

SHORT FORM CONTRACT FOR THE SUPPLY OF GOODS AND/OR SERVICES

I. Index

I.	Index	1
II.	Cover Letter	3
III.	Order Form	4
IV.	Short form Terms (“Conditions”).....	9
1	Definitions used in the Contract.....	9
2	Understanding the Contract.....	17
3	How the Contract works	Error! Bookmark not defined.
4	What needs to be delivered	Error! Bookmark not defined.
5	Pricing and payments	Error! Bookmark not defined.
6	The Buyer's obligations to the Supplier	Error! Bookmark not defined.
7	Record keeping and reporting	Error! Bookmark not defined.
8	Supplier Staff	Error! Bookmark not defined.
9	Rights and protection.....	Error! Bookmark not defined.
10	Intellectual Property Rights (“IPRs”)	Error! Bookmark not defined.
11	Ending the contract.....	Error! Bookmark not defined.
12	How much you can be held responsible for	Error! Bookmark not defined.
13	Obeying the Law	Error! Bookmark not defined.
14	Data Protection and Security	Error! Bookmark not defined.
15	What you must keep confidential.....	Error! Bookmark not defined.
16	When you can share information	Error! Bookmark not defined.
17	Insurance	Error! Bookmark not defined.
18	Invalid parts of the contract	Error! Bookmark not defined.
19	Other people's rights in the contract	Error! Bookmark not defined.
20	Circumstances beyond your control	Error! Bookmark not defined.
21	Relationships created by the contract	Error! Bookmark not defined.
22	Giving up contract rights	Error! Bookmark not defined.
23	Transferring responsibilities	Error! Bookmark not defined.
24	Supply Chain	Error! Bookmark not defined.
25	Changing the contract.....	Error! Bookmark not defined.
26	How to communicate about the contract	Error! Bookmark not defined.
27	Dealing with claims	Error! Bookmark not defined.
28	Preventing fraud, bribery and corruption	Error! Bookmark not defined.
29	Equality, diversity and human rights	Error! Bookmark not defined.
30	Health and safety	Error! Bookmark not defined.
31	Environment and sustainability	Error! Bookmark not defined.
32	Tax	Error! Bookmark not defined.
33	Conflict of interest	Error! Bookmark not defined.
34	Reporting a breach of the contract	Error! Bookmark not defined.
35	Further Assurances	Error! Bookmark not defined.
36	Resolving disputes.....	Error! Bookmark not defined.
37	Which law applies	Error! Bookmark not defined.
V.	Annex 1 – Processing Personal Data	Error! Bookmark not defined.
Part A	Authorised Processing Template.....	Error! Bookmark not defined.
Part B	Joint Controller Agreement (<i>Optional</i>).....	Error! Bookmark not defined.
1	Joint Controller Status and Allocation of Responsibilities	Error! Bookmark not defined.
2	Undertakings of both Parties	Error! Bookmark not defined.
3	Data Protection Breach	Error! Bookmark not defined.

4	Audit.....	Error! Bookmark not defined.
5	Impact Assessments.....	Error! Bookmark not defined.
6	ICO Guidance	Error! Bookmark not defined.
7	Liabilities for Data Protection Breach	Error! Bookmark not defined.
8	Termination.....	Error! Bookmark not defined.
9	Sub-Processing	Error! Bookmark not defined.
10	Data Retention.....	Error! Bookmark not defined.
Part C	Independent Controllers (<i>Optional</i>) – <i>Not Used</i>	Error! Bookmark not defined.
1	Independent Controller Provisions – Not Used	Error! Bookmark not defined.
VI.	Annex 2 – Specification – Not Used	41
VII.	Annex 3 – Charges - (<i>Optional</i> – <i>Not Used</i>).....	42
VIII.	Annex 4 – Supplier’s <i>Proposal including Charges</i>.....	43
IX.	Annex 5 – Optional IPR Clauses – Not Used.....	46
Part A	Buyer ownership with limited Supplier rights to exploit New IPR for the purposes of the current Contract	Error! Bookmark not defined.
10	Intellectual Property Rights (“IPRs”)	Error! Bookmark not defined.
Part B	Supplier ownership of New IPR with Buyer rights for the current Contract and broader public sector functions	Error! Bookmark not defined.
10	Intellectual Property Rights (“IPRs”)	Error! Bookmark not defined.
X.	Annex 6 - Security Terms.....	62

II. Cover Letter

National Governance Association (NGA)

4th Floor 36 Great Charles St Queensway,
Birmingham,
England,
B3 3JY

Attn: <redacted> <redacted>

By email to: <redacted>

Date: 16 May 2024

Our ref: **Con_25247**

Dear <redacted>

Following an internal 3-qoute process, we are pleased to award the Contract for delivery of the Governor Training Programme for School Food Standards to National Governance Association.

The attached Order Form, contract Conditions and the Annexes set out the terms of the Contract between the Department of Education and National Governance Association for the provision of the Deliverables set out in the Order Form.

We thank you for your co-operation to date and look forward to forging a successful working relationship resulting in a smooth and successful Delivery of the Deliverables. Please confirm your acceptance of this Contract by signing and returning the Order Form within 7 days from the date of the Order Form. No other form of acknowledgement will be accepted. Please remember to include the reference number(s) above in any future communications relating to this Contract.

Yours faithfully,

<redacted>

Commercial Category Manager

III. Order Form

Contract Reference	Jaggaer Ref - Con_25247	
1. Buyer	The Department for Education Sanctuary Buildings Great Smith Street London SW1P 3BT In entering into this Contract, the Buyer is acting as part of the Crown and the Supplier shall be treated as contracting with the Crown as a whole.	
2. Supplier	National Governance Association 4th Floor 36 Great Charles St Queensway, Birmingham, England, B3 3JY	
3. The Contract	This Contract between the Buyer and the Supplier is for the supply of Deliverables. The Supplier shall supply the Deliverables described below on the terms set out in this Order Form and the attached contract conditions (" Conditions ") and Annexes. Unless the context otherwise requires, capitalised expressions used in this Order Form have the same meanings as in the Conditions.	
4. Deliverables	Goods	None
	Services	<ul style="list-style-type: none">• Description: as set out in the Supplier's Proposal as set out in Annex 4. The Services are: <ul style="list-style-type: none">• To be performed at, the Supplier's premises and remotely• Date(s) of Delivery: May 2024 – April 2025
5. Specification	<ul style="list-style-type: none">• The specification of the Deliverables is as set out in the Supplier's Proposal - Annex 4 The below information relates to four key phases in the delivery of this project:	

	<ol style="list-style-type: none"> 1. The 'development' phase (May–July 2024) 2. The 'closed trial/pilot' phase (2 weeks - August 2024) 3. The 'trial review' phase (2 weeks - August 2024) 4. The 'live' phase (2 September 2024-April 2025) <p>Key Performance Indicators</p> <ul style="list-style-type: none"> • KPI 1: during 'live' period, the post-completion user-assessment to demonstrate a clear indication of improvement in users' skill-level and knowledge of the subject matter, compared to baseline assessment, taken as a cohort. • KPI 2: during the 'live' period, user satisfaction levels to be at least 75% positive. <p>Reporting Requirement</p> <ul style="list-style-type: none"> • NGA to provide monthly written updates on project progress. In the development phase updates to include information on the type and amount of content created; the stage of testing it is at, and the outcome of that testing. • In the 'live' period, reports to include information on the numbers of users viewing and accessing the modules and KPIs.
6. Start Date	20 May 2024
7. Expiry Date	1 st April 2025
8. Extension Period	Not applicable
9. Buyer Cause	Any Material Breach of the obligations of the Buyer or any other default, act, omission, negligence or statement of the Buyer, of its employees, servants, agents in connection with or in relation to the subject-matter of the Contract and in respect of which the Buyer is liable to the Supplier.
10. Optional Intellectual Property Rights ("IPR") Clauses	Not applicable
11. Charges	<p>The Charges for the Deliverables shall be as set out in Annex 4.</p> <p>Invoices will be sent from <redacted></p> <ol style="list-style-type: none"> 1. Development phase: <redacted><redacted><redacted> 2. Trial phase:<redacted> <redacted><redacted> 3. Live phase: <redacted><redacted><redacted>

12. Payment	<p>Payment of undisputed invoices will be made within 30 days of receipt of invoice, which must be submitted promptly by the Supplier.</p> <p>All invoices must be sent, quoting a valid Purchase Order Number (PO Number) and any other relevant details, to: <redacted></p> <p>Within 10 Working Days of receipt of your countersigned copy of this Order Form, we will send you a unique PO Number. You must be in receipt of a valid PO Number before submitting an invoice.</p> <p>To avoid delay in payment it is important that the invoice is compliant and that it includes a valid PO Number, item number (if applicable) and the details (name, email, and telephone number) of your Buyer contact (i.e. Buyer Authorised Representative). Non-compliant invoices may be sent back to you, which may lead to a delay in payment.</p> <p>Payments will be made to NGA using the bank detail provided</p> <p>If you have a query regarding an outstanding payment please contact our Accounts Payable team either by email to: <redacted></p>				
13. Data Protection Liability Cap	<p>In accordance with clause Error! Reference source not found. of the Conditions, the Supplier's total aggregate liability under clause Error! Reference source not found. of the Conditions is no more than the Data Protection Liability Cap, being £500,000.</p>				
14. Progress Meetings and Progress Reports	<ul style="list-style-type: none"> The Supplier shall attend progress meetings with the Buyer every two weeks until the content has been in the 'Live' period for six weeks and then move to quarterly meetings. <p>The Supplier shall provide the Buyer with progress reports every month until six weeks into the 'Live' period and then move to quarterly.</p>				
15. Buyer Authorised Representative(s)	<p>For general liaison your contact will continue to be <redacted><redacted></p> <p>or, in their absence, <redacted><redacted></p>				
16. Supplier Authorised Representative(s)	<p>For general liaison your contact will continue to be <redacted><redacted></p> <p>or, in their absence, <redacted><redacted></p>				
17. Address for notices	<table> <tr> <th data-bbox="459 1897 826 1933">Buyer</th><th data-bbox="954 1897 1070 1933">Supplier</th></tr> <tr> <td data-bbox="459 1973 826 2112"> Department for Education Sanctuary Buildings, Great Smith Street </td><td data-bbox="922 1973 1398 2112"> National Governance Association 4th Floor 36 Great Charles St Queensway </td></tr> </table>	Buyer	Supplier	Department for Education Sanctuary Buildings, Great Smith Street	National Governance Association 4th Floor 36 Great Charles St Queensway
Buyer	Supplier				
Department for Education Sanctuary Buildings, Great Smith Street	National Governance Association 4th Floor 36 Great Charles St Queensway				

	Attention: <redacted> Attention: <redacted> Email: <redacted> Email: <redacted>		
18. Key Staff	Key Staff Role:	Key Staff Name	Contact Details:
	CEO	<redacted>	<redacted>
	Director of PD	<redacted>	<redacted>
	Director of Marketing	<redacted>	<redacted>
	Subject matter expert	<redacted>	<redacted>
	Learning Link Manager	<redacted>	<redacted>
	Instructional designer	<redacted>	<redacted>
	Content developer	<redacted>	<redacted>
	Content developer	<redacted>	<redacted>
19. Procedures and Policies	For the purposes of the Contract the Buyer's security / data security requirements are included in Annex 6		
20. Special Terms	<i>Not Applicable</i>		
21. Incorporated Terms	<p>The following documents are incorporated into the Contract. If there is any conflict, the following order of precedence applies:</p> <p>(a) The cover letter from the Buyer to the Supplier dated 16th May 2024</p> <p>(b) This Order Form</p> <p>(c) Any Special Terms (see row 20 (Special Terms) in this Order Form) – <i>not applicable</i>.</p> <p>(d) Conditions (as they may be amended) - <i>not applicable</i></p> <p>(e) The following Annexes in equal order of precedence:</p> <ol style="list-style-type: none"> i. Error! Reference source not found. ii. Annex 4 – Supplier's Proposal including , unless any part of the Proposal offers a better commercial position for the Buyer (as decided by the Buyer, in its absolute discretion), in which case that part of the Proposal will take precedence over the documents above. 		

	iii. Annex 6 – Security Terms
--	-------------------------------

Signed for and on behalf of the Supplier	Signed for and on behalf of the Buyer acting on behalf of the Crown
Name: <redacted> Director of Professional Development	Name: <redacted> Commercial Lead
Date: <redacted>	Date: <redacted>
Signature: <redacted>	Signature: <redacted>

IV.Short form Terms (“Conditions”)

DEFINITIONS USED IN THE CONTRACT

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

“Affiliates”	in relation to a body corporate, any other entity which directly or indirectly Controls (in either of the senses defined in sections 450 and 1124 of the Corporation Tax Act 2010 and “ Controlled ” shall be construed accordingly), is Controlled by, or is under direct or indirect common Control of that body corporate from time to time;
“Audit”	<p>the Buyer’s right to:</p> <ul style="list-style-type: none">(a) verify the accuracy of the Charges and any other amounts payable by the Buyer under the Contract (including proposed or actual variations to them in accordance with the Contract);(b) verify the costs of the Supplier (including the costs of all Subcontractors and any third party suppliers) in connection with the provision of the Deliverables;(c) verify the Supplier’s and each Subcontractor’s compliance with the applicable Law;(d) identify or investigate actual or suspected breach of clauses Error! Reference source not found. to Error! Reference source not found. (inclusive), impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances the Buyer shall have no obligation to inform the Supplier of the purpose or objective of its investigations;(e) identify or investigate any circumstances which may impact upon the financial stability of the Supplier and/or any Subcontractors or their ability to provide the Deliverables;(f) obtain such information as is necessary to fulfil the Buyer’s obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General;(g) review any books of account and the internal contract management accounts kept by the Supplier in connection with the Contract;(h) carry out the Buyer’s internal and statutory audits and to prepare, examine and/or certify the Buyer’s annual and interim reports and accounts;(i) enable the National Audit Office to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Buyer has used its resources;

“Beneficiary”	A Party having (or claiming to have) the benefit of an indemnity under this Contract;
“Buyer Cause”	has the meaning given to it in the Order Form;
“Buyer”	the person named as Buyer in the Order Form. Where the Buyer is a Crown Body the Supplier shall be treated as contracting with the Crown as a whole;
“Charges”	the charges for the Deliverables as specified in the Order Form;
“Claim”	any claim which it appears that the Buyer is, or may become, entitled to indemnification under this Contract;
“Conditions”	means these short form terms and conditions of contract;
“Confidential Information”	all information, whether written or oral (however recorded), provided by the disclosing Party to the receiving Party and which <ul style="list-style-type: none"> (a) is known by the receiving Party to be confidential; (b) is marked as or stated to be confidential; or (c) ought reasonably to be considered by the receiving Party to be confidential;
“Conflict of Interest”	a conflict between the financial or personal duties of the Supplier or the Supplier Staff and the duties owed to the Buyer under the Contract, in the reasonable opinion of the Buyer;
“Contract”	the contract between the Buyer and the Supplier which is created by the Supplier’s counter signing the Order Form and includes the cover letter (if used), Order Form, these Conditions and the Annexes;
“Controller”	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
“Crown Body”	the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the Welsh Government), including, but not limited to, government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;
“Data Loss Event”	any event that results, or may result, in unauthorised access to Personal Data held by the Processor under this Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of this Contract, including any Personal Data Breach;
“Data Protection Impact Assessment”	an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data;

“Data Protection Legislation”	<p>(a) the UK GDPR,</p> <p>(b) the DPA 2018;</p> <p>(c) all applicable Law about the processing of personal data and privacy and guidance issued by the Information Commissioner and other regulatory authority; and</p> <p>(d) (to the extent that it applies) the EU GDPR (and in the event of conflict, the UK GDPR shall apply);</p>
“Data Protection Liability Cap”	has the meaning given to it in row 13 of the Order Form;
“Data Protection Officer”	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
“Data Subject Access Request”	a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data;
“Data Subject”	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
“Deliver”	hand over of the Deliverables to the Buyer at the address and on the date specified in the Order Form, which shall include unloading and stacking and any other specific arrangements agreed in accordance with clause Error! Reference source not found. “Delivered” and “Delivery” shall be construed accordingly;
“Deliverables”	means the Goods, Services, and/or software to be supplied under the Contract as set out in the Order Form;
“DPA 2018”	the Data Protection Act 2018;
“EU GDPR”	Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) as it has effect in EU law;
“Existing IPR”	any and all intellectual property rights that are owned by or licensed to either Party and which have been developed independently of the Contract (whether prior to the date of the Contract or otherwise);
“Expiry Date”	the date for expiry of the Contract as set out in the Order Form;
“FOIA”	the Freedom of Information Act 2000 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation;

“Force Majeure Event”	<p>any event, circumstance, matter or cause affecting the performance by either the Buyer or the Supplier of its obligations arising from:</p> <ul style="list-style-type: none"> (a) acts, events, omissions, happenings or non-happenings beyond the reasonable control of the Party seeking to claim relief in respect of a Force Majeure Event (the “Affected Party”) which prevent or materially delay the Affected Party from performing its obligations under the Contract; (b) riots, civil commotion, war or armed conflict, acts of terrorism, nuclear, biological or chemical warfare; (c) acts of a Crown Body, local government or regulatory bodies; (d) fire, flood or any disaster; or (e) an industrial dispute affecting a third party for which a substitute third party is not reasonably available <p>but excluding:</p> <ul style="list-style-type: none"> (a) any industrial dispute relating to the Supplier, the Supplier Staff (including any subsets of them) or any other failure in the Supplier or the Subcontractor's supply chain; (b) any event, occurrence, circumstance, matter or cause which is attributable to the wilful act, neglect or failure to take reasonable precautions against it by the Party concerned; and (c) any failure of delay caused by a lack of funds, <p>and which is not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party;</p>
“Good Industry Practice”	<p>standards, practices, methods and procedures conforming to the Law and the exercise of the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged within the relevant industry or business sector;</p>
“Goods”	<p>the goods to be supplied by the Supplier to the Buyer under the Contract;</p>
“Government Data”	<ul style="list-style-type: none"> (a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, including any of the Buyer's confidential information, and which: <ul style="list-style-type: none"> (i) are supplied to the Supplier by or on behalf of the Buyer; or (ii) the Supplier is required to generate, process, store or transmit pursuant to the Contract; or (b) any Personal Data for which the Buyer is the Controller;
“Indemnifier”	<p>a Party from whom an indemnity is sought under this Contract;</p>

“Independent Controller”	a party which is Controller of the same Personal Data as the other Party and there is no element of joint control with regards to that Personal Data;
“Information Commissioner”	the UK’s independent authority which deals with ensuring information relating to rights in the public interest and data privacy for individuals is met, whilst promoting openness by public bodies;
“Insolvency Event”	in respect of a person: <ul style="list-style-type: none"> (a) if that person is insolvent; (b) where that person is a company, LLP or a partnership, if an order is made or a resolution is passed for the winding up of the person (other than voluntarily for the purpose of solvent amalgamation or reconstruction); (c) if an administrator or administrative receiver is appointed in respect of the whole or any part of the person’s assets or business; (d) if the person makes any composition with its creditors; or (e) takes or suffers any similar or analogous action to any of the actions detailed in this definition as a result of debt in any jurisdiction;
“IP Completion Day”	has the meaning given to it in the European Union (Withdrawal Agreement) Act 2020;
“Joint Controller Agreement”	the agreement (if any) entered into between the Buyer and the Supplier substantially in the form set out in Error! Reference source not found. Error! Reference source not found. of Error! Reference source not found. ;
“Joint Controllers”	Where two or more Controllers jointly determine the purposes and means of processing;
“Key Staff”	any persons specified as such in the Order Form or otherwise notified as such by the Buyer to the Supplier in writing, following agreement to the same by the Supplier;
“Law”	any law, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, bye-law, right within the meaning of the European Union (Withdrawal) Act 2018 as amended by European Union (Withdrawal Agreement) Act 2020, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the Supplier is bound to comply;
“Material Breach”	a single serious breach or a number of breaches or repeated breaches (whether of the same or different obligations and regardless of whether such breaches are remedied)

“National Insurance”	contributions required by the Social Security Contributions and Benefits Act 1992 and made in accordance with the Social Security (Contributions) Regulations 2001 (SI 2001/1004);
“New IPR Items”	means a deliverable, document, product or other item within which New IPR subsists;
“New IPR”	all and intellectual property rights in any materials created or developed by or on behalf of the Supplier pursuant to the Contract but shall not include the Supplier's Existing IPR;
“Open Licence”	means any material that is published for use, with rights to access and modify, by any person for free, under a generally recognised open licence including Open Government Licence as set out at http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/ as updated from time to time and the Open Standards Principles documented at https://www.gov.uk/government/publications/open-standards-principles/open-standards-principles as updated from time to time;
“Order Form”	the order form signed by the Buyer and the Supplier printed above these Conditions;
“Party”	the Supplier or the Buyer (as appropriate) and “Parties” shall mean both of them;
“Personal Data Breach”	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires and includes any breach of Data Protection Legislation relevant to Personal Data processed pursuant to the Contract;
“Personal Data”	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
“Prescribed Person”	a legal adviser, an MP or an appropriate body which a whistle-blower may make a disclosure to as detailed in ‘Whistleblowing: list of prescribed people and bodies’, 24 November 2016, available online at: https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies as updated from time to time;
“Processor Personnel”	all directors, officers, employees, agents, consultants and suppliers of the Processor and/or of any Subprocessor engaged in the performance of its obligations under the Contract;
“Processor”	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
“Protective Measures”	technical and organisational measures which must take account of: (a) the nature of the data to be protected;

	<p>(b) harm that might result from Data Loss Event;</p> <p>(c) state of technological development;</p> <p>(d) the cost of implementing any measures;</p> <p>including pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it;</p>
“Purchase Order Number” or “PO Number”	the Buyer’s unique number relating to the order for Deliverables to be supplied by the Supplier to the Buyer in accordance with the Contract;
“Rectification Plan”	<p>the Supplier’s plan (or revised plan) to rectify its Material Breach which shall include:</p> <p>(a) full details of the Material Breach that has occurred, including a root cause analysis;</p> <p>(b) the actual or anticipated effect of the Material Breach; and</p> <p>(c) the steps which the Supplier proposes to take to rectify the Material Breach (if applicable) and to prevent such Material Breach from recurring, including timescales for such steps and for the rectification of the Material Breach (where applicable);</p>
“Regulations”	the Public Contracts Regulations 2015 and/or the Public Contracts (Scotland) Regulations 2015 (as the context requires) as amended from time to time;
“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);
“Services”	the services to be supplied by the Supplier to the Buyer under the Contract;
“Specification”	the specification for the Deliverables to be supplied by the Supplier to the Buyer (including as to quantity, description and quality) as specified in the Order Form;
“Staff Vetting Procedures”	vetting procedures that accord with Good Industry Practice or, where applicable, the Buyer’s procedures or policies for the vetting of personnel as specified in the Order Form or provided to the Supplier in writing following agreement to the same by the Supplier from time to time;
“Start Date”	the start date of the Contract set out in the Order Form;
“Sub-Contract”	<p>any contract or agreement (or proposed contract or agreement), other than the Contract, pursuant to which a third party:</p> <p>(a) provides the Deliverables (or any part of them);</p>

	<p>(b) provides facilities or services necessary for the provision of the Deliverables (or any part of them); and/or</p> <p>(c) is responsible for the management, direction or control of the provision of the Deliverables (or any part of them);</p>
“Subcontractor”	any person other than the Supplier, who is a party to a Sub-Contract and the servants or agents of that person;
“Subprocessor”	any third party appointed to process Personal Data on behalf of the Processor related to the Contract;
“Supplier Staff”	all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Subcontractor of the Supplier engaged in the performance of the Supplier’s obligations under the Contract;
“Supplier”	the person named as Supplier in the Order Form;
“Term”	the period from the Start Date to the Expiry Date as such period may be extended in accordance with clause Error! Reference source not found. or terminated in accordance with the Contract;
“Third Party IPR”	intellectual property rights owned by a third party which is or will be used by the Supplier for the purpose of providing the Deliverables;
“Transparency Information”	<p>In relation to Contracts with a value above the relevant threshold set out in Part 2 of the Regulations only, the content of the Contract, including any changes to this Contract agreed from time to time, as well as any information relating to the Deliverables and performance pursuant to the Contract required to be published by the Buyer to comply with its transparency obligations, including those set out in Public Procurement Policy Note 09/21 (update to legal and policy requirements to publish procurement information on Contracts Finder) (https://www.gov.uk/government/publications/ppn-0921-requirements-to-publish-on-contracts-finder) as updated from time to time and Public Procurement Policy Note 01/17 (update to transparency principles) where applicable (https://www.gov.uk/government/publications/procurement-policy-note-0117-update-to-transparency-principles) as updated from time to time except for:</p> <p>(a) any information which is exempt from disclosure in accordance with the provisions of the FOIA, which shall be determined by the Buyer; and</p> <p>(b) Confidential Information;</p>
“UK GDPR”	has the meaning as set out in section 3(10) of the DPA 2018, supplemented by section 205(4);
“VAT”	value added tax in accordance with the provisions of the Value Added Tax Act 1994;
“Worker”	any one of the Supplier Staff which the Buyer, in its reasonable opinion, considers is an individual to which Procurement Policy Note 08/15 (Tax

	Arrangements of Public Appointees (https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees) as updated from time to time applies in respect of the Deliverables; and
“Working Day”	a day (other than a Saturday or Sunday) on which banks are open for business in the City of London.

2 UNDERSTANDING THE CONTRACT

2.1 In the Contract, unless the context otherwise requires:

- 2.1.1 references to numbered clauses are references to the relevant clause in these Conditions;
- 2.1.2 any obligation on any Party not to do or omit to do anything shall include an obligation not to allow that thing to be done or omitted to be done;
- 2.1.3 references to “writing” include printing, display on a screen and electronic transmission and other modes of representing or reproducing words in a visible form;
- 2.1.4 a reference to any Law includes a reference to that Law as amended, extended, consolidated, replaced or re-enacted from time to time (including as a consequence of the Retained EU Law (Revocation and Reform) Act) and to any legislation or byelaw made under that Law;
- 2.1.5 the word “including”, “for example” and similar words shall be understood as if they were immediately followed by the words “without limitation”;
- 2.1.6 any reference which, immediately before IP Completion Day (or such later date when relevant EU law ceases to have effect pursuant to section 1A of the European Union (Withdrawal) Act 2018), is a reference to (as it has effect from time to time) any EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement (“EU References”) which is to form part of domestic law by application of section 3 of the European Union (Withdrawal) Act 2018 and which shall be read on and after IP Completion Day as a reference to the EU References as they form part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018 as modified by domestic law from time to time.

3 HOW THE CONTRACT WORKS

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

4 WHAT NEEDS TO BE DELIVERED

- 4.1 All Deliverables

- 4.1.1 The Supplier must provide Deliverables:
 - 4.1.1.1 in accordance with the Specification, the tender in Annex 4 – Supplier Proposal (where applicable) and the Contract;
 - 4.1.1.2 using reasonable skill and care;
 - 4.1.1.3 using Good Industry Practice;
 - 4.1.1.4 using its own policies, processes and internal quality control measures as long as they don't conflict with the Contract;
 - 4.1.1.5 on the dates agreed; and
 - 4.1.1.6 that comply with all Law.
- 4.1.2 The Supplier must provide Deliverables with a warranty of at least 90 days (or longer where the Supplier offers a longer warranty period to its Buyers) from Delivery against all obvious defects.
- 4.2 Goods clauses
 - 4.2.1 All Goods delivered must be new, or as new if recycled, unused and of recent origin.
 - 4.2.2 The Supplier transfers ownership of the Goods on completion of Delivery or payment for those Goods, whichever is earlier.
 - 4.2.3 Risk in the Goods transfers to the Buyer on Delivery, but remains with the Supplier if the Buyer notices damage following Delivery and lets the Supplier know within 3 Working Days of Delivery.
 - 4.2.4 The Supplier warrants that it has full and unrestricted ownership of the Goods at the time of transfer of ownership.
 - 4.2.5 The Supplier must Deliver the Goods on the date and to the location specified in the Order Form, during the Buyer's working hours (unless otherwise specified in the Order Form).
 - 4.2.6 The Supplier must provide sufficient packaging for the Goods to reach the point of Delivery safely and undamaged.
 - 4.2.7 All deliveries must have a delivery note attached that specifies the order number, type and quantity of Goods.
 - 4.2.8 The Supplier must provide all tools, information and instructions the Buyer needs to make use of the Goods.
 - 4.2.9 The Supplier will notify the Buyer of any request that Goods are returned to it or the manufacturer after the discovery of safety issues or defects that might endanger health or hinder performance and shall indemnify the Buyer against the costs arising as a result of any such request.
 - 4.2.10 The Buyer can cancel any order or part order of Goods which has not been Delivered. If the Buyer gives less than 14 days' notice then it will pay the Supplier's reasonable and proven costs already incurred on the cancelled order as long as the Supplier takes all reasonable endeavours to minimise these costs.
 - 4.2.11 The Supplier must at its own cost repair, replace, refund or substitute (at the Buyer's option and request) any Goods that the Buyer rejects because they don't conform with clause 4.2. If the Supplier doesn't do this it will pay the Buyer's costs including repair or re-supply by a third party.

4.2.12 The Buyer will not be liable for any actions, claims, costs and expenses incurred by the Supplier or any third party during Delivery of the Goods unless and to the extent that it is caused by negligence or other wrongful act of the Buyer or its servant or agent. If the Buyer suffers or incurs any damage or injury (whether fatal or otherwise) occurring in the course of Delivery or installation then the Supplier shall indemnify the Buyer from any losses, charges, costs or expenses which arise as a result of or in connection with such damage or injury where it is attributable to any act or omission of the Supplier or any of its Subcontractors or Supplier Staff.

4.3 Services clauses

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

4.3.2 The Supplier must co-operate with the Buyer and third party suppliers on all aspects connected with the delivery of the Services and ensure that Supplier Staff comply with any reasonable instructions including the security requirements (where any such requirements have been provided).

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

4.3.4 The Supplier must at its own risk and expense provide all equipment required to deliver the Services. Any equipment provided by the Buyer to the Supplier for supplying the Services remains the property of the Buyer and is to be returned to the Buyer on expiry or termination of the Contract.

4.3.5 The Supplier must allocate sufficient resources and appropriate expertise to the Contract.

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

4.3.7 On completion of the Services, the Supplier is responsible for leaving the Buyer's premises in a clean, safe and tidy condition and making good any damage that it has caused to the Buyer's premises or property, other than fair wear and tear.

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

4.3.9 The Buyer is entitled to withhold payment for partially or undelivered Services, but doing so does not stop it from using its other rights under the Contract.

5 **PRICING AND PAYMENTS**

5.1 In exchange for the Deliverables, the Supplier must invoice the Buyer for the charges in the Order Form.

5.2 All Charges:

5.2.1 exclude VAT, which is payable on provision of a valid VAT invoice; and

5.2.2 include all costs and expenses connected with the supply of Deliverables.

5.3 The Buyer must pay the Supplier the charges within 30 days of receipt by the Buyer of a valid, undisputed invoice, in cleared funds to the Supplier's account stated in the invoice or in the Order Form.

5.4 A Supplier invoice is only valid if it:

5.4.1 includes all appropriate references including the Purchase Order Number and other details reasonably requested by the Buyer; and

5.4.2 includes a detailed breakdown of Deliverables which have been delivered.

- 5.5 If there is a dispute between the Parties as to the amount invoiced, the Buyer shall pay the undisputed amount. The Supplier shall not suspend the provision of the Deliverables unless the Supplier is entitled to terminate the Contract for a failure to pay undisputed sums in accordance with clause 11.6. Any disputed amounts shall be resolved through the dispute resolution procedure detailed in clause 36.
- 5.6 The Buyer may retain or set-off payment of any amount owed to it by the Supplier under this Contract or any other agreement between the Supplier and the Buyer if notice and reasons are provided.
- 5.7 The Supplier must ensure that all Subcontractors are paid, in full, within 30 days of receipt of a valid, undisputed invoice. If this doesn't happen, the Buyer can publish the details of the late payment or non-payment.

6 THE BUYER'S OBLIGATIONS TO THE SUPPLIER

- 6.1 If Supplier fails to comply with the Contract as a result of a Buyer Cause:
- 6.1.1 the Buyer cannot terminate the Contract under clause 11;
 - 6.1.2 the Supplier is entitled to reasonable and proven additional expenses and to relief from liability under this Contract;
 - 6.1.3 the Supplier is entitled to additional time needed to deliver the Deliverables; and
 - 6.1.4 the Supplier cannot suspend the ongoing supply of Deliverables.
- 6.2 Clause 6.1 only applies if the Supplier:
- 6.2.1 gives notice to the Buyer within 10 Working Days of becoming aware;
 - 6.2.2 demonstrates that the failure only happened because of the Buyer Cause; and
 - 6.2.3 mitigated the impact of the Buyer Cause.

7 RECORD KEEPING AND REPORTING

- 7.1 The Supplier must ensure that suitably qualified representatives attend progress meetings with the Buyer and provide progress reports when specified in the Order Form.
- 7.2 The Supplier must keep and maintain full and accurate records and accounts on everything to do with the Contract for 7 years after the date of expiry or termination of the Contract and in accordance with the UK GDPR or the EU GDPR as the context requires.
- 7.3 The Supplier must allow any auditor appointed by the Buyer access to its premises to verify all contract accounts and records of everything to do with the Contract and provide copies for the Audit.
- 7.4 The Buyer or an auditor can Audit the Supplier.
- 7.5 During an Audit, the Supplier must provide information to the auditor and reasonable co-operation at their request.
- 7.6 The Parties will bear their own costs when an Audit is undertaken unless the Audit identifies a Material Breach by the Supplier, in which case the Supplier will repay the Buyer's reasonable costs in connection with the Audit.
- 7.7 If the Supplier is not providing any of the Deliverables, or is unable to provide them, it must immediately:
- 7.7.1 tell the Buyer and give reasons;
 - 7.7.2 propose corrective action; and

- 7.7.3 provide a deadline for completing the corrective action.
- 7.8 If the Buyer, acting reasonably, is concerned as to the financial stability of the Supplier such that it may impact on the continued performance of the Contract then the Buyer may:
 - 7.8.1 require that the Supplier provide to the Buyer (for its approval) a plan setting out how the Supplier will ensure continued performance of the Contract and the Supplier will make changes to such plan as reasonably required by the Buyer and once it is agreed then the Supplier shall act in accordance with such plan and report to the Buyer on demand; and
 - 7.8.2 if the Supplier fails to provide a plan or fails to agree any changes which are requested by the Buyer or fails to implement or provide updates on progress with the plan, terminate the Contract immediately for Material Breach (or on such date as the Buyer notifies) and the consequences of termination in Clause 11.5.1 shall apply.
- 7.9 If there is a Material Breach, the Supplier must notify the Buyer within 3 Working Days of the Supplier becoming aware of the Material Breach. The Buyer may request that the Supplier provide a Rectification Plan within 10 Working Days of the Buyer's request alongside any additional documentation that the Buyer requires. Once such Rectification Plan is agreed between the Parties (without the Buyer limiting its rights) the Supplier must immediately start work on the actions in the Rectification Plan at its own cost.

8 SUPPLIER STAFF

- 8.1 The Supplier Staff involved in the performance of the Contract must:
 - 8.1.1 be appropriately trained and qualified;
 - 8.1.2 be vetted in accordance with the Staff Vetting Procedures; and
 - 8.1.3 comply with all conduct requirements when on the Buyer's premises.
- 8.2 Where the Buyer decides one of the Supplier's Staff isn't suitable to work on the Contract, the Supplier must replace them with a suitably qualified alternative.
- 8.3 The Supplier must provide a list of Supplier Staff needing to access the Buyer's premises and say why access is required.
- 8.4 The Supplier indemnifies the Buyer against all claims brought by any person employed or engaged by the Supplier caused by an act or omission of the Supplier or any Supplier Staff.
- 8.5 The Buyer indemnifies the Supplier against all claims brought by any person employed or engaged by the Buyer caused by an act or omission of the Buyer or any of the Buyer's employees, agents, consultants and contractors.
- 8.6 The Supplier shall use those persons nominated (if any) as Key Staff in the Order Form or otherwise notified as such by the Buyer to the Supplier in writing, following agreement to the same by the Supplier to provide the Deliverables and shall not remove or replace any of them unless:
 - 8.6.1 requested to do so by the Buyer or the Buyer approves such removal or replacement (not to be unreasonably withheld or delayed);
 - 8.6.2 the person concerned resigns, retires or dies or is on parental or long-term sick leave; or
 - 8.6.3 the person's employment or contractual arrangement with the Supplier or any Subcontractor is terminated for material breach of contract by the employee.

- 8.7 The Supplier shall ensure that no person who discloses that they have a conviction that is relevant to the nature of the Contract, relevant to the work of the Buyer, or is of a type otherwise advised by the Buyer (each such conviction a “Relevant Conviction”), or is found by the Supplier to have a Relevant Conviction (whether as a result of a police check, a disclosure and barring service check or otherwise) is employed or engaged in the provision of any part of the Deliverables.

9 RIGHTS AND PROTECTION

- 9.1 The Supplier warrants and represents that:

- 9.1.1 it has full capacity and authority to enter into and to perform the Contract;
- 9.1.2 the Contract is entered into by its authorised representative;
- 9.1.3 it is a legally valid and existing organisation incorporated in the place it was formed;
- 9.1.4 there are no known legal or regulatory actions or investigations before any court, administrative body or arbitration tribunal pending or threatened against it or its affiliates that might affect its ability to perform the Contract;
- 9.1.5 all necessary rights, authorisations, licences and consents (including in relation to IPRs) are in place to enable the Supplier to perform its obligations under the Contract and the Buyer to receive the Deliverables;
- 9.1.6 it doesn't have any contractual obligations which are likely to have a material adverse effect on its ability to perform the Contract; and
- 9.1.7 it is not impacted by an Insolvency Event.

- 9.2 The warranties and representations in clause 3.3 and clause 9.1 are repeated each time the Supplier provides Deliverables under the Contract.

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

- 9.3.1 wilful misconduct of the Supplier, any of its Subcontractor and/or Supplier Staff that impacts the Contract; and
- 9.3.2 non-payment by the Supplier of any tax or National Insurance.

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

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

10 INTELLECTUAL PROPERTY RIGHTS (“IPRS”)

- 10.1 Each Party keeps ownership of its own Existing IPRs. The Supplier gives the Buyer a non-exclusive, perpetual, royalty-free, irrevocable, transferable, sub-licensable worldwide licence to use, copy and adapt the Supplier's Existing IPR to enable the Buyer and its sub-licensees to both:

- 10.1.1 receive and use the Deliverables; and
- 10.1.2 use the New IPR.

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

- 10.2 Any New IPR created under the Contract is owned by the Buyer. The Buyer gives the Supplier a royalty-free, non-exclusive, non-transferable licence to use, copy, and adapt any Existing IPRs and the New IPR which the Supplier reasonably requires for the purpose of fulfilling its obligations during the Term and commercially exploiting the New IPR developed under the Contract. This licence is sub-licensable to a Subcontractor for the purpose of enabling the Supplier to fulfil its obligations under the Contract, and in that case the Subcontractor must enter into a confidentiality undertaking with the Supplier on the same terms as set out in clause 15 (What you must keep confidential).
- 10.3 Unless otherwise agreed in writing, the Supplier and the Buyer will record any New IPR and keep this record updated throughout the Term.
- 10.4 Where a Party acquires ownership of intellectual property rights incorrectly under this Contract, it must do everything reasonably necessary to complete a transfer assigning them in writing to the other Party on request and at its own cost.
- 10.5 Neither Party has the right to use the other Party's intellectual property rights, including any use of the other Party's names, logos or trademarks, except as provided in this clause 10 or otherwise agreed in writing.
- 10.6 If any claim is made against the Buyer for actual or alleged infringement of a third party's intellectual property arising out of, or in connection with, the supply or use of the Deliverables (an "IPR Claim"), then the Supplier indemnifies the Buyer against all losses, damages, costs or expenses (including professional fees and fines) incurred as a result of the IPR Claim.
- 10.7 If an IPR Claim is made or anticipated, the Supplier must at its own option and expense, either:
- 10.7.1 obtain for the Buyer the rights in clause 10.1 without infringing any third party intellectual property rights; and
- 10.7.2 replace or modify the relevant item with substitutes that don't infringe intellectual property rights without adversely affecting the functionality or performance of the Deliverables.
- 10.7.3 If the Supplier is not able to resolve the IPR Claim to the Buyer's reasonable satisfaction within a reasonable time, the Buyer may give written notice that it terminates the Contract from the date set out in the notice, or where no date is given in the notice, the date of the notice. On termination, the consequences of termination in clauses 11.5.1 shall apply.
- 10.8 The Supplier shall not use in the Delivery of the Deliverables any Third Party IPR unless:
- 10.8.1 the Buyer gives its approval to do so; and
- 10.8.2 one of the following conditions applies:
- 10.8.2.1 the owner or an authorised licensor of the relevant Third Party IPR has granted the Buyer a direct licence that provides the Buyer with the rights in clause 10.1; or
- 10.8.2.2 if the Supplier cannot, after commercially reasonable endeavours, obtain for the Buyer a direct licence to the Third Party IPR as set out in clause 10.8.2.1:
- (a) the Supplier provides the Buyer with details of the licence terms it can obtain and the identity of those licensors;
- (b) the Buyer agrees to those licence terms; and
- (c) the owner or authorised licensor of the Third Party IPR grants a direct licence to the Buyer on those terms; or

10.8.2.3 the Buyer approves in writing, with reference to the acts authorised and the specific intellectual property rights involved.

10.9 In spite of any other provisions of the Contract and for the avoidance of doubt, award of this Contract by the Buyer and the ordering of any Deliverable under it, does not constitute an authorisation by the Crown under Sections 55 and 56 of the Patents Act 1977, Section 12 of the Registered Designs Act 1949 or Sections 240 – 243 of the Copyright, Designs and Patents Act 1988.

11 **ENDING THE CONTRACT**

11.1 The Contract takes effect on the Start Date and ends on the earlier of the Expiry Date or termination of the Contract, or earlier if required by Law.

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

11.3 Ending the Contract without a reason

11.3.1 The Buyer has the right to terminate the Contract at any time without reason or liability by giving the Supplier not less than 90 days' written notice, and if it's terminated clause 11.6.2 applies.

11.4 When the Buyer can end the Contract

11.4.1 If any of the following events happen, the Buyer has the right to immediately terminate its Contract by issuing a termination notice in writing to the Supplier and the consequences of termination in Clause 11.5.1 shall apply:

11.4.1.1 there's a Supplier Insolvency Event;

11.4.1.2 the Supplier is in Material Breach of the Contract;

11.4.1.3 there's a change of control (within the meaning of section 450 of the Corporation Tax Act 2010) of the Supplier which isn't pre-approved by the Buyer in writing;

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

11.4.1.5 the Supplier or its affiliates embarrass or bring the Buyer into disrepute or diminish the public trust in them; or

11.4.1.6 the Supplier fails to comply with its legal obligations in the fields of environmental, social, equality or employment Law when providing the Deliverables.

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

11.5 What happens if the Contract ends

11.5.1 Where the Buyer terminates the Contract under clause 10.9, 11.4, 7.8.2, 28.4.2, or Paragraph 8 of Part B Joint Controller Agreement (Optional) of Annex 1 – Processing Personal Data (if used), all of the following apply:

11.5.1.1 the Supplier is responsible for the Buyer's reasonable costs of procuring replacement Deliverables for the rest of the term of the Contract;

11.5.1.2 the Buyer's payment obligations under the terminated Contract stop immediately;

11.5.1.3 accumulated rights of the Parties are not affected;

- 11.5.1.4 the Supplier must promptly delete or return the Government Data except where required to retain copies by Law;
- 11.5.1.5 the Supplier must promptly return any of the Buyer's property provided under the Contract;
- 11.5.1.6 the Supplier must, at no cost to the Buyer, give all reasonable assistance to the Buyer and any incoming supplier and co-operate fully in the handover and re-procurement; and
- 11.5.1.7 the Supplier must repay to the Buyer all the Charges that it has been paid in advance for Deliverables that it has not provided as at the date of termination or expiry.
- 11.5.2 The following clauses survive the expiry or termination of the Contract: 1, 4.2.9, 5, 7, 8.4, 10, 11.5, 12, 14, 15, 16, 18, 19, 32.2.2, 36 and 37 and any clauses which are expressly or by implication intended to continue.
- 11.6 When the Supplier can end the Contract and what happens when the contract ends (Buyer and Supplier termination)
 - 11.6.1 The Supplier can issue a reminder notice if the Buyer does not pay an undisputed invoice on time. The Supplier can terminate the Contract if the Buyer fails to pay an undisputed invoiced sum due and worth over 10% of the total Contract value or £1,000, whichever is the lower, within 30 days of the date of the reminder notice.
 - 11.6.2 Where the Buyer terminates the Contract in accordance with clause 11.3 or the Supplier terminates the Contract under clause 11.6 or 23.4:
 - 11.6.2.1 the Buyer must promptly pay all outstanding charges incurred by the Supplier;
 - 11.6.2.2 the Buyer must pay the Supplier reasonable committed and unavoidable losses as long as the Supplier provides a fully itemised and costed schedule with evidence - the maximum value of this payment is limited to the total sum payable to the Supplier if the Contract had not been terminated; and
 - 11.6.2.3 clauses 11.5.1.2 to 11.5.1.7 apply.
 - 11.6.3 The Supplier also has the right to terminate the Contract in accordance with Clauses 20.3 and 23.4.
- 11.7 Partially ending and suspending the Contract
 - 11.7.1 Where the Buyer has the right to terminate the Contract it can terminate or suspend (for any period), all or part of it. If the Buyer suspends the Contract it can provide the Deliverables itself or buy them from a third party.
 - 11.7.2 The Buyer can only partially terminate or suspend the Contract if the remaining parts of it can still be used to effectively deliver the intended purpose.
 - 11.7.3 The Parties must agree (in accordance with clause 25) any necessary variation required by clause 11.7, but the Supplier may not either:
 - 11.7.3.1 reject the variation; or
 - 11.7.3.2 increase the Charges, except where the right to partial termination is under clause 11.3.
 - 11.7.4 The Buyer can still use other rights available, or subsequently available to it if it acts on its rights under clause 11.7.
- 12 HOW MUCH YOU CAN BE HELD RESPONSIBLE FOR

- 12.1 Each Party's total aggregate liability under or in connection with the Contract (whether in tort, contract or otherwise) is no more than 125% of the Charges paid or payable to the Supplier.
- 12.2 No Party is liable to the other for:
 - 12.2.1 any indirect losses; and/or
 - 12.2.2 loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect).
- 12.3 In spite of clause 12.1, neither Party limits or excludes any of the following:
 - 12.3.1 its liability for death or personal injury caused by its negligence, or that of its employees, agents or Subcontractors;
 - 12.3.2 its liability for bribery or fraud or fraudulent misrepresentation by it or its employees; or
 - 12.3.3 any liability that cannot be excluded or limited by Law.
- 12.4 In spite of clause 12.1, the Supplier does not limit or exclude its liability for any indemnity given under clauses 8.4, 9.3.2, 10.6, or 32.2.2.
- 12.5 In spite of clause 12.1, the Buyer does not limit or exclude its liability for any indemnity given under clause 8.5.
- 12.6 Notwithstanding clause 12.1, but subject to clauses 12.1 and 12.3, the Supplier's total aggregate liability under clause 14.7.5 shall not exceed the Data Protection Liability Cap.
- 12.7 Each Party must use all reasonable endeavours to mitigate any loss or damage which it suffers under or in connection with the Contract, including any indemnities.
- 12.8 If more than one Supplier is party to the Contract, each Supplier Party is fully responsible for both their own liabilities and the liabilities of the other Suppliers.

13 **OBEYING THE LAW**

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

- 13.2 The Supplier indemnifies the Buyer against any costs resulting from any default by the Supplier relating to any applicable Law to do with the Contract.
- 13.3 The Supplier must appoint a compliance officer who must be responsible for ensuring that the Supplier complies with Law, clause 13.1 and clauses 27 to 34.

14 **DATA PROTECTION AND SECURITY**

- 14.1 The Supplier must not remove any ownership or security notices in or relating to the Government Data.
- 14.2 The Supplier must make accessible back-ups of all Government Data, stored in an agreed off-site location and send the Buyer copies via secure encrypted method upon reasonable request.
- 14.3 The Supplier must ensure that any Supplier, Subcontractor, or Subprocessor system holding any Government Data, including back-up data, is a secure system that complies with the security requirements specified in the Order Form or otherwise in writing by the Buyer (where any such requirements have been provided).
- 14.4 If at any time the Supplier suspects or has reason to believe that the Government Data is corrupted, lost or sufficiently degraded, then the Supplier must immediately notify the Buyer and suggest remedial action.
- 14.5 If the Government Data is corrupted, lost or sufficiently degraded so as to be unusable the Buyer may either or both:
 - 14.5.1 tell the Supplier to restore or get restored Government Data as soon as practical but no later than 5 Working Days from the date that the Buyer receives notice, or the Supplier finds out about the issue, whichever is earlier; and/or
 - 14.5.2 restore the Government Data itself or using a third party.
- 14.6 The Supplier must pay each Party's reasonable costs of complying with clause 14.5 unless the Buyer is at fault.
- 14.7 The Supplier:
 - 14.7.1 must provide the Buyer with all Government Data in an agreed format (provided it is secure and readable) within 10 Working Days of a written request;
 - 14.7.2 must have documented processes to guarantee prompt availability of Government Data if the Supplier stops trading;
 - 14.7.3 must securely destroy all storage media that has held Government Data at the end of life of that media using Good Industry Practice, other than in relation to Government Data which is owned or licenced by the Supplier or in respect of which the Parties are Independent Controllers or Joint Controllers;
 - 14.7.4 securely erase all Government Data and any copies it holds when asked to do so by the Buyer unless required by Law to retain it, other than in relation to Government Data which is owned or licenced by the Supplier or in respect of which the Parties are Independent Controllers or Joint Controllers; and
 - 14.7.5 indemnifies the Buyer against any and all losses incurred if the Supplier breaches clause 14 or any Data Protection Legislation.

- 14.8 The Parties acknowledge that for the purposes of the Data Protection Legislation, the nature of the activity carried out by each of them in relation to their respective obligations under the Contract dictates the status of each party under the DPA 2018. A Party may act as:
- 14.8.1 “Controller” in respect of the other Party who is “Processor”;
 - 14.8.2 “Processor” in respect of the other Party who is “Controller”;
 - 14.8.3 “Joint Controller” with the other Party;
 - 14.8.4 “Independent Controller” of the Personal Data where the other Party is also “Controller”,
- in respect of certain Personal Data under the Contract and shall specify in Part A Authorised Processing Template of Annex 1 – Processing Personal Data which scenario they think shall apply in each situation.
- 14.9 Where one Party is Controller and the other Party its Processor
- 14.9.1 Where a Party is a Processor, the only processing that the Processor is authorised to do is listed in Part A Authorised Processing Template of Annex 1 – Processing Personal Data by the Controller and may not be determined by the Processor. The term “processing” and any associated terms are to be read in accordance with Article 4 of the UK GDPR and EU GDPR (as applicable).
 - 14.9.2 The Processor must notify the Controller immediately if it thinks the Controller's instructions breach the Data Protection Legislation.
 - 14.9.3 The Processor must give all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment before starting any processing, which may include, at the discretion of the Controller:
 - 14.9.3.1 a systematic description of the expected processing and its purpose;
 - 14.9.3.2 the necessity and proportionality of the processing operations;
 - 14.9.3.3 the risks to the rights and freedoms of Data Subjects; and
 - 14.9.3.4 the intended measures to address the risks, including safeguards, security measures and mechanisms to protect Personal Data.
 - 14.9.4 The Processor must, in relation to any Personal Data processed under this Contract:
 - 14.9.4.1 process that Personal Data only in accordance with Part A Authorised Processing Template of Annex 1 – Processing Personal Data unless the Processor is required to do otherwise by Law. If lawful to notify the Controller, the Processor must promptly notify the Controller if the Processor is otherwise required to process Personal Data by Law before processing it.
 - 14.9.4.2 put in place appropriate Protective Measures to protect against a Data Loss Event which must be approved by the Controller.
 - 14.9.4.3 Ensure that:
 - (a) the Processor Personnel do not process Personal Data except in accordance with this Contract (and in particular Part A Authorised Processing Template of Annex 1 – Processing Personal Data);
 - (b) it uses best endeavours to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
 - (i) are aware of and comply with the Processor's duties under this clause 14;
 - (ii) are subject to appropriate confidentiality undertakings with the Processor or any Subprocessor;

- (iii) are informed of the confidential nature of the Personal Data and do not provide any of the Personal Data to any third party unless directed in writing to do so by the Controller or as otherwise allowed by the Contract; and
- (iv) have undergone adequate training in the use, care, protection and handling of Personal Data.
- (c) the Processor must not transfer Personal Data outside of the UK and/or the EEA unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
 - (d) the transfer is in accordance with Article 45 of the UK GDPR (or section 74A of DPA 2018) and/or the transfer is in accordance with Article 45 of the EU GDPR (where applicable); or
 - (e) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with UK GDPR Article 46 or section 75 of the DPA 2018) and/or the transfer is in accordance with Article 46 of the EU GDPR (where applicable) as determined by the Controller which could include relevant parties entering into:
 - (i) where the transfer is subject to UK GDPR:
 - (A) the International Data Transfer Agreement (the "IDTA"), as published by the Information Commissioner's Office from time to time under section 119A(1) of the DPA 2018 as well as any additional measures determined by the Controller;
 - (B) the European Commission's Standard Contractual Clauses per decision 2021/914/EU or such updated version of such Standard Contractual Clauses as are published by the European Commission from time to time ("EU SCCs"), together with the UK International Data Transfer Agreement Addendum to the EU SCCs (the "Addendum") as published by the Information Commissioner's Office from time to time; and/or
 - (ii) where the transfer is subject to EU GDPR, the EU SCCs,
- as well as any additional measures determined by the Controller being implemented by the importing party;
- (f) the Data Subject has enforceable rights and effective legal remedies when transferred;
- (g) the Processor meets its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
- (h) the Processor complies with the Controller's reasonable prior instructions about the processing of the Personal Data.

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

14.9.6 The Processor must notify the Controller immediately if it:

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

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

14.9.6.3 receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;

14.9.6.4 receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Contract;

14.9.6.5 receives a request from any third Party for disclosure of Personal Data where compliance with the request is required or claims to be required by Law; and

14.9.6.6 becomes aware of a Data Loss Event.

14.9.7 Any requirement to notify under clause 14.9.6 includes the provision of further information to the Controller in stages as details become available.

14.9.8 The Processor must promptly provide the Controller with full assistance in relation to any Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 14.9.6. This includes giving the Controller:

14.9.8.1 full details and copies of the complaint, communication or request;

14.9.8.2 reasonably requested assistance so that it can comply with a Data Subject Access Request within the relevant timescales in the Data Protection Legislation;

14.9.8.3 any Personal Data it holds in relation to a Data Subject on request;

14.9.8.4 assistance that it requests following any Data Loss Event; and

14.9.8.5 assistance that it requests relating to a consultation with, or request from, the Information Commissioner's Office or any other regulatory authority.

14.9.9 The Processor must maintain full, accurate records and information to show it complies with this clause 14. This requirement does not apply where the Processor employs fewer than 250 staff, unless either the Controller determines that the processing:

14.9.9.1 is not occasional;

14.9.9.2 includes special categories of data as referred to in Article 9(1) of the UK GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the UK GDPR; or

14.9.9.3 is likely to result in a risk to the rights and freedoms of Data Subjects.

14.9.10 The Parties shall designate a Data Protection Officer if required by the Data Protection Legislation.

14.9.11 Before allowing any Subprocessor to process any Personal Data, the Processor must:

14.9.11.1 notify the Controller in writing of the intended Subprocessor and processing;

14.9.11.2 obtain the written consent of the Controller;

14.9.11.3 enter into a written contract with the Subprocessor so that this clause 14 applies to the Subprocessor; and

14.9.11.4 provide the Controller with any information about the Subprocessor that the Controller reasonably requires.

14.9.12 The Processor remains fully liable for all acts or omissions of any Subprocessor.

14.9.13 The Parties agree to take account of any guidance issued by the Information Commissioner's Office or any other regulatory authority.

14.10 Joint Controllers of Personal Data

14.10.1 In the event that the Parties are Joint Controllers in respect of Personal Data under the Contract, the Parties shall implement paragraphs that are necessary to comply with UK GDPR Article 26 based on the terms set out in Part B Joint Controller Agreement (Optional) of Annex 1 – Processing Personal Data.

14.11 Independent Controllers of Personal Data

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

15 WHAT YOU MUST KEEP CONFIDENTIAL

15.1 Each Party must:

15.1.1 keep all Confidential Information it receives confidential and secure;

15.1.2 not disclose, use or exploit the disclosing Party's Confidential Information without the disclosing Party's prior written consent, except for the purposes anticipated under the Contract; and

15.1.3 immediately notify the disclosing Party if it suspects unauthorised access, copying, use or disclosure of the Confidential Information.

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

15.2.1 where disclosure is required by applicable Law if the recipient Party notifies the disclosing Party of the full circumstances, the affected Confidential Information and extent of the disclosure;

15.2.2 if the recipient Party already had the information without obligation of confidentiality before it was disclosed by the disclosing Party;

15.2.3 if the information was given to it by a third party without obligation of confidentiality;

15.2.4 if the information was in the public domain at the time of the disclosure;

15.2.5 if the information was independently developed without access to the disclosing Party's Confidential Information;

15.2.6 on a confidential basis, to its auditors or for the purposes of regulatory requirements;

15.2.7 on a confidential basis, to its professional advisers on a need-to-know basis; and

15.2.8 to the Serious Fraud Office where the recipient Party has reasonable grounds to believe that the disclosing Party is involved in activity that may be a criminal offence under the Bribery Act 2010.

15.3 The Supplier may disclose Confidential Information on a confidential basis to Supplier Staff on a need-to-know basis to allow the Supplier to meet its obligations under the Contract. The Supplier shall remain responsible at all times for compliance with the confidentiality obligations set out in this Contract by the persons to whom disclosure has been made.

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

15.4.1 on a confidential basis to the employees, agents, consultants and contractors of the Buyer;

15.4.2 on a confidential basis to any Crown Body, any successor body to a Crown Body or any company that the Buyer transfers or proposes to transfer all or any part of its business to;

15.4.3 if the Buyer (acting reasonably) considers disclosure necessary or appropriate to carry out its public functions;

15.4.4 where requested by Parliament; and

15.4.5 under clauses 5.7 and 16.

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

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

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

16 WHEN YOU CAN SHARE INFORMATION

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

16.2 In accordance with a reasonable timetable and in any event within 5 Working Days of a request from the Buyer, the Supplier must give the Buyer full co-operation and information needed so the Buyer can:

16.2.1 comply with any Request For Information

16.2.2 if the Contract has a value over the relevant threshold in Part 2 of the Regulations, comply with any of its obligations in relation to publishing Transparency Information.

16.3 To the extent that it is allowed and practical to do so, the Buyer will use reasonable endeavours to notify the Supplier of a Request For Information and may talk to the Supplier to help it decide whether to publish information under clause 16. However, the extent, content and format of the disclosure is the Buyer's decision in its absolute discretion.

17 INSURANCE

17.1 The Supplier shall ensure it has adequate insurance cover for this Contract.

18 INVALID PARTS OF THE CONTRACT

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

19 OTHER PEOPLE'S RIGHTS IN THE CONTRACT

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

20 CIRCUMSTANCES BEYOND YOUR CONTROL

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

20.1.1 provides written notice to the other Party; and

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

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

20.3 Either Party can partially or fully terminate the Contract if the provision of the Deliverables is materially affected by a Force Majeure Event which lasts for 90 days continuously and the consequences of termination in Clauses 11.5.1.2 to 11.5.1.7 shall apply.

20.4 Where a Party terminates under clause 20.3:

20.4.1 each Party must cover its own losses; and

20.4.2 clauses 11.5.1.2 to 11.5.1.7 apply.

21 RELATIONSHIPS CREATED BY THE CONTRACT

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

22 GIVING UP CONTRACT RIGHTS

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

23 TRANSFERRING RESPONSIBILITIES

23.1 The Supplier cannot assign, novate or in any other way dispose of the Contract or any part of it without the Buyer's written consent.

23.2 The Buyer can assign, novate or transfer its Contract or any part of it to any Crown Body, public or private sector body which performs the functions of the Buyer.

23.3 When the Buyer uses its rights under clause 23.2 the Supplier must enter into a novation agreement in the form that the Buyer specifies.

23.4 The Supplier can terminate the Contract novated under clause 23.2 to a private sector body that is experiencing an Insolvency Event.

23.5 The Supplier remains responsible for all acts and omissions of the Supplier Staff as if they were its own.

24 SUPPLY CHAIN

24.1 The Supplier cannot sub-contract the Contract or any part of it without the Buyer's prior written consent. The Supplier shall provide the Buyer with the name of any Subcontractor the Supplier proposes to engage for the purposes of the Contract. The decision of the Buyer to consent or not will not be unreasonably withheld or delayed. If the Buyer does not communicate a decision to the Supplier within 10 Working Days of the request for consent then its consent will be deemed to have been given. The Buyer may reasonably withhold its consent to the appointment of a Subcontractor if it considers that:

24.1.1 the appointment of a proposed Subcontractor may prejudice the provision of the Deliverables or may be contrary to its interests;

24.1.2 the proposed Subcontractor is unreliable and/or has not provided reliable goods and or reasonable services to its other customers; and/or

24.1.3 the proposed Subcontractor employs unfit persons.

24.2 If the Buyer asks the Supplier for details about Subcontractors, the Supplier must provide details of all such Subcontractors at all levels of the supply chain including:

24.2.1 their name;

- 24.2.2 the scope of their appointment; and
- 24.2.3 the duration of their appointment.
- 24.3 The Supplier must exercise due skill and care when it selects and appoints Subcontractors.
- 24.4 For Sub-Contracts in the Supplier's supply chain entered into wholly or substantially for the purpose of performing or contributing to the performance of the whole or any part of this Contract:
 - 24.4.1 where such Sub-Contracts are entered into after the Start Date, the Supplier will ensure that they all contain provisions that; or
 - 24.4.2 where such Sub-Contracts are entered into before the Start Date, the Supplier will take all reasonable endeavours to ensure that they all contain provisions that:
 - 24.4.2.1 allow the Supplier to terminate the Sub-Contract if the Subcontractor fails to comply with its obligations in respect of environmental, social, equality or employment Law;
 - 24.4.2.2 require the Supplier to pay all Subcontractors in full, within 30 days of receiving a valid, undisputed invoice; and
 - 24.4.2.3 allow the Buyer to publish the details of the late payment or non-payment if this 30 day limit is exceeded.
- 24.5 At the Buyer's request, the Supplier must terminate any Sub-Contracts in any of the following events:
 - 24.5.1 there is a change of control within the meaning of Section 450 of the Corporation Tax Act 2010 of a Subcontractor which isn't pre-approved by the Buyer in writing;
 - 24.5.2 the acts or omissions of the Subcontractor have caused or materially contributed to a right of termination under Clause 11.4;
 - 24.5.3 a Subcontractor or its Affiliates embarrasses or brings into disrepute or diminishes the public trust in the Buyer;
 - 24.5.4 the Subcontractor fails to comply with its obligations in respect of environmental, social, equality or employment Law; and/or
 - 24.5.5 the Buyer has found grounds to exclude the Subcontractor in accordance with Regulation 57 of the Regulations.
- 24.6 The Supplier is responsible for all acts and omissions of its Subcontractors and those employed or engaged by them as if they were its own.

25 **CHANGING THE CONTRACT**

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

26 **HOW TO COMMUNICATE ABOUT THE CONTRACT**

- 26.1 All notices under the Contract must be in writing and are considered effective on the Working Day of delivery as long as they're delivered before 5:00pm on a Working Day. Otherwise the notice is effective on the next Working Day. An email is effective at 9am on the first Working Day after sending unless an error message is received.
- 26.2 Notices to the Buyer or Supplier must be sent to their address or email address in the Order Form.
- 26.3 This clause does not apply to the service of legal proceedings or any documents in any legal action, arbitration or dispute resolution.

27 DEALING WITH CLAIMS

- 27.1 If a Beneficiary becomes aware of any Claim, then it must notify the Indemnifier as soon as reasonably practical.
- 27.2 at the Indemnifier's cost the Beneficiary must:
 - 27.2.1 allow the Indemnifier to conduct all negotiations and proceedings to do with a Claim;
 - 27.2.2 give the Indemnifier reasonable assistance with the Claim if requested; and
 - 27.2.3 not make admissions about the Claim without the prior written consent of the Indemnifier which cannot be unreasonably withheld or delayed.
- 27.3 The Beneficiary must:
 - 27.3.1 consider and defend the Claim diligently and in a way that does not damage the Beneficiary's reputation; and
 - 27.3.2 not settle or compromise any Claim without the Beneficiary's prior written consent which it must not unreasonably withhold or delay.

28 PREVENTING FRAUD, BRIBERY AND CORRUPTION

- 28.1 The Supplier shall not:
 - 28.1.1 commit any criminal offence referred to in 57(1) and 57(2) of the Regulations; or
 - 28.1.2 offer, give, or agree to give anything, to any person (whether working for or engaged by the Buyer or any other public body) an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of the Contract or any other public function or for showing or refraining from showing favour or disfavour to any person in relation to the Contract or any other public function.
- 28.2 The Supplier shall take all reasonable endeavours (including creating, maintaining and enforcing adequate policies, procedures and records), in accordance with Good Industry Practice, to prevent any matters referred to in clause 28.1 and any fraud by the Supplier Staff and the Supplier (including its shareholders, members and directors) in connection with the Contract and shall notify the Buyer immediately if it has reason to suspect that any such matters have occurred or is occurring or is likely to occur.
- 28.3 If the Supplier notifies the Buyer as required by clause 28.2, the Supplier must respond promptly to their further enquiries, co-operate with any investigation and allow the Audit of any books, records and relevant documentation.
- 28.4 If the Supplier or the Supplier Staff engages in conduct prohibited by clause 28.1 or commits fraud in relation to the Contract or any other contract with the Crown (including the Buyer) the Buyer may:
 - 28.4.1 require the Supplier to remove any Supplier Staff from providing the Deliverables if their acts or omissions have caused the default; and
 - 28.4.2 immediately terminate the Contract and the consequences of termination in Clause 11.5.1 shall apply.

29 EQUALITY, DIVERSITY AND HUMAN RIGHTS

- 29.1 The Supplier must follow all applicable employment and equality Law when they perform their obligations under the Contract, including:

- 29.1.1 protections against discrimination on the grounds of race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise; and
- 29.1.2 any other requirements and instructions which the Buyer reasonably imposes related to equality Law.
- 29.2 The Supplier must use all reasonable endeavours, and inform the Buyer of the steps taken, to prevent anything that is considered to be unlawful discrimination by any court or tribunal, or the Equality and Human Rights Commission (or any successor organisation) when working on the Contract.

30 **HEALTH AND SAFETY**

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

31 **ENVIRONMENT AND SUSTAINABILITY**

- 31.1 In performing its obligations under the Contract, the Supplier shall, to the reasonable satisfaction of the Buyer:
 - 31.1.1 meet, in all material respects, the requirements of all applicable Laws regarding the environment; and
 - 31.1.2 comply with its obligations under the Buyer's current environmental policy, which the Buyer must provide, and make Supplier Staff aware of such policy.

32 **TAX**

- 32.1 The Supplier must not breach any tax or social security obligations and must enter into a binding agreement to pay any late contributions due, including where applicable, any interest or any fines. The Buyer cannot terminate the Contract where the Supplier has not paid a minor tax or social security contribution.
- 32.2 Where the Supplier or any Supplier Staff are liable to be taxed or to pay National Insurance contributions in the UK relating to payment received under the Contract, the Supplier must both:
 - 32.2.1 comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax, the Social Security Contributions and Benefits Act 1992 (including IR35) and National Insurance contributions; and
 - 32.2.2 indemnify the Buyer against any Income Tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made during or after the Term in connection with the provision of the Deliverables by the Supplier or any of the Supplier Staff.
- 32.3 If any of the Supplier Staff are Workers who receive payment relating to the Deliverables, then the Supplier must ensure that its contract with the Worker contains requirements that:

- 32.3.1 the Buyer may, at any time during the term of the Contract, request that the Worker provides information which demonstrates they comply with clause 32.2, or why those requirements do not apply, the Buyer can specify the information the Worker must provide and the deadline for responding;
- 32.3.2 the Worker's contract may be terminated at the Buyer's request if the Worker fails to provide the information requested by the Buyer within the time specified by the Buyer;
- 32.3.3 the Worker's contract may be terminated at the Buyer's request if the Worker provides information which the Buyer considers isn't good enough to demonstrate how it complies with clause 32.2 or confirms that the Worker is not complying with those requirements; and
- 32.3.4 the Buyer may supply any information they receive from the Worker to HMRC for revenue collection and management.

33 CONFLICT OF INTEREST

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

34 REPORTING A BREACH OF THE CONTRACT

- 34.1 As soon as it is aware of it the Supplier and Supplier Staff must report to the Buyer any actual or suspected breach of Law, clause 13.1, or clauses 27 to 33.
- 34.2 The Supplier must not retaliate against any of the Supplier Staff who in good faith reports a breach listed in clause 34.1 to the Buyer or a Prescribed Person.

35 FURTHER ASSURANCES

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

36 RESOLVING DISPUTES

- 36.1 If there is a dispute between the Parties, their senior representatives who have authority to settle the dispute will, within 28 days of a written request from the other Party, meet in good faith to resolve the dispute by commercial negotiation.
- 36.2 If the dispute is not resolved at that meeting, the Parties can attempt to settle it by mediation using the Centre for Effective Dispute Resolution ("CEDR") Model Mediation Procedure current at the time of the dispute. If the Parties cannot agree on a mediator, the mediator will be nominated by CEDR. If either Party does not wish to use, or continue to use mediation, or mediation does not resolve the dispute, the dispute must be resolved using clauses 36.3 to 36.5.
- 36.3 Unless the Buyer refers the dispute to arbitration using clause 36.4, the Parties irrevocably agree that the courts of England and Wales have exclusive jurisdiction. :

36.4 The Supplier agrees that the Buyer has the exclusive right to refer any dispute to be finally resolved by arbitration under the London Court of International Arbitration Rules current at the time of the dispute. There will be only one arbitrator. The seat or legal place of the arbitration will be London and the proceedings will be in English.

36.5 The Buyer has the right to refer a dispute to arbitration even if the Supplier has started or has attempted to start court proceedings under clause 36.3, unless the Buyer has agreed to the court proceedings or participated in them. Even if court proceedings have started, the Parties must do everything necessary to ensure that the court proceedings are stayed in favour of any arbitration proceedings if they are started under clause 36.4.

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

37 **WHICH LAW APPLIES**

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

V. Annex 1 – Processing Personal Data

Authorised Processing Template

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

The contact details of the Controller's Data Protection Officer are: <redacted>

<redacted>

The contact details of the Processor's Data Protection Officer are: <redacted>– <redacted>

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

Any such further instructions shall be incorporated into this Annex.

Description of authorised processing	Details
Identity of Controller and Processor / Independent Controllers / Joint Controllers for each category of Personal Data	<i>The Department is Data Controller, the Supplier is Data Processor</i>
Subject matter of the processing	The procession of data is required to ensure effective delivery of the project
Duration of the processing	Duration of the agreement – May 2024 – April 2025
Nature and purposes of the processing	The processor will be required to collect, record, use and store information for the purpose of project delivery.
Type of Personal Data being processed	First name, surname, email address, school, school postcode.
Categories of Data Subject	Users
Plan for return and destruction of the data once the processing is complete UNLESS requirement under law to preserve that type of data	No user data should be returned or destroyed as the data collected is required for user access to the wider services available on the Learning Link platform and Learning Link Trial site.
Locations at which the Supplier and/or its Subcontractors process Personal Data under this Contract and International transfers and legal gateway	

Protective Measures that the Supplier and, where applicable, its Subcontractors have implemented to protect Personal Data processed under this Contract against a breach of security (insofar as that breach of security relates to data) or a Data Loss Event	
--	--

Joint Controller Agreement (*Optional*) – *Not Used*

Independent Controllers (*Optional*) – *Not Used*

VI. Annex 2 – Specification – *Not Used*

VII. Annex 3 – Charges (*Optional*) – *Not Used*

VIII. Annex 4 – Supplier’s Proposal *including Charges*.

1. Proposal to deliver the Governor Training Programme for the School Food Standards

1. Background

The National Governance Association (NGA) is the membership organisation for governors, trustees and clerks of state schools and trusts in England. We are an independent, not-for-profit charity that aims to improve the educational standards and wellbeing of young people by increasing the effectiveness of governing boards and promoting high standards. We are expert leaders in school and academy governance, providing information, advice, face to face training and e-learning to schools, trusts, local authorities and partners across England, via our platform Learning Link.

NGA is perfectly placed to deliver this programme for the Department for Education (DfE). We are the governance experts and looked to by governors and trustees up and down the country to provide them with the advice, guidance, policies, information, practice and training they need to fulfil their governance roles effectively. One of our top services is our sector leading governance e-learning service, Learning Link, which we will utilise to great effect, to ensure excellent take up of the new modules by governors and trustees.

2. Learning Link: our sector leading e-learning service for governors and trustees

Learning Link offers over 50 high-quality, interactive modules. Learning Link helps governors, trustees, and governance professionals develop their governance skills and knowledge. Modules are organised into 10 learning collections to enable the learner to easily find related topics.

Modules are aligned to best-practice online learning pedagogy, offering an extensive and varied range of interactive e-learning, including:

- Real-world scenarios that teach how to apply learning across different settings
- Problem-solving and matching activities keep users engaged
- Talking-head videos from real stakeholders
- Downloadable resources and templates
- Audit-style functionality and action planning tools
- Multiple choice questions to embed learning
- The ability to pass/fail courses where needed

Each module is certificated and ‘Core modules’ are CPD accredited.

A full list, including links to further detail and duration of each module can be found here: <https://www.nga.org.uk/training/learning-link/>. The modules developed in-house by our team at NGA include our Equality, Diversity & Inclusion programme, the Introduction to Clerking programme, and our popular modules around Ofsted inspections. In the last two years we have built over 30 modules in-house at NGA.

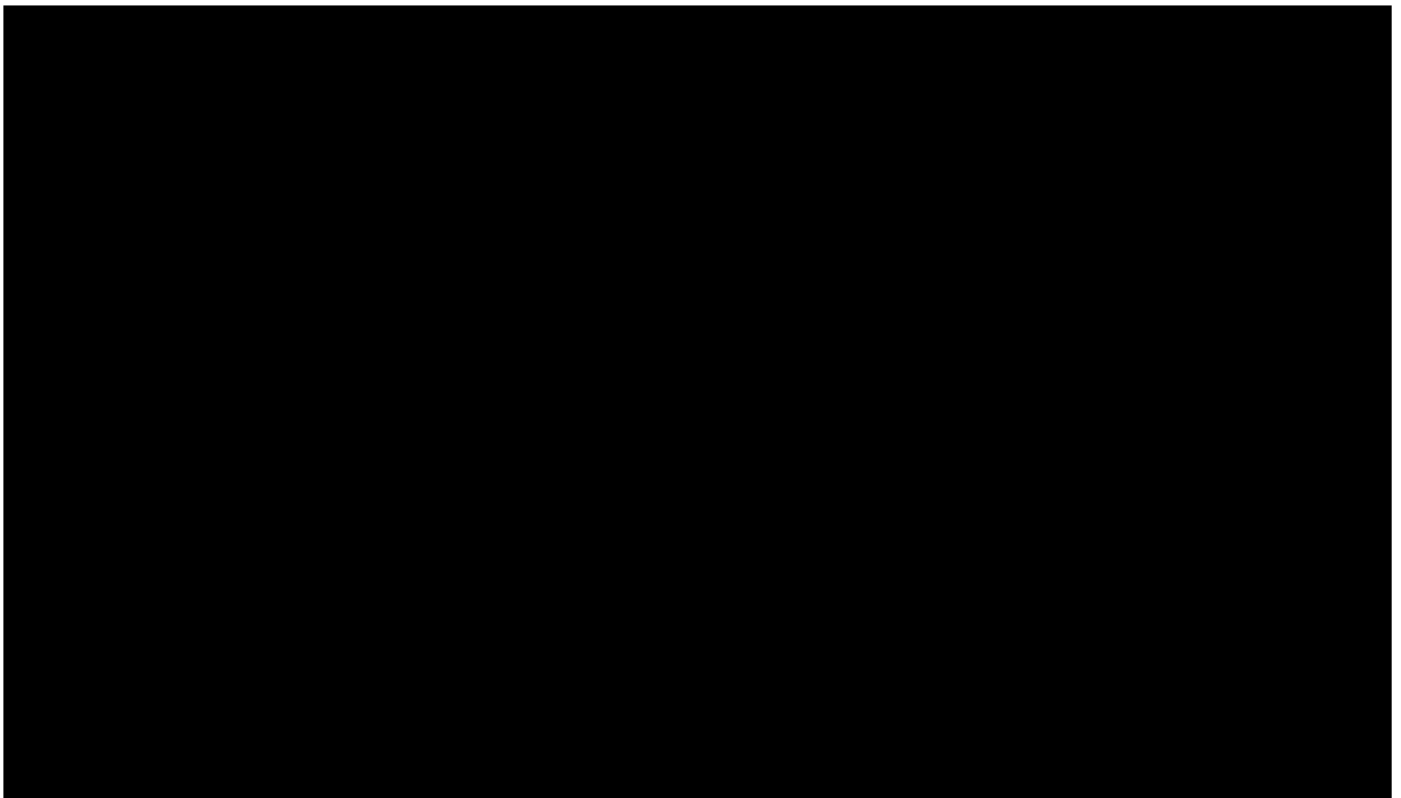
All modules are reviewed by NGA’s in-house subject matter experts on a 12-monthly cycle; responsive to emerging practice and policy needs with an eye on new legislation, emerging trends, and best practice. In addition, to ensure accuracy and consistency in accordance with the latest

policy, statutory requirements and NGA guidance, NGA's policy leads update modules as changes occur.

We have also created a series of bitesize modules which provide a high-level introduction to a topic for new governors and a quick refresher for more experienced governors and trustees. All modules provide tracked learning, allowing users to revisit content, take a break or pick up their learning where they left off. The platform is available 24 hours a day, 7 days a week, facilitating learning at any time to suit the needs of learners. The platform is adapted for multi-device access on desktops, laptops, tablets and smartphones.

Feedback indicates that 97% of users would recommend our modules. A selection of feedback comments on various modules include:

- 'The training modules that I have completed so far have been of outstanding quality, and very useful in enhancing my knowledge...all in all, the training available has been invaluable, for which I can only thank you.'
- 'I found the training to be more in-depth and more thought provoking than I have completed previously online.'
- 'The bitesize training courses are ideal to upskill the governing board in a quick and accessible way.'
- 'The materials are excellent, well targeted and covering a wide range of topics. There is something for all governors from the newly appointed to the chair of great experience.'
- 'As a clerk I have found the courses extremely helpful and enlightening.'





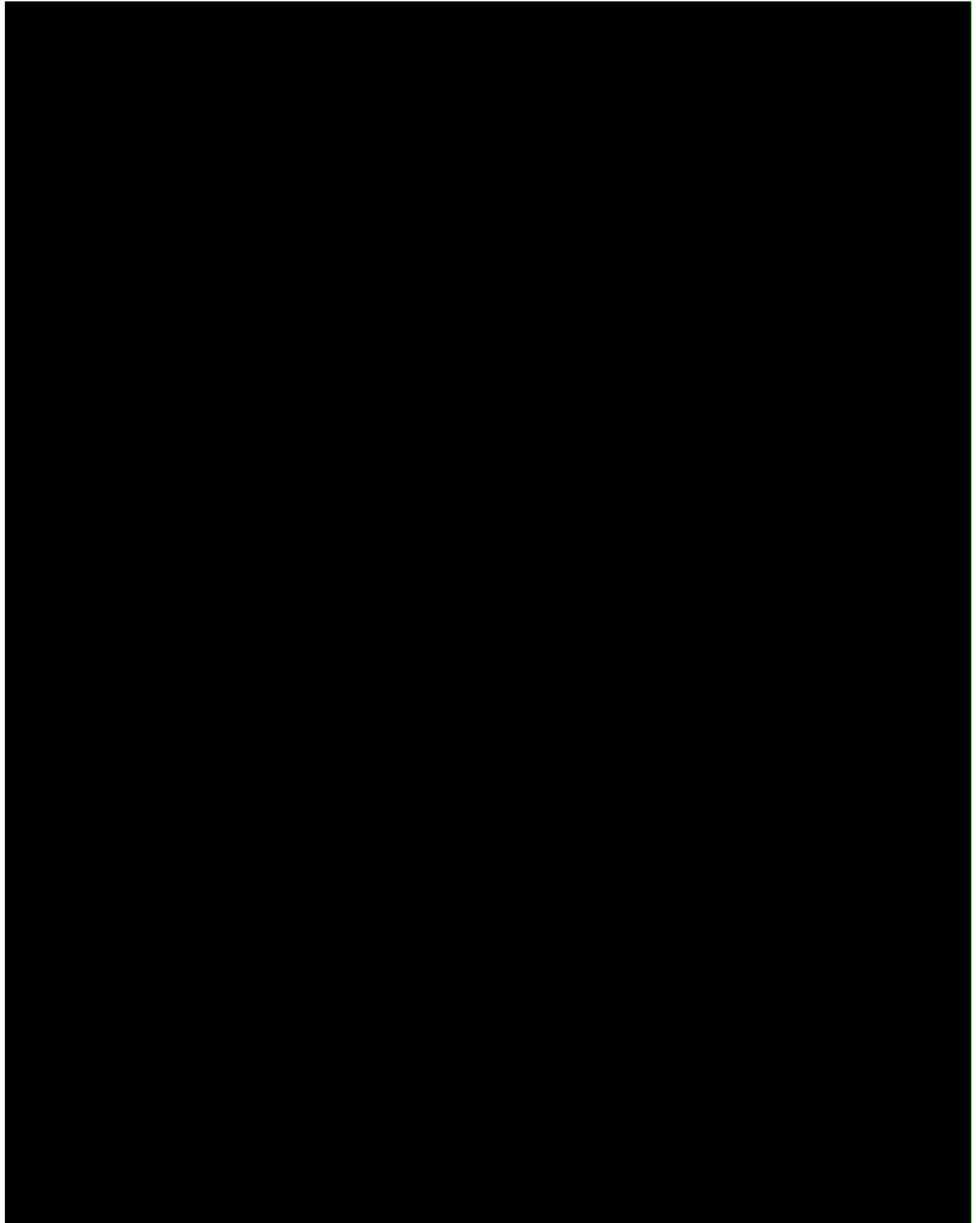
Our recommended approach to content

NGA would recommend delivering the content via **two assessments and four learning units**, each imparting key knowledge points that are important to ensure boards fulfill their responsibilities, offering challenge and strategic leadership in an easy to digest format. This can be extended or split down further to meet the Department's preferences. Each module/unit will contain a variety of interactive, informative content designed to increase knowledge, and skills, and practical tools to make implementing the food standards as straightforward as possible. The programme will be designed in such a way that participants can 'dip in and out', completing as much or little as they need over an extended period, with their ongoing progress tracked and recorded.

Each unit will take approximately 20 minutes to complete and will include integrated monitoring and evaluation to assess each element's effectiveness, and to obtain consent and contact details for further research by the DfE. These details will be stored securely on the Learning Link platform and can be provided to the DfE (in an accessible format) as and when required.

Additionally, our broad subject matter knowledge will mean that our modules will be specific to both Maintained schools and Academy Trusts, with information clearly highlighting where roles differ and

interactive 'branching' options when appropriate.



IX. Annex 5 – Optional IPR Clauses – Not Used

X. Annex 6 – Security Terms

Table of Contents

<u>1.</u>	<u>Capital Assets</u>	48
<u>2.</u>	<u>Property and Premises</u>	48
<u>3.</u>	<u>Project Outputs</u>	50
<u>4.</u>	<u>Publicity and Branding</u>	50
<u>5.</u>	<u>Safeguarding Children and Vulnerable Adults</u>	51
<u>6.</u>	<u>Security Terms</u>	52
<u>7.</u>	<u>Supply Chain Visibility</u>	60

1. Capital Assets

- 1.1. The Supplier shall not, without the prior written consent of the Buyer, use funds paid under this Contract wholly or partly to finance the purchase of any capital asset with a purchase price of £2,500 or more (exclusive of VAT) and with an expected life of more than one year.
- 1.2. The Supplier shall maintain an inventory of such items and shall provide the Buyer with a copy of such inventory if requested.
- 1.3. If the Supplier proposes to dispose of any asset falling within paragraph 1.1 during the currency of this Contract:
 - 1.3.1. they shall consult the Buyer before doing so; and
 - 1.3.2. on disposal they shall pay to the Buyer the Buyer's share of the value of that asset (as specified in paragraph 1.5).
- 1.4. On termination of this Contract, for whatever reason, the Supplier shall:
 - 1.4.1. consult the Buyer over the proposals for disposal or retention of all assets; and
 - 1.4.2. unless the Buyer agrees to some other arrangement, pay to the Buyer the Buyer's share of the value of each of those assets.
- 1.5. In Clauses 1.3 and 1.4, the Buyer's share of the value of an asset shall be calculated as follows. If the asset is disposed of during the currency of the Contract or within 3 months of termination of the Contract, at the best price reasonably available, the value shall be the proceeds of sale after deduction of necessary expenses of sale. Otherwise, the value of the asset shall be its open market value agreed between the Parties. In the absence of agreement on the value the Buyer may require the Supplier to have the asset valued at his or her own cost. In either such event, the Buyer's share of the value shall be the whole or a proportionate part of the value of the asset concerned according to the extent to which the cost of its purchase was met out of Buyer's funds.

2. Property and Premises

Issued Property

- 2.1. In this clause "Issued Property" means all items of property belonging to the Buyer issued to the Supplier for the purposes of the provision of the Deliverables, including without limitation:
 - 2.1.1. [list here the property to be issued to the Supplier]
- 2.2. Issued Property shall remain the property of the Buyer and shall be used in the execution of the Contract and for no other purpose whatsoever, save with the prior written approval of the Buyer. Within a reasonable period the Buyer shall re-issue Issued Property agreed to be defective or requiring replacement.
- 2.3. The Supplier shall be liable for any damage to Issued Property caused by misuse or negligence by the Supplier but shall not be liable for deterioration in Issued Property

resulting from its normal and proper use in the performance of this Contract. The

- 2.4. The Buyer will be responsible for the maintenance of the Issued Property. The Supplier shall be responsible for the safe custody of Issued Property and its prompt return upon expiry or termination of the Contract. Neither the Supplier nor its sub-contractors or other person shall have a lien on Issued Property for any sum due to the Supplier, sub-contractor or other person and the Supplier shall take all such steps as may be reasonably necessary to ensure that the title of the Buyer, and the exclusion of any such lien, are brought to the notice of all sub-contractors and other persons dealing with any Issued Property.
- 2.5. The Supplier shall be responsible for the safe custody and maintenance of Issued Property and its prompt return upon expiry or termination of the Contract. Neither the Supplier nor its sub-contractors or other person shall have a lien on Issued Property for any sum due to the Supplier, sub-contractor or other person and the Supplier shall take all such steps as may be reasonably necessary to ensure that the title of the Buyer and the exclusion of any such lien, are brought to the notice of all sub-contractors and other persons dealing with any Issued Property.
- 2.6. The Supplier shall keep an up-to-date inventory of all Issued Property. The inventory shall be available for inspection on request by the Buyer.
- 2.7. Issued Property shall include any equipment purchased by the Supplier and subsequently paid for as an identified item by the Buyer unless expressly stated otherwise in this Contract.

Use of Premises

- 2.8. Unless otherwise agreed, any land or premises made available to the Supplier by the Buyer in connection with the provision of the Deliverables shall be made available to the Supplier free of charge and without exclusive possession and shall be used by the Supplier solely for the purpose of providing the Deliverables. The Supplier shall have the use of such land or premises as licensee and shall vacate the same on the expiry or other termination of this Contract.
- 2.9. The Supplier shall ensure that in providing the Deliverables the Supplier Staff co-operate as far as may be reasonably necessary with the Buyer's employees. The Supplier shall further ensure that the Supplier Staff carry out their duties and behave while on the Buyer's premises in such a way as to cause no unreasonable or unnecessary disruption to the routine and procedures of the Buyer, its employees, visitors or other contractors.
- 2.10. The Supplier shall ensure that the Supplier Staff comply with all rules and regulations from time to time issued by the Buyer relating to the use and/or security of the Buyer's premises.

Facilities Provided

- 2.11. For the purpose of the Contract the following areas and facilities at the Buyer's premises will be provided free for use by the Supplier Staff:

Toilets
Cooking Facilities
Heating

Lighting
First Aid

Telephone (use is restricted to internal calls or to Supplier's headquarters or local office or to emergency services)

3. Project Outputs

- 3.1. Unless otherwise agreed between the Parties, the Deliverables shall be published by the Buyer on its research website. The Buyer shall not use the Supplier's name in any advertising or public communications unless agreed in writing in advance with the Supplier (such agreement not to be unreasonably withheld or delayed).
- 3.2. The Supplier shall ensure that all outputs for publication by the Buyer adhere to the Buyer's style guide and MS Word template, available to download from: <https://www.gov.uk/government/publications/eoi-guide>.
- 3.3. Unless otherwise agreed between the Parties, the Supplier shall supply the Buyer with a draft for comment at least eight weeks before the intended publication date, for interim reports, and eight weeks before the expiry date of the Contract for final reports.
- 3.4. The Supplier shall consider revisions to the drafts with the Buyer in the light of any comments pursuant to clause 3.3. The Supplier shall provide final, signed off interim reports and other outputs planned within the lifetime of the Contract to the Buyer by no later than four weeks before the intended publication date, and final, signed off Deliverables by no later than the contracted expiry date of the Contract.
- 3.5. Until the date of publication, findings from all Contract shall be treated as confidential. The Supplier shall not release findings to the press or disseminate them in any way or at any time prior to publication without approval of the Buyer.
- 3.6. Where the Supplier wishes to issue a press notice or other publicity material containing findings from the Contract it may only do so with the prior written agreement of the Buyer and notification of plans, including timing and drafts of planned releases, shall be submitted by the Supplier to the Buyer at least three weeks before the intended date of release and before any agreement is made with press or other external audiences, to allow the Buyer time to review. All press notices released by the Parties shall state the full title of the research report, and include a hyperlink to the Buyer's research web pages, and any other web pages as relevant, to access the publication/s. This clause applies at all times prior to publication of the final report.
- 3.7. Where the Supplier wishes to present findings from the Contract in the public domain, for example at conferences, seminars, or in journal articles, it may only do so with the prior written agreement of the Buyer and the Supplier shall notify the Buyer before any agreement is made with external audiences, to allow the Buyer time to consider the request. The Supplier shall only present findings that are already be in the public domain at the time of presentation, unless otherwise agreed with the Buyer. This clause applies at all times prior to publication of the final report.

4. Publicity and Branding

- 4.1. Each Party acknowledges to the other that nothing in this Contract either expressly or by implication constitutes an endorsement of any products or services of the other Party (including the Deliverables) and each Party agrees not to conduct itself in such a way as to imply or express any such approval or endorsement.
- 4.2. The Buyer may disclose, copy, and otherwise distribute to the public, including but not

limited to, by way of the Open Government Licence, any information arising out of the Deliverables or comprised in any work relating to the Deliverables.

5. Safeguarding Children and Vulnerable Adults

- | | | |
|--------------------|-----|---|
| Regulated Activity | (a) | in relation to children as defined in Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006; and |
| | (b) | in relation to vulnerable adults as defined in Part 2 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006; |

- 5.1. The Parties acknowledge that the Supplier is carrying out a Regulated Activity with ultimate responsibility for the management and control of the Regulated Activity provided under this Contract and for the purposes of the Safeguarding Vulnerable Groups Act 2006.
- 5.2. The Supplier shall put in place safeguards to protect children and/or vulnerable adults from any risk of significant harm which could arise from the performance of this Contract. The Supplier shall agree these safeguards, including procedures for dealing with allegations against staff with the Buyer before commencing work on the Contract.
- 5.3. In addition, the Supplier shall carry out checks with the Disclosure and Barring Service (DBS checks) on all Supplier Staff carrying out Regulated Activity. The Supplier must carry out a DBS check for each relevant member of Supplier Staff and shall renew the DBS check every three years for as long as this Contract is in force. The DBS check must be completed before any of the Supplier Staff work with children and/or vulnerable adults, as applicable, in Regulated Activity.
- 5.4. The Supplier shall monitor the level and validity of the checks under this Clause for each member of the Supplier Staff.
- 5.5. The Supplier shall immediately notify the Buyer of any information that it reasonably requests to enable it to be satisfied that the obligations of the Supplier under this Clause have been met.
- 5.6. The Supplier shall not employ or use the services of any person who is barred from, or whose previous conduct or records indicate that such person would not be suitable to carry out, Regulated Activity or who may otherwise present a risk to children or vulnerable adults.
- 5.7. The Supplier shall refer information about any person carrying out the Deliverables to the Disclosure and Barring Service where it removes permission for such person to carry out the Services (or would have, if such person had not otherwise ceased to carry out the Services) because, in its opinion, such person has harmed or poses a risk of harm to children or vulnerable adults.
- 5.8. The Supplier represents, warrants, and undertakes that at all times for the purposes of this Contract it has no reason to believe that any member of the Supplier Staff is barred from performance of the Services in accordance with the provisions of the Safeguarding Vulnerable Groups Act 2006 and any regulations made thereunder, as amended from time to time.

- 5.9. Both Parties will comply with all applicable requirements of Data Protection Legislation in relation to the requirements of this Clause. The Parties acknowledge that, for the purposes of the Data Protection Legislation, the Supplier is the Controller in respect of DBS Checks carried out on Supplier Staff. The Supplier will ensure that it has all necessary appropriate consents and notices in place to obtain the DBS Checks and to enable lawful disclosure of the DBS certificates and any other relevant Personal Data to the Supplier for the duration and purposes of this Contract.

6. Security Terms

<p>“BPSS” “Baseline Personnel Security Standard”</p>	<p>the Government’s HMG Baseline Personal Security Standard. Further information can be found at: https://www.gov.uk/government/publications/government-baseline-personnel-security-standard</p>
<p>“CCSC” “Certified Cyber Security Consultancy”</p>	<p>is the National Cyber Security Centre’s (NCSC) approach to assessing the services provided by consultancies and confirming that they meet NCSC's standards. See website: https://www.ncsc.gov.uk/scheme/certified-cyber-consultancy</p>
<p>“CCP” “Certified Professional”</p>	<p>is a NCSC scheme in consultation with government, industry, and academia to address the growing need for specialists in the cyber security profession. See website: https://www.ncsc.gov.uk/information/about-certified-professional-scheme</p>
<p>“Cyber Essentials” “Cyber Essentials Plus”</p>	<p>Cyber Essentials is the government backed; industry supported scheme to help organisations protect themselves against common cyber-attacks. Cyber Essentials and Cyber Essentials Plus are levels within the scheme.</p> <p>There are a number of certification bodies that can be approached for further advice on the scheme, the link below points to these providers: https://www.cyberessentials.ncsc.gov.uk/getting-certified/#what-is-an-accreditation-body</p>
<p>“Data” “Data Controller” “Data Protection Officer” “Data Processor” “Personal Data” “Personal Data requiring Sensitive Processing” “Data Subject”, “Process” and “Processing”</p>	<p>shall have the meanings given to those terms by the Data Protection Legislation</p>

<p>"Buyer's Data"</p> <p>"Buyer's Information"</p>	<p>is any data or information owned or retained to meet departmental business objectives and tasks, including:</p> <p>(a) any data, text, drawings, diagrams, images, or sounds (together with any repository or database made up of any of these components) which are embodied in any electronic, magnetic, optical, or tangible media, and which are:</p> <p>(i) supplied to the Supplier by or on behalf of the Buyer; or</p> <p>(ii) which the Supplier is required to generate, process, store or transmit pursuant to this Contract; or</p> <p>(b) any Personal Data for which the Buyer is the Data Controller;</p>
<p>"Departmental Security Requirements"</p>	<p>the Buyer's security policy or any standards, procedures, process, or specification for security that the Supplier is required to deliver.</p>
<p>"Digital Marketplace / G-Cloud"</p>	<p>the Digital Marketplace is the online framework for identifying and procuring cloud technology and people for digital projects.</p>
<p>"End User Devices"</p>	<p>the personal computer or consumer devices that store or process information.</p>
<p>"Good Industry Standard"</p> <p>"Industry Good Standard"</p>	<p>the implementation of products and solutions, and the exercise of that degree of skill, care, prudence, efficiency, foresight, and timeliness as would be expected from a leading company within the relevant industry or business sector.</p>
<p>"GSC"</p> <p>"GSCP"</p>	<p>the Government Security Classification Policy which establishes the rules for classifying HMG information. The policy is available at: https://www.gov.uk/government/publications/government-security-classifications</p>
<p>"HMG"</p>	<p>Her Majesty's Government</p>
<p>"ICT"</p>	<p>Information and Communications Technology (ICT) and is used as an extended synonym for information technology (IT), used to describe the bringing together of enabling technologies used to deliver the end-to-end solution</p>
<p>"ISO/IEC 27001" "ISO 27001"</p>	<p>is the International Standard for Information Security Management Systems Requirements</p>
<p>"ISO/IEC 27002" "ISO 27002"</p>	<p>is the International Standard describing the Code of Practice for Information Security Controls.</p>
<p>"ISO 22301"</p>	<p>is the International Standard describing for Business Continuity</p>

<p>“IT Security Health Check (ITSHC)”</p> <p>“IT Health Check (ITHC)”</p> <p>“Penetration Testing”</p>	<p>an assessment to identify risks and vulnerabilities in systems, applications and networks which may compromise the confidentiality, integrity or availability of information held on that ICT system.</p>
<p>“Need-to-Know”</p>	<p>the Need-to-Know principle employed within HMG to limit the distribution of classified information to those people with a clear ‘need to know’ in order to carry out their duties.</p>
<p>“NCSC”</p>	<p>the National Cyber Security Centre (NCSC) is the UK government’s National Technical Authority for Information Assurance. The NCSC website is https://www.ncsc.gov.uk</p>
<p>“OFFICIAL”</p> <p>“OFFICIAL-SENSITIVE”</p>	<p>the term ‘OFFICIAL’ is used to describe the baseline level of ‘security classification’ described within the Government Security Classification Policy (GSCP).</p> <p>the term ‘OFFICIAL–SENSITIVE is used to identify a limited subset of OFFICIAL information that could have more damaging consequences (for individuals, an organisation or government generally) if it were lost, stolen, or published in the media, as described in the GSCP.</p>
<p>“RBAC”</p> <p>“Role Based Access Control”</p>	<p>Role Based Access Control, a method of restricting a person’s or process’ access to information depending on the role or functions assigned to them.</p>
<p>“Storage Area Network”</p> <p>“SAN”</p>	<p>an information storage system typically presenting block-based storage (i.e. disks or virtual disks) over a network interface rather than using physically connected storage.</p>
<p>“Secure Sanitisation”</p>	<p>the process of treating data held on storage media to reduce the likelihood of retrieval and reconstruction to an acceptable level.</p> <p>NCSC Guidance can be found at: https://www.ncsc.gov.uk/guidance/secure-sanitisation-storage-media</p> <p>The disposal of physical documents and hardcopy materials advice can be found at: https://www.cpni.gov.uk/secure-destruction-0</p>
<p>“Security and Information Risk Advisor”</p> <p>“CCP SIRA”</p> <p>“SIRA”</p>	<p>the Security and Information Risk Advisor (SIRA) is a role defined under the NCSC Certified Professional (CCP) Scheme. See also: https://www.ncsc.gov.uk/articles/about-certified-professional-scheme</p>
<p>“Senior Information Risk Owner”</p> <p>“SIRO”</p>	<p>the Senior Information Risk Owner (SIRO) responsible on behalf of the DfE Accounting Officer for overseeing the management of</p>

	information risk across the organisation. This includes its executive agencies, arm's length bodies (ALBs), non-departmental public bodies (NDPBs) and devolved information held by third parties.
"SPF" "HMG Security Policy Framework"	the definitive HMG Security Policy which describes the expectations of the Cabinet Secretary and Government's Official Committee on Security on how HMG organisations and third parties handling HMG information and other assets will apply protective security to ensure HMG can function effectively, efficiently, and securely. https://www.gov.uk/government/publications/security-policy-framework
"Supplier Staff"	all directors, officers, employees, agents, consultants, and contractors of the Supplier and/or of any Subcontractor engaged in the performance of the Supplier's obligations under the Contract.

Operative Provisions

- 6.1. The Supplier shall be aware of and comply with the relevant [HMG security policy framework](#), [NCSC guidelines](#) and where applicable these Departmental Security Requirements which include but are not constrained to the following paragraphs.
- 6.2. Where the Supplier will provide products or Services or otherwise handle information at OFFICIAL for the Buyer, the requirements of [Procurement Policy Note: Updates to the Cyber Essentials Scheme \(PDF\)](#) - [Action Note 09/23](#) dated September 2023, or any subsequent updated document, are mandated, namely that contractors supplying products or services to HMG shall have achieved and will retain Cyber Essentials certification at the appropriate level for the duration of the contract. The certification scope shall be relevant to the Services supplied to, or on behalf of, the Buyer.
- 6.3. Where paragraph 6.2 above has not been met, the Supplier shall have achieved, and be able to maintain, independent certification to ISO/IEC 27001 (Information Security Management Systems Requirements). The ISO/IEC 27001 certification must have a scope relevant to the Services supplied to, or on behalf of, the Buyer. The scope of certification and the statement of applicability must be acceptable, following review, to the Buyer, including the application of controls from ISO/IEC 27002 (Code of Practice for Information Security Controls).
- 6.4. The Supplier shall follow the UK Government Security Classification Policy (GSCP) in respect of any Buyer's Data being handled in the course of providing the Services and will handle all data in accordance with its security classification. (In the event where the Supplier has an existing Protective Marking Scheme then the Supplier may continue to use this but must map the HMG security classifications against it to ensure the correct controls are applied to the Buyer's Data).

- 6.5. Buyer's Data being handled while providing an ICT solution or service must be separated from all other data on the Supplier's or sub-contractor's own IT equipment to protect the Buyer's Data and enable the data to be identified and securely deleted when required in line with paragraph 6.14. For information stored digitally, this must be at a minimum logically separated. Physical information (e.g., paper) must be physically separated.
- 6.6. The Supplier shall have in place and maintain physical security to premises and sensitive areas used in relation to the delivery of the products or Services, and that store or process Buyer's Data, in line with ISO/IEC 27002 including, but not limited to, entry control mechanisms (e.g., door access), CCTV, alarm systems, etc.
 - 6.6.1. Where remote working is allowed, the Supplier shall have an appropriate remote working policy in place for any Supplier staff that will have access to the Buyer's data and/or systems.
- 6.7. The Supplier shall have in place, implement, and maintain an appropriate user access control policy for all ICT systems to ensure only authorised personnel have access to Buyer's Data. This policy should include appropriate segregation of duties and if applicable role-based access controls (RBAC). User credentials that give access to Buyer's Data or systems shall be considered to be sensitive data and must be protected accordingly.
- 6.8. The Supplier shall have in place and shall maintain procedural, personnel, physical and technical safeguards to protect Buyer's Data, including but not limited to:
 - 6.8.1. physical security controls;
 - 6.8.2. good industry standard policies and processes;
 - 6.8.3. malware protection;
 - 6.8.4. boundary access controls including firewalls, application gateways, etc;
 - 6.8.5. maintenance and use of fully supported software packages in accordance with vendor recommendations;
 - 6.8.6. use of secure device configuration and builds;
 - 6.8.7. software updates and patching regimes including malware signatures, for operating systems, network devices, applications and services;
 - 6.8.8. user identity and access controls, including the use of multi-factor authentication for sensitive data and privileged account accesses;
 - 6.8.9. any services provided to the Buyer must capture audit logs for security events in an electronic format at the application, service and system level to meet the Buyer's logging and auditing requirements, plus logs shall be:
 - 6.8.9.1. retained and protected from tampering for a minimum period of six months;
 - 6.8.9.2. made available to the Buyer on request.
- 6.9. The Supplier shall ensure that any Buyer's Data (including email) transmitted over any public network (including the Internet, mobile networks, or unprotected enterprise network) or to a mobile device shall be encrypted when transmitted.

- 6.10. The Supplier shall ensure that any Buyer's Data which resides on a mobile, removable, or physically uncontrolled device is stored encrypted using a product or system component which has been formally assured through a recognised certification process agreed with the Buyer except where the Buyer has given its prior written consent to an alternative arrangement.
- 6.11. The Supplier shall ensure that any device which is used to process Buyer's Data meets all of the security requirements set out in the NCSC End User Devices Platform Security Guidance, a copy of which can be found at: <https://www.ncsc.gov.uk/guidance/end-user-device-security> and <https://www.ncsc.gov.uk/collection/end-user-device-security/eud-overview/eud-security-principles>.
- 6.12. Whilst in the Supplier's care all removable media and hardcopy paper documents containing Buyer's Data must be handled securely and secured under lock and key when not in use and shall be securely destroyed when no longer required, using either a cross-cut shredder or a professional secure disposal organisation.

The term 'lock and key' is defined as: "securing information in a lockable desk drawer, cupboard or filing cabinet which is under the user's sole control and to which they hold the keys".

- 6.13. When necessary to hand carry removable media and/or hardcopy paper documents containing Buyer's Data, the media or documents being carried shall be kept under cover and transported in such a way as to ensure that no unauthorised person has either visual or physical access to the material being carried. This paragraph shall apply equally regardless of whether the material is being carried inside or outside of company premises.

The term 'under cover' means that the information is carried within an opaque folder or envelope within official premises and buildings and within a closed briefcase or other similar bag or container when outside official premises or buildings.

- 6.14. In the event of termination of Contract due to expiry, as a result of an Insolvency Event or for breach by the Supplier, all information assets provided, created or resulting from provision of the Services shall not be considered as the Supplier's assets and must be returned to the Buyer and written assurance obtained from an appropriate officer of the Supplier that these assets regardless of location and format have been fully sanitised throughout the Supplier's organisation in line with paragraph 6.15.
- 6.15. In the event of termination, equipment failure or obsolescence, all Buyer's Data and Buyer's Information, in either hardcopy or electronic format, that is physically held or logically stored by the Supplier must be accounted for and either physically returned or securely sanitised or destroyed in accordance with the current HMG policy using an NCSC-approved product or method.

Where sanitisation or destruction is not possible for legal, regulatory or technical reasons, such as data stored in a cloud system, Storage Area Network (SAN) or on shared backup tapes, then the Supplier shall protect (and ensure that any sub-contractor protects) the Buyer's Information and Buyer's Data until such time, which may be long after termination or expiry of the Contract, when it can be securely cleansed or destroyed.

Evidence of secure destruction will be required in all cases.

- 6.16. Access by Supplier Staff to Buyer's Data, including user credentials, shall be confined to those individuals who have a "need-to-know" in order to carry out their role; and

have undergone mandatory pre-employment screening, to a minimum of HMG Baseline Personnel Security Standard (BPSS); or hold an appropriate National Security Vetting clearance as required by the Buyer. All Supplier Staff must complete this process before access to Buyer's Data is permitted. [Any Supplier Staff who will be in contact with children or vulnerable adults must, in addition to any security clearance, have successfully undergone an Enhanced DBS (Disclosure and Barring Service) check prior to any contact].

- 6.17. All Supplier Staff who handle Buyer's Data shall have annual awareness training in protecting information.
- 6.18. Notwithstanding any other provisions as to business continuity and disaster recovery in the Contract, the Supplier shall, as a minimum, have in place robust business continuity arrangements and processes including IT disaster recovery plans and procedures that conform to ISO 22301 to ensure that the delivery of the Contract is not adversely affected in the event of an incident. An incident shall be defined as any situation that might, or could lead to, a disruption, loss, emergency, or crisis to the Services delivered. If an ISO 22301 certificate is not available, the supplier will provide evidence of the effectiveness of their ISO 22301 conformant business continuity arrangements and processes including IT disaster recovery plans and procedures. This must include evidence that the Supplier has tested or exercised these plans within the last 12 months and produced a written report of the outcome, including required actions.
- 6.19. Any suspected or actual breach of the confidentiality, integrity, or availability of Buyer's Data, including user credentials, used, or handled while providing the Services shall be recorded as a Security Incident. This includes any non-compliance with the Departmental Security Requirements and these provisions, or other security standards pertaining to the solution.

Security Incidents shall be reported to the Buyer immediately, wherever practical, even if unconfirmed or when full details are not known, but always within 24 hours of discovery and followed up in writing. If Security Incident reporting has been delayed by more than 24 hours, the Supplier should provide an explanation about the delay. Regular updates on the Security Incident shall be provided to the Buyer in writing until the incident is resolved.

Security Incidents shall be reported through the Buyer's nominated system or service owner.

Security Incidents shall be investigated by the Supplier with outcomes being notified to the Buyer.

- 6.20. The Supplier shall ensure that any Supplier ICT systems and hosting environments that are used to handle, store or process Buyer's Data, including Supplier ICT connected to Supplier ICT systems used to handle, store or process Buyer's Data, shall be subject to independent IT Health Checks (ITHC) using an NCSC CHECK Scheme ITHC provider before go-live and periodically (at least annually) thereafter. On request by the Buyer, the findings of the ITHC relevant to the Services being provided are to be shared with the Buyer in full without modification or redaction and all necessary remedial work carried out. In the event of significant security issues being identified, a follow up remediation test may be required, to be determined by the Buyer upon review of the ITHC findings.
- 6.21. The Supplier or sub-contractors providing the Services will provide the Buyer with full details of any actual or future intent to develop, manage, support, process, or store

Buyer's Data outside of the UK mainland. The Supplier or sub-contractor shall not go ahead with any such proposal without the prior written agreement from the Buyer.

- 6.22. The Buyer reserves the right to audit the Supplier or sub-contractors providing the Services annually within a mutually agreed timeframe but always within seven days of notice of a request to audit being given. The audit shall cover the overall scope of the Services being supplied and the Supplier's, and any sub-contractors', compliance with the paragraphs contained in this Annex.
- 6.23. The Supplier and sub-contractors shall undergo appropriate security assurance activities and shall provide appropriate evidence including the production of the necessary security documentation as determined by the Buyer through the life of the contract. This will include obtaining any necessary professional security resources required to support the Supplier's and sub-contractor's security assurance activities such as: a Security and Information Risk Advisor (SIRA) certified to NCSC Certified Cyber Security Consultancy (CCSC) or NCSC Certified Cyber Professional (CCP) schemes.
- 6.24. Where the Supplier is delivering an ICT solution to the Buyer they shall design and deliver solutions and services that are compliant with the HMG Security Policy Framework in conjunction with current NCSC Information Assurance Guidance and Buyer's Policy. The Supplier will provide the Buyer with evidence of compliance for the solutions and services to be delivered. The Buyer's expectation is that the Supplier shall provide written evidence of:
 - 6.24.1. implementation of the foundational set of cyber defence safeguards from the Center for Internet Security Critical Security Controls (CIS CSC v8).
 - 6.24.2. any existing security assurance for the Services to be delivered, such as: ISO/IEC 27001 / 27002 or an equivalent industry level certification issued by an organisation accredited by the United Kingdom Accreditation Service.
 - 6.24.3. any existing HMG security accreditations or assurance that are still valid including: details of the awarding body; the scope of the accreditation; any caveats or restrictions to the accreditation; the date awarded, plus a copy of the residual risk statement.
 - 6.24.4. documented progress in achieving any security assurance or accreditation activities including whether documentation has been produced and submitted. The Supplier shall provide details of who the awarding body or organisation will be, and date expected.
 - 6.24.5. compliance with the principles of Secure by Design as described at [Secure by Design Principles - UK Government Security](#).

Additional information and evidence to that listed above may be required to ensure compliance with DfE security requirements as part of the DfE security assurance process. Where a request for evidence or information is made by the Buyer, the Supplier will acknowledge the request within 5 working days and either provide the information within that timeframe, or, if that is not possible, provide a date when the information will be provided to the Buyer. In any case, the Supplier must respond to information requests from the Buyer needed to support the security assurance process promptly and without undue delay.

- 1.1. The Supplier shall contractually enforce all these Departmental Security Requirements onto any third-party suppliers, sub-contractors or partners who will have access to the

Buyer's Data in the course of providing the Services, before access to the data is provided or permitted.

- 1.2. The Supplier shall comply with the [NCSC's social media guidance: how to use social media safely](#) for any web and social media-based communications. In addition, any Communications Plan deliverable must include a risk assessment relating to the use of web and social media channels for the programme, including controls and mitigations to be applied and how the NCSC social media guidance will be complied with. The Supplier shall implement the necessary controls and mitigations within the plan and regularly review and update the risk assessment throughout the contract period. The Buyer shall have the right to review the risks within the plan and approve the controls and mitigations to be implemented, including requiring the Supplier to implement any additional reasonable controls to ensure risks are managed within the Buyer's risk appetite.
- 1.3. Any Supplier ICT system used to handle, store, or process the Buyer's Data, including any Supplier ICT systems connected to systems that handle, store, or process the Buyer's Data, must have in place protective monitoring at a level that is commensurate with the security risks posed to those systems and the data held. The Supplier shall provide evidence to the Buyer upon request of the protective monitoring arrangements in place needed to assess compliance with this requirement.
- 1.4. Where the Supplier is using Artificial Intelligence (AI) and/or Machine Learning (ML) in the delivery of their service to the Buyer, this shall comply with the NCSC's [principles for the security of machine learning](#).

2. Supply Chain Visibility

- 2.1. In addition to any other management information requirements set out in this Contract, the Supplier agrees and acknowledges that it shall, on request and at no charge, provide timely, full, accurate and complete SME Management Information (MI) Reports to the Buyer including:
 - 2.1.1. the total contract revenue received directly on a specific contract;
 - 2.1.2. the total value of sub-contracted revenues under the contract (including revenues for non-SMEs/non-VCSEs); and
 - 2.1.3. the total value of sub-contracted revenues to SMEs and VCSEs.