

SHORT FORM CONTRACT FOR THE SUPPLY OF GOODS AND/OR SERVICES**I. Index**

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II. Order Form

1. Contract Reference	Ecm_11865	
2. Buyer	The Secretary of State for Work and Pensions acting through the Department for Work and Pensions (“DWP”) of Caxton House, Tothill Street, London, SW1H 9NA In entering into this Contract, the Buyer is acting as part of the Crown and the Supplier shall be treated as contracting with the Crown as a whole (“the Authority”).	
3. Supplier	Wessex Appraisal Service Ltd a company registered in England and Wales under company number 13604369 whose registered office is Primrose Farmhouse, East Stoke, Wareham, England, BH20 6AN. Collectively, the Buyer and the Supplier are referred to as “the Parties”.	
4. The Contract	<p>The Buyer has a requirement that the medical practitioners within its employment (“Medical Practitioner”) be appraised annually in line with the NHSE best practice guidance and General Medical Council (“GMC”) standards. Every five years, the annual appraisals carried out are used for the purpose of revalidation of the Medical Practitioner and recommendations are made to the GMC on whether to allow the medical practitioner to continue practising (“Deliverables”).</p> <p>The Supplier is a provider of appraisal services required by the Buyer and the contract is for the provision of Deliverables.</p> <p>This Contract between the Buyer and the Supplier is for the supply of Deliverables.</p> <p>The Contract shall commence on the date this Order Form is signed (“the Effective Date”). Unless terminated earlier in accordance with this the Contract, the term of this Contract shall continue until 31 March 2027.</p> <p>The Supplier shall supply the Deliverables described below on the terms set out in this Order Form and the attached contract conditions (“Conditions”) and Annexes.</p> <p>Unless the context otherwise requires, capitalised expressions used in this Order Form have the same meanings as in the Conditions.</p>	
5. Deliverables	Services	<p>The Services are:</p> <p>To be performed virtually using MS Teams or another appropriate secure video conferencing tool. In certain circumstances, if requested by the Buyer and by prior agreement, appraisal discussions may take place in-person, in a venue with privacy, freedom from interruptions and full access to the appraisal portfolio and other necessary resources.</p> <ul style="list-style-type: none"> • Date(s) of Delivery: Each appraisal year shall run between 1 April to 31 March annually (“Appraisal Year”) and all appraisals of the medical practitioners shall be completed by 31 March each year. • During the term of this Agreement, the Supplier shall provide the Services in accordance with Annex 2 <i>Specification</i> and in accordance with the terms and conditions of this Agreement.
6. Specification	The specification of the Deliverables is as set out below in Annex 2 <i>Specification</i> .	
7. Start Date	1 April 2024	
8. Expiry Date	31 March 2027	
9. Extension Period	Not applicable	

10. Buyer Cause	Any Material 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.
11. Optional Intellectual Property Rights ("IPR") Clauses	See Clause 10 of the Conditions
12. Charges	<p>The Charges for the Deliverables shall be as set out below:</p> <ol style="list-style-type: none"> 1. The price for the provision of the Deliverables over the period from 1 April 2024 to 31 March 2025 is £9,911.00 plus VAT. This fee is based on a cost of £901.00 (plus VAT) per doctor per Appraisal Year, based on 11 eligible Medical Practitioners being on the list. 2. The fee of £901.00 is inclusive of the [REDACTED] for the Appraiser Fee and [REDACTED] for the administration charge, including: a proportion of the FourteenFish annual license fee, FourteenFish toolkit subscription, FourteenFish colleague and patient surveys, calibrated quality assurance of the full portfolio before revalidation recommendation, selection, recruitment, training and support of the appraisers including annual quality assurance, indemnity and insurances, and 40 hours per week of administrative support. 3. The Contract currently envisages a List comprising 11 Medical Practitioners however this figure may vary and payment for this will be taken in accordance with clause 9 below. The Supplier has already included the 2023-2024 NHS England salary uplift as determined nationally by NHS England part way through the year. Each NHS England salary uplift shall be applied for the year beginning 1st April following the announcement of the uplift, such that 2024-2025 NHS England salary uplift shall be applied from the 1 April 2025. 4. In respect of expenses to be incurred for travel and subsistence, the Supplier shall comply with the Buyer's Business Travel and Subsistence Policy as set out in Annex 3 – Travel and Subsistence Policy. It is acknowledged that the Authority may change its own expenses policy from time to time. Amendments shall be made by a variation in writing attached as an addendum to this Contract and signed by both parties, as per Clause 25 of the Conditions. 5. All Travel and subsistence expenses should be claimed by the appraiser as soon as possible, and within one month of the expense being incurred. Claims not submitted within one month of the expense being incurred must be claimed within six months of the expense being incurred, otherwise they will not be paid. All claims for Travel and Subsistence expenses must be supported by receipts, either physical or scanned receipts. The receipts should be submitted with the travel and subsistence expenses claim and retained to enable any audit to be undertaken. 6. By the 31 December, prior to the end of each Appraisal Year during the term of this Agreement the parties shall review and agree (acting reasonably at all times) the number of appraisals required to be performed in the following year and the rate of payment in respect of each appraisal, and thereby agree a contract value accordingly. Any adjustments to the contract value due to inflationary pressures will be dealt with in accordance with clause [7] and subject to internal governance prior to being agreed. Amendments shall be made by Letter of Variation attached as an addendum to this Contract and signed by both parties, as per Clause 25 of the Conditions. In the absence of agreement to the rate of payment

	<p>applying to the following Appraisal Year, the terms agreed for the previous Appraisal Year shall apply until such time as agreed otherwise.</p> <p>7. The Authority will utilise a range of resources to inform discussion and negotiation regarding inflation which may include the use of appropriate indices. If the Parties cannot agree as to the appropriate value of inflation to apply, the Authority shall have sole discretion, acting reasonably, to determine the value of indexation.</p> <p>8. In respect of each appraisal year from 1 April to 31 March, the Supplier shall invoice the Buyer in advance for the Services commissioned in Annex 2 – Specification as soon as practical after the Contract has been signed, subject to any changes in accordance with Clause 3 above.</p> <p>9. At the end of the third quarter in each Appraisal Year the Supplier will inform the Buyer of the actual number of Medical Practitioners appraised over that Appraisal Year to allow the Buyer to remind the Medical Professionals to be appraised. At the end of the fourth quarter in each Appraisal Year the Supplier will inform the Buyer of the actual number of Medical Practitioners appraised over that Appraisal Year. If the actual number of Medical Practitioners appraised over the Appraisal Year is less than the anticipated number of appraisals set out in Clause 3, then the Buyer shall be entitled to a refund of any NHS England based appraisal fees paid for appraisals not actually carried out. Any amount of refund payable pursuant to this clause 9 shall be calculated at the rate of the NHS England fee per appraisal multiplied by the number of appraisals not delivered as set out in clause 3 above. For the avoidance of any doubt, the Buyer shall not in any circumstances be entitled to a refund of the administration charge, which is payable irrespective of the number of appraisals undertaken. Any refund payable to the Buyer by the Supplier pursuant to clause 9 shall be refunded within the same tax year and no later than 15 March. Should the Supplier not process the refund payable to the Buyer within the same tax year that it is due, then the Buyer may set off any amount owed by the Supplier to the Buyer against any sums due to the Supplier under this Agreement.</p> <p>10. At any time, if the Buyer and Provider agree to increase the number of Medical Practitioners on the List, a charge of £901.00, plus VAT if applicable, per additional appraisal will become payable upon invoice by the Supplier. Notwithstanding the above in the event that at the end of the fourth quarter in each Appraisal Year the actual number of Medical Practitioners appraised is more than the anticipated number set out in clause 3 above and any additional appraisals already paid for under this clause 10, the Supplier shall be entitled to invoice for any additional appraisals already carried out and not yet charged at a charge of £901.00, plus VAT if applicable, per additional appraisal.</p> <p>11. If the appraiser is required by the Buyer under any circumstance to travel to an appraisee for an in-person appraisal, any travel and subsistence expenses should be dealt with in accordance with clause 4 to 5 above and Annex 3 - Travel and Subsistence Policy.</p> <p>12. If NHS England increases the fee per appraisal to NHS England appraisers during the Appraisal Year, the uplift and additional payment to the appraisers engaged by the Supplier will be discussed with the Buyer, validated by the Buyer and subject to internal governance prior to being agreed. Amendments shall be made by a variation in writing attached as an addendum to this Agreement and signed by both parties, as per Clause 25 of the Conditions.</p>
13. Payment	<p>Payment of undisputed invoices will be made within 30 days of receipt of invoice, which must be submitted promptly by the Supplier.</p>

	<p>All invoices must be sent, quoting a valid Purchase Order Number (PO Number) and any other relevant details, to: [REDACTED]</p> <p>Within 10 Working Days of receipt of your countersigned copy of this Order Form, we will send you a unique PO Number. You must be in receipt of a valid PO Number before submitting an invoice.</p> <p>To avoid delay in payment it is important that the invoice is compliant and that it includes a valid PO Number, item number (if applicable) and the details (name, email, and telephone number) of your Buyer contact (i.e. Buyer Authorised Representative). Non-compliant invoices may be sent back to you, which may lead to a delay in payment.</p> <p>Payments will be made to Wessex Appraisal Service Ltd.</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>If you have a query regarding an outstanding payment, please contact [REDACTED] by email to: [REDACTED] between 09:00-17:00 Monday to Friday.</p>														
14. Data Protection Liability Cap	In accordance with clause 12.6 of the Conditions, the Supplier's total aggregate liability under clause 14.7.5 of the Conditions is no more than the Data Protection Liability Cap, being £5 million.														
15. Insurance	See clause 36 of the Conditions.														
16. Buyer Authorised Representative(s)	<p>For general liaison your contact will continue to be:</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>or, in their absence,</p> <p>[REDACTED]</p> <p>[REDACTED]</p>														
17. Supplier Authorised Representative(s)	<p>For general liaison your contact will continue to be</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>or, in their absence,</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>														
18. Address for notices	<table border="0"> <tr> <td>BUYER:</td><td>SUPPLIER:</td></tr> <tr> <td>[REDACTED]</td><td>Wessex Appraisal Service Ltd</td></tr> <tr> <td>Caxton House,</td><td>Primrose Farmhouse,</td></tr> <tr> <td>Tothill Street,</td><td>East Stoke,</td></tr> <tr> <td>London,</td><td>Wareham,</td></tr> <tr> <td>SW1H 9NA</td><td>Dorset, BH20 6AN</td></tr> <tr> <td>Attention: Business Manager</td><td>Attention: Accounts Manager</td></tr> </table>	BUYER:	SUPPLIER:	[REDACTED]	Wessex Appraisal Service Ltd	Caxton House,	Primrose Farmhouse,	Tothill Street,	East Stoke,	London,	Wareham,	SW1H 9NA	Dorset, BH20 6AN	Attention: Business Manager	Attention: Accounts Manager
BUYER:	SUPPLIER:														
[REDACTED]	Wessex Appraisal Service Ltd														
Caxton House,	Primrose Farmhouse,														
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London,	Wareham,														
SW1H 9NA	Dorset, BH20 6AN														
Attention: Business Manager	Attention: Accounts Manager														

	<p>Email: [REDACTED] Email: [REDACTED]</p> <p>[REDACTED]</p> <p>And</p> <p>[REDACTED]</p> <p>Caxton House, Tothill Street, London, SW1H 9NA</p> <p>Attention: Deputy Business Manager</p> <p>Email: [REDACTED]</p>															
<p>19. Key Staff</p>	<table border="1"> <thead> <tr> <th data-bbox="355 824 587 857">Key Staff Role:</th> <th data-bbox="746 824 962 857">Key Staff Name</th> <th data-bbox="1114 824 1337 857">Contact Details:</th> </tr> </thead> <tbody> <tr> <td data-bbox="355 925 587 958">[REDACTED]</td> <td data-bbox="603 925 1321 958">[REDACTED]</td> <td data-bbox="1337 925 1503 958">[REDACTED]</td> </tr> <tr> <td data-bbox="355 981 587 1014">[REDACTED]</td> <td data-bbox="603 981 1321 1014">[REDACTED]</td> <td data-bbox="1337 981 1503 1014">[REDACTED]</td> </tr> <tr> <td data-bbox="355 1037 587 1070">[REDACTED]</td> <td data-bbox="603 1037 1249 1070">[REDACTED]</td> <td data-bbox="1265 1037 1503 1070">[REDACTED]</td> </tr> <tr> <td data-bbox="355 1081 587 1115">[REDACTED]</td> <td data-bbox="603 1081 1369 1115">[REDACTED]</td> <td data-bbox="1385 1081 1503 1115">[REDACTED]</td> </tr> </tbody> </table>	Key Staff Role:	Key Staff Name	Contact Details:	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
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[REDACTED]	[REDACTED]	[REDACTED]														
[REDACTED]	[REDACTED]	[REDACTED]														
<p>20. Procedures and Policies</p>	<p>For the purposes of the Contract the:</p> <p>The Buyer's security / data security requirements are:</p> <p>Each party shall Process the Personal Data using appropriate technical and organisational security measures (which include using encryption and password protection).</p>															
<p>21. Special Terms</p>	<p>Not Used.</p>															
<p>22. Incorporated Terms</p>	<p>The following documents are incorporated into the Contract. If there is any conflict, the following order of precedence applies:</p> <ul style="list-style-type: none"> (a) This Order Form (b) Conditions (as they may be amended by Annex 1 and 2) (c) The following Annexes in equal order of precedence: <ul style="list-style-type: none"> i. Annex 1 – Processing Personal Data ii. Annex 2 – Specification iii. Annex 3 – Travel and Subsistence Policy iv. Annex 4 – Supplier Terms and Conditions 															

Official

Signed for and on behalf of the Supplier	Signed for and on behalf of the Buyer acting on behalf of the Crown
Name: [Redacted] [Redacted]	Name: [Redacted] [Redacted]
Date:	Date:
Signature:	Signature:

Guidance: Where appropriate, this Order Form may be signed electronically by both Parties.

III. Short form Terms (“Conditions”)

1 DEFINITIONS USED IN THE CONTRACT

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

“Affiliates”	in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control of that body corporate from time to time;
Approval	the prior written consent of the Buyer and "Approve" and "Approved" shall be construed accordingly;
“Audit”	<p>the Buyer’s right to:</p> <ul style="list-style-type: none"> a) verify the integrity and content of any Financial Report; b) verify the accuracy of the Charges and any other amounts payable by the Buyer under a Contract (including proposed or actual variations to them in accordance with the Contract); c) verify the costs of the Supplier (including the costs of all Subcontractors and any third party suppliers) in connection with the provision of the Services; d) verify the Open Book Data; e) verify the Supplier’s and each Subcontractor’s compliance with the applicable Law; f) identify or investigate actual or suspected breach of this Contract, impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances the Buyer shall have no obligation to inform the Supplier of the purpose or objective of its investigations; g) identify or investigate any circumstances which may impact upon the financial stability of the Supplier, any Guarantor, and/or any Subcontractors or their ability to provide the Deliverables; h) obtain such information as is necessary to fulfil the Buyer’s obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General; i) review any books of account and the internal contract management accounts kept by the Supplier in connection with the Contract; j) carry out the Buyer’s internal and statutory audits and to prepare, examine and/or certify the Buyer’s annual and interim reports and accounts; <p>(a) enable the National Audit Office to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Buyer has used its resources;</p>
Auditor	<ul style="list-style-type: none"> a) Buyer’s internal and external auditors; b) the Buyer’s statutory or regulatory auditors; c) the Comptroller and Auditor General, their staff the and/or any appointed representatives of the National Audit Office; d) HM Treasury or the Cabinet Office; e) any party formally appointed by the Buyer to carry out audit or similar review functions; and <p>successors or assigns of any of the above;</p>

“Beneficiary”	A Party having (or claiming to have) the benefit of an indemnity under this Contract;
“Buyer Cause”	has the meaning given to it in the Order Form;
“Buyer”	the public sector purchaser identified as such in the Order Form;
“Buyer Data”	<p>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 Buyer’s or End User’s Confidential Information, and which:</p> <ul style="list-style-type: none"> a) are supplied to the Supplier by or on behalf of the Buyer, or End User; or b) the Supplier is required to generate, process, store or transmit pursuant to this Contract; or c) any Personal Data for which the Buyer or End User is the Controller;
“Buyer Premises”	means premises owned, controlled or occupied by the Buyer which are made available for use by the Supplier or its Subcontractors for the provision of the Deliverables (or any of them);
“Change of Control”	means a change of control within the meaning of Section 450 of the Corporation Tax Act 2010;
“Change in Law”	any change in Law which impacts on the supply of the Deliverables and performance of the Contract which comes into force after the Start Date;
“Charges”	the charges for the Deliverables as specified in the Order Form;
“Claim”	any claim which it appears that the Buyer is, or may become, entitled to indemnification under this Contract;
“Conditions”	means these short form terms and conditions of contract;
“Confidential Information”	<p>all information, whether written or oral (however recorded), provided by the disclosing Party to the receiving Party and which:</p> <ul style="list-style-type: none"> (a) is known by the receiving Party to be confidential; (b) is marked as or stated to be confidential; or (c) ought reasonably to be considered by the receiving Party to be confidential;
“Conflict of Interest”	a 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;
“Contract”	the contract between the Buyer and the Supplier which is created by the Supplier’s counter signing the Order Form and includes the cover letter (if used), Order Form, these Conditions and the Annexes;
“Contract Period”	<p>the term of the Contract from the earlier of the:</p> <ul style="list-style-type: none"> a) Start Date; or b) the Effective Date; c) until the End Date;
“Contracting Body”	the Buyer and/or any other contracting authority entitled to receive the Goods and/or Services under this Contract;
“Controller”	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
“Crown Body”	the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the Welsh Government), including, but not limited to, government ministers and government departments

	and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;
“Data Loss Event”	any event that results, or may result, in unauthorised access to Personal Data held by the Processor 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;
“Data Protection Impact Assessment”	an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data;
“Data Protection Legislation”	(a) the UK GDPR; (b) the DPA 2018; (c) all applicable Law about the processing of personal data and privacy and guidance issued by the Information Commissioner and other regulatory authority; and (d) (to the extent that it applies) the EU GDPR (and in the event of conflict, the UK GDPR shall apply);
“Data Protection Liability Cap”	has the meaning given to it in row 14 of the Order Form;
“Data Protection Officer”	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
“Data Subject Access Request”	a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data;
“Data Subject”	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
“Default”	any breach of the obligations of the Supplier (including abandonment of the Contract in breach of its terms) or any other default (including material default), act, omission, negligence or statement of the Supplier, of its Subcontractors or any Supplier Staff howsoever arising in connection with or in relation to the subject-matter of the Contract and in respect of which the Supplier is liable to the Buyer;
“Delivery”	hand over of the Deliverables to the Buyer at the address and on the date specified in the Order Form, which shall include unloading and stacking and any other specific arrangements agreed in accordance with clause 4.2. “Delivered” and “Delivery” shall be construed accordingly;
“Deliverables”	Goods and/or Services that may be ordered under the Contract including the Documentation;
“DPA 2018”	the Data Protection Act 2018;
“Effective Date”	the date on which the final Party has signed the Contract;
“EU GDPR”	Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) as it has effect in EU law;
“Existing IPR”	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);
“Expiry Date”	the date for expiry of the Contract as set out in the Order Form;
“Financial Distress Event”	means the occurrence of one or more the following events: a) the credit rating of any FDE Group entity drops below the applicable Credit Rating Threshold of the relevant Rating Agency;

	<p>b) any FDE Group entity issues a profits warning to a stock exchange or makes any other public announcement, in each case about a material deterioration in its financial position or prospects;</p> <p>c) there being a public investigation into improper financial accounting and reporting, suspected fraud or any other impropriety of any FDE Group entity;</p> <p>d) any FDE Group entity commits a material breach of covenant to its lenders;</p> <p>e) a Key Subcontractor notifies the Buyer that the Supplier has not paid any material sums properly due under a specified invoice and not subject to a genuine dispute;</p> <p>f) any FDE Group entity extends the filing period for filing its accounts with the Registrar of Companies so that the filing period ends more than 9 months after its accounting reference date without an explanation to the Buyer which the Buyer (acting reasonably) considers to be adequate;</p> <p>g) any FDE Group entity is late to file its annual accounts without a public notification or an explanation to the Buyer which the Buyer (acting reasonably) considers to be adequate;</p> <p>h) the directors and/or external auditors of any FDE Group entity conclude that a material uncertainty exists in relation to that FDE Group entity's going concern in the annual report including in a reasonable but plausible downside scenario. This includes, but is not limited to, commentary about liquidity and trading prospects in the reports from directors or external auditors; or</p> <p>i) any of the following:</p> <ul style="list-style-type: none"> (i) any FDE Group entity makes a public announcement which contains commentary with regards to that FDE Group entity's liquidity and trading and trading prospects, such as but not limited to, a profit warning or ability to trade as a going concern; (ii) commencement of any litigation against any FDE Group entity with respect to financial indebtedness greater than £5m or obligations under a service contract with a total contract value greater than £5m; (iii) non-payment by any FDE Group entity of any financial indebtedness; (iv) any financial indebtedness of any FDE Group entity becoming due as a result of an event of default; (v) the cancellation or suspension of any financial indebtedness in respect of any FDE Group entity; or (vi) an external auditor of any FDE Group entity expressing a qualified opinion on, or including an emphasis of matter in, its opinion on the statutory accounts of that FDE Group entity, <p>in each case which the Buyer reasonably believes (or would be likely reasonably to believe) could directly impact on the continued provision of the Deliverables in accordance with the Contract.</p>
"FOIA"	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;
"Force Majeure Event"	any event, circumstance, matter or cause affecting the performance by either the Buyer or the Supplier of its obligations arising from:

	<p>(a) acts, events, omissions, happenings or non-happenings beyond the reasonable control of the Party seeking to claim relief in respect of a Force Majeure Event (the "Affected Party") which prevent or materially delay the Affected Party from performing its obligations under the Contract;</p> <p>(b) riots, civil commotion, war or armed conflict, acts of terrorism, nuclear, biological or chemical warfare;</p> <p>(c) acts of a Crown Body, local government or regulatory bodies;</p> <p>(d) fire, flood or any disaster; or</p> <p>(e) an industrial dispute affecting a third party for which a substitute third party is not reasonably available</p> <p>but excluding:</p> <p>(a) 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;</p> <p>(b) 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</p> <p>(c) any failure of delay caused by a lack of funds,</p> <p>and which is not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party;</p>
"Fraud"	any offence under laws creating offences in respect of fraudulent acts or at common law in respect of fraudulent acts in relation to the Contract or defrauding or attempting to defraud or conspiring to defraud the Crown;
"Good Industry Practice"	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;
"Government Data"	<p>(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:</p> <p>(i) are supplied to the Supplier by or on behalf of the Buyer; or</p> <p>(ii) the Supplier is required to generate, process, store or transmit pursuant to the Contract; or</p> <p>(b) any Personal Data for which the Buyer is the Controller;</p>
"Indemnifier"	a Party from whom an indemnity is sought under this Contract;
"Independent Controller"	a party which is Controller of the same Personal Data as the other Party and there is no element of joint control with regards to that Personal Data;
"Information Commissioner"	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;
"Intellectual Property Rights or IPR"	<p>a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in internet domain names and website addresses and other rights in trade or business names, goodwill, designs, Know-How, trade secrets and other rights in Confidential Information;</p> <p>b) applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and</p>

	c) all other rights having equivalent or similar effect in any country or jurisdiction;
“Insolvency Event”	in respect of a person: (a) if that person is insolvent; (b) where that person is a company, LLP or a partnership, 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); (c) if an administrator or administrative receiver is appointed in respect of the whole or any part of the person’s assets or business; (d) if the person makes any composition with its creditors; or (e) 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;
“IP Completion Day”	has the meaning given to it in the European Union (Withdrawal Agreement) Act 2020;
“Joint Controller Agreement”	the Contract (if any) entered into between the Buyer and the Supplier substantially in the form set out in Part B Joint Controller Agreement (<i>Optional</i>) of Annex 1 – Processing Personal Data;
“Joint Controllers”	Where two or more Controllers jointly determine the purposes and means of processing;
“Key Staff”	any persons specified as such in the Order Form or otherwise notified as such by the Buyer to the Supplier in writing, following agreement to the same by the Supplier;
“Law”	any law, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, bye-law, right within the meaning of the European Union (Withdrawal) Act 2018 as amended by European Union (Withdrawal Agreement) Act 2020, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the Supplier is bound to comply;
“Liquidation”	the appointment of a Liquidator who collects in and distributes the company’s assets and dissolves the company. The company can also be put into provisional Liquidation before a final winding up order is granted;
“Material Breach”	a single serious breach or a number of breaches or repeated breaches (whether of the same or different obligations and regardless of whether such breaches are remedied);
“National Insurance”	contributions required by the Social Security Contributions and Benefits Act 1992 and made in accordance with the Social Security (Contributions) Regulations 2001 (SI 2001/1004);
“New IPR Items”	means a deliverable, document, product or other item within which New IPR subsists;
“New IPR”	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;
“Occasion of Tax Non-Compliance”	a. any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which is found on or after 1 April 2013 to be incorrect as a result of: (i) a Relevant Tax Authority successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation in any jurisdiction that have an effect

	<p>equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle;</p> <p>(ii) the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime in any jurisdiction; and/or</p> <p>b. any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which gives rise, on or after 1 April 2013, to a criminal conviction in any jurisdiction for tax related offences which is not spent.</p>
“Order Form”	the order form signed by the Buyer and the Supplier printed above these Conditions;
“Party”	the Supplier or the Buyer (as appropriate) and “Parties” shall mean both of them;
“Personal Data Breach”	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires and includes any breach of Data Protection Legislation relevant to Personal Data processed pursuant to the Contract;
“Personal Data”	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
“Prescribed Person”	<p>a legal adviser, an MP or an appropriate body which a whistle-blower may make a disclosure to as detailed in ‘Whistleblowing: list of prescribed people and bodies’, 24 November 2016, available online at:</p> <p>https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies as updated from time to time;</p>
“Processor Personnel”	all directors, officers, employees, agents, consultants and suppliers of the Processor and/or of any Subprocessor engaged in the performance of its obligations under the Contract;
“Processor”	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
“Protective Measures”	<p>technical and organisational measures which must take account of:</p> <p>(a) the nature of the data to be protected;</p> <p>(b) harm that might result from Data Loss Event;</p> <p>(c) state of technological development;</p> <p>(d) the cost of implementing any measures;</p> <p>including pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it;</p>
“Purchase Order Number” or “PO Number”	the Buyer’s unique number relating to the order for Deliverables to be supplied by the Supplier to the Buyer in accordance with the Contract;
“Quality Standards”	the quality standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardisation or other reputable or equivalent body, and their successor bodies that a skilled and experienced operator in the same type of industry or business sector as the Supplier would reasonably and ordinarily be expected to comply with, and as may be further detailed in this Contract;
“Rectification Plan”	the Supplier’s plan (or revised plan) to rectify its Material Breach which shall include:

	<p>(a) full details of the Material Breach that has occurred, including a root cause analysis;</p> <p>(b) the actual or anticipated effect of the Material Breach; and</p> <p>(c) the steps which the Supplier proposes to take to rectify the Material Breach (if applicable) and to prevent such Material Breach from recurring, including timescales for such steps and for the rectification of the Material Breach (where applicable);</p>
“Regulations”	the Public Contracts Regulations 2015 and/or the Public Contracts (Scotland) Regulations 2015 (as the context requires) as amended from time to time;
“Replacement Deliverables”	any deliverables which are substantially similar to any of the Deliverables and which the Buyer receives in substitution for any of the Deliverables, whether those goods are provided by the Buyer internally and/or by any third party;
“Request For Information”	a request for information or an apparent request relating to the Contract for the provision of the Deliverables or an apparent request for such information under the FOIA or the EIRs;
“Services”	the services to be supplied by the Supplier to the Buyer under the Contract;
“Specification”	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;
“Specific Change in Law”	a Change in Law that relates specifically to the business of the Buyer and which would not affect a Comparable Supply where the effect of that Specific Change in Law on the Deliverables is not reasonably foreseeable at the Start Date;
“Staff Vetting Procedures”	means the Suppliers procedures for the vetting of Supplier Staff;
Standards	<p>any:</p> <p>a) standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardisation or other reputable or equivalent bodies (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Supplier would reasonably and ordinarily be expected to comply with;</p> <p>b) standards detailed in the specification in Schedule 2 (Specification);</p> <p>c) standards detailed by the Buyer in the Award Form or agreed between the Parties from time to time;</p> <p>d) relevant Government codes of practice and guidance applicable from time to time;</p>
“Start Date”	the start date of the Contract set out in the Order Form;
“Sub-Contract”	<p>any contract or agreement (or proposed contract or agreement), other than the Contract, pursuant to which a third party:</p> <p>(a) provides the Deliverables (or any part of them);</p> <p>(b) provides facilities or services necessary for the provision of the Deliverables (or any part of them); and/or</p> <p>(c) is responsible for the management, direction or control of the provision of the Deliverables (or any part of them);</p>
“Subcontractor”	any person other than the Supplier, who is a party to a Sub-Contract and the servants or agents of that person;
“Subprocessor”	any third party appointed to process Personal Data on behalf of the Processor related to the Contract;

“Supplier Equipment”	the Supplier's hardware, computer and telecoms devices, equipment, plant, materials and such other items supplied and used by the Supplier (but not hired, leased or loaned from the Buyer) in the performance of its obligations under this Contract;
“Supplier Staff”	all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Subcontractor of the Supplier engaged in the performance of the Supplier's obligations under the Contract;
“Supplier”	the person named as Supplier in the Order Form;
“Term”	the period from the Start Date to the Expiry Date as such period may be extended in accordance with clause 11.2 or terminated in accordance with the Contract;
“Third Party IPR”	intellectual property rights owned by a third party which is or will be used by the Supplier for the purpose of providing the Deliverables;
“Transparency Information”	<p>In relation to Contracts with a value above the relevant threshold set out in Part 2 of the Regulations only, the content of the Contract, including any changes to this Contract agreed from time to time, as well as any information relating to the Deliverables and performance pursuant to the Contract required to be published by the Buyer to comply with its transparency obligations, including those set out in Public Procurement Policy Note 09/21 (update to legal and policy requirements to publish procurement information on Contracts Finder) (https://www.gov.uk/government/publications/ppn-0921-requirements-to-publish-on-contracts-finder) as updated from time to time and Public Procurement Policy Note 01/17 (update to transparency principles) where applicable (https://www.gov.uk/government/publications/procurement-policy-note-0117-update-to-transparency-principles) as updated from time to time except for:</p> <p>(a) any information which is exempt from disclosure in accordance with the provisions of the FOIA, which shall be determined by the Buyer; and</p> <p>(b) Confidential Information;</p>
“UK GDPR”	has the meaning as set out in section 3(10) of the DPA 2018, supplemented by section 205(4);
“VAT”	value added tax in accordance with the provisions of the Value Added Tax Act 1994;
“Worker”	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) (https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees) as updated from time to time applies in respect of the Deliverables; and
“Working Day”	a day (other than a Saturday or Sunday) on which banks are open for business in the City of London.

2 UNDERSTANDING THE CONTRACT

2.1 In the Contract, unless the context otherwise requires:

- 2.1.1 references to numbered clauses are references to the relevant clause in these Conditions;
- 2.1.2 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;

- 2.1.3 references to “writing” include printing, display on a screen and electronic transmission and other modes of representing or reproducing words in a visible form;
- 2.1.4 a reference to any Law includes a reference to that Law as amended, extended, consolidated, replaced or re-enacted from time to time (including as a consequence of the Retained EU Law (Revocation and Reform) Act) and to any legislation or byelaw made under that Law;
- 2.1.5 the word “including”, “for example” and similar words shall be understood as if they were immediately followed by the words “without limitation”;
- 2.1.6 any reference which, immediately before IP Completion Day (or such later date when relevant EU law ceases to have effect pursuant to section 1A of the European Union (Withdrawal) Act 2018), is a reference to (as it has effect from time to time) any EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement (“**EU References**”) which is to form part of domestic law by application of section 3 of the European Union (Withdrawal) Act 2018 and which shall be read on and after IP Completion Day as a reference to the EU References as they form part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018 as modified by domestic law from time to time.

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 (if any) and all statements made and documents submitted as part of the procurement of Deliverables are and remain true and accurate.
- 3.4 The Supplier shall be responsible for the accuracy of all drawings, documentation and information supplied to the Buyer by the Supplier in connection with the supply of the Services and shall pay the Buyer any extra costs occasioned due to the Buyer as a result of any discrepancies, errors or omissions therein except where such discrepancies, errors or omissions originate from documentation supplied by the Buyer.

4 WHAT NEEDS TO BE DELIVERED

4.1 All Deliverables

- 4.1.1 The Supplier must provide Deliverables:
 - 4.1.1.1 in accordance with the Specification Annex 2 and the Contract;
 - 4.1.1.2 using reasonable skill and care;
 - 4.1.1.3 The Supplier shall at all times comply with the Quality Standards, and where applicable shall maintain accreditation with the relevant Quality Standards authorisation body and the standards specified in this Contract;
 - 4.1.1.4 using its own policies, processes and internal quality control measures as long as they don't conflict with the Contract;

4.1.1.5 on the dates agreed; and

4.1.1.6 that comply with all Law.

4.1.2 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.

4.1.3 The Supplier shall at all times comply with the Quality Standards, and where applicable shall maintain accreditation with the relevant Quality Standards authorisation body and the standards specified in this Contract.

4.2 Not Used

4.3 Services clauses

4.3.1 Late Delivery of the Services will be a default of the Contract.

4.3.2 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 the security requirements (where any such requirements have been provided).

4.3.3 The Buyer must provide the Supplier with reasonable access to its premises at reasonable times for the purpose of supplying the Services.

4.3.4 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.

4.3.5 The Supplier must allocate sufficient resources to the Contract and shall ensure that all Supplier Staff supplying the Services shall do so with all due skill, care and diligence and shall possess such qualifications, skills and experience as are necessary for the proper supply of the Services.

4.3.6 The Supplier must take all reasonable care to ensure performance does not disrupt the Buyer's operations, employees or other contractors.

4.3.7 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.

4.3.8 The Supplier must ensure all Services, and anything used to deliver the Services, are of good quality and free from defects.

4.3.9 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.

- 4.3.10 All Supplier Equipment brought onto the Buyer's Premises shall be at the Supplier's own risk and the Buyer shall have no liability for any loss of or damage to any Supplier Equipment unless the Supplier is able to demonstrate that such loss or damage was caused or contributed to by the Buyer's Default. The Supplier shall provide for the haulage or carriage to the Buyer Premises and the removal of Supplier Equipment when no longer required at its sole cost. Unless otherwise agreed, Supplier Equipment brought onto the Buyer's Premises will remain the property of the Supplier.
- 4.3.11 The Supplier shall maintain all items of Supplier Equipment within the Buyer's Premises in a safe, serviceable and clean condition.

5 PRICING AND PAYMENTS

- 5.1 In exchange for the Deliverables, the Supplier must invoice the Buyer for the charges in the Order Form.
- 5.2 All Charges:
 - 5.2.1 exclude VAT, which is payable on provision of a valid VAT invoice issued in accordance with Clause 5.4; and
 - 5.2.2 include all costs and expenses 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 invoice or in the Order Form.
- 5.4 A Supplier invoice is only valid if it:
 - 5.4.1 includes all appropriate references including the Purchase Order Number and other details reasonably requested by the Buyer; and
 - 5.4.2 includes a detailed breakdown of Deliverables which have been delivered.
- 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 36.
- 5.6 The Buyer may retain or set-off payment of any amount owed to it by the Supplier under this Contract or any other agreement between the Supplier and the Buyer 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.
- 5.8 The Supplier shall make all payments due to the Buyer without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Supplier has a valid court order requiring an amount equal to such deduction to be paid by the Buyer to the Supplier.
- 5.9 The Buyer shall pay the Charges due to the Supplier under such an invoice no later than a period of thirty (30) days from the date on which the Buyer has determined that the invoice is valid and undisputed.

- 5.10 Where the Buyer fails to comply with Clause 5.3 and there is an undue delay in considering and verifying the invoice, the invoice shall be regarded as valid and undisputed for the purposes of Clause 5.9 after a reasonable period of time has passed.
- 5.11 Interest shall be payable by the Buyer on the late payment of any undisputed sums of money properly claimed in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 (as amended).
- 5.12 The Supplier shall add VAT to the Charges at the prevailing rate as applicable and the Buyer shall pay VAT to the Supplier following an undisputed claim for payment being notified by the Supplier in accordance with this Clause 5.12.
- 5.13 Without prejudice to Clause 5.17, for the avoidance of doubt, it shall at all times remain the sole responsibility of the Supplier to:
 - 5.13.1 assess the VAT rate(s) and tax liability arising out of or in connection with the Contract; and
 - 5.13.2 account for or pay any VAT (and any other tax liability) relating to payments made to the Supplier under the Contract to HM Revenue & Customs (“HMRC”).
- 5.14 The Buyer shall not be liable to the Supplier in any way whatsoever for any error or failure made by the Supplier (or the Buyer) in relation to VAT, including without limit;
 - 5.14.1 where the Supplier is subject to a VAT ruling(s) by HMRC (or such other relevant authority) in connection with the Contract;
 - 5.14.2 where the Supplier has assumed that it can recover input VAT and (for whatever reason) this assumption is subsequently held by HMRC (or such other relevant authority) to be incorrect or invalid; and/or
 - 5.14.3 where the Supplier’s treatment of VAT in respect of any claim for payment made under the Contract is subsequently held by HMRC (or such other relevant authority) for whatever reason to be incorrect or invalid; and/or
 - 5.14.4 where the Supplier has specified a rate of VAT, or a VAT classification, to the Buyer (including, but not limited to, Out of Scope, Exempt, 0%, Standard Rate and Reduced Rate) but the Supplier subsequently regards such a rate, or such a classification, as being a mistake on its part. Further, in the scenario described in this Clause 5.14(d), the Supplier shall be obliged to repay any overpayment by the Buyer on demand.
- 5.15 Where the Supplier does not include VAT on an invoice, the Buyer will not be liable to pay any VAT for that invoice either when it falls due, or at any later date.
- 5.16 The Supplier acknowledges that the Buyer has advised the Supplier that the Supplier should seek its own specialist VAT advice in relation to the Contract and, in the event of any uncertainty following specialist advice, the Supplier should seek clarification of the Contract’s VAT status with HMRC.
- 5.17 The Supplier shall indemnify the Buyer on a continuing basis against any liability, including any interest, penalties or costs incurred which is levied, demanded or assessed on the Buyer at any time in respect of the Supplier’s failure to account for or to pay any VAT relating to payments made to the Supplier under the Contract. Any amounts due under this Clause 5.17 shall be paid by the Supplier to the Buyer not less than five (5) Working Days before the date upon which the tax or other liability is payable by the Buyer.

- 5.18 The Supplier may not obtain any third party revenue, income or credit based on the Services and/or copyright works delivered under this Contract without the express prior written agreement of the Buyer.
- 5.19 Any overpayment by either Party, whether of the Charges or of VAT or otherwise, shall be a sum of money recoverable by the Party who made the overpayment from the Party in receipt of the overpayment.
- 5.20 The Supplier acknowledges and has entered into this contract on the understanding that no guarantee is given by the Buyer in respect of levels or values of Services referred to in the Schedules which are indicative only and shall not be binding on the Buyer. The Buyer is not required to make any minimum spend, nor to order a minimum volume of Services or any part thereof, under this Contract. For the avoidance of doubt, should the Buyer commission any Services the administration charge is payable as a minimum.

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:
- 6.1.1 the Buyer cannot terminate the Contract under clause 11;
 - 6.1.2 the Supplier is entitled to reasonable and proven additional expenses and to relief from liability under this Contract;
 - 6.1.3 the Supplier is entitled to additional time needed to deliver the Deliverables; and
 - 6.1.4 the Supplier cannot suspend the ongoing supply of Deliverables.
- 6.2 Clause 6.1 only applies if the Supplier:
- 6.2.1 gives notice to the Buyer within 10 Working Days of becoming aware;
 - 6.2.2 demonstrates that the failure only happened because of the Buyer Cause; and
 - 6.2.3 mitigated the impact of the Buyer Cause.
- 6.3 If the Supplier is temporarily unable to fulfil the requirements of the Contract owing to disruption of normal business by direction of the Buyer, an appropriate allowance by way of extension of time will be approved by the Buyer. In addition, the Buyer will reimburse any additional expense reasonably incurred by the Supplier as a direct result of such disruption.

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 in respect of the Contract including the Services supplied under it, all expenditure reimbursed by the Buyer, and all payments made by the Buyer for seven (7) years after the End Date, or as long a period as may be agreed between the parties and in accordance with the UK GDPR or the EU GDPR as the context requires, including the records and accounts which the Buyer has a right to Audit. The Supplier shall on request afford the Buyer or the Buyer's Representatives such access to those records as may be requested by the Buyer in connection with the Contract.

- 7.3 The Supplier must allow any Auditor access, free of charge during normal business hours on reasonable notice to their premises, to all such documents and other information as the Auditor may reasonably require for the purpose of their financial Audit of the Buyer, for carrying out examinations into the economy, efficiency and effectiveness with which the Buyer has used its resources and to verify all Contract accounts and records of everything to do with the Contract and provide copies for an Audit. The Supplier shall provide such explanations as are reasonably required for these purposes. This Clause does not constitute a requirement or agreement for the examination, certification or inspection of the accounts of the Supplier under Section 6(3) (d) and (5) of the National Audit Act 1983.
- 7.4 The Buyer or an auditor can Audit the Supplier.
- 7.5 During an Audit, the Supplier must provide information to the auditor and reasonable co-operation at their request.
- 7.6 The Parties will bear their own costs when an Audit is undertaken unless the Audit identifies a Material Breach by the Supplier, in which case the Supplier will repay the Buyer's reasonable costs in connection with the Audit.
- 7.7 The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under Clauses 7.3 to 7.13, unless an Audit identifies a material Default by the Supplier in which case the Supplier shall reimburse:
- 7.7.1 the Buyer for all the Buyer's identifiable, reasonable costs and expenses properly incurred in the course of the audit; and
 - 7.7.2 where the Buyer, a regulatory body, or the Comptroller and Auditor General appoint another Contracting Body to conduct an Audit under this clause, the Buyer shall be able to recover on demand from the Supplier the identifiable, reasonable and properly incurred costs and expenses of the relevant Contracting Body.
- 7.8 Except where an Audit is imposed on the Buyer by a regulatory body, the Buyer may at any time during the Contract Period and for a period of twelve (12) months after the Contract Period, conduct an Audit for the following purposes:
- 7.8.1 to confirm the accuracy of any Charges that become due and payable by the Buyer to the Supplier in respect of the Services (and proposed or actual variations to them in accordance with the Contract), or the costs of all suppliers used by the Supplier (including Subcontractors) in the provision of Services;
 - 7.8.2 to review the integrity, confidentiality and availability of the Buyer Data;
 - 7.8.3 to review the Supplier's compliance with the DPA, FOIA and other Law applicable to the Services;
 - 7.8.4 to review the Supplier's compliance with its obligations under the Contract;
 - 7.8.5 to review any records created during the provision of the Services;
 - 7.8.6 to review any books of account kept by the Supplier in connection with the provision of the Services;
 - 7.8.7 to carry out the Audit and certification of the Buyer's accounts;

- 7.8.8 to carry out an examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Buyer has used its resources; and;
 - 7.8.9 to verify the accuracy and completeness of any management information delivered or required by this Contract.
- 7.9 If there is a Material Breach, the Supplier must notify the Buyer within 3 Working Days of the Supplier becoming aware of the Material Breach. The Buyer may request that the Supplier provide a Rectification Plan within 10 Working Days of the Buyer's request alongside any additional documentation that the Buyer requires. Once such Rectification Plan is agreed between the Parties (without the Buyer limiting its rights) the Supplier must immediately start work on the actions in the Rectification Plan at its own cost.
- 7.10 Subject to the Buyer's obligations of confidentiality, the Supplier shall on demand provide the Buyer, the Comptroller and Auditor General and any relevant Regulatory Body (and/or their agents or representatives) with all reasonable co-operation, access and assistance in relation to each Audit, including:
- 7.10.1 all Information requested within the permitted scope of the Audit;
 - 7.10.2 reasonable access to any Premises or sites controlled by the Supplier and to any equipment used (whether exclusively or non-exclusively) in the performance of the Services;
 - 7.10.3 access to the Supplier Staff;
 - 7.10.4 access to the Supplier's Systems Environment; and
 - 7.10.5 accommodation (including desks) at the Premises as reasonably required to conduct the audit.
- 7.11 The Buyer shall endeavour to (but is not obliged to) provide at least fifteen (15) days' notice of its intention to conduct an Audit.
- 7.12 If an Audit identifies that:
- 7.12.1 the Supplier has committed a default capable of remedy, the Supplier shall correct such default as soon as reasonably practicable and as directed by the Buyer;
 - 7.12.2 the Buyer has overpaid any Charges that become due and payable by the Buyer to the Supplier in respect of the Services, the Supplier shall pay to the Buyer the amount overpaid within twenty (20) Working Days. The Buyer may deduct the relevant amount from the charges if the Supplier fails to make this payment; and
 - 7.12.3 the Buyer has underpaid any Charges that become due and payable by the Buyer to the Supplier in respect of the Services, the Buyer shall pay to the Supplier the amount of the under-payment less the cost of Audit incurred by the Buyer if this was due to a Default by the Supplier within twenty (20) Working Days.

8 SUPPLIER STAFF

- 8.1 The Supplier Staff involved in the performance of the Contract must:
- 8.1.1 be appropriately trained and qualified;
 - 8.1.2 be vetted in accordance with the Staff Vetting Procedures; and

- 8.2 The Buyer may, by written notice to the Supplier, refuse to admit on to, or withdraw permission for the Supplier's Staff to remain on, the Buyer's Premises or work on the Contract where the admission or continued presence of:
- 8.2.1 any member of the Supplier Staff; or
 - 8.2.2 any person employed or engaged by any member of the Supplier Staff,
- would, in the reasonable opinion of the Buyer, be undesirable, and the decision of the Buyer as to whether any person is to be refused access to the Buyer's Premises and as to whether the Supplier has failed to comply with Clause 8.4 shall be final and conclusive.
- 8.3 The Supplier must provide a list of Supplier Staff needing to access the Buyer's premises and say why access is required.
- 8.4 The Supplier indemnifies the Buyer against all claims brought by any person employed or engaged by the Supplier caused by an act or omission of the Supplier or any Supplier Staff.
- 8.5 The Buyer indemnifies the Supplier against all claims brought by any person employed or engaged by the Buyer caused by an act or omission of the Buyer or any of the Buyer's employees, agents, consultants and contractors.
- 8.6 The Supplier shall use those persons nominated (if any) as Key Staff in the Order Form or otherwise notified as such by the Buyer to the Supplier in writing, following agreement to the same by the Supplier to provide the Deliverables and shall not remove or replace any of them unless:
- 8.6.1 requested to do so by the Buyer or the Buyer approves such removal or replacement (not to be unreasonably withheld or delayed);
 - 8.6.2 the person concerned resigns, retires or dies or is on parental or long-term sick leave; or
 - 8.6.3 the person's employment or contractual arrangement with the Supplier or any Subcontractor is terminated for material breach of contract by the employee.
- 8.7 The Supplier shall comply with Staff Vetting Procedures in respect of all persons employed or engaged in the provision of the Services. The Supplier confirms that all persons employed or engaged by the Supplier shall have complied with the Staff Vetting Procedures prior to commencing the Services and accessing the Premises.
- 8.8 The Supplier shall provide training on a continuing basis for all Supplier Staff employed or engaged in the provision of the Services in compliance with the Security Policies and Standards.
- 8.9 The Supplier shall use all reasonable endeavours to ensure that the Supplier Staff who are not UK nationals are legally entitled to reside in the United Kingdom and have a work permit, where applicable. The Supplier shall promptly take all reasonable steps to ensure compliance with this Clause.
- 8.10 The Supplier shall immediately inform the Buyer of any actual or potential industrial action, whether such action is by their own employees or others, which affects or might affect its ability at any time to perform its obligations under the Contract.

- 8.11 In the event of industrial action by the Supplier Staff, the Supplier shall seek Approval in relation to its proposals to continue to perform its obligations under the Contract. If the Supplier's proposals referred to in this clause 8.11 are considered insufficient or unacceptable by the Buyer (acting reasonably), the Buyer may terminate the Contract with immediate effect or such period as specified by the Buyer by notice in writing.
- 8.12 The Supplier shall comply with all applicable legislation relating to safeguarding and protecting vulnerable groups, including the Safeguarding Vulnerable Groups Act 2006 (as amended), the Safeguarding Vulnerable Groups Order (Northern Ireland) 2007 (as amended) and the Protection of Vulnerable Groups (Scotland) Act 2007 (as amended) or other relevant or equivalent legislation, or any statutory modification or re-enactment thereof.
- 8.13 Each Party shall immediately notify the other of any actual or potential problems which may relate to the Medical Practitioners and/or either party's own suppliers that affects or might affect the ability of The Supplier to provide and maintain the Services of this Agreement.

9 RIGHTS AND PROTECTION

- 9.1 The Supplier warrants and represents that:
- 9.1.1 it has full capacity and authority to enter into and to perform the Contract;
 - 9.1.2 the Contract is entered into by its authorised representative;
 - 9.1.3 it is a legally valid and existing organisation incorporated in the place it was formed;
 - 9.1.4 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;
 - 9.1.5 all necessary rights, authorisations, licences and consents (including in relation to IPRs) are in place to enable the Supplier to perform its obligations under the Contract and the Buyer to receive the Deliverables;
 - 9.1.6 it doesn't have any contractual obligations which are likely to have a material adverse effect on its ability to perform the Contract;
 - 9.1.7 it is not impacted by an Insolvency Event or a Financial Distress Event; and
 - 9.1.8 neither it nor, to the best of its knowledge the Supplier Staff, have committed a Prohibited Act prior to the Start Date or been subject to an investigation relating to a Prohibited Act;
 - 9.1.9 in the three (3) years prior to the date of the Contract:
 - 9.1.9.1 it has conducted all financial accounting and reporting activities in compliance in all material respects with the generally accepted accounting principles that apply to it in any country where it files accounts;
 - 9.1.9.2 it has been in full compliance with all applicable securities and tax laws and regulations in the jurisdiction in which it is established; and
 - 9.1.9.3 it has not done or omitted to do anything which could have a material adverse effect on its assets, financial condition or position as an on-going business concern or its ability to fulfil its obligations under the Contract;

- 9.1.10 in entering the Contract it has not committed any Fraud;
- 9.1.11 as at the start date of the Contract, all information in the Tender Response remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Buyer prior to execution of the Contract and during the Contract Period the Supplier shall disclose any change to the information referred to in this Clause 9.1(k) and information in relation to the Prohibited Acts; and
- 9.1.12 that as at the Effective Date, it has notified the Buyer in writing of any Occasions of Tax Non-Compliance or any litigation that it is involved in that is in connection with any occasions of Tax Non-Compliance.

9.2 The warranties and representations in clause 3.3 and 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:

- 9.3.1 wilful misconduct of the Supplier, any of its Subcontractor and/or Supplier Staff that impacts the Contract; and

- 9.3.2 non-payment by the Supplier of any tax or National Insurance.

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

9.5 All third party warranties and indemnities covering the Deliverables must be assigned for the Buyer's benefit by the Supplier for free.

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, sub-licensable worldwide licence to use, copy and adapt the Supplier's Existing IPR to enable the Buyer and its sub-licensees to both:

- 10.1.1 receive and use the Deliverables; and

- 10.1.2 use the New IPR.

The termination or expiry of the Contract does not terminate any licence granted under this clause 10.

10.2 Any New IPR created under the Contract is owned by the Buyer. The Buyer gives the Supplier a royalty-free, non-exclusive, non-transferable licence to use, copy, and adapt any Existing IPRs and the New IPR which the Supplier reasonably requires for the purpose of fulfilling its obligations during the Term and commercially exploiting the New IPR developed under the Contract. This licence is sub-licensable to a Subcontractor for the purpose of enabling the Supplier to fulfil its obligations under the Contract, and in that case the Subcontractor must enter into a confidentiality undertaking with the Supplier on the same terms as set out in clause 15 (What you must keep confidential).

10.3 Unless otherwise agreed in writing, the Supplier and the Buyer will record any New IPR and keep this record updated throughout the Term.

10.4 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.

- 10.5 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 this clause 10 or otherwise agreed in writing.
- 10.6 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.
- 10.7 If an IPR Claim is made or anticipated, the Supplier must at its own option and expense, either:
- 10.7.1 obtain for the Buyer the rights in clause 10.1 without infringing any third party intellectual property rights; and
 - 10.7.2 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.
 - 10.7.3 If the Supplier is not able to resolve the IPR Claim to the Buyer's reasonable satisfaction within a reasonable time, the Buyer may give written notice that it terminates the Contract from the date set out in the notice, or where no date is given in the notice, the date of the notice. On termination, the consequences of termination in clauses 11.5.1 shall apply.
- 10.8 The Supplier shall not use in the Delivery of the Deliverables any Third Party IPR unless:
- 10.8.1 the Buyer gives its approval to do so; and
 - 10.8.2 one of the following conditions applies:
 - 10.8.2.1 the owner or an authorised licensor of the relevant Third Party IPR has granted the Buyer a direct licence that provides the Buyer with the rights in clause 10.1; or
 - 10.8.2.2 if the Supplier cannot, after commercially reasonable endeavours, obtain for the Buyer a direct licence to the Third Party IPR as set out in clause 10.8.2.1:
 - (a) the Supplier provides the Buyer with details of the licence terms it can obtain and the identity of those licensors;
 - (b) the Buyer agrees to those licence terms; and
 - (c) the owner or authorised licensor of the Third Party IPR grants a direct licence to the Buyer on those terms; or
 - 10.8.2.3 the Buyer approves in writing, with reference to the acts authorised and the specific intellectual property rights involved.
- 10.9 In spite of any other provisions of the Contract and for the avoidance of doubt, award of this Contract by the Buyer and the ordering of any Deliverable under it, does not constitute an authorisation by the Crown under Sections 55 and 56 of the Patents Act 1977, Section 12 of the Registered Designs Act 1949 or Sections 240 – 243 of the Copyright, Designs and Patents Act 1988.

11 ENDING THE CONTRACT

- 11.1 The Contract takes effect on the Start Date and ends on the earlier of the Expiry Date 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

11.3.1 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 11.6.2 applies.

11.4 When the Buyer can end the Contract

11.4.1 If any of the following events happen, the Buyer has the right to immediately terminate its Contract by issuing a Termination Notice to the Supplier:

11.4.1.1 There is a Supplier Insolvency Event;

11.4.1.2 the Supplier fails to notify the Buyer in writing of any Occasion of Tax Non-Compliance;

11.4.1.3 there is any material Default of the Contract;

11.4.1.4 a Default that occurs and then continues to occur on one or more occasions within 6 Months following the Buyer serving a warning notice on the Supplier that it may terminate for persistent breach of the Contract;

11.4.1.5 there is any material Default of any Joint Controller Agreement relating to the Contract;

11.4.1.6 there is a Default of Clauses 9, 11, 12, 23 or 27;

11.4.1.7 there is a Change of Control of the Supplier which isn't pre-approved by the Buyer in writing;

11.4.1.8 the Buyer discovers that the Supplier was in one of the situations in Regulation 57 (1) and/or 57(2) of the Regulations at the time the Contract was awarded;

11.4.1.9 the Supplier or its Affiliates embarrass or bring the Buyer into disrepute or diminish the public trust in them;

11.4.1.10 the Supplier fails to comply with its legal obligations in the field of environmental, social, equality or employment Law when providing the Deliverables; and/or

11.4.1.11 the Contract has been subject to substantial modification which would have required a new procurement procedure in accordance with Regulation 72(9) of the Public Contracts Regulations 2015.

11.4.2 If any of the events in 73(1) (a) or (b) of the Regulations happen, the Buyer has the right to immediately terminate the Contract and clauses 11.5.1.2 to 11.5.1.7 apply.

11.5 What happens if the Contract ends

11.5.1 Where the Buyer terminates the Contract under clause 10.9, 11.4, 1.1, 28.4.2, or Paragraph 8 of Part B Joint Controller Agreement (*Optional*) of Annex 1 – Processing Personal Data (if used), all of the following apply:

- 11.5.1.1 The Supplier is responsible for the Buyer's reasonable costs of procuring Replacement Deliverables and any additional expenditure incurred by the Buyer for the rest of the Contract Period. The Buyer will take all reasonable steps to mitigate such additional expenditure;
- 11.5.1.2 the Buyer's payment obligations under the terminated Contract stop immediately;
- 11.5.1.3 accumulated rights of the Parties are not affected;
- 11.5.1.4 the Supplier must promptly delete or return the Government Data except where required to retain copies by Law;
- 11.5.1.5 the Supplier must promptly return any of the Buyer's property provided under the Contract;
- 11.5.1.6 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; and
- 11.5.1.7 the Supplier must repay to the Buyer all the Charges that it has been paid in advance for Deliverables that it has not provided as at the date of termination or expiry.
- 11.5.1.8 the Supplier must cease all use of all the Buyer's Intellectual Property Rights, generated Intellectual Property Rights, and any trade mark and shall return or destroy as the Buyer requires, all documents and materials (including those in electronic format) incorporating or referring to the same.
- 11.5.1.9 the Supplier shall return all Personal Data or destroy or dispose of it in a secure manner (regardless of form and whether computerised or physical) and in accordance with any specific instructions issued by the Buyer, where the Buyer is the Data Controller and delete existing copies unless the Law requires storage of Personal Data and/or unless the Supplier is required to retain the Personal Data by Law.

11.5.2 The following clauses survive the expiry or termination of the Contract: 1, 0, 5, 7, 8.4, 10, 11.5, 12, 14, 15, 16, 18, 19, 1.1, 36 and 38 and any clauses which are expressly or by implication intended to continue.

11.6 When the Supplier can end the Contract and what happens when the contract ends (Buyer and Supplier termination)

- 11.6.1 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.
- 11.6.2 Where the Buyer terminates the Contract in accordance with clause 11.3 or the Supplier terminates the Contract under clause 11.6 or 23.4:
 - 11.6.2.1 the Buyer must promptly pay all outstanding charges incurred by the Supplier;

11.6.2.2 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; and

11.6.2.3 clauses 11.5.1.2 to 11.5.1.7 apply.

11.6.3 The Supplier also has the right to terminate the Contract in accordance with Clauses 20.3 and 23.4.

11.7 Partially ending and suspending the Contract

11.7.1 Where the Buyer has the right to terminate the Contract it can terminate or suspend (for any period), all or part of it by giving 3 months' notice. If the Buyer suspends the Contract it can provide the Deliverables itself or buy them from a third party.

11.7.2 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.

11.7.3 The Parties must agree (in accordance with clause 25) any necessary variation required by clause 11.7, but the Supplier may not either:

11.7.3.1 reject the variation; or

11.7.3.2 increase the Charges, except where the right to partial termination is under clause 11.3.

11.7.4 The Buyer can still use other rights available, or subsequently available to it if it acts on its rights under clause 11.7.

12 HOW MUCH YOU CAN BE HELD RESPONSIBLE FOR

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

12.2 No Party is liable to the other for:

12.2.1 any indirect or consequential Losses; and/or

12.2.2 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:

12.3.1 its liability for death or personal injury caused by its negligence, or that of its employees, agents or Subcontractors;

12.3.2 its liability for bribery or fraud or fraudulent misrepresentation by it or its employees; or

12.3.3 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 8.4, 9.3.2, 10.6, or 1.1.

12.5 In spite of clause 12.1, the Buyer does not limit or exclude its liability for any indemnity given under clause 8.5.

12.6 Notwithstanding clause 12.1, but subject to clauses 12.1 and 12.3, the Supplier's total aggregate liability under clause 14.7.5 shall not exceed the Data Protection Liability Cap.

- 12.7 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.
- 12.8 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, in connection with provision of the Deliverables:
- 13.1.1 is expected to meet and have its Subcontractors meet the standards set out in the Supplier Code of Conduct: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1163536/Supplier_Code_of_Conduct_v3.pdf as such Code of Conduct may be updated from time to time, and such other sustainability requirements as set out in the Order Form. The Buyer also expects to meet this Code of Conduct;
 - 13.1.2 must comply with the provisions of the Official Secrets Acts 1911 to 1989 and section 182 of the Finance Act 1989;
 - 13.1.3 must support the Buyer in fulfilling its Public Sector Equality duty under section 149 of the Equality Act 2010;
 - 13.1.4 must comply with the model contract terms contained in (a) to (m) of Annex C of the guidance to [PPN 02/23 \(Tackling Modern Slavery in Government Supply Chains\)](#), as such clauses may be amended or updated from time to time; and
- 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 34.

14 DATA PROTECTION AND SECURITY

- 14.1 The Supplier must not remove any ownership or security notices in or relating to the Government Data.
- 14.2 The Supplier must make accessible back-ups of all Government Data, stored in an agreed off-site location and send the Buyer copies via secure encrypted method upon reasonable request.
- 14.3 The Supplier must ensure that any Supplier, Subcontractor, or Subprocessor system holding any Government Data, including back-up data, is a secure system that complies with the security requirements specified in the Order Form or otherwise in writing by the Buyer (where any such requirements have been provided).
- 14.4 If at any time the Supplier suspects or has reason to believe that the Government Data is corrupted, lost or sufficiently degraded, then the Supplier must immediately notify the Buyer and suggest remedial action.
- 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 Policies and Standards detailed in Schedule 2 (Security).

- 14.6 The Supplier must pay each Party's reasonable costs of complying with clause 14.5 unless the Buyer is at fault.
- 14.7 The Supplier:
- 14.7.1 must provide the Buyer with all Government Data in an agreed format (provided it is secure and readable) within 10 Working Days of a written request;
 - 14.7.2 must have documented processes to guarantee prompt availability of Government Data if the Supplier stops trading;
 - 14.7.3 must securely destroy all storage media that has held Government Data at the end of life of that media using Good Industry Practice, other than in relation to Government Data which is owned or licenced by the Supplier or in respect of which the Parties are Independent Controllers or Joint Controllers;
 - 14.7.4 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, other than in relation to Government Data which is owned or licenced by the Supplier or in respect of which the Parties are Independent Controllers or Joint Controllers; and
 - 14.7.5 indemnifies the Buyer against any and all losses incurred if the Supplier breaches clause 14 or any Data Protection Legislation.
- 14.8 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 the Contract dictates the status of each party under the DPA 2018. A Party may act as:
- 14.8.1 "Controller" in respect of the other Party who is "Processor";
 - 14.8.2 "Processor" in respect of the other Party who is "Controller";
 - 14.8.3 "Joint Controller" with the other Party;
 - 14.8.4 "Independent Controller" of the Personal Data where the other Party is also "Controller", in respect of certain Personal Data under the Contract and shall specify in Part A Authorised Processing Template of Annex 1 – Processing Personal Data which scenario they think shall apply in each situation.
- 14.9 Where one Party is Controller and the other Party its Processor**
- 14.9.1 Where a Party is a Processor, the only processing that the Processor is authorised to do is listed in Part A Authorised Processing Template of Annex 1 – Processing Personal Data by the Controller and may not be determined by the Processor. The term "processing" and any associated terms are to be read in accordance with Article 4 of the UK GDPR and EU GDPR (as applicable).
 - 14.9.2 The Processor must notify the Controller immediately if it thinks the Controller's instructions breach the Data Protection Legislation.
 - 14.9.3 The Processor must give all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment before starting any processing, which may include, at the discretion of the Controller:
 - 14.9.3.1 a systematic description of the expected processing and its purpose;

- 14.9.3.2 the necessity and proportionality of the processing operations;
- 14.9.3.3 the risks to the rights and freedoms of Data Subjects; and
- 14.9.3.4 the intended measures to address the risks, including safeguards, security measures and mechanisms to protect Personal Data.
- 14.9.4 The Processor must, in relation to any Personal Data processed under this Contract:
 - 14.9.4.1 process that Personal Data only in accordance with Part A Authorised Processing Template of Annex 1 – Processing Personal Data unless the Processor is required to do otherwise by Law. If lawful to notify the Controller, the Processor must promptly notify the Controller if the Processor is otherwise required to process Personal Data by Law before processing it.
 - 14.9.4.2 put in place appropriate Protective Measures to protect against a Data Loss Event which must be approved by the Controller.
 - 14.9.4.3 Ensure that:
 - (a) the Processor Personnel do not process Personal Data except in accordance with this Contract (and in particular Part A Authorised Processing Template of Annex 1 – Processing Personal Data);
 - (b) it uses best 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 clause 14;
 - (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 provide any of the Personal Data to any third party unless directed in writing to do so by the Controller or as otherwise allowed by the Contract; and
 - (iv) have undergone adequate training in the use, care, protection and handling of Personal Data.
 - (c) the Processor must not transfer Personal Data outside of the UK and/or the EEA unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
 - (d) the transfer is in accordance with Article 45 of the UK GDPR (or section 74A of DPA 2018) and/or the transfer is in accordance with Article 45 of the EU GDPR (where applicable); or
 - (e) 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) and/or the transfer is in accordance with Article 46 of the EU GDPR (where applicable) as determined by the Controller which could include relevant parties entering into:

- (i) where the transfer is subject to UK GDPR:
 - (A) the International Data Transfer Agreement (the “**IDTA**”), as published by the Information Commissioner's Office from time to time under section 119A(1) of the DPA 2018 as well as any additional measures determined by the Controller;
 - (B) the European Commission's Standard Contractual Clauses per decision 2021/914/EU or such updated version of such Standard Contractual Clauses as are published by the European Commission from time to time (“**EU SCCs**”), together with the UK International Data Transfer Agreement Addendum to the EU SCCs (the “**Addendum**”) as published by the Information Commissioner's Office from time to time; and/or
 - (ii) where the transfer is subject to EU GDPR, the EU SCCs, as well as any additional measures determined by the Controller being implemented by the importing party;
 - (f) the Data Subject has enforceable rights and effective legal remedies when transferred;
 - (g) the Processor meets its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - (h) the Processor complies with the Controller's reasonable prior instructions about the processing of the Personal Data.
- 14.9.5 The Processor must 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.
- 14.9.6 The Processor must notify the Controller immediately if it:
- 14.9.6.1 receives a Data Subject Access Request (or purported Data Subject Access Request);
 - 14.9.6.2 receives a request to rectify, block or erase any Personal Data;
 - 14.9.6.3 receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
 - 14.9.6.4 receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Contract;
 - 14.9.6.5 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; and
 - 14.9.6.6 becomes aware of a Data Loss Event.
- 14.9.7 Any requirement to notify under clause 14.9.6 includes the provision of further information to the Controller in stages as details become available.

- 14.9.8 The Processor must promptly provide the Controller with full assistance in relation to any Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 14.9.6. This includes giving the Controller:
- 14.9.8.1 full details and copies of the complaint, communication or request;
 - 14.9.8.2 reasonably requested assistance so that it can comply with a Data Subject Access Request within the relevant timescales in the Data Protection Legislation;
 - 14.9.8.3 any Personal Data it holds in relation to a Data Subject on request;
 - 14.9.8.4 assistance that it requests following any Data Loss Event; and
 - 14.9.8.5 assistance that it requests relating to a consultation with, or request from, the Information Commissioner's Office or any other regulatory authority.
- 14.9.9 The Processor must maintain full, accurate records and information to show it complies with this clause 14. This requirement does not apply where the Processor employs fewer than 250 staff, unless either the Controller determines that the processing:
- 14.9.9.1 is not occasional;
 - 14.9.9.2 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
 - 14.9.9.3 is likely to result in a risk to the rights and freedoms of Data Subjects.
- 14.9.10 The Parties shall designate a Data Protection Officer if required by the Data Protection Legislation.
- 14.9.11 Before allowing any Subprocessor to process any Personal Data, the Processor must:
- 14.9.11.1 notify the Controller in writing of the intended Subprocessor and processing;
 - 14.9.11.2 obtain the written consent of the Controller;
 - 14.9.11.3 enter into a written contract with the Subprocessor so that this clause 14 applies to the Subprocessor; and
 - 14.9.11.4 provide the Controller with any information about the Subprocessor that the Controller reasonably requires.
- 14.9.12 The Processor remains fully liable for all acts or omissions of any Subprocessor.
- 14.9.13 The Parties agree to take account of any guidance issued by the Information Commissioner's Office or any other regulatory authority.

14.10 Joint Controllers of Personal Data

- 14.10.1 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 Part B Joint Controller Agreement (*Optional*) of Annex 1 – Processing Personal Data.

14.11 Independent Controllers of Personal Data

- 14.11.1 In the event that the Parties are Independent Controllers in respect of Personal Data under the Contract, the terms set out in Part C Independent Controllers (*Optional*) of Annex 1 – Processing Personal Data shall apply to this Contract.

14.12 Miscellaneous Data Protection Provisions

- 14.12.1 The Supplier shall take responsibility for preserving the integrity of Government Data and preventing the corruption or loss of that data.
- 14.12.2 The Supplier shall ensure that any system or media on which the Supplier holds any Government Data, including back-up data, is a secure system that complies with the Security Policies and Standards detailed in Schedule 2 (Security).
- 14.12.3 The Supplier and any of its Supplier Staff, shall not access, process, host or transfer Government Data outside the United Kingdom without the prior written consent of the Buyer, and where the Buyer gives consent, the Supplier shall comply with any reasonable instructions notified to it by the Buyer in relation to the Government Data in question. The provisions set out in this Clause 14.12.4 shall apply to Landed Resources.
- 14.12.4 Where the Buyer has given its prior written consent to the Supplier to access, process, host or transfer Government Data from premises outside the United Kingdom:
- 14.12.4.1 the Supplier must notify the Buyer (in so far as they are not prohibited by Law) where any regulatory bodies seek to gain or has gained access to such Government Data:
 - 14.12.4.2 the Supplier shall take all necessary steps in order to prevent any access to, or disclosure of, any Government Data to any regulatory bodies outside the United Kingdom unless required by Law without any applicable exception or exemption;
- 14.12.5 If the Supplier goes into Liquidation or the Contract is terminated by the Buyer pursuant to the provisions of the Contract relating to termination on insolvency in accordance with Clause 11.4.1, the Supplier (or a liquidator or provisional liquidator acting on behalf of the Supplier) shall at its own cost and at no cost to the Buyer:
- 14.12.5.1 conduct a full and thorough search for any electronic and paper records held by the Supplier which contain Government Data/Information/Information relating to the Medical Practitioner; in accordance with the Buyer instructions;
 - 14.12.5.2 return all such records as described in Clause 14.7.1 to the Buyer in accordance with their instructions;
 - 14.12.5.3 permanently destroy all copies of any relevant electronic records; and
 - 14.12.5.4 provide written confirmation to the Buyer that the actions outlined above in this Clause have been completed.

- 14.12.6 If the Supplier is put into administration the Buyer will work closely with the administrator to ensure the Supplier is able to maintain Buyer and other records, they have created and held in accordance with this Contract and maintain these standards in the safekeeping of Government Data. All such records must be stored in accordance with Buyer information assurance and HMG Cabinet Office information security standards.

15 WHAT YOU MUST KEEP CONFIDENTIAL

15.1 Each Party must:

- 15.1.1 keep all Confidential Information it receives confidential and secure;
- 15.1.2 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; and
- 15.1.3 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:

- 15.2.1 where disclosure is required by applicable Law if the recipient Party notifies the disclosing Party of the full circumstances, the affected Confidential Information and extent of the disclosure;
- 15.2.2 if the recipient Party already had the information without obligation of confidentiality before it was disclosed by the disclosing Party;
- 15.2.3 if the information was given to it by a third party without obligation of confidentiality;
- 15.2.4 if the information was in the public domain at the time of the disclosure;
- 15.2.5 if the information was independently developed without access to the disclosing Party's Confidential Information;
- 15.2.6 on a confidential basis, to its auditors or for the purposes of regulatory requirements;
- 15.2.7 on a confidential basis, to its professional advisers on a need-to-know basis; and
- 15.2.8 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 shall remain responsible at all times for compliance with the confidentiality obligations set out in this Contract by the persons to whom disclosure has been made.

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

- 15.4.1 on a confidential basis to the employees, agents, consultants and contractors of the Buyer;
- 15.4.2 on a confidential basis to any Crown Body, any successor body to a Crown Body or any company that the Buyer transfers or proposes to transfer all or any part of its business to;

- 15.4.3 if the Buyer (acting reasonably) considers disclosure necessary or appropriate to carry out its public functions;
- 15.4.4 where requested by Parliament; and
- 15.4.5 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 Transparency Information, and 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 endeavours to ensure that Supplier Staff do not either.

16 WHEN YOU CAN SHARE INFORMATION

- 16.1 The Supplier shall and shall procure that its Subcontractors shall:
 - 16.1.1 transfer to the Buyer all Requests for Information that it receives as soon as practicable and in any event within two (2) Working Days of receiving a Request for Information;
 - 16.1.2 provide the Buyer with full co-operation, all necessary assistance as reasonably requested by the Buyer, and a copy of all Information in its possession or power in the form that the Buyer requires within five (5) Working Days (or such other period as the Buyer may specify) of the Buyer's request so that the Buyer can;
 - 16.1.2.1 publish the Transparency Information;
 - 16.1.2.2 comply with any Freedom of Information Act (FOIA) request;
 - 16.1.2.3 comply with any Environmental Information Regulations (EIR) request;

and in no event shall the Supplier respond directly to a Request for Information unless expressly authorised in writing to do so by the Buyer.
- 16.2 In accordance with a reasonable timetable and in any event within 5 Working Days of a request from the Buyer, the Supplier must give the Buyer full co-operation and information needed so the Buyer can:
 - 16.2.1 comply with any Request For Information;
 - 16.2.2 if the Contract has a value over the relevant threshold in Part 2 of the Regulations, comply with any of its obligations in relation to publishing Transparency Information.
- 16.3 To the extent that it is allowed and practical to do so, the Buyer will use reasonable endeavours to notify the Supplier of a Request For Information and 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 in its absolute discretion.
- 16.4 The Supplier acknowledges that the Buyer may, acting in accordance with the Department for Constitutional Affairs' Code of Practice on the Discharge of the Functions of Public Authorities under section 45 of FOIA ("**the Code**"), be obliged under the FOIA, or the Environmental Information Regulations to disclose information concerning the Supplier or the Services:

16.4.1 in certain circumstances without consulting the Supplier;

16.4.2 following consultation with the Supplier and having taken their views into account.

16.5 Where Clause 16.4 applies the Buyer shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Supplier advance notice, or failing that, to draw the disclosure to the Supplier's attention after any such disclosure.

16.6 The Supplier shall ensure that all Information is retained for disclosure and shall permit the Buyer to inspect such records as requested from time to time.

17 INSURANCE

17.1 Not used.

18 INVALID PARTS OF THE CONTRACT

18.1 If any provision or part-provision of this Contract is or becomes invalid, illegal or unenforceable for any reason, such provision or part-provision shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Contract. The provisions incorporated into the Contract are the entire agreement between the Parties. The Contract replaces all previous statements, or agreements whether written or oral. No other provisions apply.

19 OTHER PEOPLE'S RIGHTS IN THE CONTRACT

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

20 CIRCUMSTANCES BEYOND YOUR CONTROL

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

20.1.1 provides written notice to the other Party; and

20.1.2 uses all reasonable measures practical to reduce the impact of the Force Majeure Event.

20.2 Any failure or delay by the Supplier to perform its obligations under the Contract that is due to a failure or delay by an agent, Subcontractor and/or Supplier Staff will only be considered a Force Majeure Event if that third party is itself prevented from complying with an obligation to the Supplier due to a Force Majeure Event.

20.3 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 and the consequences of termination in Clauses 11.5.1.2 to 11.5.1.7 shall apply.

20.4 Where a Party terminates under clause 20.3:

20.4.1 each Party must cover its own losses; and

20.4.2 clauses 11.5.1.2 to 11.5.1.7 apply.

21 RELATIONSHIPS CREATED BY THE CONTRACT

- 21.1 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

- 22.1 The failure of either Party to insist upon strict performance of any provision of the Contract, or the failure of either Party to exercise, or any delay in exercising any right or remedy, shall not constitute a waiver of that right or remedy and shall not diminish or affect any other cause a diminution of the obligations established by the Contract.
- 22.2 No waiver shall be effective unless it is expressly stated to be a waiver and communicated to the other Party in writing in accordance with Clause 25 (How to communicate about the contract).
- 22.3 A waiver of any right or remedy arising from a breach of the Contract shall not constitute a waiver of any right or remedy arising from any other or subsequent breach of the Contract.

23 TRANSFERRING RESPONSIBILITIES

- 23.1 The Supplier cannot assign, novate or in any other way dispose of the Contract or any part of it without the Buyer's written consent.
- 23.2 The Buyer can assign, novate or transfer its Contract or any part of it to any Crown Body, public or private sector body which performs the functions of the Buyer.
- 23.3 When the Buyer uses its rights under clause 23.2 the Supplier must enter into a novation agreement in the form that the Buyer specifies.
- 23.4 The Supplier can terminate the Contract novated under clause 23.2 to a private sector body that is experiencing an Insolvency Event.
- 23.5 The Supplier remains responsible for all acts and omissions of the Supplier Staff as if they were its own.
- 23.6 Any change in the legal status of the Buyer such that it ceases to be a Contracting Body shall not affect the validity of the Contract. In such circumstances, the Contract shall continue in full force and effect for bind and inure to the benefit of any successor body to the Buyer.
- 23.7 The Buyer may disclose to any transferee any Confidential Information of the Supplier which relates to the performance of the Supplier's obligations under the Contract. In such circumstances the Buyer shall authorise the Transferee to use such Confidential Information only for purposes relating to the performance of the Supplier's obligations under the Contract and for no other purpose and shall take all reasonable steps to ensure that the Transferee gives a confidentiality undertaking in relation to such Confidential Information.
- 23.8 Each Party shall at its own cost and expense carry out, or use all reasonable endeavours to ensure it carries out whatever further actions (including the execution of further documents) the other Party reasonably requires from time to time for the purpose of giving that other Party the full benefit of the provisions of the Contract.

24 SUPPLY CHAIN

- 24.1 The Supplier cannot sub-contract the Contract or any part of it without the Buyer's prior written consent. The Supplier shall provide the Buyer with the name of any Subcontractor the Supplier proposes to engage for the purposes of the Contract. The decision of the Buyer to consent or not will not be unreasonably withheld or delayed. If the Buyer does not communicate a decision to the Supplier within 10 Working Days of the request for consent, then its consent will be deemed to have been given. The Buyer may reasonably withhold its consent to the appointment of a Subcontractor if it considers that:
- 24.1.1 the appointment of a proposed Subcontractor may prejudice the provision of the Deliverables or may be contrary to its interests;
 - 24.1.2 the proposed Subcontractor is unreliable and/or has not provided reliable goods and or reasonable services to its other customers;
 - 24.1.3 the proposed Subcontractor employs or engages unfit persons and/or;
 - 24.1.4 that the proposed Subcontractor is based outside the United Kingdom.
- 24.2 If the Buyer asks the Supplier for details about Subcontractors, the Supplier must provide details of all such Subcontractors at all levels of the supply chain including:
- 24.2.1 their name;
 - 24.2.2 the scope of their appointment; and
 - 24.2.3 the duration of their appointment.
- 24.3 The Supplier must exercise due skill and care when it selects and appoints Subcontractors.
- 24.4 For Sub-Contracts in the Supplier's supply chain entered into wholly or substantially for the purpose of performing or contributing to the performance of the whole or any part of this Contract:
- 24.4.1 where such Sub-Contracts are entered into after the Start Date, the Supplier will ensure that they all contain provisions that; or
 - 24.4.2 where such Sub-Contracts are entered into before the Start Date, the Supplier will take all reasonable endeavours to ensure that they all contain provisions that:
 - 24.4.2.1 allow the Supplier to terminate the Sub-Contract if the Subcontractor fails to comply with its obligations in respect of environmental, social, equality or employment Law;
 - 24.4.2.2 require the Supplier to pay all Subcontractors in full, within 30 days of receiving a valid, undisputed invoice; and
 - 24.4.2.3 allow the Buyer to publish the details of the late payment or non-payment if this 30-day limit is exceeded.
- 24.5 At the Buyer's request, the Supplier must terminate any Sub-Contracts in any of the following events:
- 24.5.1 there is a change of control within the meaning of Section 450 of the Corporation Tax Act 2010 of a Subcontractor which isn't pre-approved by the Buyer in writing;
 - 24.5.2 the acts or omissions of the Subcontractor have caused or materially contributed to a right of termination under Clause 11.4;

- 24.5.3 a Subcontractor or its Affiliates embarrasses or brings into disrepute or diminishes the public trust in the Buyer;
- 24.5.4 the Subcontractor fails to comply with its obligations in respect of environmental, social, equality or employment Law; and/or
- 24.5.5 the Buyer has found grounds to exclude the Subcontractor in accordance with Regulation 57 of the Regulations.

24.6 The Supplier is responsible for all acts and omissions of its Subcontractors and those employed or engaged by them as if they were its own.

25 CHANGING THE CONTRACT

25.1 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.

25.2 The Supplier shall neither be relieved of its obligations to supply the Services in accordance with the Contract nor be entitled to an increase in the Contract Price as a result of:

- 25.2.1 a General Change in Law; or
- 25.2.2 a Specific Change in Law where the effect of that Specific Change in Law on the Services is reasonably foreseeable at the Commencement Date; or
- 25.2.3 a change in guidance and/or best practice as set out by the Information Commissioner's Office.

25.3 If a Specific Change in Law occurs or will occur during the Contract Period the Supplier shall:

- 25.3.1 notify the Buyer as soon as is reasonably practicable of the likely effects of that Specific Change in Law, including:
 - 25.3.1.1 whether a Variation is required, including to the Services, the Contract Price and/or any other part of this Contract;
 - 25.3.1.2 whether any relief from the Supplier's obligations is required; and
- 25.3.2 provide the Buyer with evidence:
 - 25.3.2.1 that the Supplier has minimised any increase in costs or maximised any reduction in costs, including in respect of the costs of its Subcontractor(s);
 - 25.3.2.2 as to how the Specific Change in Law has affected the cost of providing the Services;
 - 25.3.2.3 demonstrating that any expenditure that has been avoided has been taken into account in amending the Charges payable under the Contract.

26 HOW TO COMMUNICATE ABOUT THE CONTRACT

26.1 Except as otherwise expressly provided within this Contract, no notice or other communication from one Party to the other shall have any validity under this Contract unless made in writing by or on behalf of the Party concerned.

26.2 Any notice or other communication which is to be given by either Party to the other shall be given by electronic mail or by letter (such letter may be delivered by hand or sent by registered post or by recorded delivery). Provided the relevant communication is not returned as undelivered, the notice or communication shall be deemed to have been given two (2) Working Days after the day on which the letter was posted, or four (4) hours, in the case of electronic mail or sooner where the other Party acknowledges receipt of such letters, or item of electronic mail. Such letters shall be addressed to the other Party in the manner referred Clause 18 of the Order Form. This clause does not apply to the service of legal proceedings or any documents in any legal action, arbitration or dispute resolution.

27 DEALING WITH CLAIMS

27.1 If a Beneficiary becomes aware of any Claim, then it must notify the Indemnifier as soon as reasonably practical.

27.2 at the Indemnifier's cost the Beneficiary must:

- 27.2.1 allow the Indemnifier to conduct all negotiations and proceedings to do with a Claim;
- 27.2.2 give the Indemnifier reasonable assistance with the Claim if requested; and
- 27.2.3 not make admissions about the Claim without the prior written consent of the Indemnifier which cannot be unreasonably withheld or delayed.

27.3 The Beneficiary must:

- 27.3.1 consider and defend the Claim diligently and in a way that does not damage the Beneficiary's reputation; and
- 27.3.2 not settle or compromise any Claim without the Beneficiary's prior written consent which it must not unreasonably withhold or delay.

27.4 The Supplier shall take all reasonable steps to secure the observance of Schedule 3 (Buyer Specific Terms).

28 PREVENTING FRAUD, BRIBERY AND CORRUPTION

28.1 The Supplier shall not:

- 28.1.1 commit any criminal offence referred to in 57(1) and 57(2) of the Regulations; or
- 28.1.2 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.

28.2 The Supplier shall take all reasonable endeavours (including creating, maintaining and enforcing adequate policies, procedures and records), in accordance with Good Industry Practice, to prevent any matters referred to in clause 28.1 and any fraud by the Supplier 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.

- 28.3 If the Supplier notifies the Buyer as required by clause 28.2, the Supplier must respond promptly to their further enquiries, co-operate with any investigation and allow the Audit of any books, records and relevant documentation.
- 28.4 If the Supplier or the Supplier Staff engages in conduct prohibited by clause 28.1 or commits fraud in relation to the Contract or any other contract with the Crown (including the Buyer) the Buyer may:
- 28.4.1 require the Supplier to remove any Supplier Staff from providing the Deliverables if their acts or omissions have caused the default; and
 - 28.4.2 immediately terminate the Contract and the consequences of termination in Clause 11.5.1 shall apply.

29 EQUALITY, DIVERSITY AND HUMAN RIGHTS

- 29.1 The Supplier must follow all applicable equality Law when they perform their obligations under the Contract, including:
- 29.1.1 not to unlawfully discriminate either directly or indirectly on such grounds as age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex or sexual orientation and without prejudice to the generality of the foregoing the Supplier shall not unlawfully discriminate within the meaning and scope of the Equality Act 2010 or other relevant or equivalent legislation, or any statutory modification or re-enactment thereof; and
 - 29.1.2 any other requirements and instructions which the Buyer reasonably imposes related to equality Law.
 - 29.1.3 and instructions which the Buyer reasonably imposes related to equality Law.
- 29.2 The Supplier must use all reasonable endeavours, 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.
- 29.3 The Supplier shall comply with the provisions of the Human Rights Act 1998.

30 HEALTH AND SAFETY

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

31 ENVIRONMENT AND SUSTAINABILITY

- 31.1 In performing its obligations under the Contract, the Supplier shall, to the reasonable satisfaction of the Buyer:

- 31.1.1 meet, in all material respects, the requirements of all applicable Laws regarding the environment; and
- 31.1.2 comply with its obligations under the Buyer's current environmental policy, which the Buyer must provide, and make Supplier Staff aware of such policy.
- 31.2 The Supplier shall ensure that its health and safety policy statement (as required by the Health and Safety at Work Act etc.1974) is made available to the Buyer on request.

32 TAX

- 32.1 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.
- 32.2 If an Occasion of Tax Non-Compliance occurs, the Supplier must notify the Buyer of it within five (5) Working Days including:
 - 32.2.1 the steps that the Supplier is taking to address the Occasion of Tax Non-Compliance and any mitigating factors that it considers relevant; and
 - 32.2.2 other information relating to the Occasion of Tax Non-Compliance that the Buyer may reasonably need.
- 32.3 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 requirements that:
 - 32.3.1 the Buyer may, at any time during the term of the Contract, request that the Worker provides information which demonstrates they comply with clause 32.2, or why those requirements do not apply, the Buyer can specify the information the Worker must provide and the deadline for responding;
 - 32.3.2 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;
 - 32.3.3 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 32.2 or confirms that the Worker is not complying with those requirements; and
 - 32.3.4 the Buyer may supply any information they receive from the Worker to HMRC for revenue collection and management.

33 CONFLICT OF INTEREST

- 33.1 The Supplier must take action to ensure that neither the Supplier nor the Supplier Staff are placed in the position of an actual, potential or perceived Conflict of Interest.
- 33.2 The Supplier must promptly notify and provide details to the Buyer if an actual, potential or perceived Conflict of Interest happens or is expected to happen.
- 33.3 The Buyer will consider whether there are any appropriate measures that can be put in place to remedy an actual, perceived or potential Conflict of Interest. If, in the reasonable opinion of the Buyer, such measures do not or will not resolve an actual or potential conflict of interest, the Buyer may terminate the Contract immediately by giving notice in writing to the Supplier where there is or may be an actual or potential Conflict of Interest and Clauses 11.5.1.2 to 11.5.1.7 shall apply.

33.4 The actions of the Buyer pursuant to this clause shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Buyer.

33.5 This Clause 31 shall apply for the duration of this Contract and for a period of two (2) years after its termination.

34 REPORTING A BREACH OF THE CONTRACT

34.1 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 27 to 33.

34.2 The Supplier must not retaliate against any of the Supplier Staff who in good faith reports a breach listed in clause 34.1 to the Buyer or a Prescribed Person.

35 FURTHER ASSURANCES

35.1 Each Party will, at the request and cost of the other Party, do all things which may be reasonably necessary to give effect to the meaning of this Contract.

36 INSURANCE

36.1 Subject to Section 15 of the Order Form and unless otherwise confirmed in writing by the Buyer, as a minimum level of protection, the Supplier shall put in place and/or maintain in force at its own cost with a reputable commercial insurer, insurance arrangements in respect of employer's liability, public liability, product liability and professional indemnity in accordance with Good Industry Practice with the minimum cover per claim of the greater of 120% of the first year contract value or any sum as required by Law unless otherwise agreed with the Buyer in writing.

36.2 Without limitation to any insurance arrangements as required by Law, the Supplier shall put in place and/or maintain the different types and/or levels of indemnity arrangements explicitly required by the Buyer, if specified in the Order Form.

37 RESOLVING DISPUTES

37.1 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 by commercial negotiation.

37.2 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 37.3 to 37.5.

37.3 Unless the Buyer refers the dispute to arbitration using clause 37.4, the Parties irrevocably agree that the courts of England and Wales have exclusive jurisdiction.

37.4 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.

37.5 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 37.3, 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 37.4.

37.6 The Supplier cannot suspend the performance of the Contract during any dispute.

38 WHICH LAW APPLIES

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

39 CUMULATIVE REMEDIES

39.1 Except as otherwise expressly provided for by the Contract, all remedies available to either Party for breach of the Contract are cumulative and may be exercised concurrently or separately. The exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

40 COUNTERPARTS

40.1 The Contract may be executed in counterparts each of which when executed and delivered shall constitute an original, but all counterparts together shall constitute one and the same Contract.

IV. Annex 1 – Processing Personal Data

Part A Authorised Processing Template

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 Schedule shall be with the Controller at its absolute discretion.

The contact details of the Controller's Data Protection Officer are: [REDACTED]

The contact details of the Processor's Data Protection Officer are: [REDACTED]

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

Any such further instructions shall be incorporated into this Annex.

Description of authorised processing	Details
Identity of Controller and Processor / Independent Controllers / Joint Controllers for each category of Personal Data	<p>The Authority/Buyer is the Controller, and the Supplier is the Processor.</p> <p>The Parties acknowledge that in accordance with paragraph 14 of the conditions and for the purposes of the Data Protection Legislation, the Authority is the Controller, and the Supplier is the Processor of the following personal data:</p> <ul style="list-style-type: none"> Business contact details of any directors, officers, employees, agents, consultants, contractors of the Authority (excluding the Supplier Staff) engaged in the performance of the Authority's duties under the Contract for which the Authority is the Controller. The following details of Medical Practitioners employed by DWP: Full name of the Medical Practitioner, Date of birth, GMC Number, Revalidation due date, Details of their previous appraisal(s) if applicable, or designated appraisal month, Preferred Contact Address, Preferred Contact Telephone number(s), Preferred email address(es) engaged in the performance of the Authority's duties under the Contract for which the Authority is the Controller The signed appraisal portfolio of the individual Medical Practitioners. <p>The Supplier is the Independent Controller of Personal Data</p> <p>The Parties acknowledge that the Supplier is the Independent Controller for the purposes of the Data Protection Legislation in respect of the:</p> <ul style="list-style-type: none"> Business contact details of any directors, officers, employees, agents, consultants, contractors of the Supplier (excluding the Authority Staff) engaged in the performance of the Suppliers duties under the Contract for which the Supplier is the Controller.
Subject matter of the processing	The Supplier shall process the personal data of doctors in the course of carrying out appraisals as part of the Services under this Agreement.
Duration of the processing	The duration of the Agreement

Nature and purposes of the processing	To carry out appraisal and revalidation of DWP Medical Practitioners.
Type of Personal Data being processed	<ul style="list-style-type: none"> a. Full name of the Medical Practitioner b. Date of birth c. GMC Number d. Revalidation due date e. Details of their previous appraisal(s) if applicable, or designated appraisal month f. Preferred Contact Address g. Preferred Contact Telephone number(s) h. Preferred email address(es) i. Signed appraisal portfolio for each Medical Practitioner.
Categories of Data Subject	<p>Authority Staff (including directors, officers, employees, agents, consultants, contractors of the Authority).</p> <p>Supplier Staff (including directors, officers, employees, agents, consultants, contractors of the Supplier).</p> <p>Doctors whose portfolios are being appraised or revalidated.</p>
Plan for return and destruction of the data once the processing is complete UNLESS requirement under law to preserve that type of data	<p>Delete or return the data as directed by the Buyer.</p> <p>(This will apply to all multiple relationships identified above)</p>
Locations at which the Supplier and/or its Subcontractors process Personal Data under this Contract and International transfers and legal gateway	<p>The Supplier processes personal data in the United Kingdom.</p> <p>████████████████████ who acts as a Subcontractor and Subprocessor of personal data, processes this information in the United Kingdom.</p>
Protective Measures that the Supplier and, where applicable, its Subcontractors have implemented to protect Personal Data processed under this Contract against a breach of security (insofar as that breach of security relates to data) or a Data Loss Event	<p>WASL's security measures to protect personal data include the use of technical and organisation security measures (encryption and/or password protection of personal data).</p> <p>████████████████████ contract with the Supplier contains details of the security measures it takes to protect personal data and there is a two factor authentication process to log into the FFARMS Database and FourteenFish portfolio.</p>

Part B Joint Controller Agreement (Optional)

1 JOINT CONTROLLER STATUS AND ALLOCATION OF RESPONSIBILITIES

40.2 Not used.

Part C Independent Controllers (*Optional*)

2. INDEPENDENT CONTROLLER PROVISIONS

- 40.3 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.
- 40.4 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.
- 40.5 Where a Party has provided Personal Data to the other Party in accordance with Paragraph 1.1 of this Part C Independent Controllers (*Optional*) of Annex 1 – Processing Personal Data 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.
- 40.6 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.
- 40.7 The Parties shall only provide Personal Data to each other:
- 40.7.1 to the extent necessary to perform their respective obligations under the Contract;
 - 40.7.2 in compliance with the Data Protection Legislation (including by ensuring all required fair processing information has been given to affected Data Subjects);
 - 40.7.3 where the provision of Personal Data from one Party to another involves transfer of such data to outside the UK and/or the EEA, if the prior written consent of the non-transferring Party has been obtained and the following conditions are fulfilled:
 - 40.7.3.1 the destination country has been recognised as adequate by the UK government in accordance with Article 45 of the UK GDPR or DPA 2018 Section 74A and/or the transfer is in accordance with Article 45 of the EU GDPR (where applicable); or
 - 40.7.3.2 the transferring Party has provided appropriate safeguards in relation to the transfer (whether in accordance with Article 46 of the UK GDPR or DPA 2018 Section 75 and/or Article 46 of the EU GDPR (where applicable)) as determined by the non-transferring Party which could include the parties entering into:
 - (a) where the transfer is subject to UK GDPR:
 - (i) the UK International Data Transfer Agreement (the “**IDTA**”), as published by the Information Commissioner’s Office or such updated version of such IDTA as is published by the Information Commissioner’s Office under section 119A(1) of the DPA 2018 from time to time; or

- (ii) the European Commission's Standard Contractual Clauses per decision 2021/914/EU or such updated version of such Standard Contractual Clauses as are published by the European Commission from time to time (the “**EU SCCs**”), together with the UK International Data Transfer Agreement Addendum to the EU SCCs (the “**Addendum**”) as published by the Information Commissioner's Office from time to time; and/or

(b) where the transfer is subject to EU GDPR, the EU SCCs;

as well as any additional measures determined by the non-transferring Party being implemented by the importing party;

40.7.3.3 the Data Subject has enforceable rights and effective legal remedies;

40.7.3.4 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

40.7.3.5 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

40.7.4 where it has recorded it in Part A Authorised Processing Template of Annex 1 – Processing Personal Data.

40.8 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.

40.9 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.

40.10 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**”):

40.10.1 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

40.10.2 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:

40.10.2.1 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

40.10.2.2 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.

40.11 Each Party shall promptly notify the other Party upon it becoming aware of any Data Loss Event relating to Personal Data provided by the other Party pursuant to the Contract and shall:

40.11.1 do all such things as reasonably necessary to assist the other Party in mitigating the effects of the Data Loss Event;

40.11.2 implement any measures necessary to restore the security of any compromised Personal Data;

40.11.3 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

40.11.4 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.

40.12 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 Part A Authorised Processing Template of Annex 1 – Processing Personal Data.

40.13 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 Part A Authorised Processing Template of Annex 1 – Processing Personal Data.

40.14 Notwithstanding the general application of clauses 14.9 to 14.9.13 of the Conditions 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 1.1 to 1.12 of this Part C Independent Controllers (*Optional*) of Annex 1 – Processing Personal Data.

V. Annex 2 –Specification**A Particulars of Specification**

1. During the term of this Agreement, the Supplier shall provide the Services in accordance with the Service Specification of the Order Form and with Annex 2 of this Contract.
2. Each appraisal year shall run from 1 April to 31 March annually (each an “Appraisal Year”). Subject to clause 28 of Annex 2, all appraisals shall be completed by 31 March in any Appraisal Year.
3. Medical Practitioners shall be eligible for an annual appraisal within each Appraisal Year under this Agreement if they are included on the List (as defined in clause 4 of Annex 2). In exceptional circumstances by prior agreement Medical Practitioners on the List may be approved to miss their annual appraisal at the Buyer’s sole discretion.
4. The Buyer shall provide and regularly update the Supplier with a list of eligible Medical Practitioners, who require an annual medical appraisal, together with their contact details, on or before the date of signature of this Contract (“**the List**”). The List shall contain the information set out in clause 16 of Annex 2. The Buyer shall provide an updated List to the Supplier whenever there is a change to the List and shall provide an updated List prior to the commencement of each Appraisal Year. The Buyer and Provider will work together to ensure that the List is as up to date and accurate as possible and any changes are communicated in a timely fashion.
5. All eligible Medical Practitioners on the List shall be provided with a Medical Appraisal for Revalidation conducted in accordance with this agreement and the General Medical Council (“**GMC**”) requirements, Academy of Medical Royal Colleges’ (“**AoMRC**”) guidance and such other guidance as shall be provided by the NHS England Medical Appraisal Policy and any locally agreed requirements.
6. The Supplier shall provide all staff, equipment, tools, appliances, materials or other items required for the provisions of the Services by The Supplier.
7. The Buyer and the Supplier shall fully co-operate with each other and take all reasonable steps as are necessary for the efficient conveyance of information in order to fulfil this Agreement.
8. The Buyer shall comply with its obligations, and shall procure that the Medical Practitioners shall comply with their obligations, as set out in this Contract and Annex 2 in respect of the provision of the Services.
9. The Supplier shall provide to the Buyer reports relating to the performance of the Service annually in accordance with Section D of Annex 2 and ad hoc as reasonably requested by The Buyer.
10. The Supplier shall provide Appraisal Lead Support for the Revalidation Advisory Group (or equivalent) under the charge of the Buyer, and shall respond to ad hoc communications as reasonably requested by the Buyer for the purpose of carrying out this duty.
11. The Buyer shall provide the Supplier with copies of any of its policies, rules or procedures, including any amendments to those previously supplied, which may apply to the Supplier in connection with this Agreement. In the event that the Buyer fails to supply these promptly the Supplier will not be deemed to be in breach of any obligation to act in accordance with such policies, rules or procedures.

12. Each Party shall immediately notify the other of any actual or potential problems which may relate to the Medical Practitioners and/or either party's own suppliers that affects or might affect the ability of the Supplier to provide and maintain the Services of this Agreement.
13. Each party shall immediately notify the other of any actual or potential industrial action, including strike action, whether such action be of either party's staff or others, that affects or might affect the ability of The Supplier to provide and maintain the Services in accordance with this Agreement.

B. Process for disputed Appraisal Outcomes

14. In the event that the outcome of any appraisal is disputed by a Medical Practitioner then the following provisions shall apply:
 - i. the appraiser and the Medical Practitioner shall endeavour to reach agreement on the outcome of the appraisal;
 - ii. if it proves impossible to reach agreement, the appraiser and the Medical Practitioner shall record any points of disagreement, clarification and explanation in the appropriate outcome boxes in the appraisal documentation for feedback to the Responsible Officer, or Suitable Person, following which the appraisal will be deemed to be signed off and it shall be the responsibility of The Supplier to inform the Responsible Officer, or Suitable Person, that there are comments to be noted;
 - iii. the Responsible Officer, or Suitable Person, will determine whether any further information needs to be provided and will obtain such information from the relevant parties in order to inform the final decision about the outcome of the appraisal; and
 - iv. for the avoidance of doubt, the final decision about the outcome of the appraisal rests with the Responsible Officer, or Suitable Person.

C. REVIEW

15. Both parties shall review performance against this Agreement at times agreed by both parties but at least annually. This Agreement will be reviewed by 31 December in each Appraisal Year for application in the following financial year and Appraisal Year commencing 1 April thereafter. The annual report will be presented to the Buyer by the 31 July following the end of an Appraisal Year to allow a full analysis of all appraisals provided in that Appraisal Year. The Annual Organisational Audit (AOA) figures will be presented to the Buyer in a timely fashion to enable the Buyer to fulfil their reporting obligations, at the latest by 30 April following the end of an Appraisal Year, when the final corrections have been made.

D. Further Particulars of Specification

16. The Buyer shall provide the Supplier with the list of Medical Practitioners requiring appraisal at the beginning of each Appraisal Year ("**the List**"). This List will include:
 - a. Full name of the Medical Practitioner
 - b. Date of birth
 - c. GMC Number
 - d. Revalidation due date
 - e. Details of their previous appraisal(s) if applicable, or designated appraisal month
 - f. Preferred Contact Address
 - g. Preferred Contact Telephone number(s)
 - h. Preferred email address(es)

17. The Buyer will inform the Supplier of any changes to the List or any salient details of the Medical Practitioners on the List in accordance with the provisions of clause 4 of Annex 2.
18. The Supplier will engage, recruit, select, train, and support appropriate experienced and highly skilled GMC compliant medical appraisers for revalidation ("**the Appraisers**") to facilitate the Appraisals for Medical Practitioners on the List.
19. The Supplier will provide full time administrative support to the Medical Practitioners on the List during the working week.
20. The Supplier will provide Appraisal Lead Support for the Revalidation Advisory Group (or equivalent) under the charge of the Buyer, and shall respond to ad hoc communications as reasonably requested by the Buyer for the purpose of carrying out this duty.
21. In certain circumstances, if requested by the Buyer and by prior agreement, appraisal discussions may take place in-person, in a venue with privacy, freedom from interruptions and full access to the appraisal portfolio and other necessary resources. If an in-person appraisal will incur travel and expenses costs by an appraiser, such costs must be agreed with The Buyer prior to the appraisal taking place.
22. The appraisal discussion will be carried out in accordance with the GMC requirements, Academy of Medical Royal Colleges' guidance and the NHS England national appraisal policy and guidelines applying from time to time including any specific requirements defined by the Buyer.
23. The appraisal portfolio will be prepared using the FourteenFish electronic platform as agreed by The Buyer and included in the fee by The Supplier.
24. The collection of GMC compliant patient and colleague feedback will be supported using tools developed by FourteenFish and commissioned by the Supplier on behalf of the Buyer and included within the cost per appraisal.
25. The Medical Practitioner's agreed Personal Development Plan ("**PDP**") and a mutually agreed summary of the appraisal and the appraisal output statements will be signed off by the relevant Medical Practitioner and the appraiser within 28 days of the appraisal. Copies of the appraisal portfolio will be sent to The Supplier for secure storage. Where sign off cannot be agreed, The Supplier will inform the Responsible Officer or Suitable Person as soon as reasonably practicable in the circumstances.
26. The Supplier and/or its subcontractors will gather and store securely electronic appraisal documentation in the form of the completed appraisal portfolio, PDP, summary and sign-offs for each appraisal. (According to the structure laid out in the *Medical Appraisal Guide 2020* (Academy of Medical Royal Colleges, 2020) and any updates defined by the General Medical Council, the Academy of Medical Royal Colleges or NHS England from time to time.)
27. Appraisal documentation will be kept securely by the Supplier and/or its subcontractors sent securely to the Buyer. It will only be released to the Medical Practitioner and person(s) nominated by the Buyer and passed to the Supplier. The Supplier will store the signed appraisal portfolio securely. It will be used for the purposes of quality assurance of the performance of the appraiser by the Supplier. It may also be used for research into the implementation and quality assurance of appraisals but only in an anonymised form. Any use of non-anonymised material for any other purpose than reviewing the performance of the appraiser shall require prior permission to be sought from the Medical Practitioner, the appraiser, the Supplier and the Buyer and shall be subject to the data protection obligations set out in Clause 14 and 15 of the Conditions and Annex 2.

28. For the purpose of reporting, certain information will be fed back to the Buyer. This will be information such as number of appraisals completed to date and numbers of appraisals with dates but still to be conducted, all postponements with reasons why and all doctors having breaks in the form of parental leave, sabbaticals or long-term ill health. All other information will be anonymised, except where otherwise specified in the appraisal policy.
29. As the Buyer is required to give doctors at least 2 months' notice of their appraisal, doctors coming on to the List after 31 January in any Appraisal Year, should already have had, or been notified of and planned, an appraisal elsewhere. In the rare case where they have not, it will be the responsibility of the Buyer to grant an extension in writing to allow the appraisal to be undertaken after 31 March and the Supplier will use reasonable endeavours to provide an appraisal within two (2) months of being notified that any such Medical Practitioner has joined the List, or such other time as determined by the Buyer in such circumstances.
30. Medical Practitioners on maternity leave, long term sick leave or sabbatical may apply to the Supplier to have the date of an appraisal modified to reflect their circumstances in that appraisal. An initial assessment of the request will be made by the Supplier and a recommendation made to the Buyer. The ultimate responsibility for deciding on any such application will lie with the Buyer and the Supplier will communicate the results with the Medical Practitioner. Any other exceptions, exemptions or extensions will be discussed and agreed between the Buyer and the Supplier.
31. Medical Practitioners who are the subject of performance procedures, including but not exclusively GMC investigations, should be offered a medical appraisal even if the results are not known. The Buyer shall, where appropriate, inform the Supplier of such cases. In line with national policy, if the Medical Practitioner declines the offer of a medical appraisal this should not be regarded as a non-engagement. The Buyer shall inform the Medical Practitioner and the Supplier of any specific requirements which shall apply to the appraisal, if applicable, at least two (2) weeks prior to the due date for the appraisal.
32. If a concern about a Medical Practitioner on the List that could compromise their own or patient safety is identified in an appraisal, the appraisal will be stopped and appropriate processes put in place, including informing the Responsible Officer or Suitable Person without delay. The Buyer will provide up to date contact details to enable the Supplier to engage with the appropriate local procedures for issues relating to health, conduct or performance in a timely fashion.
33. In the event that the outcome of any appraisal is disputed by a Medical Practitioner then the Section E Clause 37 of Annex 2 of the Specification shall apply, along with any relevant provisions set out in the relevant NHS national appraisal policy and guidelines, shall apply.
34. Quality Assurance and Training of Appraisers
 - a. The appraisal process will be carried out in accordance with the requirements and guidance issued by the General Medical Council, the Department of Health, the Academy of Medical Royal Colleges, and such other national quality assurance guidelines as may be published from time to time and performance reviewed and quality assured against these standards.
 - b. Internal quality assurance processes will be continuous and external quality reviews will be carried out periodically.
 - c. Training and support for new and existing appraisers will be provided or commissioned by The Supplier and quality assured in line with national guidance published from time to time.

35. Quality Assurance of the final appraisal outputs before a revalidation recommendation

- a. The Supplier will be informed by the Buyer of those Medical Practitioners who are due to have a recommendation about revalidation made a minimum of four months before the recommendation is due.
- b. The appraisal and revalidation portfolio and appraisal outputs will be reviewed by the Supplier in accordance with national quality assurance guidelines published from time to time and against the NHS England checklist to ensure that all requirements for a positive recommendation to revalidate have been met, or to identify where there is insufficient supporting information from appraisal or other concerns have been raised and are still outstanding (notwithstanding that such concerns will already have been reported to the Responsible Officer in a timely fashion when they arise). Where the results of the review do not show that all appraisal related requirements for a positive revalidation recommendation have been fully met, or there are other exceptional circumstances, the findings will be calibrated by the Supplier's quality assurance team.
- c. The Buyer will be supplied by the Supplier with all the calibrated appraisal related information required to make an appropriate recommendation to the GMC within a month of being notified that the Medical Practitioner is due to have a recommendation made, except when the last appraisal before the recommendation has not yet taken place, and there is outstanding supporting information required, when the Supplier will wait to review the supporting information and outputs from that appraisal and inform the Buyer accordingly with the date when a quality assurance response can be expected. Where a deferral is a likely outcome, a summary of the action taken to support the doctor for revalidation will be shared with the Buyer so that an action plan can be agreed with the doctor to meet the new revalidation date.

36. Outcomes and reporting

- a. An annual report will be produced by the Supplier for the Buyer. The reporting structure will be agreed with the Buyer, and the annual report will include, as a minimum:
 - i. numbers of Medical Practitioners appraised and reasons for any exceptions;
 - ii. number of incomplete appraisals (and reasons where applicable);
 - iii. number of postponed appraisals (with reasons why);
 - iv. number of approved missed appraisals due to parental leave, sabbatical or long term ill health (notwithstanding that these numbers and reasons will already have been communicated with The Buyer in a timely way);
 - v. summary of quality assurance of the process;
 - vi. summary of and learning from any significant events or complaints;
 - vii. summary of other feedback and developmental needs for the Supplier and Commissioner; and
 - viii. brief description of any changes made or planned by The Supplier as a result.
- b. The annual report will be produced by 31 July following the year under review.
- c. The Supplier will meet with the Buyer on request at mutually convenient times during the year to review progress of the provision of the Services, the production of the annual report, and the Contract of the contract.

E. Process for disputed Appraisal Outcomes

37. In the event that the outcome of any appraisal is disputed by a Medical Practitioner then the following provisions shall apply:

- i. the appraiser and the Medical Practitioner shall endeavour to reach agreement on the outcome of the appraisal;
- ii. if it proves impossible to reach agreement, the appraiser and the Medical Practitioner shall record any points of disagreement, clarification and explanation in the appropriate outcome boxes in the appraisal documentation for feedback to the Responsible Officer, or Suitable Person, following which the appraisal will be deemed to be signed off and it shall be the responsibility of The Supplier to inform the Responsible Officer, or Suitable Person, that there are comments to be noted;
- iii. the Responsible Officer, or Suitable Person, will determine whether any further information needs to be provided and will obtain such information from the relevant parties in order to inform the final decision about the outcome of the appraisal; and
- iv. for the avoidance of doubt, the final decision about the outcome of the appraisal rests with the Responsible Officer, or Suitable Person.

VI. Annex 3 – Travel and Subsistence Policy



VII. Annex 4 – Supplier Terms and Conditions Tender

