

## **Contract (Short Form – Services)**

**Contract for the provision of a call off facility of training modules for First-Level and Mid-Level Leadership**

**Contract Reference CQC LD 200**

**1st April 2021**

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**THIS CONTRACT is dated 1st April 2021**

## **PARTIES**

- (1) **CARE QUALITY COMMISSION** of CityGate Gallowgate Newcastle upon Tyne NE1 4PA (“**Authority**”)

and

- (2) **Development Dimensions International Inc**, a Delaware corporation, located at 1225 Washington Pike, Bridgeville, PA 15017 (‘DDI’)

(Together the “**Parties**”)

## **Background**

1. The Authority is the independent health and social care regulator in England that monitors, inspects and regulates health and social care services to ensure they meet fundamental standards of quality and safety. It ensures health and social care services provide people with safe, effective, compassionate, high-quality care and we encourage care services to improve.
2. In order for CQC to facilitate line managers access to various training modules via CQC’s Learning Management System (LMS) ED whereby the CQC Trainers will deliver virtual training classes. Modules to be accessed by individuals on a call off basis.
3. The Contractor has been appointed by the Authority to provide the Services.
4. Therefore, the Parties have agreed to enter into this Contract for the provision of the services defined in the Specifications.

# 1 Interpretation

## 1.1 In these terms and conditions:

“Approval” means the written consent of the Authority;

“Authority” means the Care Quality Commission;

“Authority Data” means:

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, and which are: (i) supplied to the Contractor by or on behalf of the Authority; or (ii) which the Contractor is required to process, store or transmit pursuant to the Contract; or

(b) any Personal Data for which the Authority is the Data Controller;

“Anti-Slavery and Human Trafficking Laws” means all applicable anti-slavery and human trafficking laws, statutes, regulations, policies and codes from time to time in force including but not limited to the Modern Slavery Act 2015;

“Breach of Security” means the occurrence of unauthorised access to or use of the Premises, the Premises, the Services, the Contractor system, or any ICT or data (including Authority Data) used by the Authority or the Contractor in connection with the Contract;

“Central Government Body” means a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics:

(a) Government Department;

(b) Non-Departmental Public Body or Assembly  
Sponsored Public Body (advisory, executive, or tribunal);

(c) Non-Ministerial Department; or

(d) Executive Agency;

“Change Control Notice (“CCN”)”	means a change control notice in the form set out in Schedule 6;
“Contract”	means the contract consisting of these terms and conditions, any attached Schedules, the invitation to tender including Specification, and the Tender Response between the Authority the Contractor;
“Contract Period”	shall mean the Term of the Contract;
“Confidential Information”	means all information, whether written or oral (however recorded), provided by the disclosing Party to the receiving Party and which (i) is known by the receiving Party to be confidential; (ii) is marked as or stated to be confidential; or (iii) ought reasonably to be considered by the receiving Party to be confidential;
“Contractor”	means the person named as Contractor who was awarded this contract;
“Contractor’s Response”	means the document submitted by the Contractor to the Authority in response to the Authority’s invitation to suppliers for formal offers to supply the Services appended hereto in Schedule 3;
“Contractor System”	means the information and communications technology system used by the Contractor in performing the Services including the Tools the Contractor Equipment and related cabling (but excluding the Authority System);
“Controller, Processor, Data Subject, Personal Data, Personal Data Breach and Data Protection Officer”	shall each have the same meaning given in the GDPR;
“Data Protection Legislation”	means (i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time; (ii) the DPA 2018 [subject to Royal Assent] to the extent that it relates to the processing of Personal Data and privacy; (iii) all applicable Law about the processing of Personal Data and privacy;

“Data Loss Event”	means any event that results, in unauthorised access to Personal Data held by the Contractor under this Contract and/or actual or destruction of Personal Data in breach of this Contract, including any Personal Data Breach;
“Data Protection Impact Assessment”	means an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data;
“Data Subject Request”	means a request made by or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access his or her Personal Data;
“DPA”	means the Data Protection Act 2018 and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation;
“Default”	means any breach of the obligations of the relevant Party (including abandonment of the Contract in breach of its terms, repudiatory breach or breach of a fundamental term) or any other default, act, omission, negligence or statement of the relevant Party or the Staff in connection with the subject-matter of the Contract and in respect of which such Party is liable to the other;
“Expiry Date”	means the date for expiry of the Contract as set out;
“FOIA”	means the Freedom of Information Act 2000;
“GDPR”	means the General Data Protection Regulation ( <i>Regulation (EU) 2016/679</i> ;
“Good Industry Practice”	means standards, practices, methods and procedures conforming to the Law and 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 in a similar type of undertaking under the same or similar circumstances;
“Information”	has the meaning given under section 84 of the FOIA;
“Key Personnel”	means any persons specified as such in the Specification or Contract otherwise notified as such by the Authority to the Contractor in writing;

"Law"	means any law, statute, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any Regulatory Body with which the Contractor is bound to comply;
"LED"	means Law Enforcement Directive ( <i>Directive (EU) 2016/680</i> )
"Loss"	means any losses, costs, price, expenses, interest, fees (including reasonable legal fees), payments, demands, liabilities, claims, proceedings, actions, penalties, price, fines, damages, destruction, adverse judgments, orders or other sanctions and the term " <b>Losses</b> " shall be construed accordingly;
"Party"	means the Contractor or the Authority (as appropriate) and "Parties" shall mean both of them;
"Premises"	means the location where the Services are to be supplied, as set out in the Specification;
"Price"	means the price (excluding any applicable VAT) payable to the Contractor by the Authority under the Contract, as set out in Schedule 3 for the full and proper performance by the Contractor of its obligations under the Contract;
"Pricing Schedule"	means Schedule 3 containing details of the Price;
"Processing"	has the meaning given to it in the Data Protection Legislation but, for the purposes of the Contract, it shall include both manual and automatic processing and "Process" and "Processed" shall be interpreted accordingly;
"Processor Personnel"	means all directors, officers, employees, agents, consultants and contractors of the Processor and/or of any Sub-Processor engaged in the performance of its obligations under this Contract;
"Prohibited Act"	means: <ul style="list-style-type: none"> <li>(a) to directly or indirectly offer, promise or give any person working for or engaged by the Authority a financial or other advantage to: <ul style="list-style-type: none"> <li>induce that person to perform improperly a relevant function or activity; or</li> <li>reward that person for improper performance of a relevant function or activity;</li> </ul> </li> </ul>



(b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with the Contract;

(c) an offence:

- i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act;
- ii) under legislation or common law concerning fraudulent acts; or
- iii) the defrauding, attempting to defraud or conspiring to defraud the Authority;

any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct has been carried out in the UK;

“Protective Measures”	means appropriate technical and organisational measures which include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it including those outlined in Schedule 5 (Security Requirements and Plan);
“Purchase Order Number”	means the Authority’s unique number relating to the supply of the Services by the Contractor to the Authority in accordance with the terms of the Contract;
“Relevant Requirements”	means all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State for Justice pursuant to section 9 of the Bribery Act 2010;
“Replacement Contractor”	means any third-party supplier appointed by the Authority to supply any services which are substantially similar to any of the Services in substitution for any of the Services following the expiry, termination or partial termination of the Contract;
“Request for Information”	has the meaning set out in the FOIA or the Environmental Information Regulations 2004 as relevant (where the meaning set out for the term “request” shall apply);
“Schedule”	means a schedule attached to, and forming part of, the Contract;
“Security Plan”	means the Contractor’s security plan prepared pursuant to paragraph 3 of Schedule 5 (Security Requirements and Plan), an outline of which is set out in an Appendix to Schedule 5;

“Security Policy Framework”	means the HMG Security Policy Framework ( <a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/710816/HMG-Security-Policy-Framework-v1.1.doc.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/710816/HMG-Security-Policy-Framework-v1.1.doc.pdf</a> )
“Services”	means the services to be supplied by the Contractor to the Authority under the Contract as set out in Schedule 1;
“Specification”	means the specification for the Services (including as to quantity, description and quality) as specified in Schedule 1;
“Staff”	means all directors, officers, employees, agents, consultants and contractors of the Contractor and/or of any sub-contractor of the Contractor engaged in the performance of the Contractor’s obligations under the Contract;
“Staff Vetting Procedures”	means vetting procedures that accord with good industry practice or, where requested by the Authority, the Authority’s procedures for the vetting of personnel as provided to the Contractor from time to time;
“Sub-Contractor”	means a third party directly or indirectly contracted to the Contractor (irrespective of whether such person is an agent or company within the same group of companies as the Contractor) whose services are used by the Contractor (either directly or indirectly) in connection with the provision of the Services, and “ <b>Sub-Contract</b> ” shall be construed accordingly;
“Sub-processor”	means any third Party appointed to process Personal Data on behalf of the Processor related to this Contract;
“Supplier Code of Conduct”	of means the HM Government Contractor Code of Conduct dated September 2017;
“Term”	means the period from the start date of the Contract set out in the Award Letter to the Expiry Date as such period may be extended in accordance with clause 4.2 or terminated in accordance with the terms and conditions of the Contract;
“Third Party Software”	means software which is proprietary to any third party which is or will be used by the Contractor to provide the Services including the software and which is specified as such in Schedule 7;
“TUPE”	means the Transfer of Undertakings (Protection of Employment) Regulations 2006;
“VAT”	means value added tax in accordance with the provisions of the Value Added Tax Act 1994; and

- “Variation” means a variation to the Specification, the Price or any of the terms and conditions of the Contract;
- “Working Day” means a day (other than a Saturday or Sunday) on which banks are open for business in the City of London.

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

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

## **2 Priority of documents**

- 2.1 In the event of, and only to the extent of, any conflict between the clauses of the Contract, any document referred to in those clauses and the Schedules, the conflict shall be resolved in accordance with the following order of precedence:
- a) these terms and conditions
  - b) the Schedules
  - c) any other document referred to in these terms and conditions

## **3 Supply of Services**

- 3.1 In consideration of the Authority’s agreement to pay the Price, the Contractor shall supply the Services to the Authority for the Term subject to and in accordance with the terms and conditions of the Contract.
- 3.2 In supplying the Services, the Contractor shall:
- 3.2.1 co-operate with the Authority in all matters relating to the Services and comply with all the Authority’s reasonable instructions;
  - 3.2.2 perform the Services with all reasonable care, skill and diligence in accordance with good industry practice in the Contractor’s industry, profession or trade;

- 3.2.3 use Staff who are suitably skilled, experienced and possess the required qualifications to perform tasks assigned to them, and in sufficient number to ensure that the Contractor's obligations are fulfilled in accordance with the Contract;
  - 3.2.4 ensure that the Services shall conform with all descriptions and specifications set out in the Specification;
  - 3.2.5 comply with all applicable laws; and
  - 3.2.6 provide all equipment, tools and vehicles and other items as are required to provide the Services.
- 3.3 The Authority may by written notice to the Contractor at any time request a Variation to the scope of the Services. If the Contractor agrees to any Variation to the scope of the Services, the Price shall be subject to fair and reasonable adjustment to be agreed in writing between the Authority and the Contractor.
- 3.4 Any Variation will not take effect unless recorded in a Change Control Notice in the form set out in Schedule 6 and approved in writing by the Parties.
- 3.5 In the event that this Contract or any Purchase Order terminates or expires, the Contractor shall, if requested to do so by the Authority, continue to provide the Services commenced prior to the date of such termination or expiry at no extra cost to the Authority other than the continued payment of the Price for such Services. The Contractor shall comply with its obligations in accordance with the Exit Management Strategy in Schedule 8.
- 3.6 As part of the Services, the Contractor Staff certified as trainers ("**Contractor Trainers**") or Authority employees trained and certified by the Contractor as trainers ("**Authority Trainers**") may perform workshops ("**Contractor Workshops**") for Participants. The Authority may also have Authority employees trained as Master Trainers, and such Master Trainers may certify additional employees as Authority Trainers. No other Staff are authorized to perform Contractor Workshops. Authority Trainers and Authority Master Trainers may only perform Contractor Workshops as previously agreed with the Contractor.

## 4 Term

- 4.1 The Contract shall take effect on the 1st April 2021 and shall expire on the Expiry Date 31<sup>st</sup> March 2022, with an option to extend for a further year unless it is otherwise extended in accordance with clause 4.2 or terminated in accordance with the terms and conditions of the Agreement.
- 4.2 The Authority may extend the Contract for a period of up to 1 month by giving not less than 10 Working Days' notice in writing to the Contractor prior to the Expiry Date. The terms and conditions of the Contract shall apply throughout any such extended period.

## **5 Price, Payment and Recovery of Sums Due**

- 5.1 The Price for the Services shall be as set out in in Schedule 2 and shall be the full and exclusive remuneration of the Contractor in respect of the supply of the Services. Unless otherwise agreed in writing by the Authority, the Price shall include every cost and expense of the Contractor directly or indirectly incurred in connection with the performance of the Services.
- 5.2 The Contractor shall invoice the Authority as specified in Schedule 2. Each invoice shall include such supporting information required by the Authority to verify the accuracy of the invoice, including the relevant Purchase Order Number and a breakdown of the Services supplied in the invoice period.
- 5.3 In consideration of the supply of the Services by the Contractor, the Authority shall pay the Contractor the invoiced amounts no later than 30 days after receipt of a valid invoice which includes a valid Purchase Order Number. The Authority may, without prejudice to any other rights and remedies under the Contract, withhold or reduce payments in the event of unsatisfactory performance.
- 5.4 All amounts stated are exclusive of VAT which shall be charged at the prevailing rate. The Authority shall, following the receipt of a valid VAT invoice, pay to the Contractor a sum equal to the VAT chargeable in respect of the Services.
- 5.5 If there is a dispute between the Parties as to the amount invoiced, the Authority shall pay the undisputed amount. The Contractor shall not suspend the supply of the Services unless the Contractor is entitled to terminate the Contract for a failure to pay undisputed sums in accordance with clause 16.4. Any disputed amounts shall be resolved through the dispute resolution procedure detailed in clause 19.
- 5.6 If a payment of an undisputed amount is not made by the Authority by the due date, then the Authority shall pay the Contractor interest at the interest rate specified in the Late Payment of Commercial Debts (Interest) Act 1998.
- 5.7 If any sum of money is recoverable from or payable by the Contractor under the Contract (including any sum which the Contractor is liable to pay to the Authority in respect of any breach of the Contract), that sum may be deducted unilaterally by the Authority from any sum then due, or which may come due, to the Contractor under the Contract or under any other agreement or contract with the Authority. The Contractor shall not be entitled to assert any credit, set-off or counterclaim against the Authority in order to justify withholding payment of any such amount in whole or in part.
- 5.8 Where the Contractor enters into a sub-contract, the Contractor shall include in that sub-contract:
- 5.8.1 Provisions having the same effect as clauses 5.2 to 5.6 of the Contract and

- 5.8.2 Provisions requiring the counterparty to that subcontract to include in any sub-contract which it awards provisions having the same effect as clauses 5.2 to 5.6 of this Contract.
- 5.8.3 In this clause 5.8 'sub-contract' means a contract between two or more Contractors, at any stage of remoteness from the Authority in a sub-contracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Contract.

## **6 Premises and equipment**

- 6.1 If necessary, the Authority shall provide the Contractor with reasonable access at reasonable times to its premises for the purpose of supplying the Services. All equipment, tools and vehicles brought onto the Authority's premises by the Contractor or the Staff shall be at the Contractor's risk.
- 6.2 If the Contractor supplies all or any of the Services at or from the Authority's premises, on completion of the Services or termination or expiry of the Contract (whichever is the earlier) the Contractor shall vacate the Authority's premises, remove the Contractor's plant, equipment and unused materials and all rubbish arising out of the provision of the Services and leave the Authority's premises in a clean, safe and tidy condition. The Contractor shall be solely responsible for making good any damage to the Authority's premises or any objects contained on the Authority's premises which is caused by the Contractor or any Staff, other than fair wear and tear.
- 6.3 If the Contractor supplies all or any of the Services at or from its premises or the premises of a third party, the Authority may, during normal business hours and on reasonable notice, inspect and examine the manner in which the relevant Services are supplied at or from the relevant premises.
- 6.4 The Authority shall be responsible for maintaining the security of its premises in accordance with its standard security requirements. While on the Authority's premises the Contractor shall, and shall procure that all Staff shall, comply with all the Authority's security requirements.
- 6.5 Where all or any of the Services are supplied from the Contractor's premises, the Contractor shall, at its own cost, comply with all reasonable and appropriate security requirements specified by the Authority in writing.
- 6.6 Without prejudice to clause 0.03.2.6, any equipment provided by the Authority for the purposes of the Contract shall remain the property of the Authority and shall be used by the Contractor and the Staff only for the purpose of carrying out the Contract. Such equipment shall be returned promptly to the Authority on expiry or termination of the Contract.
- 6.7 The Contractor shall reimburse the Authority for any loss or damage to the equipment (other than deterioration resulting from normal and proper use) caused by the Contractor or any Staff. Equipment supplied by the Authority shall be deemed to be in a good condition when received by the Contractor or relevant Staff unless the Authority is notified otherwise in writing within 5 Working Days.

- 6.8 Any Premises/land made available from time to time to the Contractor by the Authority in connection with the contract, shall be made available to the contractor on a non-exclusive licence basis free of charge and shall be used by the contractor solely for the purpose of performing its obligations under the contract. The Contractor shall have the use of such Premises/land as licensee and shall vacate the same on completion, termination or abandonment of the Contract.
- 6.9 The Parties agree that there is no intention on the part of the Authority to create a tenancy of any nature whatsoever in favour of the Contractor or its Staff and that no such tenancy has or shall come into being and, notwithstanding any rights granted pursuant to the Contract, the Authority retains the right at any time to use any premises owned or occupied by it in any manner it sees fit.
- 6.10 Should the Contractor require modifications to the Premises, such modifications shall be subject to prior Approval and shall be carried out by the Authority at the Contractor's expense. The Authority shall undertake approved modification work without undue delay. Ownership of such modifications shall rest with the Authority.
- 6.11 All the Contractor's equipment shall remain at the sole risk and responsibility of the Contractor, except that the Authority shall be liable for loss of or damage to any of the Contractor's property located on Authority's Premises which is due to the negligent act or omission of the Authority.

## **7 Staff and Key Personnel NOT USED**

This is online training which CQC are delivering in-house

- 7.1 If the Authority reasonably believes that any of the Staff are unsuitable to undertake work in respect of the Contract, it may, by giving written notice to the Contractor:
- 7.1.1 refuse admission to the relevant person(s) to the Authority's premises;
  - 7.1.2 direct the Contractor to end the involvement in the provision of the Services of the relevant person(s); and/or
  - 7.1.3 require that the Contractor replace any person removed under this clause with another suitably qualified person and procure that any security pass issued by the Authority to the person removed is surrendered,
- and the Contractor shall comply with any such notice.
- 7.2 The Contractor shall:
- 7.2.1 shall at all times comply with the Supplier Code of Conduct (<https://www.gov.uk/government/publications/Contractor-code-of-conduct>).
  - 7.2.2 ensure that it does not engage in any act or omission that would contravene Anti-Slavery and Human Trafficking Laws.

## 8 Assignment, sub-contracting and subprocessors

- 8.1 The Contractor shall not without the written consent of the Authority assign, sub-contract, novate or in any way dispose of the benefit and/ or the burden of the Contract or any part of the Contract. The Authority may, in the granting of such consent, provide for additional terms and conditions relating to such assignment, sub-contract, novation or disposal. The Contractor shall be responsible for the acts and omissions of its sub-contractors as though those acts, and omissions were its own.
- 8.2 If the Contractor enters into a Sub-Contract for the purpose of performing its obligations under the Contract, it shall ensure that a provision is included in such sub-contract which requires payment to be made of all sums due by the Contractor to the Sub-Contractor within a specified period not exceeding 30 days from the receipt of a valid invoice.
- 8.3 If the Authority has consented to the placing of Sub-Contracts, the Contractor shall:
- (a) impose obligations on its Sub-Contractor on the same terms as those imposed on it pursuant to this Contract and shall procure that the Sub-Contractor complies with such terms; and
  - (b) provide a copy at no charge to the Authority, of any Sub-Contract, on receipt of a request for such by the Authority.
- 8.4 Authority acknowledges that Contractor may utilize one or more subprocessor in the ordinary course and scope of its business operations for ancillary services. Authority provides general authorization for use of the subprocessors on the list at the link provided: <https://corp.ddiworld.com/thirdpartyproviders> . Contractor will be responsible for the actions of such in their performance of Services provided hereunder and shall inform Authority of any intended changes concerning the addition or replacement of other subprocessors

## 9 Intellectual Property Rights

- 9.1 All intellectual property rights in any materials provided by the Authority to the Contractor for the purposes of this Contract shall remain the property of the Authority but the Authority hereby grants the Contractor a royalty-free, non-exclusive and non-transferable licence to use such materials as required until termination or expiry of the Contract for the sole purpose of enabling the Contractor to perform its obligations under the Contract.
- 9.2 All intellectual property rights any usage statistics, reports, scores and results generated from the Authority authorized use of Contractor Tools (as defined below) (collectively "**Results**"). shall vest in the Authority. For the avoidance of doubt, Results shall not include the design, form or format of reports, or any Contractor content or competencies contained within a report. If, and to the extent, that any



intellectual property rights in the Results vest in the Contractor by operation of law, the Contractor hereby assigns to the Authority by way of a present assignment of future rights that shall take place immediately on the coming into existence of any such intellectual property rights all its intellectual property rights in the Results (with full title guarantee and free from all third party rights).

9.3 The Authority hereby grants the Contractor:

9.3.1 a royalty – free non-exclusive license to use all intellectual property rights in the Results in anonymized and aggregated form for the Contractors statistical norming, research and development purposes until termination or expiry of the Contract. When used for these purposes, these Results will not be personally identifiable, nor will such information be aggregated in such a way as to compromise the anonymity of the Authority employees who participate in the Services (“Participants”). The Contractor will not use the Results for Commercial purposes

9.4 Except for Clauses 9.1 and 9.2 above, Contractor shall retain all right, title, and interest in and to all Products and Services, including Materials and Tools (as defined below). Contractor provides Authority a non-exclusive, non-transferable, non-sublicensable, worldwide license to use Products, Services, Materials, and Tools solely for Authority’s internal business purposes.

9.4.1 Materials. Materials” means all copyright-protected Products provided to Authority by Contractor, regardless of the format. No right to modify, translate, or copy such Materials is given, unless previously provided in writing by Contractor; Contractor will retain copyrights on all modified, copied, and translated Materials. Electronic Materials and/or hard copy Materials are not returnable for refund. If Materials are to be provided in an electronic format under a particular SOW for client distribution: (1) Contractor shall provide a master electronic file of such Materials for use by Authority, in lieu of providing hard copies of Materials; (2) access to such Materials is restricted to Participants in the course for which the Materials were provided; (3) each Participant may print one set of such Materials for personal use during and after attending the specified virtual classroom; (4) Authority shall send monthly reports to Contractor certifying usage of such electronic master file throughout the month; (5) the period of use of such electronic master file shall be coterminous with the applicable SOW; and (6) upon termination or expiration of the applicable SOW, Authority shall delete the electronic master file for such Materials. Authority shall promptly certify destruction of such electronic master file to Contractor in writing.

9.4.2. Technology Services. Web-based or Cloud-based applications, virtual reality programs, equipment, assessments, testing, software systems and related tools which may be used by Contractor to perform and provide Services (“**Tools**”) will reside on computer equipment within the United States, with security provisions commensurate with this Agreement. These Tools are the property of Contractor or have been licensed by Contractor, and Contractor retains all rights to such.

9.5 The Contractor shall indemnify, and keep indemnified, the Authority in full against all costs, expenses, damages and losses (whether direct or indirect), including any interest, penalties, and reasonable legal and other professional fees awarded against or incurred or paid by the Authority as a result of or in connection with any claim made

against the Authority for actual or alleged infringement of a third party's intellectual property arising out of, or in connection with, the supply or use of the Services, to the extent that the claim is attributable to the acts or omission of the Contractor its Staff, agents or sub-contractors.

- 9.6 The Authority shall promptly notify the Contractor of any infringement claim made against it relating to any Services and, subject to any statutory obligation requiring the Authority to respond, shall permit the Contractor to have the right, at its sole discretion to assume, defend, settle or otherwise dispose of such claim. The Authority shall give the Contractor such assistance as it may reasonably require to dispose of the claim and shall not make any statement which might be prejudicial to the settlement or defence of the claim.

## **10 Governance and Records**

- 10.1 The Contractor shall:

10.1.1 attend progress meetings with the Authority at the frequency and times specified by the Authority and shall ensure that its representatives are suitably qualified to attend such meetings; and

10.1.2 submit progress reports to the Authority at the times and in the format specified by the Authority.

- 10.2 The Contractor shall keep and maintain until 6 years after the end of the Contract, or as long a period as may be agreed between the Parties, full and accurate records of the Contract including the Services supplied under it and all payments made by the Authority. The Contractor shall on request afford the Authority or the Authority's representatives such access to those records as may be reasonably requested by the Authority in connection with the Contract.

## **11 Confidentiality, Transparency and Publicity**

- 11.1 Subject to clause 11.2, each Party shall:

11.1.1 treat all Confidential Information it receives as confidential, safeguard it accordingly and not disclose it to any other person without the prior written permission of the disclosing Party; and

11.1.2 not use or exploit the disclosing Party's Confidential Information in any way except for the purposes anticipated under the Contract.

- 11.2 Notwithstanding clause 11.1, a Party may disclose Confidential Information which it receives from the other Party:

11.2.1 where disclosure is required by applicable law or by a court of competent jurisdiction;

- 11.2.2 to its auditors or for the purposes of regulatory requirements;
- 11.2.3 on a confidential basis, to its professional advisers;
- 11.2.4 to the Serious Fraud Office where the Party has reasonable grounds to believe that the other Party is involved in activity that may constitute a criminal offence under the Bribery Act 2010;
- 11.2.5 where the receiving Party is the Contractor, to the Staff on a need to know basis to enable performance of the Contractor's obligations under the Contract provided that the Contractor shall procure that any Staff to whom it discloses Confidential Information pursuant to this clause 11.2.5 shall observe the Contractor's confidentiality obligations under the Contract; and
- 11.2.6 where the receiving Party is the Authority:
  - a) on a confidential basis to the employees, agents, consultants and contractors of the Authority;
  - b) on a confidential basis to any other Central Government Body, any successor body to a Central Government Body or any company to which the Authority transfers or proposes to transfer all or any part of its business;
  - c) to the extent that the Authority (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions; or
  - d) in accordance with clause 12.

and for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the Authority under this clause 11.

- 11.3 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of the Contract is not Confidential Information and the Contractor hereby gives its consent for the Authority to publish this Contract in its entirety to the general public (but with any information that is exempt from disclosure in accordance with the FOIA redacted) including any changes to the Contract agreed from time to time. The Authority may consult with the Contractor to inform its decision regarding any redactions but shall have the final decision in its absolute discretion whether any of the content of the Contract is exempt from disclosure in accordance with the provisions of the FOIA.
- 11.4 The Contractor shall not, and shall take reasonable steps to ensure that the Staff shall not, make any press announcement or publicise the Contract or any part of the Contract in any way, except with the prior written consent of the Authority.

## **12 Freedom of Information**

- 12.1 The Contractor acknowledges that the Authority is subject to the requirements of the FOIA and the Environmental Information Regulations 2004 and shall and procure that any sub-contractor shall:
  - 12.1.1 provide all necessary assistance and cooperation as reasonably requested by the Authority to enable the Authority to comply with its obligations under the FOIA and the Environmental Information Regulations 2004;
  - 12.1.2 transfer to the Authority all Requests for Information relating to this Contract that it receives as soon as practicable and in any event within 10 Working Days of receipt;
  - 12.1.3 provide the Authority with a copy of all Information belonging to the Authority requested in the Request for Information which is in its possession or control in the form that the Authority requires within 10 Working Days (or such other period as the Authority may reasonably specify) of the Authority's request for such Information; and
  - 12.1.4 not respond directly to a Request for Information unless authorised in writing to do so by the Authority.
- 12.2 The Contractor acknowledges that the Authority may be required under the FOIA and the Environmental Information Regulations 2004 to disclose Information concerning the Contractor or the Services (including commercially sensitive information) without consulting or obtaining consent from the Contractor. In these circumstances the Authority shall, in accordance with any relevant guidance issued under the FOIA, take reasonable steps, where appropriate, to give the Contractor advance notice, or failing that, to draw the disclosure to the Contractor's attention after any such disclosure.
- 12.3 Notwithstanding any other provision in the Contract the Authority shall be responsible for determining in its absolute discretion whether any Information relating to the Contractor or the Services is exempt from disclosure in accordance with the FOIA and/or the Environmental Information Regulations 2004.

## **13 Protection of Data**

### **13.1 Authority Data**

- 13.1.1 The Contractor shall not delete or remove any proprietary notices contained within or relating to the Authority Data.
- 13.1.2 The Contractor shall not store, copy, disclose, or use the Authority Data except as necessary for the performance by the Contractor of its obligations under this Contract or as otherwise expressly authorised in writing by the Authority.

- 13.1.3 To the extent that Authority Data is held and/or Processed by the Contractor, the Contractor shall supply Authority Data to the Authority as requested by the Authority in the format specified in the Specification.
- 13.1.4 The Contractor shall preserve the integrity of Authority Data and prevent the corruption or loss of Authority Data.
- 13.1.5 The Contractor shall perform secure back-ups of all Authority Data and shall ensure that up-to-date back-ups are stored securely off-site. The Contractor shall ensure that such back-ups are made available to the Authority promptly without undue delay after receipt of a written request.
- 13.1.6 The Contractor shall ensure that any system on which the Contractor holds any Authority Data, including back-up data, is a secure system that complies with the Security Policy Framework.
- 13.1.7 If Authority Data is corrupted, lost or sufficiently degraded as a result of the Contractor's Default so as to be unusable, the Authority may:
  - (a) require the Contractor (at the Contractor's expense) to restore or procure the restoration of Authority Data and the Contractor shall do so promptly; and/or
  - (b) itself restore or procure the restoration of Authority Data and shall be repaid by the Contractor any reasonable expenses incurred in doing so.
- 13.1.8 If at any time the Contractor suspects or has reason to believe that Authority Data has or may become corrupted, lost or sufficiently degraded in any way for any reason, then the Contractor shall notify the Authority immediately and inform the Authority of the remedial action the Contractor proposes to take.

## **13.2 Personal Data**

- 13.2.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Authority is the Controller and the Contractor is the Processor
- 13.2.2 The Parties agree that they will comply with the provisions on Processing, Personal Data and Data Subjects in Schedule 4.
- 13.2.3 The Parties shall at all times comply with Data Protection Legislation.

## **13A Security**

- 13A.1 The Authority shall be responsible for maintaining the security of the Authority's Premises in accordance with its standard security requirements. The Contractor shall comply with all security requirements of the Authority while on the Authority's Premises and shall ensure that all Staff comply with such requirements.
- 13A.2 The Contractor shall ensure that the Security Plan produced by the Contractor complies with Schedule 5 (Security Requirements and Plan).

- 13A.3 The Contractor shall comply, and shall procure compliance of its Staff, with Schedule 5 (Security Requirements and Plan).
- 13A.4 Until and/or unless a change to the Price is agreed by the Authority, the Contractor shall continue to perform the Services in accordance with its existing obligations.
- 13A.5 Subject to the limitations set forth at section 14, the Contractor shall be liable for, and shall indemnify the Authority against all Losses suffered or incurred by the Authority and/or any third party arising from and/or in connection with any Breach of Security or attempted Breach of Security (to the extent that such Losses were not caused by any act or omission by the Authority)

## **14 Liability and Insurance**

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

14.2 Subject always to clauses 14.3, 14.4 and 14.5:

14.2.1 the aggregate liability of the Contractor in respect of all defaults, claims, losses or damages howsoever caused, whether arising from breach of the Contract, the supply or failure to supply of the Services, misrepresentation (whether tortious or statutory), tort (including negligence), breach of statutory duty or otherwise shall in no event exceed a sum equal to 125% of the estimated yearly Price paid or payable to the Contractor under this Contract whichever is higher; and

14.2.2 except in the case of claims arising under clauses 9.5 and 18.4 in no event shall the Contractor be liable to the Authority for any:

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

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

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

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

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

- 14.4 The Contractor's liability under the indemnity in clauses 9.4 and 18.4 shall be unlimited.
- 14.5 The Contractor's liability for all Losses suffered or incurred by the Authority arising from the Contractor's Default resulting in the destruction, corruption, degradation or damage to Authority Data or Personal Data or any copy of such Authority Data or Personal Data shall in no event exceed £250,000.
- 14.6 The Contractor shall hold:
- a) Employer's liability insurance providing an adequate level of cover in respect of all risks which may be incurred by the Contractor;
  - b) Public liability with the minimum cover per claim of one million pounds  
£ 1,000,000
  - c) Professional indemnity with the minimum cover per claim of one million pounds, £1,000,000

or any sum as required by Law unless otherwise agreed with the Authority in writing. Such insurance shall be maintained for the duration of the Term and for a minimum of six (6) years following the expiration or earlier termination of the Contract.

## **15 Force Majeure**

- 15.1 Neither Party shall have any liability under or be deemed to be in breach of the Contract for any delays or failures in performance of the Contract which result from circumstances beyond the reasonable control of the Contractor. Each Party shall promptly notify the other Party in writing, using the most expeditious method of delivery, when such circumstances cause a delay or failure in performance, an estimate of the length of time delay or failure shall continue and when such circumstances cease to cause delay or failure in performance. If such circumstances continue for a continuous period of more than 30 days, either Party may terminate the Contract by written notice to the other Party
- 15.2 Any failure by the Contractor in performing its obligations under the Contract which results from any failure or delay by an agent, sub-contractor or Contractor shall be regarded as due to Force Majeure only if that agent, sub-contractor or Contractor is itself impeded by Force Majeure from complying with an obligation to the Contractor.

## **16 Termination**

- 16.1 The Authority may terminate the Contract at any time by notice in writing to the Contractor to take effect on any date falling at least 1 month (or, if the Contract is less than 3 months in duration, at least 10 Working Days) later than the date of service of the relevant notice.

- 16.2 Without prejudice to any other right or remedy it might have, the Authority may terminate the Contract by written notice to the Contractor with immediate effect if the Contractor:
- 16.2.1 (without prejudice to clause 0.016.2.5), is in material breach of any obligation under the Contract which is not capable of remedy;
  - 16.2.2 repeatedly breaches any of the terms and conditions of the Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms and conditions of the Contract;
  - 16.2.3 is in material breach of any obligation which is capable of remedy, and that breach is not remedied within 30 days of the Contractor receiving notice specifying the breach and requiring it to be remedied;
  - 16.2.4 undergoes a change of control within the meaning of section 416 of the Income and Corporation Taxes Act 1988;
  - 16.2.5 breaches any of the provisions of clauses 7.2, 11, 12, 13, 17, 18.4 and 20.11; or
  - 16.2.6 becomes insolvent, or if an order is made or a resolution is passed for the winding up of the Contractor (other than voluntarily for the purpose of solvent amalgamation or reconstruction), or if an administrator or administrative receiver is appointed in respect of the whole or any part of the Contractor's assets or business, or if the Contractor makes any composition with its creditors or takes or suffers any similar or analogous action (to any of the actions detailed in this clause 0.016.2.6) in consequence of debt in any jurisdiction.
- 16.3 The Contractor shall notify the Authority as soon as practicable of any change of control as referred to in clause 0.016.2.4 or any potential such change of control.
- 16.4 The Contractor may terminate the Contract by written notice to the Authority if the Authority has not paid any undisputed amounts within 90 days of them falling due.
- 16.5 If the Authority terminates the Contract under this clause, the Authority shall make no further payments to the Contractor except for Services supplied by the Contractor prior to termination and in accordance with the Contract but where the payment has yet to be made by the Authority.
- 16.6 Termination or expiry of the Contract shall be without prejudice to the rights of either Party accrued prior to termination or expiry and shall not affect the continuing rights of the Parties under this clause and clauses 2, 3.2, 6.1, 6.2, 6.6, 6.7, 7, 9, 10.2, 11, 12, 13, 13A, 0, 16.7, 17.4, 18.4, 19 and 20.8 or any other provision of the Contract that either expressly or by implication has effect after termination.
- 16.7 Upon termination or expiry of the Contract, the Contractor shall:



- 16.7.1 give all reasonable assistance to the Authority and any incoming Contractor of the Services to the extent necessary to effect an orderly assumption by a Replacement Contractor in accordance with the procedure set out in Schedule 8 – Exit Management Strategy; and
- 16.7.2 return all requested documents, information and data to the Authority as soon as reasonably practicable.

## **17 Compliance**

- 17.1 The Contractor shall promptly notify the Authority of any health and safety hazards which may arise in connection with the performance of its obligations under the Contract. The Authority shall promptly notify the Contractor of any health and safety hazards which may exist or arise at the Authority's premises and which may affect the Contractor in the performance of its obligations under the Contract.
- 17.2 The Contractor shall:
  - 17.2.1 comply with all the Authority's health and safety measures while on the Authority's premises; and
  - 17.2.2 notify the Authority immediately of any incident occurring in the performance of its obligations under the Contract on the Authority's premises where that incident causes any personal injury or damage to property which could give rise to personal injury.
- 17.3 The Contractor shall:
  - 17.3.1 perform its obligations under the Contract in accordance with all applicable equality Law and the Authority's equality and diversity policy as provided to the Contractor from time to time; and
  - 17.3.2 take all reasonable steps to secure the observance of clause 0.017.3.1 by all Staff.
- 17.4 The Contractor shall supply the Services in accordance with the Authority's environmental policy as provided to the Contractor from time to time.
- 17.5 The Contractor shall comply with, and shall ensure that its Staff shall comply with, the provisions of:
  - 17.5.1 the Official Secrets Acts 1911 to 1989; and
  - 17.5.2 section 182 of the Finance Act 1989.

## **18 Prevention of Fraud, Corruption and Bribery**

- 18.1 The Contractor represents and warrants that neither it, nor to the best of its knowledge any Staff, have at any time prior to the Commencement Date:
  - 18.1.1 Committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act and/or
  - 18.1.2 Been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act.
- 18.2 The Contractor shall not during the Term:
  - 18.2.1 commit a Prohibited Act; and/or
  - 18.2.2 do or suffer anything to be done which would cause the Authority or any of its employees, consultants, contractors, sub-contractors or agents to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements.
- 18.3 The Contractor shall, during the Term establish, maintain and enforce, and require that its Sub-Contractors establish, maintain and enforce, policies and procedures which are adequate to ensure compliance with the Relevant Requirements and prevent the occurrence of a Prohibited Act; and shall notify the Authority immediately if it has reason to suspect that any breach of clauses 18.1 and/or 18.2 has occurred or is occurring or is likely to occur.
- 18.4 If the Contractor or the Staff engages in conduct prohibited by clause 18.1 or commits fraud in relation to the Contract or any other contract with the Crown (including the Authority) the Authority may:
  - 18.4.1 terminate the Contract and recover from the Contractor the amount of any loss suffered by the Authority resulting from the termination, including the cost reasonably incurred by the Authority of making other arrangements for the supply of the Services and any additional expenditure incurred by the Authority throughout the remainder of the Contract; or
  - 18.4.2 recover in full from the Contractor any other loss sustained by the Authority in consequence of any breach of this clause.

## **19 Dispute Resolution**

- 19.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Contract within 20 Working Days of either Party notifying the other of the dispute and such efforts shall involve the escalation of the dispute to an appropriately senior representative of each Party.

- 19.2 If the dispute cannot be resolved by the Parties within one month of being escalated as referred to in clause 19.1, the dispute may by agreement between the Parties be referred to a neutral adviser or mediator (the “Mediator”) chosen by agreement between the Parties. All negotiations connected with the dispute shall be conducted in confidence and without prejudice to the rights of the Parties in any further proceedings.
- 19.3 If the Parties fail to appoint a Mediator within one month 20 Working Days of the agreement to refer to a Mediator, either Party shall apply to the Centre for Effective Dispute Resolution to appoint a Mediator.
- 19.4 If the Parties fail to enter into a written agreement resolving the dispute within one month of the Mediator being appointed, or such longer period as may be agreed by the Parties, either Party may refer the dispute to Court.
- 19.5 The commencement of mediation shall not prevent the parties commencing or continuing court or arbitration proceedings in relation to the dispute.

## 20 General

- 20.1 Each of the Parties represents and warrants to the other that it has full capacity and authority, and all necessary consents, licences and permissions to enter into and perform its obligations under the Contract, and that the Contract is executed by its duly authorised representative.
- 20.2 A person who is not a party to the Agreement shall have no right to enforce any of its provisions which, expressly or by implication, confer a benefit on him, without the prior written agreement of the Parties. This clause does not affect any right or remedy of any person which exists or is available apart from the Contracts (Rights of Third Parties) Act 1999 and does not apply to the Crown.
- 20.3 Subject to Clause 3.4, the Contract cannot be varied except in writing signed by a duly authorised representative of both the Parties.
- 20.4 In the event that the Contractor is unable to accept the Variation to the Specification or where the Parties are unable to agree a change to the Contract Price, the Authority may:
- 20.4.1 allow the Contractor to fulfil its obligations under the Contract without the Variation to the Specification;
  - 20.4.2 terminate the Contract with immediate effect, except where the Contractor has already provided all or part of the Services or where the Contractor can show evidence of substantial work being carried out to fulfil the requirement of the Specification, and in such case the Parties shall attempt to agree upon a resolution to the matter. Where a resolution cannot be reached, the matter shall be dealt with under the Dispute Resolution procedure detailed at clause 19.

- 20.5 The Contract contains the whole agreement between the Parties and supersedes and replaces any prior written or oral agreements, representations or understandings between them. The Parties confirm that they have not entered into the Contract on the basis of any representation that is not expressly incorporated into the Contract. Nothing in this clause shall exclude liability for fraud or fraudulent misrepresentation.
- 20.6 Any waiver or relaxation either partly, or wholly of any of the terms and conditions of the Contract shall be valid only if it is communicated to the other Party in writing and expressly stated to be a waiver. A waiver of any right or remedy arising from a breach of contract shall not constitute a waiver of any right or remedy arising from any other breach of the Contract.
- 20.7 The Contract shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Parties other than the contractual relationship expressly provided for in the Contract. Neither Party shall have, nor represent that it has, any authority to make any commitments on the other Party's behalf.
- 20.8 Except as otherwise expressly provided by the Contract, all remedies available to either Party for breach of the Contract (whether under the Contract, statute or common law) are cumulative and may be exercised concurrently or separately, and the exercise of one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.
- 20.9 If any provision of the Contract is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from the Contract and rendered ineffective as far as possible without modifying the remaining provisions of the Contract, and shall not in any way affect any other circumstances of or the validity or enforcement of the Contract.
- 20.10 The Contractor shall take appropriate steps to ensure that neither the Contractor nor any Staff is placed in a position where, in the reasonable opinion of the Authority, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Contractor and the duties owed to the Authority under the provisions of the Contract. The Contractor will disclose to the Authority full particulars of any such conflict of interest which may arise.
- 20.11 The Authority reserves the right to terminate the Contract immediately by notice in writing and/or to take such other steps it deems necessary where, in the reasonable opinion of the Authority, there is or may be an actual conflict, or potential conflict between the pecuniary or personal interest of the Contractor and the duties owed to the Authority 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 Authority.
- 20.12 The Contract constitutes the entire contract between the Parties in respect of the matters dealt with therein. The Contract supersedes all prior negotiations between the Parties and all representations and undertakings made by one Party to the

other, whether written or oral, except that this clause shall not exclude liability in respect of any Fraud or fraudulent misrepresentation.

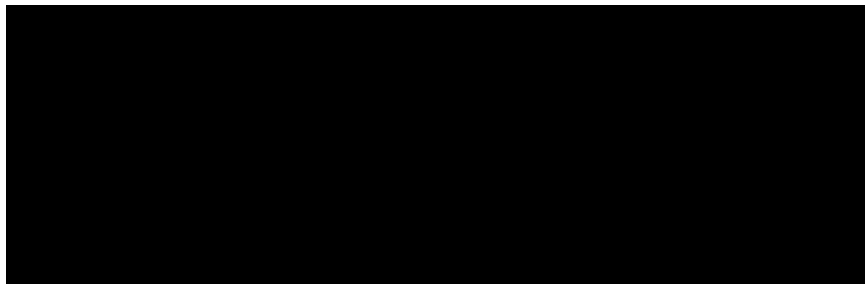
## 21 Notices

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

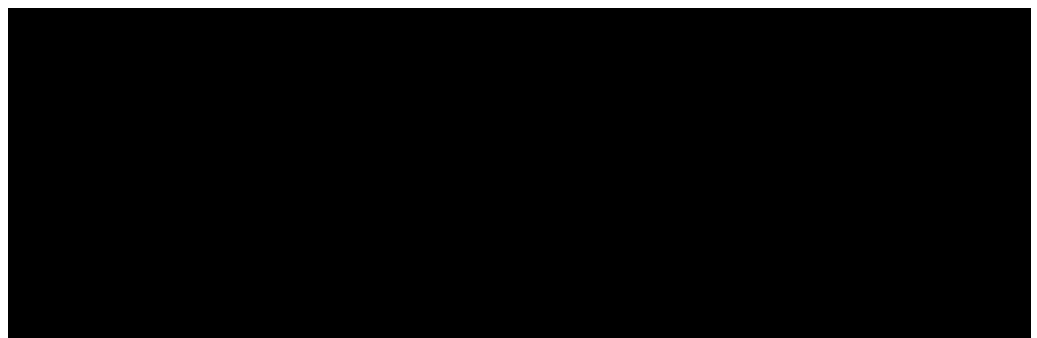
21.2 Any notice or other communication which is to be given by either Party to the other shall be given by letter (sent by hand, first class post, recorded delivery or special delivery), or by facsimile transmission or electronic mail (confirmed in either case by letter). Such letters shall be addressed to the other Party in the manner referred to in clause 21.3. Provided the relevant communication is not returned as undelivered, the notice or communication shall be deemed to have been given 2 Working Days after the day on which the letter was posted, or 4 hours, in the case of electronic mail or facsimile transmission or sooner where the other Party acknowledges receipt of such letters, facsimile transmission or item of electronic mail.

21.3 For the purposes of clause 21.2, the address of each Party shall be:

21.3.1 For the Authority:



21.3.2 For the Contractor:



21.4 Either Party may change its address for service by serving a notice in accordance with this clause.

21.5 Notices under clauses 0 (Force Majeure) and 16 (Termination) may be served by email only if the original notice is then sent to the recipient by personal delivery or recorded delivery in the manner set out in clause 21.1.

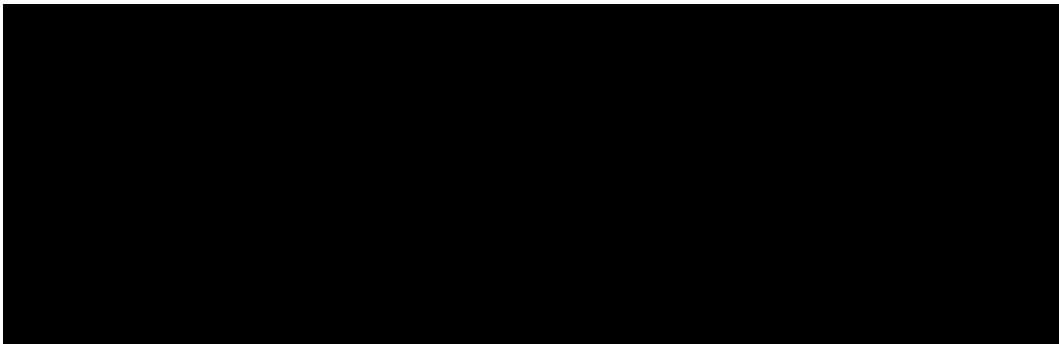
## 22 Governing Law and Jurisdiction

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

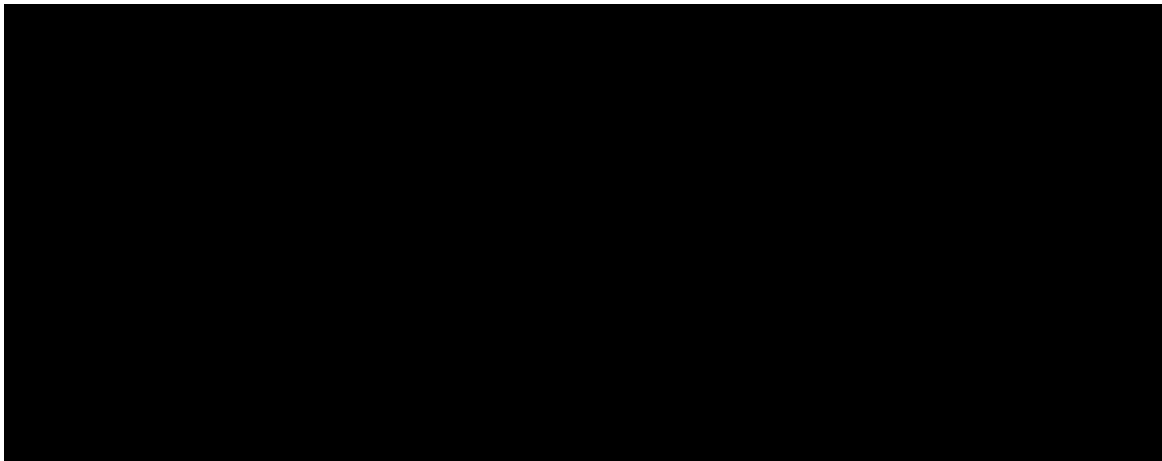
## 23 TUPE not used

**IN WITNESS** of which this Contract has been duly executed by the parties on the date first above written.

**SIGNED** for and on behalf of **CARE QUALITY COMMISSION**

A large black rectangular redaction box covering the signature area for the CARE QUALITY COMMISSION.

**SIGNED** for and on behalf of **DEVELOPMENT DIMENSIONS INTERNATIONAL Inc.**

A large black rectangular redaction box covering the signature area for DEVELOPMENT DIMENSIONS INTERNATIONAL Inc.

# SCHEDULE 1 –SPECIFICATION

## The Requirement

CQC's current provision of line management development is varied and patchy across the organisation.

Part of CQC's People Plan is to implement a number of line management development learning modules so line managers will have access to a range of learning solutions that are tailored to their individual needs.

CQC want to host the materials via their own Learning Management System (LMS) to access reporting where required and to meet CQC's system security that the LMS is protected by.

CQC have built capability within the Academy to deliver these programmes with 7 people now accredited and licensed to deliver these – Phase 2 Facilitator Certification Workshop.

CQC are now moving into Phase 3.

This will enable managers to access the list of modules available from DDI and chose what they need for their own development requirements.

This will be call off arrangement and as such there are no volumes numbers guaranteed it is planned to offer modules up to 31/03/2021 where CQC will evaluate the success and collate feedback from individuals.

Past this date further budget approval will be required and a competed procurement would be required in line with Public Procurement Regulations.

The only ongoing costs for delivery will be the provision of the learning support materials. CQC would not require any impact evaluation report from the supplier at this time and no further costs expenses are envisaged. Activities will be on-line.

### System

All files must be SCORM 1.2, SCORM 2004, or AICC compliant and in zip files.

Note: Currently, SCORM 2004 3rd edition is implemented. Backward compatibility is generally expected, and thus courses published in 2nd edition are likely to work properly, but it is advised that courses are created using SCORM 2004 3rd edition.

The majority of CQC staff are home-workers and as such will usually access our LMS on a remote connection. A great number of our home-workers reside in areas with below average broadband speeds/bandwidths – some as low as 0.2mbps.

- Our workforce accesses our LMS on a variety of devices and browsers – so E-Learning or materials should be designed to function on all modern browsers (Internet Explorer, Safari, Chrome & Firefox) – this includes designing and publishing SCORM files with HTML5 and SWF compatibility.

## **ACCESSIBILITY STANDARDS**

DDI commits to evaluate specific accessibility needs of each disabled CQC Participant on a case-by-case basis in partnership with CQC. DDI products satisfy the need, established under the Americans With Disabilities Act, for providing equivalent alternatives for accessibility by disabled individuals. DDI products satisfy most standards contained in the Web Content Accessibility Guidelines as well as Section 508 of the Rehabilitation Act (1973). While DDI is committed to supporting all Participants with disabilities, the high-fidelity nature of many of DDI's products' designs limits full compliance under Section 508 (e.g. high-contrast settings, ...)



# SCHEDULE 2 – PRICE

The List of learning Modules available

Updated: Sept 1, 2020



## Leadership Solutions

With DDI by your side, you can design powerful leadership experiences for leaders at all levels.

Frontline Leaders and Individual Contributors

**Interaction Management®** — Engaging courses and tools proven to build skills for personal, team, and organizational success.

- Accelerating Business Decisions
- Addressing Poor Performance
- Advanced Coaching
- Building and Sustaining Trust
- Coaching: Move People Forward
- Coaching for Peak Performance
- Communicating for Leadership Success\*
- Communicating with Impact\*
- Communication: Connect Through Conversations\*
- Conversations to Inspire Performance
- Creating an Inclusive Environment
- Delegating with Purpose
- Delegation: Engage and Empower People
- Developing Yourself and Others
- Driving Change
- Embracing Change
- Engaging and Retaining Talent
- Executing Strategy at the Front Line
- Fostering Innovation
- High-Impact Feedback and Listening
- Interaction Essentials™ for Leaders\*
- Leading Meetings: Use Time Effectively
- Leading Self: Turn Awareness into Impact
- Leading Teams: Achieve More Together
- Leading Virtually
- Making High-Quality Decisions
- Making Sense of Business: A Simulation\*
- Maximizing Team Performance
- Navigating Beyond Conflict
- Networking for Enhanced Collaboration
- Reinforcing Leadership Development
- Resolving Workplace Conflict
- Setting Goals and Reviewing Results
- Strategies for Influencing Others
- Strengthening Your Partnerships
- Taking the HEAT
- Valuing Differences
- Working as a High-Performing Team
- Your Leadership Journey

Mid-Level and Senior-Level Leaders

**Business Impact Leadership®** — High-impact courses designed to turn strategy into reality and lead organizations forward.

- Coaching for High Performance
- Cultivating Networks and Partnerships
- Developing Organizational Talent
- Influencing for Organizational Impact
- Instilling a Culture of Innovation
- Leading with a Global Perspective
- Making Change Happen
- Mastering Decision Dynamics
- Mastering Emotional Intelligence
- Translating Strategy into Results

Interviewing Skills

**Targeted Selection®** — Training that provides a structured approach to behavioral interviewing.

- The Art of Behavioral Interviewing
- The Science of Behavioral Interviewing

\*Foundation Course Classroom Under120 (2-hour classroom course) Virtual Classroom Web-based Self-study

Additional Industry Specific Versions: Health Care Industrial

[www.ddiworld.com](http://www.ddiworld.com)

Volumes are only indicative CQC do not guarantee any volumes. Modules will be drawn off by Managers as and when required.

## **INVOICING INSTRUCTIONS**

### **Payment**

All invoices must be posted to the address below:



Or emailed the email address is: 

The criteria which your invoices must meet are:

Invoices must comply with our [Good Invoicing Practice](#)

- This ensures all correct data is within the Invoice in a consistent way

Only PDF email attachments can be accepted

- Other file types and nested emails cannot be accepted and will be deleted.

One invoice per PDF

- Backing documents must be included in the same PDF as the relevant invoice
- Emails with multiple PDFs are acceptable. For example
- 10 PDFs with 1 invoice per PDF **will** be accepted
- 1 PDF with 10 invoices within will **not** be accepted

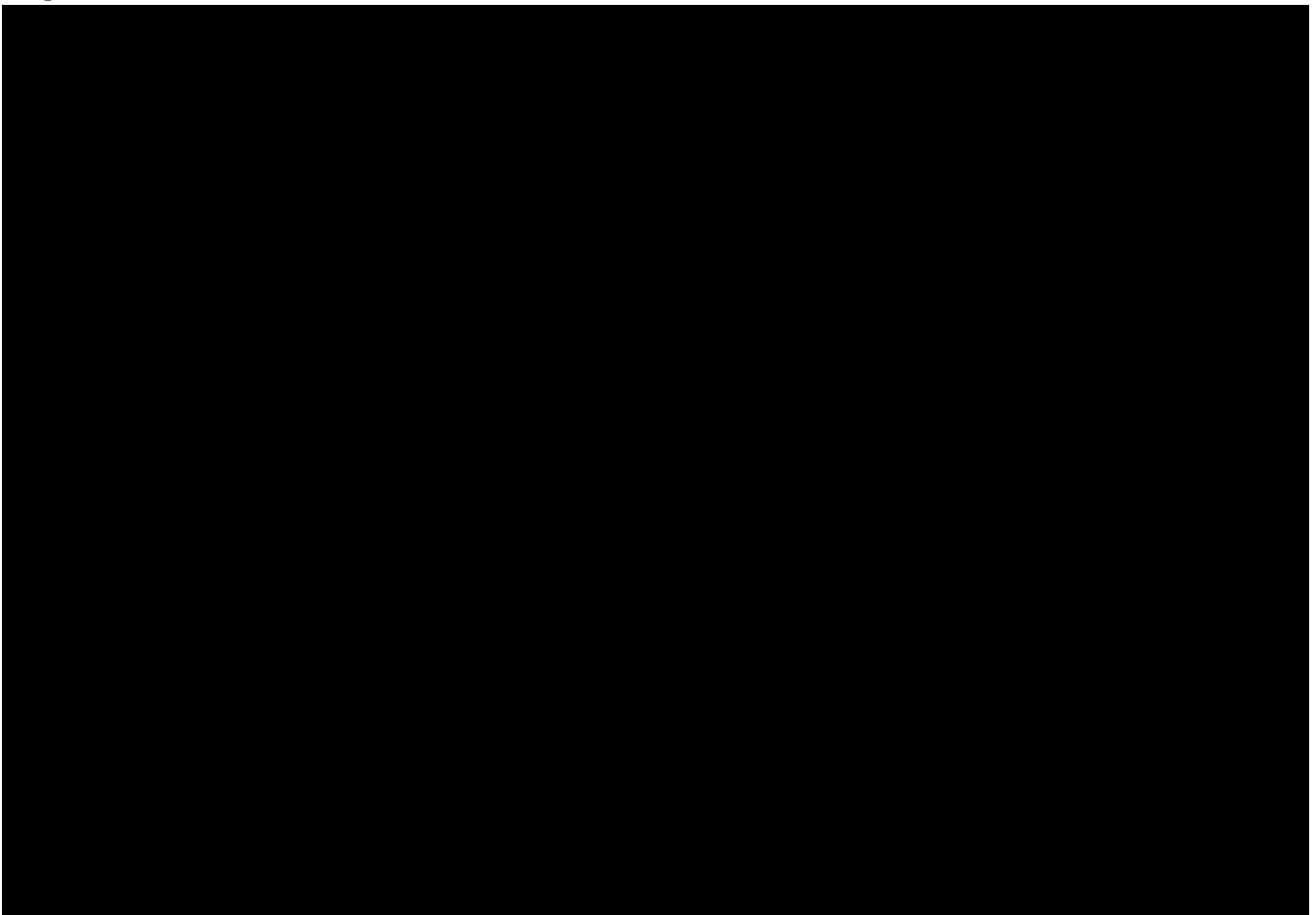
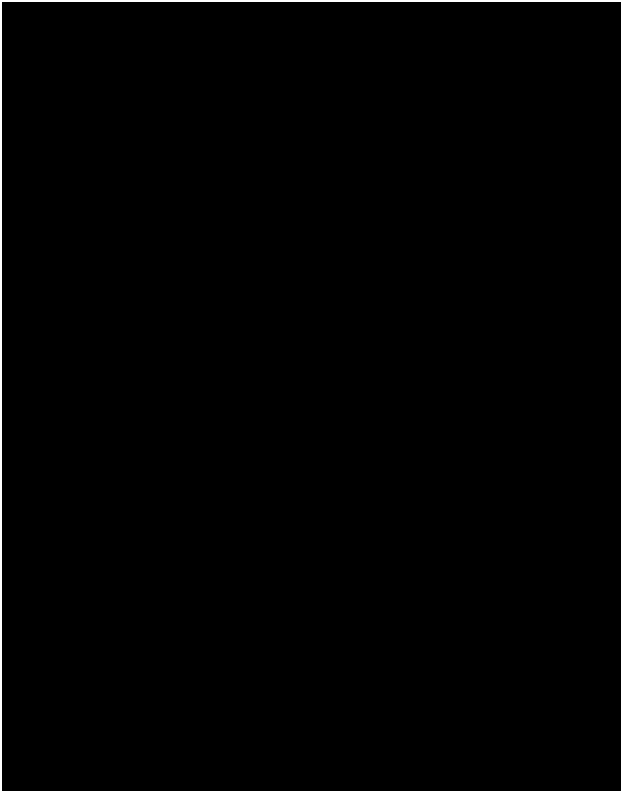
Emails must not exceed 10Mb

For information on how to do this please see our guidance online here: <https://www.sbs.nhs.uk/faq-fasub-inv-how-to-nhs-sbs>

### **Purchase Order**

A Purchase Order number will be provided which must be quoted on each invoice, the supplier shall invoice CQC monthly in arrears – for modules accessed in the previous month.

## SCHEDULE 3 – CONTRACTOR’S RESPONSE



[REDACTED]

[REDACTED]

## SCHEDULE 4 – PROCESSING, PERSONAL DATA AND DATA SUBJECTS

- 1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Authority is the Controller and the Contractor is the Processor. The only processing that the Processor is authorised to do is listed in Annex 1 to this Schedule 4 by the Controller and may not be determined by the Processor.
- 2 The Processor shall notify the Controller immediately if it considers that any of the Controller's instructions infringe the Data Protection Legislation.
- 3 The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Controller, include:
  - (a) a systematic description of the envisaged processing operations and the purpose of the processing;
  - (b) an assessment of the necessity and proportionality of the processing operations in relation to the Services;
  - (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
  - (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 4 The Processor shall, in relation to any Personal Data processed in connection with its obligations under this Agreement:
  - (a) process that Personal Data only in accordance with Annex 1 to this Schedule 4, unless the Processor is required to do otherwise by Law. If it is so required the Processor shall promptly notify the Controller before processing the Personal Data unless prohibited by Law;
  - (b) ensure that it has in place Protective Measures, which are appropriate to protect against a Data Loss Event, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures), having taken account of the:
    - (i) nature of the data to be protected;
    - (ii) harm that might result from a Data Loss Event;
    - (iii) state of technological development; and
    - (iv) cost of implementing any measures;
  - (c) ensure that :
    - (i) the Processor Personnel do not process Personal Data except in accordance with this Agreement (and in particular Annex 1 to this Schedule 4);

- (ii) it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
  - (A) are aware of and comply with the Processor's duties under this clause;
  - (B) are subject to appropriate confidentiality undertakings with the Processor or any Sub-processor;
  - (C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Controller or as otherwise permitted by this Agreement; and
  - (D) have undergone adequate training in the use, care, protection and handling of Personal Data; and
- (d) not transfer Personal Data outside of the EU unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
  - (i) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Controller;
  - (ii) the Data Subject has enforceable rights and effective legal remedies;
  - (iii) the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and
  - (iv) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the processing of the Personal Data;

The foregoing notwithstanding, Client acknowledges that all of Processor's data servers are in the United States. Client expressly consents and authorizes Processor to transfer and process in the United States all Personal Data obtained outside of the United States.

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

5 Subject to paragraph 6, the Processor shall notify the Controller without undue delay if it:

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

- (e) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
  - (f) becomes aware of a Data Loss Event.
- 6 The Processor's obligation to notify under paragraph 5 shall include the provision of further information to the Controller in phases, as details become available.
- 7 Taking into account the nature of the processing, the Processor shall provide the Controller with reasonable assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under paragraph 5 (and insofar as possible within the timescales reasonably required by the Controller) including by promptly providing:
  - (a) the Controller with full details and copies of the complaint, communication or request;
  - (b) such assistance as is reasonably requested by the Controller to enable the Controller to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation;
  - (c) the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
  - (d) assistance as requested by the Controller following any Data Loss Event;
  - (e) assistance as requested by the Controller with respect to any request from the Information Commissioner's Office, or any consultation by the Controller with the Information Commissioner's Office.
- 8 The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this paragraph. This requirement does not apply where the Processor employs fewer than 250 staff, unless:
  - (a) the Controller determines that the processing is not occasional;
  - (b) the Controller determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; or
  - (c) the Controller determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 9 The Processor shall allow for audits of its Data Processing activity by the Controller or the Controller's designated auditor.
- 10 Each Party shall designate its own data protection officer if required by the Data Protection Legislation.
- 11 Before allowing any Sub-processor to process any Personal Data related to this Agreement, the Processor must:
  - (a) notify the Controller in writing of the intended Sub-processor and processing;
  - (b) obtain the written consent of the Controller;

- (c) enter into a written agreement with the Sub-processor which give effect to the terms set out in this Schedule 4 such similar terms apply in a no less restrictive manner to the Sub-processor; and
- (d) provide the Controller with such information regarding the Sub-processor as the Controller may reasonably require.

The forgoing notwithstanding, Authority acknowledges that Contractor may utilize one or more subprocessor in the ordinary course and scope of its business operations for ancillary services. Authority provides general authorization for use of the subprocessors on the list at the link provided: <https://corp.ddiworld.com/thirdpartyproviders> . Contractor will be responsible for the actions of such in their performance of Services provided hereunder and shall inform Authority of any intended changes concerning the addition or replacement of other subprocessors

- 12 The Processor shall remain fully liable for all acts or omissions of any of its Sub-processors.
- 13 The Controller may, at any time on not less than 30 Working Days' notice, revise this paragraph by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement).
- 14 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Controller may on not less than 30 Working Days' notice to the Processor amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.
- 15 Subject to clause 14.5, the Processor shall indemnify the Controller on a continuing basis against any and all Losses incurred by the Controller arising from the Processor's Default under this Schedule 4 and/or any failure by the Processor or any Sub-processor to comply with their respective obligations under Data Protection Legislation.
- 16 Nothing in this Schedule 4 shall be construed as requiring the Processor or any relevant Sub-processor to be in breach of any Data Protection Legislation.

### ANNEX 1 – Data Processing Schedule

- 1. The contact details of the Controller's Data Protection Officer are: [REDACTED]
- 2. The contact details of the Processor's Data Protection Officer are: [REDACTED]
- 3. The Processor shall comply with any further written instructions with respect to processing by the Controller.
- 4. Any such further instructions shall be incorporated into this Schedule.

Description	Details
Identity of the Controller and Processor	The Parties acknowledge that for the purposes of the Data Protection Legislation, the Authority



	is the Controller and the Contractor is the Processor.
Subject matter of the processing	This is to enable CQC to have access to learner materials for our line managers who wish to undertake learning modules offered by DDI
Duration of the processing	The duration of the contract which is from 1 <sup>st</sup> April 2021 to 31 <sup>st</sup> March 2022 or if extended to 31 <sup>st</sup> March 2023.
Nature and purposes of the processing	Earlier this year (Feb 2020) six Academy people underwent an accreditation process with DDI that enabled them to be able to deliver DDI learning modules. In order to roll out these modules to the wider organisation as part of the People Plan, we need to be able to purchase learner materials for anyone who wants to do any of these learning modules. We will need to process information about the names and numbers of learners that we wish to purchase materials for.
Type of personal data	Name and email addresses
Categories of Data Subject	CQC Employees – Line Managers
Plan for return and destruction of the data once the processing is complete UNLESS requirement under union or member state law to preserve that type of data	DDI will retain your information for as long as your account is active or as needed to provide you services including statistical normalization, for a maximum of 5 years post user inactivity. We will retain and use your information in anonymized format for research purposes and as necessary, to comply with our legal obligations, resolve disputes, and enforce our agreements.

# SCHEDULE 5 – SECURITY REQUIREMENTS AND PLAN

## INTERPRETATION AND DEFINITION

For the purposes of this Schedule 5, unless the context otherwise requires the following provisions shall have the meanings given to them below:

**“Breach of Security”** means the occurrence of unauthorised access to or use of the Premises, the Premises, the Services, the Contractor System, or any ICT or data (including Authority Data) used by the Authority or the Contractor in connection with the Contract.

**“Contractor Equipment”** means the hardware, computer and telecoms devices and equipment supplied by the Contractor or its Sub-Contractor (but not hired, leased or loaned from the Authority) for the provision of the Services;

**“Contractor Software”** means software, which is proprietary to the Contractor, including software which is or will be used by the Contractor for the purposes of providing the Services.

**“ICT”** means Information Communications Technology and includes a diverse set of technological tools and resources used to communicate, and to create, disseminate, store and manage information, including computers, the Internet, broadcasting technologies (radio and television), and telephony.

**“Security Plan”** means the Contractor’s Global Information Security Policy set forth at the following link: <https://ddiworld.com/gisp>.

**“Software”** means Tools, Contractor Software and Third-Party Software.

**“Specially Written Software” NOT APPLICABLE.**

**“Third Party Software”** means software which is proprietary to any third party and licensed to Contractor and may be used by the Contractor for the purposes of providing the Services.

## 1. INTRODUCTION

This Schedule 5 covers:

- 1.1 principles of security for the Contractor System, including without limitation principles of physical and information security;
- 1.2 wider aspects of security relating to the Services;
- 1.3 the creation of the Security Plan;
- 1.4 audit and testing of the Security Plan; and
- 1.5 breaches of security.

## 2. PRINCIPLES OF SECURITY

- 2.1 The Contractor acknowledges that the Authority places great emphasis on confidentiality, integrity and availability of information and consequently on the security of the Premises

and the security for the Contractor System. The Contractor also acknowledges the confidentiality of Authority Data.

2.2 The Contractor shall be responsible for the security of the Contractor System and shall at all times provide a level of security which:

2.2.1 is in accordance with Good Industry Practice and Law;

2.2.2 meets any specific security threats to the Contractor System.

2.3 Without limiting paragraph 2.2, the Contractor shall at all times ensure that the level of security employed in the provision of the Services is appropriate to maintain the following at acceptable risk levels (to be defined by the Authority):

2.3.1 loss of integrity of Authority Data;

2.3.2 loss of confidentiality of Authority Data;

2.3.3 unauthorised access to, use of, or interference with Authority Data by any person or organisation;

2.3.4 unauthorised access to network elements, buildings, the Premises, and tools used by the Contractor in the provision of the Services;

2.3.5 use of the Contractor System or Services by any third party in order to gain unauthorised access to any computer resource or Authority Data; and

2.3.6 loss of availability of Authority Data due to any failure or compromise of the Services.

2.3.7 processing and storage of authority data within the UK or by exception within the EEA. Any processing outside of the UK must be subject to specific approval by the Authority. The foregoing notwithstanding, the Authority acknowledges that all of Contractor's data servers are located in the United States and thus all data will be transferred to and processed in the United States.

### **3. SECURITY PLAN**

3.1 The Contractor shall develop, implement and maintain a Security Plan to apply during the Contract Period (and after the end of the term as applicable) details of which are available here: <https://ddiworld.com/gisp>

3.2 The Security Plan will set out the security measures to be implemented and maintained by the Contractor in relation to all aspects of the Services and all processes associated with the delivery of the Services and shall at all times comply with and specify security measures and procedures which are sufficient to ensure that the Services comply with:

3.2.1 the provisions of this Schedule 5;

3.2.2 the provisions of Schedule 1 relating to security;

- 3.2.3 the data protection compliance guidance produced by the Authority;
  - 3.2.4 the minimum set of security measures and standards required where the system will be handling Protectively Marked or sensitive information, as determined by the Security Policy Framework;
  - 3.2.5 any other extant national information security requirements and guidance, as provided by the Authority's IT security officers; and
  - 3.2.6 appropriate ICT standards for technical countermeasures which are included in the Contractor System.
- 3.3 The references to Quality Standards, guidance and policies set out in this Schedule shall be deemed to be references to such items as developed and updated and to any successor to or replacement for such Quality Standards, guidance and policies, from time to time.
- 3.4 If there is any inconsistency in the provisions of the above standards, guidance and policies, the Contractor should notify the Authorised Representative of such inconsistency immediately upon becoming aware of the same, and the Authorised Representative shall, as soon as practicable, advise the Contractor which provision the Contractor shall be required to comply with.
- 3.5 The Security Plan will be structured in accordance with ISO/IEC27002 and ISO/IEC27001 or other equivalent policy or procedure, cross-referencing if necessary, to other schedules of the Contract which cover specific areas included within that standard.
- 3.6 The Security Plan shall not reference any other documents which are not either in the possession of the Authority or otherwise specified in this Schedule 5.

#### **4. AMENDMENT AND REVISION**

- 4.1 The Security Plan will be fully reviewed and updated by the Contractor annually or from time to time to reflect:
- 4.1.1 emerging changes in Good Industry Practice;
  - 4.1.2 any change or proposed change to the Contractor System, the Services and/or associated processes;
  - 4.1.3 any new perceived or changed threats to the Contractor System;
  - 4.1.4 changes to security policies introduced Government-wide or by the Authority; and/or
  - 4.1.5 a reasonable request by the Authority.
- 4.2 The Contractor will provide the Authority with an executive summary of the results of such reviews as soon as reasonably practicable after their completion and amend the Security Plan at no additional cost to the Authority.

**5. AUDIT, TESTING AND PROTECTIVE MONITORING NOT USED**

**6. BREACH OF SECURITY**

- 6.1 Either Party shall notify the other without undue delay upon becoming aware of any Breach of Security.
- 6.2 Upon becoming aware of any of the circumstances referred to in paragraph 6.1, the Contractor shall without undue delay take all reasonable steps necessary to:
- 6.2.1 remedy such breach or protect the Contractor System against any such potential or attempted breach or threat; and
  - 6.2.2 prevent an equivalent breach in the future;
  - 6.2.3 collect, preserve and protect all available audit data relating to the incident and make it available on request to the Authority;
  - 6.2.4 investigate the incident and produce a detailed report for the Authority without undue delay.
- 6.3 Such steps shall include any action or changes reasonably required by the Authority. If such action is taken in response to a breach that is determined by the Authority acting reasonably not to be covered by the obligations of the Contractor under the Contract, then the Contractor shall be entitled to refer the matter to the variation procedure set out in the Contract.
- 6.4 The Contractor shall as soon as reasonably practicable provide to the Authority full details (using such reporting mechanism as may be specified by the Authority from time to time) of any Security Breach and of the steps taken in respect thereof.

**7. CONTRACT EXIT – SECURITY REQUIREMENTS**

In accordance with clause 16 of the Contract, on termination of the Contract, either via early termination or completion of the Contract then the Contractor will either return all data to the Authority or provide a certificate of secure destruction using an industry and Authority approved method. Destruction or return of the data will be specified by the Authority at the time of termination of the Contract.

## APPENDIX 1- OUTLINE SECURITY PLAN

DDI maintains and enforces various policies, standards and processes designed to secure confidential data, including personal information, details of which can be found at the following link: <https://www.ddiworld.com/gisp>. Following is a description of some of the core technical and organisational security measures implemented by DDI:

- A. Physical Security. DDI hosts client facing Tools at an ISO-27001 and SSAE-18 certified data center facility operated by a third party, and a secondary data center for disaster recovery purposes operated by a separate third party. Systems to protect DDI's servers in these facilities include fire prevention, security alarms, video surveillance, multiple levels of card access, 24-hour staffing and detailed access and visitor logs. DDI's headquarters buildings in Pittsburgh, Pennsylvania, and each regional office all employ industry standard physical security measures. Doors to DDI offices are locked and require passcodes or key cards. Key cards for DDI personnel whose employment with DDI are terminated and key cards that are reported lost or stolen are immediately rendered unusable. Many DDI personnel work from home offices where DDI has no ability to monitor physical security.
- B. Server Locations; Transfer. All aforementioned servers hosting Client Personal Information are located in the US. Certain DDI Services use applications that are hosted and run by third parties that use cloud storage providers to store application data, including, potentially, Client Personal Information. The Client Personal Information held by these third parties is stored on servers located at sites of the third parties choosing. Client Personal Information may also be accessed or used globally where authorized DDI associates providing Services to Client are located.
- C. Data Storage, Processing, and Recovery. All Client Personal Information stored in electronic format shall be stored logically separate from the data of other DDI clients, but DDI application databases operate under a shared hierarchy structure. DDI has a written Disaster Recovery policy. In the event of a disaster that takes DDI's operations offline, DDI's goal for restoration of services and access to Client data is 48 hours.
- D. Passwords and Encryption. DDI System-level access passwords and DDI user level passwords must be changed every 90 days. Passwords must be at least eight (8) alphanumeric characters in length and must contain at least three (3) of the following four (4) character classes: lower case characters, upper case characters, numbers, special characters/symbols. All DDI laptops and other DDI mobile/external devices shall be encrypted. DDI shall use SSL/TLS for secure HTTP application data access and transfer for all DDI applications. SSL technology is provided as standard for all DDI applications. Encryption shall be used for passwords stored in application databases. All DDI system back-up tapes shall be encrypted prior to sending off-site for secure storage. Client application database passwords shall be encrypted using 128-bit AES encryption. DDI will not allow remote access to production systems.
- E. Participants. DDI shall cooperate with Client to enable Client to address and resolve any complaints, requests, or inquiries from individuals, including but not limited to requests to correct, delete, or block personal data. If a participant requests this data, DDI will inform Client of any such request and will cooperate reasonably with Client regarding implementing the participant's request.

## **ANNEX 1: BASELINE SECURITY REQUIREMENTS**

### **1. SECURITY CLASSIFICATION OF INFORMATION**

- 1.1 If the provision of the Services requires the Contractor to Process Authority Data which is classified as OFFICIAL, OFFICIAL-SENSITIVE or Personal Data, the Contractor shall implement such additional measures as agreed with the Authority from time to time in order to ensure that such information is safeguarded in accordance with the applicable legislative and regulatory obligations.

### **2. END USER DEVICES**

- 2.1 The Contractor shall ensure that any Authority which resides on a mobile, removable or physically uncontrolled device is stored encrypted using industry standard encryption.

### **3. DATA PROCESSING, STORAGE, MANAGEMENT AND DESTRUCTION**

- 3.1 The Contractor and Authority recognise the need for the Authority's information to be safeguarded under the UK Data Protection regime or a similar regime. To that end, the Contractor must be able to state to the Authority the physical locations in which data may be stored, processed and managed from, and what legal and regulatory frameworks Authority Data will be subject to at all times.
- 3.2 The Contractor shall not, and shall procure that none of its Sub-contractors, process Authority Data outside the EEA without the prior written consent of the Authority and the Contractor shall not change where it or any of its Sub-contractors process Authority Data without the Authority's prior written consent which may be subject to conditions. The foregoing notwithstanding, the Authority acknowledges that all of Contractor's servers are located in the United States and thus the Authority consents to transfer and processing of Authority Data in the United States.
- 3.3 The Contractor must be able to supply a copy of all data on request or at termination of the service and must be able to securely erase or destroy all data and media that the Authority data has been stored and processed on.

The Contractor shall:

- 3.3.1 provide the Authority with all Authority Data without undue delay upon written request;
- 3.3.2 have documented processes to guarantee availability of Authority Data in the event of the Contractor ceasing to trade;
- 3.3.3 securely destroy all media that has held Authority Data at the end of life of that media in line with Good Industry Practice; and

- 3.3.4 securely destroy any or all Authority Data held by the Contractor upon termination of the Contract.

#### **4. NETWORKING**

- 4.1 The Authority requires that any Authority Data transmitted over any public network (including the Internet, mobile networks or un-protected enterprise network) or to a mobile device must be encrypted when transmitted.
- 4.2 The Authority requires that the configuration and use of all networking equipment to provide the Services, including those that are located in secure physical locations, are at least compliant with Good Industry Practice.

#### **5. SECURITY ARCHITECTURES**

- 5.1 Contractors should design the service in accordance with standards similar to:
- NCSC " Security Design Principles for Digital Services "
  - NCSC " Bulk Data Principles "
  - NSCS " Cloud Security Principles "

#### **6. PERSONNEL SECURITY NOT USED**

#### **7. IDENTITY, AUTHENTICATION AND ACCESS CONTROL**

- 7.1 The Contractor must operate an appropriate access control regime to ensure that users and administrators of the service are uniquely identified. The Contractor must retain records of access to the physical sites and to the service.

#### **8. AUDIT AND PROTECTIVE MONITORING**

- 8.1 The Contractor shall collect audit records which relate to security events in delivery of the service or that would support the analysis of actual compromises. In order to facilitate effective monitoring and forensic readiness such Contractor audit records should (as a minimum) include:
- 8.1.1 regular reports and alerts setting out details of access by users of the service, to enable the identification of (without limitation) changing access trends, any unusual patterns of usage and/or accounts accessing higher than average amounts of Authority Data. The retention periods for audit records and event logs shall be in accordance with Contractor's data retention policy.
- 8.2 The Contractor and the Authority shall work together to establish any additional audit and monitoring requirements for the ICT Environment.
- 8.3 The Contractor shall retain audit records collected in compliance with this Paragraph 8.3 for a period of at least 6 months.

#### **9. VULNERABILITIES AND CORRECTIVE ACTION**

- 9.1 Contractors shall procure and implement security patches to vulnerabilities in accordance with Contractor's internal patch management policy.



- 9.2 Contractor must ensure that all COTS Software be kept up to date such that all Contractor COTS Software are always in mainstream support.

## **10. RISK ASSESSMENT**

- 10.1 The Contractor should perform a technical information risk assessment on the service supplied and be able to demonstrate what controls are in place to address those risks.

## ANNEX 2: CONTRACTOR'S SECURITY MANAGEMENT PLAN

DDI maintains and enforces various policies, standards and processes designed to secure confidential data, including personal information. The policy is available here: <https://www.ddiworld.com/data-security> . Following is a brief description of some of the core technical and organizational security measures implemented by DDI:

- A. Physical Security. DDI hosts client facing Tools at an ISO-27001 and SSAE-18 certified data center facility operated by a third party, and a secondary data center for disaster recovery purposes operated by a separate third party. Systems to protect DDI's servers in these facilities include fire prevention, security alarms, video surveillance, multiple levels of card access, 24-hour staffing and detailed access and visitor logs. DDI's headquarters buildings in Pittsburgh, Pennsylvania, and each regional office all employ industry standard physical security measures. Doors to DDI offices are locked and require passcodes or key cards. Key cards for DDI personnel whose employment with DDI are terminated and key cards that are reported lost or stolen are immediately rendered unusable. Many DDI personnel work from home offices where DDI has no ability to monitor physical security.
- B. Server Locations; Transfer. All aforementioned servers hosting Client Personal Information are located in the US. Certain DDI Services use applications that are hosted and run by third parties that use cloud storage providers to store application data, including, potentially, Client Personal Information. The Client Personal Information held by these third parties is stored on servers located at sites of the third parties choosing. Client Personal Information may also be accessed or used globally where authorized DDI associates providing Services to Client are located.
- C. Data Storage, Processing, and Recovery. All Client Personal Information stored in electronic format shall be stored logically separate from the data of other DDI clients, but DDI application databases operate under a shared hierarchy structure. DDI has a written Disaster Recovery policy. In the event of a disaster that takes DDI's operations offline, DDI's goal for restoration of services and access to Client data is 48 hours.
- D. Passwords and Encryption. DDI System-level access passwords and DDI user level passwords must be changed every 90 days. Passwords must be at least eight (8) alphanumeric characters in length and must contain at least three (3) of the following four (4) character classes: lower case characters, upper case characters, numbers, special characters/symbols. All DDI laptops and other DDI mobile/external devices shall be encrypted. DDI shall use SSL/TLS for secure HTTP application data access and transfer for all DDI applications. SSL technology is provided as standard for all DDI applications. Encryption shall be used for passwords stored in application databases. All DDI system back-up tapes shall be encrypted prior to sending off-site for secure storage. Client application database passwords shall be encrypted using 128-bit AES encryption. DDI will not allow remote access to production systems.
- E. Participants. DDI shall cooperate with Client to enable Client to address and resolve any complaints, requests, or inquiries from individuals, including but not limited to requests to correct, delete, or block personal data. If a participant requests this data, DDI will inform Client of any such request and will cooperate reasonably with Client regarding implementing the participant's request.

# SCHEDULE 6 – CHANGE CONTROL

## Contract Change Note

<b>Contract Change Note Number</b>	
<b>Contract Reference Number &amp; Title</b>	
<b>Variation Title</b>	
<b>Number of Pages</b>	

WHEREAS the Contractor and the Authority entered into a Contract for the supply of [project name] dated [dd/mm/yyyy] (the "Original Contract") and now wish to amend the Original Contract

IT IS AGREED as follows

1. The Original Contract shall be amended as set out in this Change Control Notice:

Change Requestor / Originator		
Summary of Change		
Reason for Change		
Revised Contract Price	Original Contract Value	£
	Previous Contract Changes	£
	Contract Change Note [x]	£
	New Contract Value	£
Revised Payment Schedule		
Revised Specification (See Annex [x] for Details)		
Revised Term/Contract Period		
Change in Contract Manager(s)		
Other Changes		

2. Save as herein amended all other terms of the Original Contract shall remain effective.
3. This Change Control Notice shall take effect on

SIGNED ON BEHALF OF THE AUTHORITY:	SIGNED ON BEHALF OF THE CONTRACTOR:
Signature:	Signature:
Name:	Name:
Position:	Position:
Date:	Date:

## SCHEDULE 7 – THIRD PARTY SOFTWARE

### CONTRACTOR SOFTWARE

For the purposes of this Schedule 7, “**Contractor Software**” means software which is proprietary to the Contractor, including software which is or will be used by the Contractor for the purposes of providing the Services. The Contractor Software comprises the following items:

Software	Contractor (if Affiliate of the Contractor)	Purpose	No. of Licences	Restrictions	No. of copies	Other	To be deposited in escrow?

### THIRD PARTY SOFTWARE

For the purposes of this Schedule 7, “**Third Party Software**” means software which is proprietary to any third party which is or will be used by the Contractor for the purposes of providing the Services including the software specified in this Schedule 7. The Third-Party Software shall consist of the following items:

Third Party Software	Contractor	Purpose	No. of Licences	Restrictions	No. of copies	Other	To be deposited in escrow?

## **SCHEDULE 8 – EXIT MANAGEMENT STRATEGY**

Exit management will be agreed by both parties.