1.4. The Supplier 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 Annex 1 (Processing Personal Data), unless the Supplier is required to do otherwise by Law. If it is so required the Supplier shall promptly notify the Customer before processing the Personal Data unless prohibited by Law;
 - (b) ensure that it has in place Protective Measures which have been reviewed and Approved by the Customer as appropriate to protect against a Data Loss Event 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 Supplier Personnel do not process Personal Data except in accordance with this Agreement (and in particular Annex 1 (Processing Personal Data));
 - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Supplier Personnel who have access to the Personal Data and ensure that they:
 - (A) are aware of and comply with the Supplier's duties under this Clause;

- (B) are subject to appropriate confidentiality undertakings with the Supplier 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 Customer or as otherwise permitted by this Agreement; and
 - (D) have undergone adequate training in the use, care, protection and handling of Personal Data;
- (d) not transfer Personal Data outside of the EU unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:
- (i) the Customer or the Supplier has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Customer;
 - (ii) the Data Subject has enforceable rights and effective legal remedies;
 - (iii) the Supplier 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 Customer in meeting its obligations); and
 - (iv) the Supplier complies with any reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;
- (e) at the written direction of the Customer, delete or return Personal Data (and any copies of it) to the Customer on termination of this Agreement unless the Supplier is required by Law to retain the Personal Data.

1.5 Subject to Clause 1.7, the Supplier shall notify the Customer 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.

1.6 The Supplier's obligation to notify under Clause 1.5 shall include the provision of further information to the Customer in phases, as details become available.

1.7 Taking into account the nature of the processing, the Supplier shall provide the Customer 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 Customer) including by promptly providing:

- (a) the Customer with full details and copies of the complaint, communication or request;
 - (b) such assistance as is reasonably requested by the Customer to enable the Customer to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
 - (c) the Customer, at its request, with any Personal Data it holds in relation to a Data Subject;
 - (d) assistance as requested by the Customer following any Data Loss Event;
 - (e) assistance as requested by the Customer with respect to any request from the Information Commissioner's Office, or any consultation by the Customer with the Information Commissioner's Office.
- 1.8 The Supplier shall maintain complete and accurate records and information to demonstrate its compliance with this Clause. This requirement does not apply where the Supplier employs fewer than 250 staff, unless:
- (a) the Customer determines that the processing is not occasional;
 - (b) the Customer 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 Customer determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 1.9 The Supplier shall allow for audits of its Data Processing activity by the Customer or the Customer's designated auditor.
- 1.10 The Supplier shall designate a Data Protection Officer if required by the Data Protection Legislation.
- 1.11 Before allowing any Sub-processor to process any Personal Data related to this Agreement, the Supplier must:
- (a) notify the Customer in writing of the intended Sub-processor and processing;
 - (b) obtain the written consent of the Customer;
 - (c) enter into a written agreement with the Sub-processor which give effect to the terms set out in this Clause 1.11 such that they apply to the Sub-processor; and
 - (d) provide the Customer with such information regarding the Sub-processor as the Customer may reasonably require.
- 1.12. The Supplier shall remain fully liable for all acts or omissions of any Sub-processor.
- 1.13 The Supplier 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).

- 1.14 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Customer may on not less than 30 Working Days' notice to the Supplier amend this Agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.
- 1.15 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Controller and the Supplier is the Processor. The only processing that the Supplier is authorised to do is listed in Annex 1 (Processing Personal Data) by the Customer and may not be determined by the Supplier.
- 1.16 The Supplier shall notify the Customer immediately if it considers that any of the Customer's instructions infringe the Data Protection Legislation.
- 1.17 The Supplier shall provide all reasonable assistance to the Customer in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Customer, include:
- (a) a systematic description of the envisaged processing operations and the purpose of the processing;
 - (b) an assessment of the necessity and proportionality of the processing operations in relation to the Services;
 - (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
 - (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 1.18 The Supplier 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 Annex 1 (Processing Personal Data), unless the Supplier is required to do otherwise by Law. If it is so required the Supplier shall promptly notify the Customer before processing the Personal Data unless prohibited by Law;
 - (b) ensure that it has in place Protective Measures which have been reviewed and Approved by the Customer as appropriate to protect against a Data Loss Event 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 Supplier Personnel do not process Personal Data except in accordance with this Agreement (and in particular Annex 1 (Processing Personal Data));
 - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Supplier Personnel who have access to the Personal Data and ensure that they:

- (A) are aware of and comply with the Supplier's duties under this Clause;
 - (B) are subject to appropriate confidentiality undertakings with the Supplier 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 Customer or as otherwise permitted by this Agreement; and
 - (D) have undergone adequate training in the use, care, protection and handling of Personal Data;
- (d) not transfer Personal Data outside of the EU unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:
- (i) the Customer or the Supplier has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Customer;
 - (ii) the Data Subject has enforceable rights and effective legal remedies;
 - (iii) the Supplier 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 Customer in meeting its obligations); and
 - (iv) the Supplier complies with any reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;
- (e) at the written direction of the Customer, delete or return Personal Data (and any copies of it) to the Customer on termination of the Agreement unless the Supplier is required by Law to retain the Personal Data.
- 1.19 Subject to Clause 1.21, the Supplier shall notify the Customer 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 Customer 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.
- 1.20 The Supplier's obligation to notify under Clause 1.19 shall include the provision of further information to the Customer in phases, as details become available.
- 1.21 Taking into account the nature of the processing, the Supplier shall provide the Customer with full assistance in relation to either Party's obligations under Data

Protection Legislation and any complaint, communication or request made under Clause 1.19 (and insofar as possible within the timescales reasonably required by the Customer) including by promptly providing:

- (a) the Customer with full details and copies of the complaint, communication or request;
 - (b) such assistance as is reasonably requested by the Customer to enable the Customer to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
 - (c) the Customer, at its request, with any Personal Data it holds in relation to a Data Subject;
 - (d) assistance as requested by the Customer following any Data Loss Event;
 - (e) assistance as requested by the Customer with respect to any request from the Information Commissioner's Office, or any consultation by the Customer with the Information Commissioner's Office.
- 1.22 The Supplier shall maintain complete and accurate records and information to demonstrate its compliance with this Clause. This requirement does not apply where the Supplier employs fewer than 250 staff, unless:
- (a) the Customer determines that the processing is not occasional;
 - (b) the Customer 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 Customer determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 1.23 The Supplier shall allow for audits of its Data Processing activity by the Customer or the Customer's designated auditor.
- 1.24 The Supplier shall designate a Data Protection Officer if required by the Data Protection Legislation.
- 1.25 Before allowing any Sub-processor to process any Personal Data related to this Agreement, the Supplier must:
- (a) notify the Customer in writing of the intended Sub-processor and processing;
 - (b) obtain the written consent of the Customer;
 - (c) enter into a written agreement with the Sub-processor which give effect to the terms set out in this Clause 1.25 such that they apply to the Sub-processor; and
 - (d) provide the Customer with such information regarding the Sub-processor as the Customer may reasonably require.
- 1.26 The Supplier shall remain fully liable for all acts or omissions of any Sub-processor.
- 1.27 The Supplier 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).

- 1.28 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Customer may on not less than 30 Working Days' notice to the Supplier amend this Agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.

Appendix 1 –Processing Personal Data

Authorised Processing Template

2. The contact details of the Customer's Data Protection Officer is:
- 2.1 Redacted, Data Protection Officer, Redacted, or Redacted
3. The contract details of the Supplier Data Protection Officer is:
- 3.1 To be completed upon award
4. The Processor shall comply with any further written instructions with respect to processing by the Controller.
5. Any such further instructions shall be incorporated into this Annex.

Contract Reference:	CCCC19A68
Date:	To be completed upon award
Description Of Authorised Processing	Details
Identity of the Controller and Processor	<p><i>Both Parties are Controller of separate data</i></p> <p>Notwithstanding Clause 1.1 the Parties acknowledge that for the purposes of the Data Protection Legislation:</p> <p>(a) the Customer is the Controller and the Supplier is the Processor for the following Personal Data under this Contract:</p> <p style="padding-left: 40px;">(i) Central Government Officer's contact details</p> <p style="padding-left: 40px;">(ii) Programme partner individual contact details</p> <p style="padding-left: 40px;">(iii) Staff details.</p> <p>(b) the Supplier is the Controller and the Customer is the Processor for the following Personal Data under this Contract:</p>

OFFICIAL

	<p>(i) Local Government Officer's contact details</p> <p>(ii) Programme partner individual contact details</p> <p>(iii) Staff details.</p>
Subject matter of the processing	The individual contact details are used for communications related to One Public Estate, Office of Government Property, Cabinet Office and Improvement and Development Agency (IDeA)/Local Government Association (LGA) programmes of work.
Duration of the processing	The processing duration in connection with the programme will be for the lifetime of the contract from April 2019 – March 2024.
Nature and purposes of the processing	<p>Individual work related data is collated on an ad-hoc basis and recorded in secure IT systems.</p> <p>Programme data (project specific activity) is collated tri-annually for reporting purposes and stored on a Cabinet Office server with access by the IDeA and Cabinet Office staff.</p> <p>Programme data is disseminated through the One Public Estate team and other government departments for statutory reporting processes. Reporting of this data is undertaken tri-annually with the Programme Executive Board chaired by the Director General of the Office of Government Property.</p> <p>Individual data for employment processes is collected, stored and subsequently destroyed as per Cabinet Office and LGA compliant policy.</p>
Type of Personal Data	Name, Job Title, Place of Work, Work Address, Work Phone Number, Approved Images of Event Participants, IP Addresses of Visitors to the LGA Hosted Website.
Categories of Data Subject	Staff, Public Sector Customers, Visitors to the LGA Hosted Website.



	<p>Data in relation to the programme will be retained for the lifetime of the contract and any subsequent contract renewals or extensions. Following this date, data will be destroyed by the Cabinet Office and/or Local Government Association GDPR compliant processes. Where data is not required to be retained e.g. candidates for interviews, data will be retained as per the recruitment guidelines for the Cabinet Office and/or Local Government Association and destroyed in line with this policy.</p>
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Exit and Retender Provisions

2. On reasonable notice at any point during the Term of this Agreement, the Supplier shall provide to the Customer and/or its potential Replacement Suppliers (subject to the potential Replacement Suppliers entering into reasonable written confidentiality undertakings), the following material and information in order to facilitate the preparation by the Customer of any invitation to tender, in-sourcing exercise and/or to facilitate any potential Replacement Suppliers undertaking due diligence:
 - 2.1 details of the Service(s);
 - 2.2 a copy of the Registers, updated by the Supplier up to the date of delivery of such Registers;
 - 2.3 an inventory of Customer Data in the Supplier's possession or control;
 - 2.4 details of any key terms of any third party contracts and licences, particularly as regards charges, termination, assignment and novation;
 - 2.5 a list of on-going and/or threatened disputes in relation to the provision of the Services;
 - 2.6 all information relating to Transferring Supplier Employees or those who may be Transferring Supplier Employees' required to be provided by the Supplier under this Agreement such information to include the Staffing Information as defined in Appendix 2 of this Annex (Staff Transfer); and such other material and information as the Customer shall reasonably require, (together, the "Exit Information").
3. The Supplier acknowledges that the Customer may disclose the Supplier's Confidential Information to an actual or prospective Replacement Supplier or any third party whom the Customer is considering engaging to the extent that such disclosure is necessary in connection with such engagement (except that the Customer may not under this paragraph disclose any Supplier's Confidential Information which is information relating to the Supplier's or its Sub-Contractors' prices or costs).
4. The Supplier shall:
 - 4.1 notify the Customer within five (5) Working Days of any material change to the Exit Information which may adversely impact upon the provision of any Services and shall consult with the Customer regarding such proposed material changes; and
 - 4.2 provide complete updates of the Exit Information on an as-requested basis as soon as reasonably practicable and in any event within ten (10) Working Days of a request in writing from the Customer.

Exit Plan

5. The Supplier shall, within six (6) months after the Start Date, deliver to the Customer an Exit Plan which:

- 5.1 sets out the Supplier's proposed methodology for achieving an orderly transition of the Services from the Supplier to the Customer and/or its Replacement Supplier on the expiry or termination of this Agreement;
 - 5.2 complies with the requirements set out in paragraph 7 in this Annex;
 - 5.3 is otherwise reasonably satisfactory to the Customer.
6. The Parties shall use reasonable endeavours to agree the contents of the Exit Plan. If the Parties are unable to agree the contents of the Exit Plan within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure set out at clause 19.
7. Unless otherwise specified by the Customer or Approved, the Exit Plan shall set out, as a minimum:
- 7.1 how the Exit Information is obtained;
 - 7.2 the management structure to be employed during both transfer and cessation of the Services;
 - 7.3 the management structure to be employed during the Termination Assistance Period;
 - 7.4 a detailed description of both the transfer and cessation processes, including a timetable;
 - 7.5 how the Services will transfer to the Replacement Supplier and/or the Customer, including details of the processes, documentation, data transfer, systems migration, security and the segregation of the Customer's technology components from any technology components operated by the Supplier or its Sub-Contractors (where applicable);
 - 7.6 details of contracts (if any) which will be available for transfer to the Customer and/or the Replacement Supplier upon the Expiry Date together with any reasonable costs required to effect such transfer (and the Supplier agrees that all assets and contracts used by the Supplier in connection with the provision of the Services will be available for such transfer);
 - 7.7 proposals for the training of key members of the Authority and/or Replacement Supplier's personnel in connection with the continuation of the provision of the Services following the Expiry Date charged at rates agreed between the Parties at that time;
 - 7.8 proposals for providing the Customer or a Replacement Supplier copies of all documentation: used in the provision of the Services and necessarily required for the continued use thereof, in which the Intellectual Property Rights are owned by the Supplier; and relating to the use and operation of the Services;
 - 7.9 proposals for the assignment or novation of the provision of all services, leases, maintenance agreements and support agreements utilised by the Supplier in connection with the performance of the supply of the Services;

- 7.10 proposals for the identification and return of all Customer Property in the possession of and/or control of the Supplier or any third party (including any Sub-Contractor);
- 7.11 proposals for the disposal of any redundant Services and materials;
- 7.12 procedures to:
 - 7.12.1 deal with requests made by the Customer and/or a Replacement Supplier for Staffing Information pursuant to Appendix 2 (Staff Transfer);
 - 7.12.2 determine which Supplier Personnel are or are likely to become Transferring Supplier Employees; and identify or develop any measures for the purpose of the Employment Regulations envisaged in respect of Transferring Supplier Employees;
 - 7.12.3 how each of the issues set out in this Annex will be addressed to facilitate the transition of the Services from the Supplier to the Replacement Supplier and/or the Customer with the aim of ensuring that there is no disruption to or degradation of the Services during the Termination Assistance Period;
- 7.13 and proposals for the supply of any other information or assistance reasonably required by the Customer or a Replacement Supplier in order to effect an orderly handover of the provision of the Services

Termination Assistance

- 8. The Customer shall be entitled to require the provision of Termination Assistance at any time during the Term by giving written notice to the Supplier (a "Termination Assistance Notice") at least 10 weeks prior to the Expiry Date or as soon as reasonably practicable (but in any event, not later than three (3) weeks following the service by either Party of a Termination Notice. The Termination Assistance Notice shall specify:
 - 8.1 the date from which Termination Assistance is required;
 - 8.2 the nature of the Termination Assistance required; and
 - 8.3 the period during which it is anticipated that Termination Assistance will be required, which shall continue no longer than four (4) months after the date that the Supplier ceases to provide the Services.
- 9. The Customer shall have an option to extend the Termination Assistance Period beyond the period specified in the Termination Assistance Notice provided that such extension shall not extend for more than six (6) months after the date the Supplier ceases to provide the Services or, if applicable, beyond the end of the Termination Assistance Period and provided that it shall notify the Supplier to such effect no later than ten (10) Working Days prior to the date on which the provision of Termination Assistance is otherwise due to expire. The Customer shall have the right to terminate its requirement for Termination Assistance by serving not less than five (5) Working Days' written notice upon the Supplier to such effect.

Termination Assistance Period

10. Throughout the Termination Assistance Period, or such shorter period as the Customer may require, the Supplier shall:
 - 10.1 continue to provide the Services (as applicable) and, if required by the Customer pursuant to this Annex, provide the Termination Assistance;
 - 10.2 in addition to providing the Services and the Termination Assistance, provide to the Customer any reasonable assistance requested by the Customer to allow the Services to continue without interruption following the termination or expiry of this Agreement and to facilitate the orderly transfer of responsibility for and conduct of the Services to the Customer and/or its Replacement Supplier;
 - 10.3 use all reasonable endeavours to reallocate resources to provide such termination assistance as is referred to in this Annex without additional costs to the Customer;
 - 10.4 at the Customer's request and on reasonable notice, deliver up-to-date Registers to the Customer.
11. Without prejudice to the Supplier's obligations under paragraph 10.3 of this Annex, if it is not possible for the Supplier to reallocate resources to provide such assistance as is referred to in paragraph 10.2 of this Annex without additional costs to the Customer, any additional costs incurred by the Supplier in providing such reasonable assistance which is not already in the scope of the Termination Assistance or the Exit Plan shall be subject to the Variation Procedure.

Termination Obligations

12. The Supplier shall comply with all of its obligations contained in the Exit Plan.
13. Upon termination or expiry (as the case may be) or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Supplier's performance of the Services and the Termination Assistance and its compliance with the other provisions of this Annex), the Supplier shall:
 - 13.1 cease to use the Customer Data;
 - 13.2 provide the Customer and/or the Replacement Supplier with a complete and uncorrupted version of the Customer Data in electronic form (or such other format as reasonably required by the Customer);
 - 13.3 erase from any computers, storage devices and storage media that are to be retained by the Supplier after the end of the Termination Assistance Period all Customer Data and promptly certify to the Customer that it has completed such deletion; return to the Customer such of the following as is in the Supplier's possession or control:
 - 13.3.1 all materials created by the Supplier under this Agreement in which the IPRs are owned by the Customer;
 - 13.3.2 any equipment which belongs to the Customer;

- 13.3.3 any items that have been on-charged to the Customer, such as consumables; and
- 13.3.4 all Customer Property issued to the Supplier under this Agreement ("Customer Property"). Such Customer Property shall be handed back to the Customer in good working order (allowance shall be made only for reasonable wear and tear); any sums prepaid by the Customer in respect of Services not Delivered by the Expiry Date;
- 13.3.5 any sums prepaid by the Customer in respect of Services not Delivered by the Expiry Date;
14. vacate any Customer Premises;
15. remove the supplier equipment used at the Customer Premises together with any other materials used by the Supplier to supply the Services and shall leave the Sites in a clean, safe and tidy condition. The Supplier is solely responsible for making good any damage to the Sites or any objects contained thereon, other than fair wear and tear, which is caused by the Supplier and/or any Supplier Personnel;
16. provide access during normal working hours to the Customer and/or the Replacement Supplier for up to twelve (12) months after expiry or termination to:
- 16.1 such information relating to the Services as remains in the possession or control of the Supplier; and
- 16.2 such members of the Supplier Personnel as have been involved in the design, development and provision of the Services and who are still employed by the Supplier, provided that the Customer and/or the Replacement Supplier shall pay the reasonable costs of the Supplier actually incurred in responding to requests for access under this paragraph
17. Upon termination or expiry (as the case may be) or at the end of the Termination Assistance Period (or earlier if this does not adversely affect the Supplier's performance of the Services and the Termination Assistance and its compliance with the other provisions of this Annex), each Party shall return to the other Party (or if requested, destroy or delete) all Confidential Information of the other Party and shall certify that it does not retain the other Party's Confidential Information save to the extent (and for the limited period) that such information needs to be retained by the Party in question for the purposes of providing or receiving any Services or termination services or for statutory compliance purposes.
18. Except where this Agreement provides otherwise, all licences, leases and authorisations granted by the Customer to the Supplier in relation to the Services shall be terminated with effect from the end of the Termination Assistance Period.

Assets and Sub-Contracts

19. Following notice of termination of this Agreement and during the Termination Assistance Period, the Supplier shall not, without the Customer's prior written consent:
- 19.1 terminate, enter into or vary any Sub-Contract;

- 19.2 (subject to normal maintenance requirements) make material modifications to, or dispose of, any existing Supplier Assets or acquire any new Supplier Assets; or
- 19.3 terminate, enter into or vary any licence for software in connection with the provision of Services.
20. Within fifteen (15) Working Days of receipt of the up-to-date Registers provided by the Supplier pursuant to paragraph 10.4 of this Annex, the Customer shall provide written notice to the Supplier setting out:
- 20.1 which, if any, of the Transferable Assets the Customer requires to be transferred to the Customer and/or the Replacement Supplier (“Transferring Assets”);
- 20.2 which, if any, of:
- 20.2.1 the Exclusive Assets that are not Transferable Assets;
- 20.2.2 the Customer and/or the Replacement Supplier requires the continued use of; and
- 20.2.3 which, if any, of Transferable Contracts the Customer requires to be assigned or novated to the Customer and/or the Replacement Supplier (the “Transferring Contracts”),
- 20.3 in order for the Customer and/or its Replacement Supplier to provide the Services from the expiry of the Termination Assistance Period. Where requested by the Customer and/or its Replacement Supplier, the Supplier shall provide all reasonable assistance to the Customer and/or its Replacement Supplier to enable it to determine which Transferable Assets and Transferable Contracts the Customer and/or its Replacement Supplier requires to provide the Services or the Replacement Services.
21. With effect from the expiry of the Termination Assistance Period, the Supplier shall sell the Transferring Assets to the Customer and/or its nominated Replacement Supplier for a consideration equal to their Net Book Value, except where the cost of the Transferring Asset has been partially or fully paid for through the Charges at the Expiry Date, in which case the Customer shall pay the Supplier the Net Book Value of the Transferring Asset less the amount already paid through the Charges.
22. Risk in the Transferring Assets shall pass to the Customer or the Replacement Supplier (as appropriate) at the end of the Termination Assistance Period and title to the Transferring Assets shall pass to the Customer or the Replacement Supplier (as appropriate) on payment for the same.
23. Where the Supplier is notified in accordance with paragraph 20.2.3 of this Annex that the Customer and/or the Replacement Supplier requires continued use of any Exclusive Assets that are not Transferable Assets, the Supplier shall as soon as reasonably practicable:
- 23.1 procure a non-exclusive, perpetual, royalty-free licence (or licence on such other terms that have been agreed by the Customer) for the Customer and/or

the Replacement Supplier to use such assets (with a right of sub-licence or assignment on the same terms); or failing which

- 23.2 procure a suitable alternative to such assets and the Customer or the Replacement Supplier shall bear the reasonable proven costs of procuring the same.
24. The Supplier shall as soon as reasonably practicable assign or procure the novation to the Customer and/or the Replacement Supplier of the Transferring Contracts. The Supplier shall execute such documents and provide such other assistance as the Customer reasonably requires to effect this novation or assignment.
25. The Customer shall:
- 25.1 accept assignments from the Supplier or join with the Supplier in procuring a novation of each Transferring Contract; and
- 25.2 once a Transferring Contract is novated or assigned to the Customer and/or the Replacement Supplier, carry out, perform and discharge all the obligations and liabilities created by or arising under that Transferring Contract and exercise its rights arising under that Transferring Contract, or as applicable, procure that the Replacement Supplier does the same.
26. The Supplier shall hold any Transferring Contracts on trust for the Customer until such time as the transfer of the relevant Transferring Contract to the Customer and/or the Replacement Supplier has been effected.
27. The Supplier shall indemnify the Customer (and/or the Replacement Supplier, as applicable) against each loss, liability and cost arising out of any claims made by a counterparty to a Transferring Contract which is assigned or novated to the Customer (and/or Replacement Supplier) pursuant to paragraph 19 of this Annex in relation to any matters arising prior to the date of assignment or novation of such Transferring Contract.

Supplier Personnel

28. The Customer and Supplier agree and acknowledge that in the event of the Supplier ceasing to provide the Services or part of them for any reason, Appendix 2 (Staff Transfer) shall apply.
29. The Supplier shall not and shall procure that any relevant Sub-Contractor shall not take any step (expressly or implicitly and directly or indirectly by itself or through any other person) without the prior written consent of the Customer to dissuade or discourage any employees engaged in the provision of the Services from transferring their employment to the Customer and/or the Replacement Supplier and/or Replacement Sub-Contractor.
30. During the Termination Assistance Period, the Supplier shall and shall procure that any relevant Sub-Contractor shall:
- 30.1 give the Customer and/or the Replacement Supplier and/or Replacement Sub-Contractor reasonable access to the Supplier's personnel and/or their consultation representatives to present the case for transferring their employment to the Customer and/or the Replacement Supplier and/or to discuss or consult on any measures envisaged by the Customer, Replacement

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Supplier and/or Replacement Sub-Contractor in respect of persons expected to be Transferring Supplier Employees;

- 30.2 co-operate with the Customer and the Replacement Supplier to ensure an effective consultation process and smooth transfer in respect of Transferring Supplier Employees in line with good employee relations and the effective continuity of the Services.
31. The Supplier shall immediately notify the Customer or, at the direction of the Customer, the Replacement Supplier of any period of notice given by the Supplier or received from any person referred to in the Staffing Information, regardless of when such notice takes effect.
32. The Supplier shall not for a period of twelve (12) months from the date of transfer reemploy or re-engage or entice any employees, suppliers or Sub-Contractors whose employment or engagement is transferred to the Customer and/or the Replacement Supplier except that this paragraph shall not apply where an offer is made pursuant to an express right to make such offer under Appendix 2 (Staff Transfer) in respect of a Transferring Supplier Employee not identified in the Supplier's Final Supplier Personnel List.

Registers

33. During the Term, the Supplier shall maintain the following (“the Registers”)
- 33.1 A register of Supplier Assets used by the Supplier or a key sub-contractor where those assets are used exclusively in the provision of the Services including details about:
- 33.1.1 Make, model and asset number;
- 33.1.2 Ownership and details of use and application within the Services (including any technical specifications);
- 33.1.3 Net Book Value
- 33.1.4 Condition and physical location and
- 33.1.5 A register of all Sub-contracts and other relevant agreements required for the performance of the Services;
34. The Supplier shall agree the format of the Registers with the Customer as part of the process of agreeing the Exit Plan; and at all times keep the Registers up to date.
35. The Supplier (unless otherwise agreed by the Customer in writing) procure that all licences for Third Party IPR and all Sub-Contracts shall be assignable and/or capable of novation at the request of the Customer to the Customer (and/or its nominee) and/or any Replacement Supplier upon the Supplier ceasing to provide the Services (or part of them) without restriction (including any need to obtain any consent or approval) or payment by the Customer.
36. Where the Supplier is unable to procure that any Sub-Contract or other agreement referred to in paragraph 30 of this Annex which the Supplier proposes to enter into after the Call Off Commencement Date is assignable and/or capable of novation to the

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Customer (and/or its nominee) and/or any Replacement Supplier without restriction or payment, the Supplier shall promptly notify the Customer of this and the Parties shall (acting reasonably and without undue delay) discuss the appropriate action to be taken which, where the Customer so directs, may include the Supplier seeking an alternative Sub-Contractor or provider of Services to which the relevant agreement relates.

37. Each Party shall appoint a person for the purposes of managing the Parties' respective obligations under this Annex and provide written notification of such appointment to the other Party within three (3) months of the Start Date. The Supplier's Exit Manager shall be responsible for ensuring that the Supplier and its employees, agents and Sub-Contractors comply with this Annex. The Supplier shall ensure that its Exit Manager has the requisite authority to arrange and procure any resources of the Supplier as are reasonably necessary to enable the Supplier to comply with the requirements set out in this Annex. The Parties' Exit Managers will liaise with one another in relation to all issues relevant to the termination of this Annex and all matters connected with this Annex and each Party's compliance with it.

Exit Charges

38. Except as otherwise expressly specified in this Agreement, the Supplier shall not make any charges for the services provided by the Supplier pursuant to, and the Customer shall not be obliged to pay for costs incurred by the Supplier in relation to its compliance with, this Annex including the preparation and implementation of the Exit Plan, the Termination Assistance and any activities mutually agreed between the Parties to carry on after the expiry of the Termination Assistance Period.

Appendix 2

THE EMPLOYMENT REGULATIONS (TUPE)

- 1.1 Twelve months before this Agreement expires, or after the Customer has given notice to terminate it, and within 28 days of the Customer's request, the Supplier will fully and accurately disclose to the Customer all staff information including, but not limited to, the total number of staff assigned for the purposes of TUPE to the Services. For each person identified the Supplier must provide details of:
- (a) the activities they perform
 - (b) age
 - (c) start date
 - (d) place of work
 - (e) notice period
 - (f) redundancy payment entitlement
 - (g) salary, benefits and pension entitlements
 - (h) employment status

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- (i) identity of employer
- (j) working arrangements
- (k) outstanding liabilities
- (l) sickness absence
- (m) copies of all relevant employment contracts and related documents
- (n) all information required under regulation 11 of TUPE or as reasonably

requested by the Customer (the “**Staffing information**”)

- 1.2 The Supplier warrants the accuracy of the information provided under this TUPE clause and will notify the Customer of any changes to the amended information as soon as reasonably possible. The Supplier will permit the Customer to use and disclose the information to any prospective Replacement Supplier.
- 1.3 In the 12 months before the expiry of this Agreement, the Supplier will not change the identity and number of staff assigned to the Services (unless reasonably requested by the Customer) or their terms and conditions, other than in the ordinary course of business.
- 1.4 The Supplier will co-operate with the re-tendering of this Agreement by allowing the Replacement Supplier to communicate with and meet the affected employees or their representatives.
- 1.5 The Supplier will indemnify the Customer or any Replacement Supplier for all losses, liabilities, damages, costs, expenses (including legal fees), disbursements, costs of investigation, litigation, settlement, judgment, interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise arising from both:
- (a) its failure to comply with the provisions of this clause; and/or
 - (b) any claim by any employee or person claiming to be an employee (or their employee representative) of the Supplier which arises or is alleged to arise from any act or omission by the Supplier on or before the date of the Relevant Transfer.
- 1.6 The provisions of this clause apply during the Term of this Agreement and indefinitely after it terminates or expires.
- 1.7 For these TUPE clauses, the relevant third party will be able to enforce its rights under this clause but their consent will not be required to vary these clauses as the Customer and Supplier may agree.

ANNEX 7 – CHANGE CONTROL FORMS

CHANGE CONTROL NOTICE (CCN)			
Contract Title:	Contract for the Provision of Insert title of requirement (The Contract)		
Contract Reference:		Contract Change Number:	
Date CCN issued:		Date Change Effective from:	
<p>Between: The Insert Name of Contracting Authority (The Customer) and Insert name of Supplier (The Supplier)</p> <ol style="list-style-type: none"> 1. The Contract is varied as follows: <ol style="list-style-type: none"> 1.1. Insert details of changes to the original contract. 2. Words and expressions in this Change Control Notice shall have the meanings given to them in the Contract. 3. The Contract, including any previous Contract changes, authorised in writing by both Parties, shall remain effective and unaltered except as amended by this Change Control Notice. 			
<div style="border: 1px solid black; width: 100%; height: 100%;"></div>	<div style="border: 1px solid black; width: 100%; height: 100%;"></div>	<div style="border: 1px solid black; width: 100%; height: 100%;"></div>	<p>Change authorised to proceed by: (Customer's representative):</p> <p style="text-align: right; margin-top: 20px;">Signature</p>
Print Name and Job Title		Date	



Authorised for and on behalf of the Supplier:			
Job Title	Date	Signature	Print Name and
Authorised for and on behalf of the Customer:			
and Job Title	Date	Signature	Print Name