



## Department for Transport

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Contract Reference: TRHR3281

### Schedule 1 - Contract including Order Form and Contract Conditions

#### Draft Order Form

<b>1. Contract Reference</b>	<b>TRHR3281</b>	
<b>2. Date</b>	07/12/2023	
<b>3. Buyer</b>	<b>The Department for Transport</b> (on behalf of the Secretary of State for Transport)  Great Minster House 33 Horseferry Road London SW1P 4DR	
<b>4. Supplier</b>	<b>Bennett Workplace Solutions Ltd</b> Bennett House Viking Street Bolton BL3 2RR  Company Number: 08758488	
<b>5. The Contract</b>	The Supplier shall supply the deliverables described below on the terms set out in this Order Form and the attached contract conditions (" <b>Conditions</b> ") and any [ <b>Annex/Annexes</b> ]  Unless the context otherwise requires, capitalised expressions used in this Order Form have the same meanings as in Conditions.  In the event of any conflict between this Order Form and the Conditions, this Order Form shall prevail.  Please do not attach any Supplier terms and conditions to this Order Form as they will not be accepted by the Buyer and may delay conclusion of the Contract.	
<b>6. Deliverables</b>	<b>Goods</b>	Procurement of licenses for workplace adjustment software, as specified in <b>Schedule 2: Specification of Requirements</b>



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	<b>Services</b>	Workplace assessments and other advice, coaching and training, as specified in <b>Schedule 2: Specification of Requirements</b>
<b>7. Specification</b>	The specification of the Deliverables is as set out in the Supplier's tender dated 27/10/2023 (Annex 4 below).	
<b>8. Term</b>	<p>The Term shall commence on <b>09/12/2023</b></p> <p>and the Expiry Date shall be <b>08 December 2024</b>, unless it is otherwise extended or terminated in accordance with the terms and conditions of the Contract.</p> <p>The Buyer may extend the Contract for a maximum of a further three years, in yearly increments, as specified below:</p> <ul style="list-style-type: none"><li>• One year from 09 December 2024 to 07 December 2025;</li><li>• One year from 08 December 2025 to 06 December 2026;</li><li>• One year from 07 December 2026 to 05 December 2027</li></ul> <p>By giving not less than 10 Working Days' notice in writing to the Supplier prior to the Expiry Date. The terms and conditions of the Contract shall apply throughout any such extended period.</p>	
<b>9. Charges</b>	The Charges for the Deliverables shall be as set out in the Supplier's tender dated 27/10/2023 (Annex 3 below).	
<b>10. Payment</b>	<p>Suppliers must be in possession of a written purchase order (PO), before commencing any work under this contract. You must quote the aforementioned PO number on all invoices, and these must be submitted directly to:</p> <p><b>Accounts Payable, Shared Services arvato, 5 Sandringham Park, Swansea Vale, Swansea SA7 0EA</b></p> <p>To avoid delay in payment it is important that the invoice is compliant and that it includes a valid PO Number, PO Number item</p>	



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	<p>number (if applicable) and the details (name and telephone number) of your Buyer contact (i.e. Contract Manager). Non-compliant invoices will be sent back to you, which may lead to a delay in payment.</p> <p>If you have a query regarding an outstanding payment please contact our Accounts Payable section:</p> <p><b>ssa.invoice@sharedservicesarvato.co.uk</b></p>										
<b>11. Buyer Authorised Representative(s)</b>	<p>For general liaison your contact will be</p> <p>██████████   ██████████ <a href="mailto:██████████@dft.gov.uk">@dft.gov.uk</a></p>										
<b>12. Address notices for</b>	<table><thead><tr><th>Buyer:</th><th>Supplier:</th></tr></thead><tbody><tr><td><b>The Department for Transport</b></td><td><b>Bennett Workplace Solutions Ltd</b></td></tr><tr><td>Great Minster House 33 Horseferry Road London SW1P 4DR</td><td><b>Bennett House, Unit 3 Viking St Bolton BL3 2RR</b></td></tr><tr><td>Attention: ██████████</td><td>Attention: ██████████</td></tr><tr><td>Email: ██████████ ██████████@dft.gov.uk</td><td>Email: ██████████ <a href="mailto:██████████@barrybennett.co.uk">@barrybennett.co.uk</a></td></tr></tbody></table>	Buyer:	Supplier:	<b>The Department for Transport</b>	<b>Bennett Workplace Solutions Ltd</b>	Great Minster House 33 Horseferry Road London SW1P 4DR	<b>Bennett House, Unit 3 Viking St Bolton BL3 2RR</b>	Attention: ██████████	Attention: ██████████	Email: ██████████ ██████████@dft.gov.uk	Email: ██████████ <a href="mailto:██████████@barrybennett.co.uk">@barrybennett.co.uk</a>
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<b>13. Key Personnel</b>	<p><b>Buyer:</b></p> <p><b>Bennett Workplace Solutions Ltd</b></p> <p><b>Bennett House, Unit 3 Viking St Bolton BL3 2RR</b></p> <p>Attention: ██████████</p> <p>Email: ██████████ <a href="mailto:██████████@barrybennett.co.uk">@barrybennett.co.uk</a></p>										



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<b>14.Procedures and Policies</b>	<p>The Buyer may require the Supplier to ensure that any person employed in the delivery of the Deliverables has undertaken a Disclosure and Barring Service check.</p> <p>The Supplier shall ensure that no person who discloses that he/she has a conviction that is relevant to the nature of the Contract, relevant to the work of the Buyer, or is of a type otherwise advised by the Buyer (each such conviction a "<b>Relevant Conviction</b>"), or is found by the Supplier to have a Relevant Conviction (whether as a result of a police check, a Disclosure and Barring Service check or otherwise) is employed or engaged in the provision of any part of the Deliverables.</p>
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Signed for and on behalf of the <b>Supplier</b>	Signed for and on behalf of the <b>Buyer</b> ( <i>on behalf of the Secretary of State for Transport</i> )
Name:   <b>Service Delivery Director</b>	Name:   <b>Commercial Relationship Manager</b>
Date:  07.12.2023	Date:  07/12/2023
Signature: 	Signature: 



## Annex 1 – Authorised Processing Template

### 1. Status of the Controller

1.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the nature of the activity carried out by each of them in relation to their respective obligations under a Contract dictates the status of each party under the DPA 2018. A Party may act as:

1.1.1 “Controller” in respect of the other Party who is “Processor”;

1.1.2 “Processor” in respect of the other Party who is “Controller”;

1.1.3 “Joint Controller” with the other Party;

1.1.4 “Independent Controller” of the Personal Data where the other Party is also “Controller”,

in respect of certain Personal Data under a Contract and shall specify in Annex 1 (*Processing Personal Data*) which scenario they think shall apply in each situation.

### 2. Where one Party is Controller and the other Party its Processor

2.1 Where a Party is a Processor, the only Processing that it is authorised to do is listed in Annex 1 (*Processing Personal Data*) by the Controller.

2.2 The Processor shall notify the Controller immediately if it considers that any of the Controller’s instructions infringe the Data Protection Legislation.

2.3 The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any Processing. Such assistance may, at the discretion of the Controller, include:

2.3.1 a systematic description of the envisaged Processing and the purpose of the Processing;

2.3.2 an assessment of the necessity and proportionality of the Processing in relation to the Services;

2.3.3 an assessment of the risks to the rights and freedoms of Data Subjects; and



2.3.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

2.4 The Processor shall, in relation to any Personal Data Processed in connection with its obligations under the Contract:

2.4.1 Process that Personal Data only in accordance with Annex 1 (*Processing Personal Data*), unless the Processor is required to do otherwise by Law. If it is so required the Processor shall notify the Controller before Processing the Personal Data unless prohibited by Law;

2.4.2 ensure that it has in place Protective Measures, including in the case of the Supplier the measures set out in Clause 18.4 of the Core Terms, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures) having taken account of the:

- a) nature of the data to be protected;
- b) harm that might result from a Personal Data Breach;
- c) state of technological development; and
- d) cost of implementing any measures;

2.4.3 ensure that:

- a) the Processor Personnel do not Process Personal Data except in accordance with the Contract (and in particular Annex 1 (*Processing Personal Data*));
- b) it uses all reasonable endeavours to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
  - (i) are aware of and comply with the Processor's duties under this Schedule 20, Clauses 18 (Data protection), 19 (What you must keep confidential) and 20 (When you can share information);
  - (ii) are subject to appropriate confidentiality undertakings with the Processor or any Subprocessor;



- (iii) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Controller or as otherwise permitted by the Contract; and
  - (iv) have undergone adequate training in the use, care, protection and handling of Personal Data;
- 2.4.4 not transfer Personal Data outside of the UK unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
  - a) the transfer is in accordance with Article 45 of the UK GDPR (or section 73 of DPA 2018); or
  - b) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with UK GDPR Article 46 or section 75 of the DPA 2018) as determined by the Controller which could include relevant parties entering into the International Data Transfer Agreement (the “**IDTA**”), or International Data Transfer Agreement Addendum to the European Commission’s SCCs (the “**Addendum**”), as published by the Information Commissioner’s Office from time to time, as well as any additional measures determined by the Controller;
  - c) the Data Subject has enforceable rights and effective legal remedies;
  - d) the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and
  - e) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the Processing of the Personal Data;
- 2.4.5 where the Personal Data is subject to EU GDPR, not transfer Personal Data outside of the EU unless the prior written consent of



the Controller has been obtained and the following conditions are fulfilled:

- a) the transfer is in accordance with Article 45 of the EU GDPR; or
- b) the transferring Party has provided appropriate safeguards in relation to the transfer in accordance with Article 46 of the EU GDPR as determined by the non-transferring Party which could include relevant parties entering into Standard Contractual Clauses in the European Commission's decision 2021/914/EU or such updated version of such Standard Contractual Clauses as are published by the European Commission from time to time as well as any additional measures determined by the non-transferring Party;
- c) the Data Subject has enforceable rights and effective legal remedies;
- d) the transferring Party 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 non-transferring Party in meeting its obligations); and
- e) the transferring Party complies with any reasonable instructions notified to it in advance by the non-transferring Party with respect to the processing of the Personal Data; and

2.4.6 at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Contract unless the Processor is required by Law to retain the Personal Data.

2.5 Subject to Paragraph 2.6 of this Schedule 20, the Processor shall notify the Controller immediately if in relation to it Processing Personal Data under or in connection with the Contract it:

2.5.1 receives a Data Subject Access Request (or purported Data Subject Access Request);

2.5.2 receives a request to rectify, block or erase any Personal Data;





- 2.5.3 receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
  - 2.5.4 receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data Processed under the Contract;
  - 2.5.5 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
  - 2.5.6 becomes aware of a Personal Data Breach.
- 2.6 The Processor's obligation to notify under Paragraph 2.5 of this Schedule 20 shall include the provision of further information to the Controller, as details become available.
- 2.7 Taking into account the nature of the Processing, the Processor shall provide the Controller with assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under Paragraph 2.5 of this Schedule 20 (and insofar as possible within the timescales reasonably required by the Controller) including by immediately providing:
- 2.7.1 the Controller with full details and copies of the complaint, communication or request;
  - 2.7.2 such assistance as is reasonably requested by the Controller to enable it to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
  - 2.7.3 the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
  - 2.7.4 assistance as requested by the Controller following any Personal Data Breach; and/or
  - 2.7.5 assistance as requested by the Controller with respect to any request from the Information Commissioner's Office or any other regulatory authority, or any consultation by the Controller with the Information Commissioner's Office or any other regulatory authority.
- 2.8 The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this Schedule 20. This



requirement does not apply where the Processor employs fewer than 250 staff, unless:

- 2.8.1 the Controller determines that the Processing is not occasional;
  - 2.8.2 the Controller determines the Processing includes special categories of data as referred to in Article 9(1) of the UK GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the UK GDPR; or
  - 2.8.3 the Controller determines that the Processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 2.9 The Processor shall allow for audits of its Data Processing activity by the Controller or the Controller's designated auditor.
- 2.10 The Parties shall designate a Data Protection Officer if required by the Data Protection Legislation.
- 2.11 Before allowing any Subprocessor to Process any Personal Data related to the Contract, the Processor must:
- 2.11.1 notify the Controller in writing of the intended Subprocessor and Processing;
  - 2.11.2 obtain the written consent of the Controller;
  - 2.11.3 enter into a written agreement with the Subprocessor which give effect to the terms set out in this Schedule 20 such that they apply to the Subprocessor; and
  - 2.11.4 provide the Controller with such information regarding the Subprocessor as the Controller may reasonably require.
- 2.12 The Processor shall remain fully liable for all acts or omissions of any of its Subprocessors.
- 2.13 The Buyer may, at any time on not less than 30 Working Days' notice, revise this Schedule 20 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 the Contract).
- 2.14 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Buyer may on not less than 30 Working Days'



notice to the Supplier amend the Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office.

### **3. Where the Parties are Joint Controllers of Personal Data**

- 3.1 In the event that the Parties are Joint Controllers in respect of Personal Data under the Contract, the Parties shall implement Paragraphs that are necessary to comply with UK GDPR Article 26 based on the terms set out in Annex 2 to this Schedule 20 (*Processing Data*).

#### **Independent Controllers of Personal Data**

- 3.2 With respect to Personal Data provided by one Party to another Party for which each Party acts as Controller but which is not under the Joint Control of the Parties, each Party undertakes to comply with the applicable Data Protection Legislation in respect of their Processing of such Personal Data as Controller.
- 3.3 Each Party shall Process the Personal Data in compliance with its obligations under the Data Protection Legislation and not do anything to cause the other Party to be in breach of it.
- 3.4 Where a Party has provided Personal Data to the other Party in accordance with Paragraph 3.2 of this Schedule 20 above, the recipient of the Personal Data will provide all such relevant documents and information relating to its data protection policies and procedures as the other Party may reasonably require.
- 3.5 The Parties shall be responsible for their own compliance with Articles 13 and 14 UK GDPR in respect of the Processing of Personal Data for the purposes of the Contract.
- 3.6 The Parties shall only provide Personal Data to each other:
- 3.6.1 to the extent necessary to perform their respective obligations under the Contract;
  - 3.6.2 in compliance with the Data Protection Legislation (including by ensuring all required data privacy information has been given to affected Data Subjects to meet the requirements of Articles 13 and 14 of the UK GDPR); and
  - 3.6.3 where it has recorded it in Annex 1 (*Processing Personal Data*).



- 3.7 Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, each Party shall, with respect to its Processing of Personal Data as Independent Controller, implement and maintain appropriate technical and organisational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1)(a), (b), (c) and (d) of the UK GDPR, and the measures shall, at a minimum, comply with the requirements of the Data Protection Legislation, including Article 32 of the UK GDPR.
- 3.8 A Party Processing Personal Data for the purposes of the Contract shall maintain a record of its Processing activities in accordance with Article 30 UK GDPR and shall make the record available to the other Party upon reasonable request.
- 3.9 Where a Party receives a request by any Data Subject to exercise any of their rights under the Data Protection Legislation in relation to the Personal Data provided to it by the other Party pursuant to the Contract (**“Request Recipient”**):
- 3.9.1 the other Party shall provide any information and/or assistance as reasonably requested by the Request Recipient to help it respond to the request or correspondence, at the cost of the Request Recipient; or
- 3.9.2 where the request or correspondence is directed to the other Party and/or relates to that other Party's Processing of the Personal Data, the Request Recipient will:
- a) promptly, and in any event within five (5) Working Days of receipt of the request or correspondence, inform the other Party that it has received the same and shall forward such request or correspondence to the other Party; and
  - b) provide any information and/or assistance as reasonably requested by the other Party to help it respond to the request or correspondence in the timeframes specified by Data Protection Legislation.



- 3.10 Each Party shall promptly notify the other Party upon it becoming aware of any Personal Data Breach relating to Personal Data provided by the other Party pursuant to the Contract and shall:
- 3.10.1 do all such things as reasonably necessary to assist the other Party in mitigating the effects of the Personal Data Breach;
  - 3.10.2 implement any measures necessary to restore the security of any compromised Personal Data;
  - 3.10.3 work with the other Party to make any required notifications to the Information Commissioner's Office or any other regulatory authority and affected Data Subjects in accordance with the Data Protection Legislation (including the timeframes set out therein); and
  - 3.10.4 not do anything which may damage the reputation of the other Party or that Party's relationship with the relevant Data Subjects, save as required by Law.
- 3.11 Personal Data provided by one Party to the other Party may be used exclusively to exercise rights and obligations under the Contract as specified in Annex 1 (*Processing Personal Data*).
- 3.12 Personal Data shall not be retained or processed for longer than is necessary to perform each Party's respective obligations under the Contract which is specified in Annex 1 (*Processing Personal Data*).
- 3.13 Notwithstanding the general application of Paragraphs 2.1 to 2.14 of this Schedule 20 to Personal Data, where the Supplier is required to exercise its regulatory and/or legal obligations in respect of Personal Data, it shall act as an Independent Controller of Personal Data in accordance with Paragraphs 3.2 to 3.12 of this Schedule 20.



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## Processing Personal Data

1. This Annex shall be completed by the Controller, who may take account of the view of the Processor, however the final decision as to the content of this Annex shall be with the Buyer at its absolute discretion.
  - 1.1 The contact details of the Buyer's Data Protection Officer are:  
[DataProtectionOfficer@dft.gov.uk](mailto:DataProtectionOfficer@dft.gov.uk)
  - 1.2 The contact details of the Supplier's Data Protection Officer are: [REDACTED]  
[REDACTED], ([REDACTED] [@barrybennett.co.uk](mailto:[REDACTED]@barrybennett.co.uk))
  - 1.3 The Processor shall comply with any further written instructions with respect to Processing by the Controller.
  - 1.4 Any such further instructions shall be incorporated into this Annex.

Description	Details
Identity of Controller for each Category of Personal Data	<p><b>The Buyer is Controller and the Supplier is Processor</b></p> <p>The Parties acknowledge that in accordance with Paragraph 2 and for the purposes of the Data Protection Legislation, the Buyer is the Controller and the Supplier is the Processor of the following Personal Data:</p> <ul style="list-style-type: none"><li>• Personal identifiable data, e.g. full name, contact information, address</li><li>• Medical information and symptoms experienced at work, e.g., details of health conditions and/or disabilities where relevant</li></ul> <p>The above personal identifiable and medical information will be shared and processed by the supplier for triaging and onward recommendations for equipment and/or services.</p>



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Duration of the Processing	<p>The contract start date is 09 December 2023.</p> <p>The length of the contract is one year, concluding on 08 December 2024 with an option to extend for a further:</p> <ul style="list-style-type: none"><li>• One year from 09 December 2024 to 07 December 2025</li><li>• One year from 08 December 2025 to 06 December 2026</li><li>• One year from 07 December 2026 to 05 December 2027</li></ul>
Nature and purposes of the Processing	<p>Information required to enable specialist service provider to accurately triage applications for specialist assessments and make recommendations for specialised software and equipment relating to Disability and Specific Learning Difficulties (SpLDs).</p> <p>The Supplier would store the information provided to them, alongside copies of the recommendations that they provide to the Department.</p>
Type of Personal Data	<p>Personal identifiable information including:</p> <ul style="list-style-type: none"><li>• Name</li><li>• Home address</li><li>• Office location</li><li>• Medical history, including details of difficulties experienced at work and of any Disability and/or Neurodiversity conditions</li></ul>
Categories of Data Subject	<p><b>Staff</b> – Personal and Medical information</p>
Plan for return and destruction of the data once the Processing is complete  UNLESS requirement under	<p>Records of assessments and the supplier's recommendations are to be returned to the DfTc Workplace Adjustments Team (and to no other bodies) upon termination of contract on 08 December 2024 (or, as extended to 07 Dec 2025; 06 Dec 2026; or 05 Dec 2027). All other Data held by the supplier is to be deleted securely within 30 days of the contract's expiry date on 08 December 2024 (or, as extended to 07 Dec 2025; 06 Dec 2026; or 05 Dec 2027).</p> <p>Destruction certificates will be made available for all data destroyed.</p>





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law to preserve that type of data	
Locations at which the Supplier and/or its Sub-contractors process Personal Data under this Contract	The Supplier and its sub-contractor [REDACTED] are UK-based and will process data entirely in the UK.
Protective Measures that the Supplier and, where applicable, its Sub-contractors have implemented to protect Personal Data processed under this Contract Agreement against a breach of security (insofar as that breach of security relates to data) or a Personal Data Breach	<p>To minimise the risk of data breaches, the Supplier will only collect and record data needed to provide Workplace Needs Assessments and associated services, such as basic contact information. [REDACTED]</p> <p>The Supplier has <b>Cyber Essentials accreditation</b>. Their controls against security breaches include:</p> <ul style="list-style-type: none"><li>• [REDACTED]</li></ul>





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	<ul style="list-style-type: none"><li>• [REDACTED]</li><li>■ [REDACTED]</li><li>■ [REDACTED]</li><li>■ [REDACTED]</li><li>■ [REDACTED]</li><li>■ [REDACTED]</li><li>■ [REDACTED]</li><li>■ [REDACTED]</li></ul> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>The Supplier will only retain data where there is a business need to do so - and will not retain data for any longer than 10 years. To determine if electronic datasets need to be retained, the Supplier will conduct an annual data review. If datasets are no longer required, they will safely delete them.</p>
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	The Supplier physically destroys computer equipment and electronic media containing personal/sensitive information which is no longer needed, ensuring that sensitive data is non-retrievable.
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## **Annex 2 – Specification**

### **Provision of DfT Workplace Adjustments A Package Covering Assessments, Software Procurement and Management**

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## 1. Requirement Overview

### 1.1. Background to the Requirement

The Department for Transport (DfT)

<https://www.gov.uk/government/organisations/department-for-transport> works with our agencies and partners to support the transport network that helps the UK's businesses and gets people and goods travelling around the country. We plan and invest in transport infrastructure to keep the UK on the move.

The Department for Transport Central (DfTc) is looking to appoint a supplier to provide workplace assessments and specialised software (which may include bulk licenses) which are outside the remit of standard IT provision for staff and required due to specific disability, medical related condition or need.

This includes providing any compatible equipment, relevant advice, coaching or training on the software items provided in scope of this requirement, as well as workplace strategy coaching.

Please refer to 'Pricing Schedule for Bidders' for a full list of required products and services. Please note that this list is not exhaustive, and that actual service volumes over the duration of the contract may vary depending on Buyer needs.

### 1.2. Delivery of Services

DfTc current employs approximately 4000 staff, primarily based in London and Southeast England, with a number of staff in locations such as Birmingham, Hastings, Leeds, Newcastle, Swansea and York.

The appointed supplier will be responsible for managing the ordering and delivery of the relevant software, assessments, accompanying equipment and training/support to the Department's staff in both home and office locations.

Delivery will be virtually by default and face to face where required.

#### 1.2.1. Premises and Access to Services

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The Supplier shall agree with Customer any equipment required for the delivery of on-site and off-site Services. Any disagreement would be resolved through the DfTc contract manager and Suppliers account manager.

Where the Supplier is responsible for the provision of such equipment, the Supplier shall provide the Customer with all requirements of the premises in order that the equipment can be correctly installed.

The Supplier should note that the availability of WIFI may be inconsistent across Customer premises.

The Supplier shall ensure that access to premises is requested from Customers in advance of Services being performed so as to allow for any additional security clearance, which may be required.

The Supplier must be able to demonstrate knowledge and use relevant to DfTc technical and operational environment.

Please note that Software/Equipment should be delivered within 10 working days of a receipt of a formal purchase order. Any expected delay outside of this timeframe must be alerted to the Authority within 24 hours. The Authority may grant an extension to the delivery timeframe on a case by case basis where the supplier is able to evidence a reason outside of their control that makes delivery within the timeframe impossible. The Department should be kept updated at all times of any delay in delivery.

Assessments should be tailored to the individual requirement and will be delivered, depending on the specified need of assessments required. Assessments should be made available at the workplace, remotely or in the home for those who are working from home.

Assessments should be flexible enough to enable a user or assessor to postpone or move an assessment (with a valid reason) providing 5 working days' notice is given prior to the assessment training date. Valid reasons will include: Unavailability of Equipment, Sickness or Bereavement.



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If less than 5 working days' notice is given, the Supplier must evidence that every attempt has been made to reallocate the assessment or otherwise postpone or alter the course delivery before charging for the assessment.

Your proposal should include how staff will be able to raise requests for software or other items provided at cost by the supplier that staff may want to purchase themselves should include the expected lead times for and the delivery required.

### **1.3. Contract duration**

The contract start date is 09 December 2023.

The length of the contract is one year, concluding on 08 December 2024 with an option to extend for a further:

- One year from 09 December 2024 to 07 December 2025
- One year from 08 December 2025 to 06 December 2026
- One year from 07 December 2026 to 05 December 2027

## **2. Social Value Considerations**

### **2.1. Environmental**

The HM Government's 25 Year Environment Plan (<https://www.gov.uk/government/publications/25-year-environment-plan>) sets out goals for improving the environment within a generation and details how it will work with communities and businesses to do this.

The supplier will be expected to secure additional environmental improvements under this contract, particularly in relation to the way in which the services are provided.

### **2.2. Workplace Inequality**

The HM Government's plan to Build Back Better ([Build Back Better: our plan for growth](#)) sets out the government's plans to support growth through significant



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investment in infrastructure, skills and innovation, and to pursue growth that levels up every part of the UK, enables the transition to net zero, and supports the government's vision for Global Britain. The most important pillar in the government's approach to levelling up is supporting individuals across the UK to reach their potential, investing in people in every place and region.

The Government is additionally committed to tackling inequality and giving everyone across the country the opportunity to fulfil their potential. The Good Work Plan ([Good work plan](#)) affirms government's ambition that all work should be fair and decent, and that everyone, regardless of where they live in the UK or which sector they work in, should be able to benefit from high quality jobs. The benefits that can be driven through social value can be a vital component in advancing equality, creating training and better employment opportunities, and combatting modern slavery.

To note that it is a legal requirement for companies with 250 employees or more to publish their annual gender pay data online ([Gender pay gap reporting: guidance for employers](#)).

### 3. Quality Assurance Requirements

The supplier will ensure that regular quality assurance is undertaken to ensure high standard goods and services. This will be reported to the Buyer in Contract Review Meetings (See: '7. Management and Contract Administration') and will include:

- Adherence to General Data Protection Regulation (GPDR) and completion of Data Impact Protection Assessment (DPIA) as stated in the Requirements Specification (See: '4. Information Assurance')
- Ensuring assessors with the specialist training, skills and those who have undertaken accredited vocational qualifications are available for the delivery of assessments and recommendations. This includes upskilling of assessors in line with any development in industry standards
- Recruitment and retention of assessors and staff, to meet the Buyer's demand for goods and services
- Regular contract review meetings with the Buyer's representatives, as stated in the Requirements Specification (See: '7. Management and Contract Administration')

### 4. Information Assurance





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#### 4.1. Data Protection

Delivery of this contract will require the supplier to process Personal Data (as defined in the [General Data Protection Regulation](#) (GDPR)) on the Buyers behalf. The Buyer will be the Data Controller and the supplier will act as the Data Processor. The supplier will process Personal Data only on the Buyers documented instructions, as set out in Schedule 8 of the Tender (Authorised Processing Template).

The supplier will work with the Buyer to complete Data Protection Impact Assessments (DPIAs) and relevant information assurance documentation as and when required.

#### 4.2. Cyber Security

The Government has developed Cyber Essentials, in consultation with industry, to mitigate the risk from common internet-based threats.

It will be mandatory for new Central Government contracts, which feature characteristics involving the handling of personal data and ICT systems designed to store or process data at the OFFICIAL level of the Government Security Classifications scheme (link below), to comply with Cyber Essentials.

<https://www.gov.uk/government/publications/government-security-classifications>

All potential tenderers for Central Government contracts, featuring the above characteristics, should make themselves aware of Cyber Essentials and the requirements for the appropriate level of certification. The link below to the Gov.uk website provides further information:

<https://www.gov.uk/government/publications/cyber-essentials-scheme-overview>

As this requirement features the above characteristics, you are required to demonstrate in your response that:

- Your organisation has Cyber Essentials Plus certification; **or**
- Your organisation will be able to secure Cyber Essentials Plus certification prior to contract award; **or**
- Your organisation has other evidence to support that you have appropriate technical and organisational measures to mitigate the risk from common internet-based threats in respect to the following five technical areas:
  - 
  - Boundary firewalls and internet gateways
  - Secure configuration



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- Access control
- Malware protection
- Patch management

The successful tenderer will be required to provide evidence of Cyber Essentials Plus certification 'or equivalent' (i.e. demonstrate they meet the five technical areas the Cyber Essentials Scheme covers) prior to contract award. This will be through the completion of the Statement of Assurance Questionnaire.

The successful tenderer will be required to secure and provide evidence of Cyber Essentials Plus re-certification 'or equivalent' (i.e. demonstrate they meet the five technical areas) on an annual basis.

**Further information regarding the certification process can be found here:**

<https://www.ncsc.gov.uk/cyberessentials/overview>

### **5. Accessibility**

Where appropriate, the Supplier's goods and services should meet 2018

Accessibility Regulations as outlined here: [Understanding accessibility requirements for public sector bodies - GOV.UK \(www.gov.uk\)](#)

### **6. Service Conditions and Environmental Factors**

A Standard Manufacturer's warranty on all items listed in the above Specification of Services is required for the hardware required under this opportunity and that new software is subject to testing and approval by digital services.

In instances where specialised software is required for workplace adjustments, it is expected that the Supplier will provide the latest and most current version for use.



Where possible should select software that meets user's needs from a list of previously approved software that the DfTc have already approved and deployed within the DfTc IT estate (this will be provided to the successful supplier). If the user's needs are not met by previously approved software, software can be purchased, although the software will need to go through the DfT Digital Service software approval process before it can be deployed to users.

Any applicable hardware or peripherals (if required as a result of the specialist software) purchased as a workplace adjustment must be compatible and operate on a Windows 10 or above operating environment.

Suppliers are not expected to make a profit on the sales of the software. The department is seeking to pay the going rate for the software applications. The Department will request, in advance, the pricing of the software applications prior to committing to purchase.

## **7. Management and Contract Administration**

### **7.1. Contract Implementation**

The Contract Manager will confirm with the supplier at the contract implementation meeting what will be reviewed and measured at regular contract review meetings, and define the format data should be provided in. This is stated in the Requirements Specification (see: 7.2. Contract Review) and will include:

- Monitoring of targets and performance measures;

- The reporting process (content, format and frequency of management information);

- Access to the supplier's records;

- Review meetings (focus and frequency);

- Adherence to internal and external governance regimes.

### **7.2. Contract Review Meetings**



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The supplier will be expected to be able to attend a minimum of monthly contractual review meetings with representatives of DfTc. These meetings will ordinarily take place virtually and on occasion at one of the DfT offices (London, Birmingham, Leeds, Swansea, Hastings).

Attendance at Contract Review meetings shall be at the Supplier's own expense.

### **7.3. Service Level Agreements (SLAs)**

The following Service Level Agreements (SLAs) will apply. If in exceptional cases these timescales cannot be met, the Supplier must notify the Department within 24 hours:

- The Supplier's Account Management Support to be available Monday to Friday 8am – 6pm with responses to queries from the Department within one working day.
- The Supplier must be able to respond within two working days (exceptional circumstances are to be considered on a case-by-case basis) to any request with a formal quotation required. If it is necessary to clarify any part of the request, this should be carried out with the person making the request.
- All complaints made to the department will be raised to the suppliers nominated contract manager who must respond within a maximum of three working days indicating the planned resolution. Full resolution of complaints and issues must be completed within 10 working days.
- Workplace Needs Assessments, and all other assessments and screenings, should be conducted within 5 - 10 working days, taking into consideration customer availability.
- Reports are to be issued within 5 working days of assessment being completed unless there is an agreement with DfTc that time is required to obtain external information that will impact on those times.
- All software and/or equipment is to be delivered within 10 working days.
- Set-up of equipment is to be arranged within three working days of delivery (where appropriate)
- Training should be available within two weeks (training bookings are to be confirmed by email only – this information will include dates, times, locations, subject and trainer details)



- All invoices are to be accurate upon first submission, including all necessary supporting documentation, and should be delivered within the agreed upon timeframes.
- All ad hoc and urgent MI in relation to Freedom of Information requests, Minister's questions and Parliamentary Questions will be provided within the timescales outlined for each request by the Department.

## **8. Training / Skills / Knowledge Transfer**

The supplier is expected to deliver Workplace Needs Assessments and produce onwards, software or equipment recommendations for individuals with Disability, Neurodiversity and Specific Learning Difficulties (SpLD).

Assessments must only be carried out by assessors who have a proven track record in providing specialist assessments and have undertaken accredited vocational qualifications. They should also have a working knowledge of the software/IT equipment they are able to recommend. This should be chosen to meet the specific needs of the user as opposed to being one of a range limited by the abilities and knowledge of the assessor. The supplier will be responsible for ensuring that assessors are qualified and insured to carry out the assessments required. In-date certification, insurance policies and evidence of relevant experience of trainers used will be made available by the supplier if requested by the Department within a reasonable timeframe.

The supplier will be responsible for delivery, setup, training, and information that users require and will be able to answer queries regarding the proposed software and will confirm whether it is compatible with the systems used within the Department. After a period of two weeks following set up, the supplier will check in with the user to ensure their needs have been met and make any further adjustments where needed.

The supplier will be required to deliver services across Nationwide coverage (with focus on the London area). This will be virtually as default, unless there is a medical requirement or business need to deliver in person.

The supplier will be expected to provide specialist advice to DfT to maximise value for money, for instance to reduce spend on high end products.

Ad hoc administrative support and advice/guidance on Software and Workplace Adjustments is to be provided within existing contract specification and budget.

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## 9. Documentation

### 9.1. Management Information (MI) and Reporting

The Buyer requires frequent and easily accessible Management Information (MI). This shall be provided by the Supplier on a monthly basis, by the 7th working day of the month, at minimum (and more frequently, if practical) for the duration of this contract. The Supplier will be required to submit a comprehensive and robust Management Information to verify that services are being delivered, and to the required standard, providing quality outcomes which provide value for money.

The Supplier shall provide MI broken down, and as specified by the Department, but at a minimum shall be on a geographical location. The Department reserves the right to request ad-hoc MI reports as required, and these reports should be provided at no additional charge.

The Supplier shall provide the following monthly MI to the Department and shall include a breakdown of Service Usage:

General Requirements:

- Monthly and cumulative Contract Year to date Charges for the Services, including any pass through or additionally agreed costs
- Consolidated customer complaints report
- Performance against agreed SLAs
- Results of customer satisfaction surveys
- Continuous Improvement Report
- Identification of any risks identified with the delivery of the Services including any mitigating actions to manage the risks going forward
- Number of immediate high risk or red flag cases – these should also be raised with the Department in real-time for prompt support and resolution
- Number of low-risk cases identified; and
- The nature of the condition/issue as well as whether the cause is work/home related

Other Requirements:

- Analysis of problem source by business division, location and health condition

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- Analysis of Customer Personnel who failed to attend booked Assessments

## 9.2. Invoices

All invoices should contain an allocated Purchase Order number (The Department will provide this) and sent to via email to: [SSa.invoice@sharedservicesarvato.co.uk](mailto:SSa.invoice@sharedservicesarvato.co.uk)

Or via post to:

Shared Services ARVATO,  
5 Sandringham Park  
Llansamlet,  
Swansea Vale,  
Swansea  
SA7 0EA

A copy of the invoice should also be sent to the DfTc Contract Manager ([workplace.adjustments@dft.gov.uk](mailto:workplace.adjustments@dft.gov.uk)).

Payment can only be made following satisfactory delivery of pre-agreed deliverables as per the Schedule 2. Payment will be made within thirty (30) days of the submission of a valid invoice and at monthly intervals in arrears. All invoices should be submitted, checked and pre-agreed via the Departments Contract Lead prior to submission to ARVATO. The Department will review and approve the invoice within five (5) working days and send notification of approval with a corresponding purchase order number to the supplier.

## 10. Arrangement for End of Contract

The Contractor shall fully cooperate with the Buyer to ensure a fair and transparent re-tendering process for this contract. This may require the Contractor to demonstrate separation between teams occupied on the existing Contract and those involved in tendering for the replacement contract to prevent actual (or perceived) conflicts of interest arising.

































































## Contract Conditions

### 1. Definitions used in the Contract

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

<b>"Buyer"</b>	means the person identified in the letterhead of the Order Form;
<b>"Buyer Cause"</b>	any breach of the obligations of the Buyer or any other default, act, omission, negligence or statement of the Buyer, of its employees, servants, agents in connection with or in relation to the subject-matter of the Contract and in respect of which the Buyer is liable to the Supplier;
<b>"Central Government Body"</b>	<p>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:</p> <ul style="list-style-type: none"><li>a) Government Department;</li><li>b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);</li><li>c) Non-Ministerial Department; or</li><li>d) Executive Agency;</li></ul>
<b>"Charges"</b>	means the charges for the Deliverables as specified in the Order Form;
<b>"Confidential Information"</b>	means all information, whether written or oral (however recorded), provided by the disclosing Party to the receiving Party and which (i) is known by the receiving Party to be confidential; (ii) is marked as or stated to be confidential; or (iii) ought reasonably to be considered by the receiving Party to be confidential;
<b>"Contract"</b>	means the contract between (i) the Buyer and (ii) the Supplier which is created by the Supplier's counter signing



		the Order Form and includes the Order Form and Annexes;
<b>"Controller"</b>		has the meaning given to it in the UK GDPR;
<b>"Date of Delivery"</b>	<b>of</b>	means that date by which the Deliverables must be delivered to the Buyer, as specified in the Order Form;
<b>"DPA 2018:"</b>		Data Protection Act 2018 as amended by the Data Protection, Privacy and Electronic Communications (Amendments etc)(EU Exit) Regs 2019 (as amended by the Data Protection, Privacy and Electronic Communications (Amendments etc)(EU Exit) Regs 2020
<b>"Data Protection Legislation"</b>		(i) the UK GDPR as amended from time to time (ii) the DPA 2018 to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy; (iv) the EU GDPR where applicable to the processing.
<b>"Data Protection Impact Assessment"</b>		an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data;
<b>"Data Protection Officer"</b>		has the meaning given to it in the UK GDPR;
<b>"Data Subject"</b>		has the meaning given to it in the UK GDPR;
<b>"Data Loss Event"</b>	<b>Loss</b>	any event that results, or may result, in unauthorised access to Personal Data held by the Supplier under this Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of this Contract, including any Personal Data Breach;
<b>"Data Subject Access Request"</b>	<b>Subject</b>	a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data;
<b>"Deliver"</b>		means hand over the Deliverables to the Buyer at the address and on the date specified in the Order Form, which shall include unloading and any other specific



arrangements agreed by both parties. Delivered and Delivery shall be construed accordingly;

<b>"Existing IPR"</b>	any and all intellectual property rights that are owned by or licensed to either Party and which have been developed independently of the Contract (whether prior to the date of the Contract or otherwise);
<b>"Expiry Date"</b>	means the date for expiry of the Contract as set out in the Order Form;
<b>"FOIA"</b>	means the Freedom of Information Act 2000 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation;
<b>"Force Majeure Event"</b>	any event, occurrence, circumstance, matter or cause affecting the performance by either Party of its obligations under the Contract arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control which prevent or materially delay it from performing its obligations under the Contract but excluding: i) any industrial dispute relating to the Supplier, the Supplier Staff (including any subsets of them) or any other failure in the Supplier or the Subcontractor's supply chain; ii) any event, occurrence, circumstance, matter or cause which is attributable to the wilful act, neglect or failure to take reasonable precautions against it by the Party concerned; and iii) any failure of delay caused by a lack of funds;
<b>"Goods"</b>	means the goods to be supplied by the Supplier to the Buyer under the Contract;
<b>"Good Industry Practice"</b>	standards, practices, methods and procedures conforming to the law and the exercise of the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged within the relevant industry or business sector;
<b>"Government Data"</b>	a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which



are embodied in any electronic, magnetic, optical or tangible media, including any of the Buyer's confidential information, and which: i) are supplied to the Supplier by or on behalf of the Buyer; or ii) the Supplier is required to generate, process, store or transmit pursuant to the Contract; or b) any Personal Data for which the Buyer is the Data Controller;

<b>"Information"</b>	has the meaning given under section 84 of the FOIA;
<b>"Information Commissioner"</b>	the UK's independent authority which deals with ensuring information relating to rights in the public interest and data privacy for individuals is met, whilst promoting openness by public bodies;
<b>"Insolvency Event"</b>	in respect of a person: a) if that person is insolvent; ii) if an order is made or a resolution is passed for the winding up of the person (other than voluntarily for the purpose of solvent amalgamation or reconstruction); iii) if an administrator or administrative receiver is appointed in respect of the whole or any part of the persons assets or business; iv) if the person makes any composition with its creditors or takes or suffers any similar or analogous action to any of the actions detailed in this definition as a result of debt in any jurisdiction;
<b>"Key Personnel"</b>	means any persons specified as such in the Order Form or otherwise notified as such by the Buyer to the Supplier in writing;
<b>"New IPR"</b>	all and intellectual property rights in any materials created or developed by or on behalf of the Supplier pursuant to the Contract but shall not include the Supplier's Existing IPR;
<b>"Order Form"</b>	means the letter from the Buyer to the Supplier printed above these terms and conditions;
<b>"Party"</b>	the Supplier or the Buyer (as appropriate) and "Parties" shall mean both of them;
<b>"Personal Data"</b>	has the meaning given to it in the UK GDPR;



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<b>"Personal Data Breach"</b>	has the meaning given to it in the UK GDPR;
<b>"Processor"</b>	has the meaning given to it in the UK GDPR;
<b>"Purchase Order Number"</b>	means the Buyer's unique number relating to the order for Deliverables to be supplied by the Supplier to the Buyer in accordance with the terms of the Contract;
<b>"Regulations"</b>	the Public Contracts Regulations 2015 and/or the Public Contracts (Scotland) Regulations 2015 (as the context requires) as amended from time to time;
<b>"Request for Information"</b>	has the meaning set out in the FOIA or the Environmental Information Regulations 2004 as relevant (where the meaning set out for the term "request" shall apply);
<b>"Services"</b>	means the services to be supplied by the Supplier to the Buyer under the Contract;
<b>"Specification"</b>	means the specification for the Deliverables to be supplied by the Supplier to the Buyer (including as to quantity, description and quality) as specified in the Order Form;
<b>"Staff"</b>	means all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any sub-contractor of the Supplier engaged in the performance of the Supplier's obligations under the Contract;
<b>"Staff Vetting Procedures"</b>	means vetting procedures that accord with good industry practice or, where applicable, the Buyer's procedures for the vetting of personnel as provided to the Supplier from time to time;
<b>"Storage Media"</b>	means the part of any device that is capable of storing and retrieving data;
<b>"Subprocessor"</b>	any third Party appointed to process Personal Data on behalf of the Supplier related to the Contract;
<b>"Supplier Staff"</b>	all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Subcontractor engaged in the performance of the Supplier's obligations under a Contract;



<b>"Supplier"</b>	means the person named as Supplier in the Order Form;
<b>"Term"</b>	means the period from the start date of the Contract set out in the Order Form to the Expiry Date as such period may be extended or terminated in accordance with the terms and conditions of the Contract;
<b>"UK GDPR"</b>	as given effect by Part 2 of the DPA 2018, as amended by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (as amended by the Data Protection, Privacy and Electronic Communications (Amendments etc)(EU Exit) Regulations 2020.
<b>"VAT"</b>	means value added tax in accordance with the provisions of the Value Added Tax Act 1994;
<b>"Workers"</b>	any one of the Supplier Staff which the Buyer, in its reasonable opinion, considers is an individual to which Procurement Policy Note 08/15 (Tax Arrangements of Public Appointees) ( <a href="https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees">https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees</a> ) applies in respect of the Deliverables;
<b>"Working Day"</b>	means a day (other than a Saturday or Sunday) on which banks are open for business in the City of London.

## 2. Understanding the Contract

In the Contract, unless the context otherwise requires:

- 2.1 references to numbered clauses are references to the relevant clause in these terms and conditions;
- 2.2 any obligation on any Party not to do or omit to do anything shall include an obligation not to allow that thing to be done or omitted to be done;
- 2.3 the headings in this Contract are for information only and do not affect the interpretation of the Contract;





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- 2.4 references to "writing" include printing, display on a screen and electronic transmission and other modes of representing or reproducing words in a visible form;
- 2.5 the singular includes the plural and vice versa;
- 2.6 a reference to any law includes a reference to that law as amended, extended, consolidated or re-enacted from time to time and to any legislation or byelaw made under that law; and
- 2.7 the word 'including', "for example" and similar words shall be understood as if they were immediately followed by the words "without limitation".

### **3. How the Contract works**

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

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

#### **4.1 All Deliverables**

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

#### **4.2 Goods clauses**

- (a) All Goods delivered must be new, or as new if recycled, unused and of recent origin.



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



unless and to the extent that it is caused by negligence or other wrongful act of the Buyer or its servant or agent. If the Buyer suffers or incurs any damage or injury (whether fatal or otherwise) occurring in the course of delivery or installation then the Supplier shall indemnify from any losses, charges costs or expenses which arise as a result of or in connection with such damage or injury where it is attributable to any act or omission of the Supplier or any of its [sub-suppliers].

#### **4.3 Services clauses**

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



## **5. Pricing and payments**

- 5.1 In exchange for the Deliverables, the Supplier shall be entitled to invoice the Buyer for the charges in the Order Form. The Supplier shall raise invoices promptly and in any event within 90 days from when the charges are due.
- 5.2 All Charges:
- (a) exclude VAT, which is payable on provision of a valid VAT invoice;
  - (b) include all costs connected with the supply of Deliverables.
- 5.3 The Buyer must pay the Supplier the charges within 30 days of receipt by the Buyer of a valid, undisputed invoice, in cleared funds to the Supplier's account stated in the Order Form.
- 5.4 A Supplier invoice is only valid if it:
- (a) includes all appropriate references including the Purchase Order Number and other details reasonably requested by the Buyer;
  - (b) includes a detailed breakdown of Deliverables which have been delivered (if any).
- 5.5 If there is a dispute between the Parties as to the amount invoiced, the Buyer shall pay the undisputed amount. The Supplier shall not suspend the provision of the Deliverables unless the Supplier is entitled to terminate the Contract for a failure to pay undisputed sums in accordance with clause 11.6. Any disputed amounts shall be resolved through the dispute resolution procedure detailed in clause 33.
- 5.6 The Buyer may retain or set-off payment of any amount owed to it by the Supplier if notice and reasons are provided.
- 5.7 The Supplier must ensure that all subcontractors are paid, in full, within 30 days of receipt of a valid, undisputed invoice. If this doesn't happen, the Buyer can publish the details of the late payment or non-payment.

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

- 6.1 If Supplier fails to comply with the Contract as a result of a Buyer Cause:
- (a) the Buyer cannot terminate the Contract under clause 11;



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- (b) the Supplier is entitled to reasonable and proven additional expenses and to relief from liability under this Contract;
- (c) the Supplier is entitled to additional time needed to deliver the Deliverables;
- (d) the Supplier cannot suspend the ongoing supply of Deliverables.

6.2 Clause 6.1 only applies if the Supplier:

- (a) gives notice to the Buyer within 10 Working Days of becoming aware;
- (b) demonstrates that the failure only happened because of the Buyer Cause;
- (c) mitigated the impact of the Buyer Cause.

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

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



7.6 If the Buyer, acting reasonably, is concerned as to the financial stability of the Supplier such that it may impact on the continued performance of the Contract then the Buyer may:

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

## **8. Supplier staff**

8.1 The Supplier Staff involved in the performance of the Contract must:

- (a) be appropriately trained and qualified;
- (b) be vetted using Good Industry Practice and in accordance with the instructions issued by the Buyer in the Order Form:
- (c) comply with all conduct requirements when on the Buyer's premises.

8.2 Where a Buyer decides one of the Supplier's Staff isn't suitable to work on the Contract, the Supplier must replace them with a suitably qualified alternative.

8.3 If requested, the Supplier must replace any person whose acts or omissions have caused the Supplier to breach clause 8.

8.4 The Supplier must provide a list of Supplier Staff needing to access the Buyer's premises and say why access is required.

8.5 The Supplier indemnifies the Buyer against all claims brought by any person employed by the Supplier caused by an act or omission of the Supplier or any Supplier Staff.

8.6 The Supplier shall use those persons nominated in the Order Form (if any) to provide the Deliverables and shall not remove or replace any of them unless:

- (a) requested to do so by the Buyer (not to be unreasonably withheld or delayed);



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- (b) the person concerned resigns, retires or dies or is on maternity or long-term sick leave; or
- (c) the person's employment or contractual arrangement with the Supplier or any subcontractor is terminated for material breach of contract by the employee.

## **9. Rights and protection**

9.1 The Supplier warrants and represents that:

- (a) it has full capacity and authority to enter into and to perform the Contract;
- (b) the Contract is executed by its authorised representative;
- (c) it is a legally valid and existing organisation incorporated in the place it was formed;
- (d) there are no known legal or regulatory actions or investigations before any court, administrative body or arbitration tribunal pending or threatened against it or its affiliates that might affect its ability to perform the Contract;
- (e) it maintains all necessary rights, authorisations, licences and consents to perform its obligations under the Contract;
- (f) it doesn't have any contractual obligations which are likely to have a material adverse effect on its ability to perform the Contract; and
- (g) it is not impacted by an Insolvency Event.

9.2 The warranties and representations in clause 9.1 are repeated each time the Supplier provides Deliverables under the Contract.

9.3 The Supplier indemnifies the Buyer against each of the following:

- (a) wilful misconduct of the Supplier, any of its subcontractor and/or Supplier Staff that impacts the Contract;
- (b) non-payment by the Supplier of any tax or National Insurance.

9.4 If the Supplier becomes aware of a representation or warranty that becomes untrue or misleading, it must immediately notify the Buyer.



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- 9.5 All third party warranties and indemnities covering the Deliverables must be assigned for the Buyer's benefit by the Supplier.
- 9.6 Supplier shall ensure it has adequate insurance cover for this contract

## 10. Intellectual Property Rights (IPRs)

- 10.1 Each Party keeps ownership of its own Existing IPRs. The Supplier gives the Buyer a non-exclusive, perpetual, royalty-free, irrevocable, transferable worldwide licence to use, change and sub-license the Supplier's Existing IPR to enable it and its sub-licensees to both:
- (a) receive and use the Deliverables;
  - (b) use the New IPR.
- 10.2 Any New IPR created under the Contract is owned by the Buyer. The Buyer gives the Supplier a licence to use any Existing IPRs for the purpose of fulfilling its obligations under the Contract and a perpetual, royalty-free, non-exclusive licence to use any New IPRs.
- 10.3 Where a Party acquires ownership of intellectual property rights incorrectly under this Contract it must do everything reasonably necessary to complete a transfer assigning them in writing to the other Party on request and at its own cost.
- 10.4 Neither Party has the right to use the other Party's intellectual property rights, including any use of the other Party's names, logos or trademarks, except as provided in clause 10 or otherwise agreed in writing.
- 10.5 If any claim is made against the Buyer for actual or alleged infringement of a third party's intellectual property arising out of, or in connection with, the supply or use of the Deliverables (an "**IPR Claim**"), then the Supplier indemnifies the Buyer against all losses, damages, costs or expenses (including professional fees and fines) incurred as a result of the IPR Claim.
- 10.6 If an IPR Claim is made or anticipated the Supplier must at its own expense and the Buyer's sole option, either:
- (a) obtain for the Buyer the rights in clauses 10.1 and 10.2 without infringing any third party intellectual property rights;





- (b) replace or modify the relevant item with substitutes that don't infringe intellectual property rights without adversely affecting the functionality or performance of the Deliverables.

## **11. Ending the contract**

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

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

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

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

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

- (a) If any of the following events happen, the Buyer has the right to immediately terminate its Contract by issuing a termination notice in writing to the Supplier:
  - (i) there's a Supplier Insolvency Event;
  - (ii) if the Supplier repeatedly breaches the Contract in a way to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms and conditions of the Contract;
  - (iii) if the Supplier is in material breach of any obligation which is capable of remedy, and that breach is not remedied within 30 days of the Supplier receiving notice specifying the breach and requiring it to be remedied;
  - (iv) there's a change of control (within the meaning of section 450 of the Corporation Tax Act 2010) of the Supplier which isn't pre-approved by the Buyer in writing;
  - (v) if the Buyer discovers that the Supplier was in one of the situations in 57 (1) or 57(2) of the Regulations at the time the Contract was awarded;



- (vi) the courts of the United Kingdom declares that the Contract should not have been awarded to the Supplier because of a serious breach of the Regulations;
  - (vii) the Supplier or its affiliates embarrass or bring the Buyer into disrepute or diminish the public trust in them.
- (b) If any of the events in 73(1) (a) to (c) of the Regulations (substantial modification, exclusion of the Supplier, procurement infringement) happen, the Buyer has the right to immediately terminate the Contract and clause 11.5(b) to 11.5(g) applies.

### **11.5 What happens if the Contract ends**

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

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

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

- (a) The Supplier can issue a reminder notice if the Buyer does not pay an undisputed invoice on time. The Supplier can terminate the Contract if the Buyer fails to pay an undisputed invoiced sum due and worth over



10% of the total Contract value or £1,000, whichever is the lower, within 30 days of the date of the reminder notice.

- (b) If a Supplier terminates the Contract under clause 11.6(a):
  - (i) the Buyer must promptly pay all outstanding charges incurred to the Supplier;
  - (ii) the Buyer must pay the Supplier reasonable committed and unavoidable losses as long as the Supplier provides a fully itemised and costed schedule with evidence - the maximum value of this payment is limited to the total sum payable to the Supplier if the Contract had not been terminated;
  - (iii) clauses 11.5(d) to 11.5(g) apply.

## **11.7 Partially ending and suspending the Contract**

- (a) Where the Buyer has the right to terminate the Contract it can terminate or suspend (for any period), all or part of it. If the Buyer suspends the Contract it can provide the Deliverables itself or buy them from a third party.
- (b) The Buyer can only partially terminate or suspend the Contract if the remaining parts of it can still be used to effectively deliver the intended purpose.
- (c) The Parties must agree (in accordance with clause 24) any necessary variation required by clause 11.7, but the Supplier may not either:
  - (i) reject the variation;
  - (ii) increase the Charges, except where the right to partial termination is under clause 11.3.
- (d) The Buyer can still use other rights available, or subsequently available to it if it acts on its rights under clause 11.8.

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

12.1 Each Party's total aggregate liability under or in connection with the Contract (whether in tort, contract or otherwise) is no more than 125% of the Charges paid or payable to the Supplier.

12.2 No Party is liable to the other for:



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- (a) any indirect losses;
- (b) loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect).

12.3 In spite of clause 12.1, neither Party limits or excludes any of the following:

- (a) its liability for death or personal injury caused by its negligence, or that of its employees, agents or sub-contractors;
- (b) its liability for bribery or fraud or fraudulent misrepresentation by it or its employees;
- (c) any liability that cannot be excluded or limited by law.

12.4 In spite of clause 12.1, the Supplier does not limit or exclude its liability for any indemnity given under clauses 4.2(j), 4.2(m), 8.5, 9.3, 10.5, 13.2, 14.26(e) or 30.2(b).

12.5 Each Party must use all reasonable endeavours to mitigate any loss or damage which it suffers under or in connection with the Contract, including any indemnities.

12.6 If more than one Supplier is party to the Contract, each Supplier Party is fully responsible for both their own liabilities and the liabilities of the other Suppliers

### **13. Obeying the law**

13.1 The Supplier must, in connection with provision of the Deliverables, use reasonable endeavours to:

- (a) comply and procure that its subcontractors comply with the Supplier Code of Conduct appearing at

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/779660/20190220-Supplier Code of Conduct.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779660/20190220-Supplier_Code_of_Conduct.pdf)) and such other corporate social

responsibility requirements as the Buyer may notify to the Supplier from time to time;

- (b) support the Buyer in fulfilling its Public Sector Equality duty under S149 of the Equality Act 2010;
- (c) not use nor allow its subcontractors to use modern slavery, child labour or inhumane treatment;



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- (d) meet the applicable Government Buying Standards applicable to Deliverables which can be found online at:  
<https://www.gov.uk/government/collections/sustainable-procurement-the-government-buying-standards-gbs>

13.2 The Supplier indemnifies the Buyer against any costs resulting from any default by the Supplier relating to any applicable law to do with the Contract.

13.3 The Supplier must appoint a Compliance Officer who must be responsible for ensuring that the Supplier complies with Law, Clause 13.1 and Clauses 27 to 32

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

### **14. Data protection**

14.1 The Buyer is the Controller and the Supplier is the Processor for the purposes of the Data Protection Legislation.

14.2 The Supplier must process Personal Data and ensure that Supplier Staff process Personal Data only in accordance with this Contract.

14.3 The Supplier must not remove any ownership or security notices in or relating to the Government Data.

14.4 The Supplier must make accessible back-ups of all Government Data, stored in an agreed off-site location and send the Buyer copies every six Months.

14.5 The Supplier must ensure that any Supplier system holding any Government Data, including back-up data, is a secure system that complies with the security requirements specified [in writing] by the Buyer.

14.6 If at any time the Supplier suspects or has reason to believe that the Government Data provided under the Contract is corrupted, lost or sufficiently degraded, then the Supplier must notify the Buyer and immediately suggest remedial action.

14.7 If the Government Data is corrupted, lost or sufficiently degraded so as to be unusable the Buyer may either or both:

- (a) tell the Supplier to restore or get restored Government Data as soon as practical but no later than five Working Days from the date that the Buyer receives notice, or the Supplier finds out about the issue, whichever is earlier;



- (b) restore the Government Data itself or using a third party.
- 14.8 The Supplier must pay each Party's reasonable costs of complying with clause 14.7 unless the Buyer is at fault.
- 14.9 Only the Buyer can decide what processing of Personal Data a Supplier can do under the Contract and must specify it for the Contract using the template in Annex 1 of the Order Form (*Authorised Processing*).
- 14.10 The Supplier must only process Personal Data if authorised to do so in the Annex to the Order Form (*Authorised Processing*) by the Buyer. Any further written instructions relating to the processing of Personal Data are incorporated into Annex 1 of the Order Form.
- 14.11 The Supplier must give all reasonable assistance to the Buyer in the preparation of any Data Protection Impact Assessment before starting any processing, including:
  - (a) a systematic description of the expected processing and its purpose;
  - (b) the necessity and proportionality of the processing operations;
  - (c) the risks to the rights and freedoms of Data Subjects;
  - (d) the intended measures to address the risks, including safeguards, security measures and mechanisms to protect Personal Data.
- 14.12 The Supplier must notify the Buyer immediately if it thinks the Buyer's instructions breach the Data Protection Legislation.
- 14.13 The Supplier must put in place appropriate Protective Measures to protect against a Data Loss Event which must be approved by the Buyer.
- 14.14 If lawful to notify the Buyer, the Supplier must notify it if the Supplier is required to process Personal Data by Law promptly and before processing it.
- 14.15 The Supplier must take all reasonable steps to ensure the reliability and integrity of any Supplier Staff who have access to the Personal Data and ensure that they:
  - (a) are aware of and comply with the Supplier's duties under this clause 14;
  - (b) are subject to appropriate confidentiality undertakings with the Supplier or any Subprocessor;



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- (c) are informed of the confidential nature of the Personal Data and do not provide any of the Personal Data to any third Party unless directed in writing to do so by the Buyer or as otherwise allowed by the Contract;
- (d) have undergone adequate training in the use, care, protection and handling of Personal Data.

14.16 The Supplier must not transfer Personal Data outside of the UK unless all of the following are true:

- (a) it has obtained prior written consent of the Buyer;
- (b) the Buyer has decided that there are appropriate safeguards (in accordance with Article 46 of the UK GDPR);
- (c) the Data Subject has enforceable rights and effective legal remedies when transferred;
- (d) the Supplier meets its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred;
- (e) where the Supplier is not bound by Data Protection Legislation it must use its best endeavours to help the Buyer meet its own obligations under Data Protection Legislation; and
- (f) the Supplier complies with the Buyer's reasonable prior instructions about the processing of the Personal Data.

14.17 The Supplier must notify the Buyer immediately if it:

- (a) receives a Data Subject Access Request (or purported Data Subject Access Request);
- (b) receives a request to rectify, block or erase any Personal Data;
- (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
- (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Contract;



- (e) receives a request from any third Party for disclosure of Personal Data where compliance with the request is required or claims to be required by Law;
  - (f) becomes aware of a Data Loss Event.
- 14.18 Any requirement to notify under clause 14.17 includes the provision of further information to the Buyer in stages as details become available.
- 14.19 The Supplier must promptly provide the Buyer with full assistance in relation to any Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 14.17. This includes giving the Buyer:
  - (a) full details and copies of the complaint, communication or request;
  - (b) reasonably requested assistance so that it can comply with a Data Subject Access Request within the relevant timescales in the Data Protection Legislation;
  - (c) any Personal Data it holds in relation to a Data Subject on request;
  - (d) assistance that it requests following any Data Loss Event;
  - (e) assistance that it requests relating to a consultation with, or request from, the Information Commissioner's Office.
- 14.20 The Supplier must maintain full, accurate records and information to show it complies with this clause 14. This requirement does not apply where the Supplier employs fewer than 250 staff, unless either the Buyer determines that the processing:
  - (a) is not occasional;
  - (b) includes special categories of data as referred to in Article 9(1) of the UK GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the UK GDPR;
  - (c) is likely to result in a risk to the rights and freedoms of Data Subjects.
- 14.21 The Supplier must appoint a Data Protection Officer responsible for observing its obligations in this Schedule and give the Buyer their contact details.
- 14.22 Before allowing any Subprocessor to process any Personal Data, the Supplier must:





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- (a) notify the Buyer in writing of the intended Subprocessor and processing;
- (b) obtain the written consent of the Buyer;
- (c) enter into a written contract with the Subprocessor so that this clause 14 applies to the Subprocessor;
- (d) provide the Buyer with any information about the Subprocessor that the Buyer reasonably requires.

14.23 The Supplier remains fully liable for all acts or omissions of any Subprocessor.

14.24 At any time the Buyer can, with 30 Working Days notice to the Supplier, change this clause 14 to:

- (a) replace it with any applicable standard clauses (between the controller and processor) or similar terms forming part of an applicable certification scheme under UK GDPR Article 42;
- (b) ensure it complies with guidance issued by the Information Commissioner's Office.

14.25 The Parties agree to take account of any non-mandatory guidance issued by the Information Commissioner's Office.

14.26 The Supplier:

- (a) must provide the Buyer with all Government Data in an agreed open format within 10 Working Days of a written request;
- (b) must have documented processes to guarantee prompt availability of Government Data if the Supplier stops trading;
- (c) must securely destroy all Storage Media that has held Government Data at the end of life of that media using Good Industry Practice;
- (d) securely erase all Government Data and any copies it holds when asked to do so by the Buyer unless required by Law to retain it;
- (e) indemnifies the Buyer against any and all Losses incurred if the Supplier breaches clause 14 and any Data Protection Legislation.



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

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

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

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

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

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



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

- (a) on a confidential basis to the employees, agents, consultants and contractors of the Buyer;
- (b) on a confidential basis to any other Central Government Body, any successor body to a Central Government Body or any company that the Buyer transfers or proposes to transfer all or any part of its business to;
- (c) if the Buyer (acting reasonably) considers disclosure necessary or appropriate to carry out its public functions;
- (d) where requested by Parliament;
- (e) under clauses 5.7 and 16.

15.5 For the purposes of clauses 15.2 to 15.4 references to disclosure on a confidential basis means disclosure under a confidentiality agreement or arrangement including terms as strict as those required in clause 15.

15.6 Information which is exempt from disclosure by clause 16 is not Confidential Information.

15.7 The Supplier must not make any press announcement or publicise the Contract or any part of it in any way, without the prior written consent of the Buyer and must take all reasonable steps to ensure that Supplier Staff do not either.

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

16.1 The Supplier must tell the Buyer within 48 hours if it receives a Request For Information.

16.2 Within the required timescales the Supplier must give the Buyer full co-operation and information needed so the Buyer can:

- (a) comply with any Freedom of Information Act (FOIA) request;
- (b) comply with any Environmental Information Regulations (EIR) request.

The Buyer may talk to the Supplier to help it decide whether to publish information under clause 16. However, the extent, content and format of the disclosure is the Buyer's decision, which does not need to be reasonable.

## **16A. Transparency**



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- (1) The Parties acknowledge that the content of this Contract, including any changes to this Contract agreed from time to time is not Confidential Information, except for –
  - (i) any information which is exempt from disclosure in accordance with the provisions of the FOIA, which shall be determined by the Buyer; and
  - (ii) Commercially Sensitive Information;
- (2) Notwithstanding any other provision of this Contract, the Supplier hereby gives its consent for the Buyer to publish to the general public this Contract in its entirety or parts of this contract thereof (but with any information which is exempt from disclosure in accordance with the provisions of the FOIA redacted).
- (3) The Buyer shall, prior to publication, consult with the Supplier on the manner and format of publication and to inform its decision regarding any redactions but shall have the final decision in its absolute discretion.
- (4) The Supplier shall assist and co-operate with the Buyer to enable the Buyer to publish.

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

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

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

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

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

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



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

- 20.1 Any Party affected by a Force Majeure Event is excused from performing its obligations under the Contract while the inability to perform continues, if it both:
- (a) provides written notice to the other Party;
  - (b) uses all reasonable measures practical to reduce the impact of the Force Majeure Event.
- 20.2 Either party can partially or fully terminate the Contract if the provision of the Deliverables is materially affected by a Force Majeure Event which lasts for 90 days continuously.
- 20.3 Where a Party terminates under clause 20.2:
- (a) each party must cover its own losses;
  - (b) clause 11.5(b) to 11.5(g) applies.

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

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

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

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

## **23. Transferring responsibilities**

- 23.1 The Supplier cannot assign the Contract without the Buyer's written consent.
- 23.2 The Buyer can assign, novate or transfer its Contract or any part of it to any Crown Body, public or private sector body which performs the functions of the Buyer.
- 23.3 When the Buyer uses its rights under clause 23.2 the Supplier must enter into a novation agreement in the form that the Buyer specifies.



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- 23.4 The Supplier can terminate the Contract novated under clause 23.2 to a private sector body that is experiencing an Insolvency Event.
- 23.5 The Supplier remains responsible for all acts and omissions of the Supplier Staff as if they were its own.
- 23.6 If the Buyer asks the Supplier for details about Subcontractors, the Supplier must provide details of Subcontractors at all levels of the supply chain including:
- (a) their name;
  - (b) the scope of their appointment;
  - (c) the duration of their appointment.

## **24. Changing the contract**

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

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

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

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

- 26.1 The Supplier shall not:
- (a) commit any criminal offence referred to in the Regulations 57(1) and 57(2);
  - (b) offer, give, or agree to give anything, to any person (whether working for or engaged by the Buyer or any other public body) an inducement or reward for doing, refraining from doing, or for having done or refrained



from doing, any act in relation to the obtaining or execution of the Contract or any other public function or for showing or refraining from showing favour or disfavour to any person in relation to the Contract or any other public function.

- 26.2 The Supplier shall take all reasonable steps (including creating, maintaining and enforcing adequate policies, procedures and records), in accordance with good industry practice, to prevent any matters referred to in clause 26.1 and any fraud by the Staff and the Supplier (including its shareholders, members and directors) in connection with the Contract and shall notify the Buyer immediately if it has reason to suspect that any such matters have occurred or is occurring or is likely to occur.
- 26.3 If the Supplier or the Staff engages in conduct prohibited by clause 26.1 or commits fraud in relation to the Contract or any other contract with the Crown (including the Buyer) the Buyer may:
- (a) terminate the Contract and recover from the Supplier the amount of any loss suffered by the Buyer resulting from the termination, including the cost reasonably incurred by the Buyer of making other arrangements for the supply of the Deliverables and any additional expenditure incurred by the Buyer throughout the remainder of the Contract; or
  - (b) recover in full from the Supplier any other loss sustained by the Buyer in consequence of any breach of this clause.

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

- 27.1 The Supplier must follow all applicable equality law when they perform their obligations under the Contract, including:
- (a) protections against discrimination on the grounds of race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise;
  - (b) any other requirements and instructions which the Buyer reasonably imposes related to equality Law.
- 27.2 The Supplier must take all necessary steps, and inform the Buyer of the steps taken, to prevent anything that is considered to be unlawful discrimination by any court or tribunal, or the Equality and Human Rights Commission (or any successor organisation) when working on the Contract.



## **28. Health and safety**

28.1 The Supplier must perform its obligations meeting the requirements of:

- (a) all applicable law regarding health and safety;
- (b) the Buyer's current health and safety policy while at the Buyer's premises, as provided to the Supplier.

The Supplier and the Buyer must as soon as possible notify the other of any health and safety incidents or material hazards they're aware of at the Buyer premises that relate to the performance of the Contract.

## **29. Environment**

29.1 When working on Site the Supplier must perform its obligations under the Buyer's current Environmental Policy, which the Buyer must provide.

29.2 The Supplier must ensure that Supplier Staff are aware of the Buyer's Environmental Policy.

## **30. Tax**

30.1 The Supplier must not breach any tax or social security obligations and must enter into a binding agreement to pay any late contributions due, including where applicable, any interest or any fines. The Buyer cannot terminate the Contract where the Supplier has not paid a minor tax or social security contribution.

30.2 Where the Supplier or any Supplier Staff are liable to be taxed or to pay National Insurance contributions in the UK relating to payment received under the Off Contract, the Supplier must both:

- (a) comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax, the Social Security Contributions and Benefits Act 1992 (including IR35) and National Insurance contributions;
- (b) indemnify the Buyer against any Income Tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made during or after the Contract Period in connection with the provision of the Deliverables by the Supplier or any of the Supplier Staff.





30.3 If any of the Supplier Staff are Workers who receive payment relating to the Deliverables, then the Supplier must ensure that its contract with the Worker contains the following requirements:

- (a) the Buyer may, at any time during the term of the Contract, request that the Worker provides information which demonstrates they comply with clause 30.2, or why those requirements do not apply, the Buyer can specify the information the Worker must provide and the deadline for responding;
- (b) the Worker's contract may be terminated at the Buyer's request if the Worker fails to provide the information requested by the Buyer within the time specified by the Buyer;
- (c) the Worker's contract may be terminated at the Buyer's request if the Worker provides information which the Buyer considers isn't good enough to demonstrate how it complies with clause 30.2 or confirms that the Worker is not complying with those requirements;
- (d) the Buyer may supply any information they receive from the Worker to HMRC for revenue collection and management.

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

31.1 The Supplier must take action to ensure that neither the Supplier nor the Supplier Staff are placed in the position of an actual or potential conflict between the financial or personal duties of the Supplier or the Supplier Staff and the duties owed to the Buyer under the Contract, in the reasonable opinion of the Buyer.

31.2 The Supplier must promptly notify and provide details to the Buyer if a conflict of interest happens or is expected to happen.

31.3 The Buyer can terminate its Contract immediately by giving notice in writing to the Supplier or take any steps it thinks are necessary where there is or may be an actual or potential conflict of interest.

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

32.1 As soon as it is aware of it the Supplier and Supplier Staff must report to the Buyer any actual or suspected breach of law, clause 13.1, or clauses 26 to 31.

32.2 The Supplier must not retaliate against any of the Supplier Staff who in good faith reports a breach listed in clause 32.1.



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### **33. Resolving disputes**

- 33.1 If there is a dispute between the Parties, their senior representatives who have authority to settle the dispute will, within 28 days of a written request from the other Party, meet in good faith to resolve the dispute.
- 33.2 If the dispute is not resolved at that meeting, the Parties can attempt to settle it by mediation using the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure current at the time of the dispute. If the Parties cannot agree on a mediator, the mediator will be nominated by CEDR. If either Party does not wish to use, or continue to use mediation, or mediation does not resolve the dispute, the dispute must be resolved using clauses 33.3 to 33.5.
- 33.3 Unless the Buyer refers the dispute to arbitration using clause 33.4, the Parties irrevocably agree that the courts of England and Wales have the exclusive jurisdiction to:
- (a) determine the dispute;
  - (b) grant interim remedies;
  - (c) grant any other provisional or protective relief.
- 33.4 The Supplier agrees that the Buyer has the exclusive right to refer any dispute to be finally resolved by arbitration under the London Court of International Arbitration Rules current at the time of the dispute. There will be only one arbitrator. The seat or legal place of the arbitration will be London and the proceedings will be in English.
- 33.5 The Buyer has the right to refer a dispute to arbitration even if the Supplier has started or has attempted to start court proceedings under clause 33.3, unless the Buyer has agreed to the court proceedings or participated in them. Even if court proceedings have started, the Parties must do everything necessary to ensure that the court proceedings are stayed in favour of any arbitration proceedings if they are started under clause 33.4.
- 33.6 The Supplier cannot suspend the performance of the Contract during any dispute.

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

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

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