

Dated: 28th November 2022

(1) **THE SECRETARY OF STATE FOR HEALTH AND SOCIAL CARE**
Acting through its Executive Agency the Medicines and
Healthcare products Regulatory Agency

- and -

(2) **The Stationery Office Limited**

CONTRACT

Relating to the British Pharmacopoeia

Contract Number: C99152

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THIS AGREEMENT is made the 28th day of November 2022

BETWEEN:

- (1) **THE SECRETARY OF STATE FOR HEALTH AND SOCIAL CARE** acting through its executive agency the Medicines and Healthcare products Regulatory Agency ("**MHRA**") of 10 South Colonnade, Canary Wharf, London, E14 4PU ("**the Authority**"); and
- (2) **The Stationery Office Limited** which is a company registered in England and Wales under company number 3049649 and whose registered office is at 1-5 Poland Street, Soho, London, England, W1F 8PR ("**the Publisher**").

BACKGROUND:

- (A) The Authority placed a concession notice on the Find a Tender Service seeking tenders from potential providers for the manufacture, sales, marketing and distribution of the British Pharmacopoeia.
- (B) The Authority has, through a competitive process, selected the Publisher to provide these services and the Publisher is willing and able to provide the services in accordance with the terms and conditions of this Contract.

NOW IT IS HEREBY AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Contract unless the context requires otherwise the following definitions shall be used for the purposes of interpreting this Contract. Other definitions that are not of general application are stated in the clause where the definition first appears and shall apply only to that clause unless otherwise shown below:

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| "Achieved KPI" | means the standard of performance actually achieved by the Publisher in the performance of a KPI in comparison with the corresponding Target KPI in SCHEDULE 3 (Performance Measures); |
| "Approval" | means the prior written consent of the Authority and " Approve " and " Approved " shall be construed accordingly; |
| "Authority" | means the Secretary of State for Health and Social Care acting through its executive agency the Medicines and Healthcare products Regulatory Agency (MHRA) and acting as part of the Crown; |
| "Authority Data" | means the data, text, drawings, diagrams, images, videos or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are: <ol style="list-style-type: none">(a) supplied to the Publisher by or on behalf of the Authority; or(b) which the Publisher is required to generate, process, store or transmit pursuant to this Contract; or(c) any Personal Data for which the Authority is the Controller; |
| "Authority Representative" | means the person authorised to act for the Authority for the purposes of this Contract; |

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| "Authority Software" | any software owned and/or commissioned by the Authority including any Site software, the Offline Download and all Source Code and object code and all updates, upgrades, releases and versions thereof; |
| "Central Government Body" | <p>means a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics:</p> <ul style="list-style-type: none"> (a) Government Department; (b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal); (c) Non-Ministerial Department; or (d) Executive Agency; |
| "Commencement Date" | means the date of this Contract set out on page 1; |
| "Commercially Sensitive Information" | <p>means the information listed in SCHEDULE 6 (Commercially Sensitive Information) and is comprised of information:</p> <ul style="list-style-type: none"> (a) that constitutes a trade secret; and/or (b) the disclosure of which would be likely to cause prejudice or would cause actual prejudice to the commercial interests of the Publisher or the Authority; |
| "Compliance Officer" | the person(s) appointed by the Publisher who is responsible for ensuring that the Publisher complies with its legal obligations; |
| "Confidential Information" | <p>means any information which has been designated as confidential by either Party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information the disclosure of which would, or would be likely to, prejudice the commercial interests of any person, trade secrets, Intellectual Property Rights and know-how of either Party and all Personal Data. Confidential Information shall not include information which:</p> <ul style="list-style-type: none"> (a) was public knowledge at the time of disclosure (otherwise than by breach of Clause 16 (Confidential Information)); (b) was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party; (c) is received from a third party (who lawfully acquired it) without restriction as to its disclosure; or (d) is independently developed without access to the Confidential Information; |
| "Consumer Prices Index" | means the Consumer Prices Index (CPI) (all items) (United Kingdom) or any equivalent index which replaces the same; |

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| "Contract" | means this written agreement between the Authority acting as part of the Crown and the Publisher, including its schedules, appendices and/or annexes; |
| "Contract Period" | means the period from the Commencement Date to the Expiry Date; |
| "Contract Year" | means each consecutive period of twelve (12) Months during the Contract Period, commencing on the 1 st August 2023; |
| "Contracting Authority" | means any contracting authority as defined in Regulation 4 of the Regulations; |
| "Controller" | shall have the meaning given in the Data Protection Legislation; |
| "Crown" | means the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the National Assembly for Wales), 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 Processed by the Publisher 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" | means: (i) the UK GDPR, as amended from time to time; (ii) the Data Protection Act 2018; and (iii) all applicable Law about the Processing of Personal Data and privacy; |
| "Data Protection Officer" | shall have the meaning given in the Data Protection Legislation; |
| "Data Subject" | shall have the meaning given in the Data Protection Legislation; |
| "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; |
| "Default" | means any breach of the obligations of the relevant Party (including but not limited to fundamental breach or breach of a fundamental term) or any other default, act, omission, negligence or negligent statement of the relevant Party or its staff in connection with or in relation to the subject matter of this Contract and in respect of which such Party is liable to the other; |
| "Defects" | shall have the meaning set out in Clause 3.3.3; |
| "Discount Framework" | means the proposal for a discount framework Approved by the Authority pursuant to paragraph 13.3 of the Specification as set out at SCHEDULE 12 (Discount Framework); |
| "DOTAS" | the Disclosure of Tax Avoidance Schemes rules which require a promoter of tax schemes to tell HMRC of any specified notifiable |

arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Part 7 of the Finance Act 2004 and as extended to National Insurance Contributions;

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| "End Users" | means the users and subscribers who access the Works in any of the formats provided; |
| "Environmental Information Regulations" | means the Environmental Information Regulations 2004 and any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations; |
| "Environmental Policy" | to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment, including any written environmental policy of the Authority; |
| "Expiry Date" | means 31 December 2028 or such other date on which the Parties may agree to terminate this Contract in accordance with the Law or the provisions of this Contract; |
| "FOIA" | means the Freedom of Information Act 2000 and any subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation; |
| "Force Majeure" | <p>means any event or occurrence which is outside the reasonable control of the Party concerned and which is not attributable to any act or failure to take preventative action by that Party, including fire; flood; violent storm; pestilence; explosion; malicious damage; armed conflict; acts of terrorism; nuclear, biological or chemical warfare; or any other disaster, natural or man-made, but excluding:</p> <ul style="list-style-type: none">(a) any industrial action occurring within the Publisher's or any sub-contractor's organisation; or(b) the failure by any sub-contractor to perform its obligations under any sub-contract; |
| "Fraud" | means any offence under Laws creating offences in respect of fraudulent acts (including the Misrepresentation Act 1967) or at common law in respect of fraudulent acts including acts of forgery; |
| "General Anti-Abuse Rule" | <p>(a) the legislation in Part 5 of the Finance Act 2013 and; and</p> <p>(b) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid National Insurance contributions;</p> |
| "Good Industry Practice" | means standards, practices, methods and procedures conforming to the Law and the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily |

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| | be expected from a skilled and experienced person or body engaged in a similar type of undertaking under the same or similar circumstances; |
| "Halifax Abuse Principle" | the principle explained in the CJEU Case C-255/02 Halifax and others; |
| "Handover Date" | 1 August 2028 or such other date as the Parties may mutually agree on which the Publisher will cease to publish the Works and the Authority's chosen Replacement Contractor shall commence publication of the Works; |
| "Impact Assessment" | has the meaning given to it in Clause 10.3; |
| "Implementation Services" | the services which are described as such in paragraph 2 of SCHEDULE 1 (Specification), together with any other services which are necessary to facilitate the smooth transfer of the Authority Data to the Publisher; |
| "Information" | has the meaning given under Section 84 of the FOIA; |
| "Intellectual Property Rights" or "IPR" | patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world; |
| "Key Performance Indicators (KPIs)" | the key performance indicators set out in SCHEDULE 3 (Performance Measures); |
| "Law" | means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Publisher is bound to comply; |
| "Management Reports" | means the reports to be prepared and presented by the Publisher in accordance with Clause 13.2 and SCHEDULE 3 (Performance Measures); |
| "Material" | means material supplied to the Publisher from the Authority from time to time for inclusion in the Works and/or for incorporation in the Site under the terms of this Contract; |
| "Month" | means a calendar month; |
| "National Insurance" | contributions required by the National Insurance Contributions Regulations 2012 (SI 2012/1868) made under Section 132A of the Social Security Administration Act 1992; |
| "Occasion of Tax Non-Compliance" | where: |

- (a) any tax return of the Publisher submitted to a Relevant Tax Authority on or after 1 October 2012 which is found on or after 1 April 2013 to be incorrect as a result of:
 - i) a Relevant Tax Authority successfully challenging the Publisher under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation in any jurisdiction that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle;
 - ii) the failure of an avoidance scheme which the Publisher was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime in any jurisdiction; and/or
 - iii) any tax return of the Publisher submitted to a Relevant Tax Authority on or after 1 October 2012 which gives rise, on or after 1 April 2013, to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Commencement Date or to a civil penalty for fraud or evasion;

"Offline Download " the software versions of the British Pharmacopoeia and the British Pharmacopoeia (Veterinary) that are made available from the Site;

"Open Book Data" the following complete and accurate financial and non-financial information:

- (a) information which supports the accuracy of the royalty payment;
- (b) information that relates to the direct costs of delivering the Services;
- (c) information relation to the Publisher's Overheads; and
- (d) the information set out at paragraphs 2.3 and 2.4 of SCHEDULE 5 (Financial Transparency Objectives and Open Book Data) ;

"Overheads" means the Publisher's credit control, the legal function, rent, rates, property costs, warehouse and distribution costs, financial accounting systems and process and central account management costs incurred in relation to the provision of the Services;

"Party" means a party to this Contract;

"Person" where the context allows, includes a corporation or an unincorporated association;

"Personal Data" shall have the meaning as set out in the Data Protection Legislation;

"Personal Data" shall have the meaning as set out in the Data Protection

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| Breach" | Legislation; |
| "Premises" | <p>any premises (including the Authority's premises, the Publisher's premises or third party premises) from, to or at which:</p> <ul style="list-style-type: none"> (a) the Services are (or are to be) provided; or (b) the Publisher manages, organises or otherwise directs the provision or the use of the Services; or (c) any Publisher's equipment or any part of the Publisher's IT system is located; |
| "Previous Contractor" | means the previous supplier of services the same as or similar to the Services appointed by the Authority prior to the Publisher providing the Services under this Contract; |
| "Processing" | shall have the meaning given to it in the Data Protection Legislation and "Processed" and "Process" shall be construed accordingly; |
| "Processor" | shall have the meaning given in the Data Protection Legislation; |
| "Prohibited Act" | <p>means:</p> <ul style="list-style-type: none"> (a) to directly or indirectly offer, promise or give any person working or engaged by a Contracting Authority and/or the Authority a financial or other advantage to: <ul style="list-style-type: none"> (i) induce that person to perform improperly a relevant function or activity; or (ii) reward that person for improper performance of a relevant function or activity; or (b) committing any offence: <ul style="list-style-type: none"> (i) under the Bribery Act 2010; or (ii) under legislation creating offences concerning Fraud; or (iii) at common level concerning Fraud; or (iv) committing (or attempting or conspiring to commit) Fraud; |
| "Protective Measures" | appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of such measures adopted by it; |
| "Publisher Personnel" | means all directors, officers, employees, agents, consultants |

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| | and contractors of the Publisher and/or of any sub-contractor engaged in the performance of the Publisher's obligations under this Contract from time to time; |
| "Publisher Representative" | means the individual authorised to act for the Publisher for the purposes of the Contract; |
| "Publisher's Software" | the software which is owned by or licensed by a third party (other than the Authority) to the Publisher and which is to be used by the Publisher and/or the Authority in connection with the Services; |
| "Regulations" | means the Concession Contracts Regulations 2016 as amended from time to time; |
| "Relevant Requirements" | means all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State for Justice pursuant to Section 9 of the Bribery Act 2010; |
| "Relevant Tax Authority" | HMRC, or, if applicable, the tax authority in the jurisdiction in which the Publisher is established; |
| "Replacement Contractor" | means any third party contractor of Replacement Services appointed by the Authority from time to time; |
| "Replacement Services" | means any services which are identical or substantially similar to any of the Services and which the Authority receives in substitution for any of the Services following the termination or expiry of this Contract, whether those services are provided by the Authority itself or by any Replacement Contractor; |
| "Schedule" | means a schedule to this Contract, forming part of the Contract; |
| "Services" | means all the services set out in SCHEDULE 1 (Specification), including the Implementation Services and together with any other deliverables under this Contract; |
| "Service Failure" | a failure by the Publisher to provide the Services in accordance with any Target KPI; |
| "Service Transfer" | means a transfer of the Services in whole or in part; |
| "Site" | the website at www.pharmacopoeia.com to be hosted by the Publisher under this Contract as referred to in paragraph 10 of SCHEDULE 1 (Specification); |
| "Source Code" | computer programs or data in eye-readable form and in such form that it can be compiled or interpreted into equivalent object code, together with all technical information, documentation, operating manuals, user instructions necessary for the use, reproduction, modification and enhancement of such computer programs; |
| "Specification" | means the specification of the Services and associated deliverables under this Contract set out in SCHEDULE 1 (Specification); |
| "Standards" | means the standards that a skilled and experienced operator in the same type of industry as the Publisher would reasonably and ordinarily be expected to comply with, including the standards |

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| | detailed in SCHEDULE 1 (Specification); |
| "Sub-processor" | any third party appointed to Process Personal Data on behalf of the Publisher related to this Contract; |
| "Target KPI" | means the minimum level of performance for a KPI which is required by the Authority as set out against the relevant KPI in SCHEDULE 3 (Performance Measures); |
| "Tender" | means the tender submitted by the Publisher to the Authority and annexed at SCHEDULE 11 (Tender); |
| "Territory" | means worldwide; |
| "Transferring Employees" | means those employees of the Publisher whose contract of employment will be transferred to the Authority or a Replacement Contractor pursuant to the TUPE Regulations on expiry or termination of this Contract; |
| "TUPE Regulations" | means the Transfer of Undertakings (Protection of Employment) Regulations 2006 as may be amended from time to time; |
| "UK GDPR" | the General Data Protection Regulation (Regulation (EU) 2016/679), as incorporated into UK legislation by way of the European Union (Withdrawal Agreement) Act 2020 and as amended by the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019; |
| "Variation" | has the meaning given to it in Clause 10 (Variation); |
| "Variation Form" | means the form set out in SCHEDULE 8 (Variation Form); |
| "VAT" | means value added tax in accordance with the provisions of the Value Added Tax Act 1994; |
| "Works" | <p>means the following publications including any supplements:</p> <ul style="list-style-type: none"> (a) British Pharmacopoeia (BP); (b) British Pharmacopoeia (Veterinary); (c) British Approved Names Book ("BAN") <p>The BP and BP Veterinary are available in three product formats i.e. online, hardcopy and Offline Download and including in-year updates. The BAN is available online and hardcopy;</p> |
| "Worker" | means any one of the Publisher Personnel which the Authority, in its reasonable opinion, considers is an individual to which Procurement Policy Note 08/15 (Tax Arrangements of Public Appointees) applies in respect of the Services; |
| "Working Day" | means a day (other than a Saturday or Sunday or Bank Holiday or other public holiday) on which retail banks are open in London. |

1.2 The interpretation and construction of this Contract shall be subject to the following provisions:

1.2.1 words importing the singular meaning include, where the context so admits, the plural meaning and vice versa;

- 1.2.2 words importing the masculine include the feminine and the neuter;
- 1.2.3 reference to a clause is a reference to the whole of that clause unless stated otherwise;
- 1.2.4 reference to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent enactment, modification, order, regulation or instrument as subsequently amended or re-enacted;
- 1.2.5 reference to any person shall include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees;
- 1.2.6 the words "include", "includes" and "including" are to be construed as if they were immediately followed by the words "without limitation";
- 1.2.7 headings are included in the Contract for ease of reference only and shall not affect the interpretation or construction of the Contract; and
- 1.2.8 where there is any conflict or inconsistency between the provisions of this Contract, such conflict or inconsistency shall be resolved according to the following order of priority:
 - 1.2.8.1 the clauses of this Contract
 - 1.2.8.2 SCHEDULE 1 (Specification) to this Contract;
 - 1.2.8.3 the remaining schedules to this Contract other than SCHEDULE 11 (Tender);
 - 1.2.8.4 SCHEDULE 11 (Tender) to this Contract.

2. APPOINTMENT AND CONTRACT PERIOD

- 2.1 The Authority hereby appoints the Publisher to provide the Services in accordance with the terms of this Contract.
- 2.2 This Contract shall remain in force for the Contract Period unless it is otherwise terminated in accordance with the provisions of this Contract, or otherwise lawfully terminated.

3. IMPLEMENTATION SERVICES

- 3.1 The Publisher shall provide the Implementation Services in accordance with the Specification.
- 3.2 The Publisher shall co-operate with the Authority in connection with the transition and migration of any of the Authority Data from the Authority to the Publisher, and in respect of any other information or assistance the Publisher requires from and agrees with the Authority, such that there is a seamless transition with minimal disruption to the Authority's business.
- 3.3 In respect of the Site:
 - 3.3.1 Upon completion by the Publisher of the design and development of the Site in accordance with the Specification, the Publisher shall invite the Authority to test compliance of the Site in accordance with the procedure set out at paragraph 8.3.5 of the Specification and to Approve the Site. The procedure

set out in paragraph 8.3.5 of the Specification shall apply in respect of any further development works agreed between the Parties from time to time as part of continuous improvement.

- 3.3.2 The new, re-developed Site shall become operational only when Approved by the Authority (the decision of the Authority to Approve or not shall not be unreasonably withheld or delayed).
- 3.3.3 Where the Authority does not Approve the Site as a result of failures identified by the Authority which cause the relevant test to be failed ("**Defects**"):
 - 3.3.3.1 the Authority shall draw up, document, and present the Defects promptly to the Publisher;
 - 3.3.3.2 the Parties shall discuss and agree how best to rectify such Defects and, if such agreement cannot be reached, the Publisher shall rectify the Defects in accordance with the Authority's instructions;
 - 3.3.3.3 the Publisher shall remedy any Defects promptly to ensure Approval by the Authority (on a re-test or other re-examination).
- 3.3.4 If such re-test or re-examination by the Authority shows that the Site is still not in accordance with the Specification and the requirements of this Contract, the Authority may, by written notice to the Publisher, elect at its sole discretion to (without prejudice to any other rights and remedies under this Contract or in law):
 - 3.3.4.1 accept the Site as is;
 - 3.3.4.2 repeat (without prejudice to its other rights and remedies) the process in Clause 3.3.3 and carry out further tests or re-examination of the Site (and all reasonable costs which the Authority may incur as a result of repeating the process and/or carrying out such further tests or re-examinations shall be reimbursed by the Publisher); or
 - 3.3.4.3 exercise its rights under Clause 26 (Termination on Default).

4. THE SERVICES

- 4.1 The Publisher shall supply the Services in accordance with the Authority's requirements, including the Standards, the Key Performance Indicators and all the provisions of this Contract. The Authority may inspect and examine the manner in which the Publisher provides the Services during normal business hours on reasonable notice.
- 4.2 If the Authority informs the Publisher in writing that the Authority reasonably believes that any part of the Services does not meet the requirements of this Contract or differs in any way from those requirements, and this is other than as a result of a Default by the Authority, the Publisher shall at its own expense re-schedule and carry out the Services in accordance with the requirements of this Contract within such reasonable time as may be specified by the Authority.

5. ADDITIONAL OBLIGATIONS

- 5.1 The Publisher agrees and acknowledges that it shall at no cost to the Authority:

- 5.1.1 publish the Works to the timescales specified in the Specification;
 - 5.1.2 sell the editions of the Works in all forms and formats at a price specified in the Specification unless otherwise agreed with the Authority in writing;
 - 5.1.3 subject to applicable competition and advertising law actively advertise, market, promote, sell, store and distribute the Works in accordance with best commercial practice, to ensure the circulation and availability of the Works throughout the Territory, and to discuss its plans for promotion of the Works with the Authority as per the Specification and submit all advertising and promotion copies to the Authority for Approval;
 - 5.1.4 supply bibliographic information to the UK Official Publications (UKOP), presently published by The Stationery Office Limited, for inclusion in the UKOP official bibliography database; and
 - 5.1.5 deposit copies of the Work in libraries in which such deposit is defined and required by law pursuant to the Legal Deposit Libraries Act 2003 within the time stipulated. In the case of libraries which are entitled to copies only on specific claim, the Publisher shall despatch copies automatically to those libraries without requiring libraries to claim them.
- 5.2 The Publisher agrees and acknowledges that it shall subject to obtaining the Approval of the Authority and at no cost to the Authority:
- 5.2.1 deliver proofs, texts and electronic versions for each of the publications comprised in the Works in accordance with the Specification;
 - 5.2.2 produce the Works in the formats described in the Specification liaising with the Authority on all matters including the paper used, printing, design, binding, jacket or packaging and other embellishments;
 - 5.2.3 extract and integrate graphics specified by the Authority from the European Pharmacopoeia and associated supplements and provide them to the Authority in the format described in the Specification; and
 - 5.2.4 design the style and layout of the Works.
- 5.3 The Authority agrees that it shall:
- 5.3.1 Approve the proofs of the Works within any timescales specified in the Specification;
 - 5.3.2 deliver the Material for the Works in accordance with any agreed timescales; and
 - 5.3.3 where the Authority requires the text of the Works to contain extracts from other copyright works, including but not limited to the European Pharmacopoeia, the Authority shall at its own expense, obtain from the owners of the respective copyright, written permission to reproduce such extract in the Works in the Territory in accordance with this Contract.

6. KEY PERFORMANCE INDICATORS

- 6.1 The Publisher shall at all times provide the Services to the Authority in such manner as to ensure that the Achieved KPIs are equal to or an improvement on the corresponding Target KPIs (in SCHEDULE 3 (Performance Measures)).
- 6.2 The Publisher shall record and report to the Authority the Achieved KPIs in accordance with the requirements of the Specification.

- 6.3 In the event that any Achieved KPI falls short of the relevant Target KPI, the Authority may (without prejudice to any other rights or remedies of the Authority under this Contract or in law) exercise its remedies under Clause 26 (Termination on Default).
- 6.4 The Parties may from time to time agree to amend or add the KPIs in SCHEDULE 3 (Performance Measures) by following the variation procedure in Clause 10 (Variation).

7. WORKS REMAINDERS

- 7.1 The Authority shall, within a reasonable time prior to the Handover Date, direct the Publisher to either:
- 7.1.1 deliver to the Authority (or its nominated agent, including any Replacement Contractor) any surplus printed copies of the Works; or
 - 7.1.2 dispose (responsibly and in accordance with applicable law) of such surplus printed copies,
- and in each case the Publisher shall comply with such request within fourteen (14 days) of receipt (and, in the case of the Authority's request pursuant to Clause 7.1.2 above, shall confirm compliance to the Authority in writing).
- 7.2 The Publisher acknowledges and agrees that it will be responsible for any costs incurred by it in dealing with any unsold copies in accordance with the preceding paragraph.

8. CONSIDERATION AND PAYMENTS TO THE AUTHORITY

- 8.1 In consideration of the Publisher's performance of its obligations under this Contract, the Authority shall pay the nominal sum of £1.00 which the Publisher acknowledges receipt of.
- 8.2 The Publisher acknowledges that royalty payments shall be calculated and paid to the Authority in accordance with SCHEDULE 2 (Royalty Payments).
- 8.3 If the Publisher fails to make any payment due to the Authority under this Contract, then the Authority may charge interest from the original due date as specified at SCHEDULE 2 (Royalty Payments) until the date of payment. The Publisher shall pay interest on the overdue amount at the rate of 4 % per annum above the Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until the actual payment of the overdue amount, whether before or after judgement.
- 8.4 Where the Publisher or any Publisher Personnel are liable to be taxed in the UK or to pay national insurance contributions in respect of consideration received under the Contract, the Publisher shall:
- 8.4.1 at all times comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax, and the Social Security Contributions and Benefits Act 1992 and all other statutes and regulations relating to national insurance contributions, in respect of that consideration; and
 - 8.4.2 indemnify the Authority against any income tax, national insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made (whether before or after the making of a demand pursuant to the indemnity hereunder) in connection with the provision of the Services by the Publisher or any Publisher Personnel.
- 8.5 In the event that any one of the Publisher Personnel is a Worker who receives consideration relating to the Services, then, in addition to its obligations under Clause 8.4, the Publisher shall ensure that its contract with the Worker contains the following

requirements:

- 8.5.1 that the Authority may, at any time during the Contract Period, request that the Worker provides information which demonstrates how the Worker complies with the requirements of Clause 4 (The Services), or why those requirements do not apply to it. In such case, the Authority may specify the information which the Worker must provide and the period within which that information must be provided;
- 8.5.2 that the Worker's contract may be terminated at the Authority's request if:
 - 8.5.2.1 the Worker fails to provide the information requested by the Authority within the time specified by the Authority under Clause 8.5.1; and/or
 - 8.5.2.2 the Worker provides information which the Authority considers is inadequate to demonstrate how the Worker complies with Clause 8.4 or confirms that the Worker is not complying with those requirements; and
 - 8.5.2.3 that the Authority may supply any information it receives from the Worker to HMRC for the purpose of the collection and management of revenue for which they are responsible.

9. WARRANTIES AND REPRESENTATIONS

- 9.1 The Publisher warrants and represents that:
 - 9.1.1 it has full capacity and authority and all necessary consents (including, where its procedures so require, the consent of its parent company) to enter into and perform its obligations under this Contract and that this Contract is executed by a duly authorised representative of the Publisher;
 - 9.1.2 in entering this Contract it has not committed any Fraud;
 - 9.1.3 as at the Commencement Date, all information contained in the Tender remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Authority prior to execution of this Contract;
 - 9.1.4 the operation of the Site will be undertaken to an availability metric of 99.95% measured Monthly, and that the Site will perform in accordance with the Specification and this Contract at all times unless the Publisher is providing routine, pre-scheduled installation and/or maintenance which it has notified to and agreed with the Authority together with its duration and effects on the Site ("**Agreed Maintenance**");
 - 9.1.5 that the Agreed Maintenance shall be fully functional and work properly and where the Publisher is in material breach of this Clause 9.1.5, the Publisher shall ensure that the Site is restored to its prior state before such breach occurred at no cost to the Authority or in the event that the Publisher is unable to do so, the Publisher shall reimburse the Authority its reasonable costs of restoring the Site through a third party provider;
 - 9.1.6 no claim is being asserted and no litigation, arbitration or administrative proceeding is presently in progress or, to the best of its knowledge and belief, pending or threatened against it or any of its assets which will or might affect its ability to perform its obligations under this Contract;
 - 9.1.7 it is not subject to any contractual obligation, compliance with which is likely

to affect its ability to perform its obligations under this Contract;

- 9.1.8 no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Publisher or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Publisher's assets or revenue;
- 9.1.9 it owns, has obtained or is able to obtain, valid licences for all Intellectual Property Rights that are necessary for the performance of its obligations under this Contract;
- 9.1.10 in the three (3) years prior to the Commencement Date:
 - 9.1.10.1 it has conducted all financial accounting and reporting activities in compliance in all material respects with the generally accepted accounting principles that apply to it in any country where it files accounts;
 - 9.1.10.2 it has been in full compliance with all applicable securities and tax laws and regulations in the jurisdiction in which it is established; and
 - 9.1.10.3 it has not done or omitted to do anything which could have a material adverse effect on its assets, financial condition or position as an ongoing business concern, ability to fulfil its obligations under this Contract or provide the Services.

- 9.2 The Authority warrants to the Publisher that the Works are in no way a violation or infringement of any Intellectual Property Rights (including copyright) of, or licence granted to, any third party.

10. VARIATION

- 10.1 Subject to the provisions of this Clause 10, either Party may request a variation to this Contract provided that such variation does not amount to a substantial modification of the Contract within the meaning of the Regulations and the Law. Such a change once implemented is hereinafter called a "Variation".
- 10.2 A Party may request a Variation by completing, signing and sending the Variation Form to the other Party giving sufficient information for the receiving Party to assess the extent of the proposed Variation and any additional cost that may be incurred.
- 10.3 Where the Authority has so specified on receipt of a Variation Form from the Publisher, the Publisher shall carry out an impact assessment of the Variation on the Services (the "**Impact Assessment**"). The Impact Assessment shall be completed in good faith and shall include:
 - 10.3.1 details of the impact of the proposed Variation on the Services and the Publisher's ability to meet its other obligations under this Contract;
 - 10.3.2 details of the cost of implementing the proposed Variation;
 - 10.3.3 details of the ongoing costs required by the proposed Variation when implemented, any alteration in the resources and/or expenditure required by either Party and any alteration to the working practices of either Party;
 - 10.3.4 a timetable for the implementation, together with any proposals for the testing of the Variation; and
 - 10.3.5 such other information as the Authority may reasonably request in (or in

response to) the Variation request.

- 10.4 The Parties may agree to adjust the time limits specified in the Variation Form to allow for the preparation of the Impact Assessment.
- 10.5 Subject to Clause 10.4, the receiving Party shall respond to the request within the time limits specified in the Variation Form. Such time limits shall be reasonable and ultimately at the discretion of the Authority having regard to the nature of the Services and the proposed Variation.
- 10.6 In the event that:
- 10.6.1 the Publisher is unable to agree to or provide the Variation; and/or
- 10.6.2 the Parties are unable to agree a change to the Contract charges that may be included in a request of a Variation or response to it as a consequence thereof,
- the Authority may:
- 10.6.3 agree to continue to perform its obligations under the Contract without the Variation; or
- 10.6.4 terminate the Contract with immediate effect, except where the Publisher has already fulfilled part or all of the provision of the Services in accordance with this Contract or where the Publisher can show evidence of substantial work being carried out to provide the Services under this Contract, and in such a case the Parties shall attempt to agree a resolution to the matter. Where a resolution cannot be reached, the matter shall be dealt with under the dispute resolution procedure set out at Clause 49 (Dispute Resolution).
- 10.7 If the Parties agree the Variation, the Publisher shall implement such Variation and be bound by the same provisions so far as is applicable, as though such Variation was stated in this Contract.

11. PUBLISHER PERSONNEL

- 11.1 At all times, the Publisher shall ensure that:
- 11.1.1 each of the Publisher Personnel responsible for providing the Services is suitably qualified, adequately trained and capable of providing the applicable Services in respect of which they are engaged;
- 11.1.2 there is an adequate number of Publisher Personnel to provide the Services properly and in accordance with this Contract;
- 11.1.3 only those people who are authorised by the Publisher are involved in providing the Services; and
- 11.1.4 all of the Publisher Personnel comply with all of the Authority's policies, rules, regulations and requirements (including those relating to security arrangements) as may be in force from time to time.
- 11.2 The Publisher shall replace any of the Publisher Personnel who the Authority reasonably decides have failed to carry out their duties with reasonable skill and care. Following the removal of any of the Publisher Personnel for any reason, the Publisher shall ensure such person is replaced promptly with another person with the necessary training and skills to meet the requirements of the Services.
- 11.3 The Publisher shall comply with the Authority's procedures for the vetting of personnel and as advised to the Publisher by the Authority in respect of all persons employed or

engaged in the provision of the Services. The Publisher confirms that all persons employed or engaged by the Publisher were vetted and recruited on a basis that is equivalent to and no less strict than the Authority's procedures for the vetting of personnel.

12. MANNER OF CARRYING OUT THE SERVICES

- 12.1 The Publisher shall perform the Services at all times in accordance with the Specification and this Contract.
- 12.2 The Authority may, by written notice, require the Publisher to execute the Services in such order as the Authority may decide. In the absence of such notice the Publisher shall submit such detailed programmes of work and progress reports as the Authority may from time to time require.
- 12.3 The Publisher shall at all times comply with the Standards. To the extent that the standard of an aspect of the Services has not been specified in this Contract, the Publisher shall agree the relevant standard with the Authority prior to the provision of the Services and, in any event, the Publisher shall perform its obligations under this Contract in accordance with the Law and Good Industry Practice.
- 12.4 The Publisher shall ensure that all Publisher Personnel providing the Services shall do so with all due skill, care and diligence and shall possess such qualifications, skills and experience as are necessary for the proper supply of the Services.
- 12.5 The Publisher will be responsible for providing and delivering the Services in each and every respect with all relevant provisions of this Contract at all times and will ensure continuity of the Services (at no extra cost to the Authority) in accordance with the Specification.

13. CONTRACT MANAGEMENT, PERFORMANCE MONITORING AND CONTINUOUS IMPROVEMENT

- 13.1 The Parties shall each appoint a contract manager to be known respectively as the Authority Representative and the Publisher Representative.
- 13.2 The Publisher shall comply with the monitoring arrangements set out in the Specification including but not limited to, the provision of Management Reports and such other reports, data and information as the Authority may require the Publisher to produce as detailed in the Specification.
- 13.3 The Parties shall comply with the governance arrangements set out at SCHEDULE 4 (Governance and Reporting Arrangements).
- 13.4 The Publisher shall have an ongoing obligation throughout the Contract Period to identify new or potential improvements to the Services. As part of this obligation, the Publisher shall identify and report to the Authority's Authorised Representative in the first Contract Year and once every twelve (12) Months for the remainder of the Contract Period on:
 - 13.4.1 the emergence of new and evolving technologies which could improve the Services;
 - 13.4.2 new or potential improvements to the Services including the responsiveness, procedures, performance mechanisms and customer support services in relation to the Services; and
 - 13.4.3 changes in ways of working that would enable the Services to be delivered at lower costs and/or bring greater benefits to the Authority.
- 13.5 The Publisher shall meet with the Authority following the completion of the provision of

the Services to discuss:

- 13.5.1 whether the Publisher believes the objectives of this Contract were achieved;
 - 13.5.2 how far the intended benefits sought in the Specification and that had been forecast in the Tender were achieved; and
 - 13.5.3 to identify any lessons learnt for future projects.
- 13.6 The Authority shall be able to share and use any information arising from such meetings referred to in Clauses 13.5.1 to 13.5.3 as it sees fit.

14. RIGHT OF AUDIT AND OPEN BOOK DATA

- 14.1 During the Contract Period and for a period of six (6) years after the Expiry Date, the Authority may conduct or be subject to an audit for the following purposes:
- 14.1.1 to verify the accuracy of the Publisher's costs;
 - 14.1.2 to review the integrity, confidentiality and security of any data relating to the Authority;
 - 14.1.3 to review the Publisher's compliance with the Data Protection Legislation and the FOIA in accordance with this Contract and any other legislation applicable to the Services;
 - 14.1.4 to review any records and/or books of account kept by the Publisher in connection with the provision of the Services;
 - 14.1.5 to carry out the audit and certification of the Authority's accounts;
 - 14.1.6 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 Authority has used its resources;
 - 14.1.7 to verify the accuracy and completeness of the Management Reports delivered or required under this Contract.
- 14.2 Except where an audit is imposed on the Authority by a regulatory body, the Authority may not conduct an audit under this Clause 14 more than twice in any Contract Period.
- 14.3 The Authority shall use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Publisher or delay the provision of the Services.
- 14.4 Subject to the Authority's obligations of confidentiality, the Publisher shall on demand provide the Authority and any relevant regulatory body (and/or their agents or representatives) with all reasonable co-operation and assistance in relation to each audit, including:
- 14.4.1 all information requested by the persons within the permitted scope of the audit; and
 - 14.4.2 access to the Publisher's Personnel.
- 14.5 The Parties agree that they shall each bear their own respective costs and expenses incurred in respect of compliance with their obligations under this Clause 14, unless the audit identifies a material failure to perform its obligations under this Contract in any material manner by the Publisher in which case the Publisher shall reimburse the Authority for all the Authority's reasonable costs incurred in the course of the audit.

- 14.6 The Publisher shall comply with the provisions of SCHEDULE 5 (Financial Transparency Objectives and Open Book Data) relating to the maintenance of Open Book Data.

15. RECOVERY OF SUMS DUE

- 15.1 Wherever under this Contract any sum of money is recoverable from or payable by the Publisher (including any sum which the Publisher is liable to pay to the Authority in respect of any breach of this Contract), the Authority may unilaterally deduct that sum from any sum then due, or which at any later time may become due to the Publisher under this Contract or under any other agreement or contract with the Authority or with any other department or agent of the Crown.

16. CONFIDENTIAL INFORMATION

- 16.1 For the purposes of this Clause 16, the term "Disclosing Party" shall mean a Party which discloses or makes available directly or indirectly its Confidential Information and "Recipient" shall mean the Party which receives or obtains directly Confidential Information.

- 16.2 Except to the extent set out in this Clause 16 or where disclosure is expressly permitted elsewhere in this Contract, the Recipient shall:

16.2.1 treat the Disclosing Party's Confidential Information as confidential and safeguard it accordingly (as appropriate depending on the form in which such materials are stored and the nature of the Confidential Information contained in those materials);

16.2.2 not disclose the Disclosing Party's Confidential Information to any other person except as expressly set out in this Contract, without the Disclosing Party's prior written consent;

16.2.3 not use or exploit the Disclosing Party's Confidential Information in any way except for the purposes anticipated under this Contract; and

16.2.4 immediately notify the Disclosing Party if it suspects or becomes aware of any unauthorised access, copying, use or disclosure in any form of any of the Disclosing Party's Confidential Information.

- 16.3 Clause 16.2 shall not apply to the extent that:

16.3.1 Law requires such disclosure by the party making the disclosure, including any requirements for disclosure under FOIA, or the Environmental Information Regulations;

16.3.2 such information is required in relation to the examination and certification of the Authority's accounts (provided that the disclosure is made on a confidential basis) or for any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority is making use of its resources;

16.3.3 the Recipient has reasonable grounds to believe that the Disclosing Party is involved in activity that may constitute a criminal offence under the Bribery Act 2010 and the disclosure is being made to the Serious Fraud Office;

16.3.4 such information was already in the public domain at the time of disclosure otherwise than by a breach of this Contract; or

16.3.5 it is independently developed without access to the other Party's Confidential Information.

- 16.4 If the Recipient is required by Law to make a disclosure of Confidential Information, the Recipient shall, as soon as reasonably practicable and to the extent permitted by Law, notify the Disclosing Party of the full circumstances of the required disclosure including the relevant Law and/or regulatory body requiring such disclosure and the Confidential Information to which such disclosure would apply.
- 16.5 The Publisher may only disclose the Confidential Information of the Authority to the Publisher Personnel directly involved in the provision of the Services and who need to know the information, and shall ensure that such Publisher Personnel are aware of and shall comply with these obligations as to confidentiality.
- 16.6 The Publisher shall not, and shall procure that the Publisher Personnel do not, use any of the Confidential Information of the Authority otherwise than for the purposes of this Contract and the provision of the Services.
- 16.7 At the written request of the Authority, the Publisher shall procure that Publisher Personnel identified in the Authority's request shall sign a confidentiality undertaking (in a form acceptable to the Authority) prior to commencing any work in accordance with this Contract.
- 16.8 The Authority may disclose the Confidential Information of the Publisher:
- 16.8.1 on a confidential basis to any Central Government Body for any proper purpose of the Authority or of the relevant Central Government Body;
 - 16.8.2 to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;
 - 16.8.3 to the extent that the Authority (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;
 - 16.8.4 on a confidential basis to a professional adviser, consultant, supplier or other person engaged by any of the entities described in Clause 16.8.1 (including any benchmarking organisation) for any purpose relating to or connected with this Contract;
 - 16.8.5 on a confidential basis for the purpose of the exercise of its rights under this Contract; or
 - 16.8.6 on a confidential basis to a proposed successor body in connection with any assignment, novation or disposal of any of its rights, obligations or liabilities under this Contract,
 - 16.8.7 and for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the Authority under this Clause 16.
- 16.9 The Authority shall use all reasonable endeavours to ensure that any government department, Contracting Authority, employee, third party or sub-contractor to whom the Confidential Information of the Publisher is disclosed pursuant to Clause 16.3 is made aware of the Authority's obligations of confidentiality.
- 16.10 Nothing in this Clause 16 shall prevent either Party from using any techniques, ideas or know-how gained during the performance of this Contract in the course of its normal business to the extent that this use does not result in a disclosure of the other Party's Confidential Information or an infringement of Intellectual Property Rights.
- 16.11 In the event that the Publisher fails to comply with its obligations under this Clause 16, the Authority reserves the right to terminate this Contract for material Default pursuant

to Clause 26 (Termination on Default).

17. AUTHORITY DATA

- 17.1 The Publisher shall not delete or remove any proprietary notices contained within or relating to the Authority Data.
- 17.2 The Publisher shall not store, copy, disclose, or use the Authority Data except as necessary for the performance by the Publisher of its obligations under this Contract or as otherwise expressly authorised in writing by the Authority.
- 17.3 To the extent that Authority Data is held and/or processed by the Publisher, the Publisher shall supply that Authority Data to the Authority as requested by the Authority in the format the Authority specifies.
- 17.4 Upon receipt or creation by the Publisher of any Authority Data and during any collection, processing, storage and transmission by the Publisher of any Authority Data, the Publisher shall take all precautions necessary to preserve the integrity of the Authority Data and to prevent any corruption or loss of the Authority Data.
- 17.5 The Publisher shall perform secure back-ups of all Authority Data. The Publisher shall ensure that such back-ups are available to the Authority at all times upon request.
- 17.6 The Publisher shall ensure that any system on which the Publisher holds any Authority Data, including back-up data, is a secure system that complies with the Authority's security policy.
- 17.7 If the Authority Data is corrupted, lost or sufficiently degraded as a result of the Publisher's Default so as to be unusable, the Authority may:
 - 17.7.1 require the Publisher (at the Publisher's expense) to restore or procure the restoration of the Authority Data and the Publisher shall do so as soon as practicable; and/or
 - 17.7.2 itself restore or procure the restoration of the Authority Data, and shall be repaid by the Publisher any reasonable expenses incurred in doing so.
- 17.8 If at any time the Publisher suspects or has reason to believe that Authority Data has or may become corrupted, lost or sufficiently degraded in any way for any reason, then the Publisher shall notify the Authority immediately and inform the Authority of the remedial action the Publisher proposes to take.

18. DATA PROTECTION

- 18.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Authority is the Controller and the Publisher is the Processor of Personal Data Processed in accordance with this Contract. The only Processing that the Publisher is authorised to do is listed in SCHEDULE 13 (Processing, Personal Data and Data Subjects) by the Authority and may not be determined by the Publisher.
- 18.2 The Publisher shall notify the Authority immediately if it considers that any of the Authority's instructions infringe the Data Protection Legislation.
- 18.3 The Publisher shall provide all reasonable assistance to the Authority in the preparation of any Data Protection Impact Assessment prior to commencing any Processing. Such assistance may, at the discretion of the Authority, include:
 - 18.3.1 a systematic description of the envisaged Processing operations and the purpose of the Processing;
 - 18.3.2 an assessment of the necessity and proportionality of the Processing

- operations in relation to the Services;
- 18.3.3 an assessment of the risks to the rights and freedoms of Data Subjects; and
- 18.3.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 18.4 The Publisher shall, in relation to any Personal Data Processed in connection with its obligations under this Contract:
 - 18.4.1 process that Personal Data only in accordance with SCHEDULE 13 (Processing, Personal Data and Data Subjects), unless the Publisher is required to do otherwise by Law. If it is so required the Publisher shall promptly notify the Authority before Processing the Personal Data unless prohibited by Law;
 - 18.4.2 ensure that it has in place Protective Measures, which have been reviewed and Approved by the Authority as appropriate to protect against a Data Loss Event having taken account of the:
 - 18.4.2.1 nature of the data to be protected;
 - 18.4.2.2 harm that might result from a Data Loss Event;
 - 18.4.2.3 state of technological development; and
 - 18.4.2.4 cost of implementing any measures;
 - 18.4.3 ensure that:
 - 18.4.3.1 the Publisher Personnel do not Process Personal Data except in accordance with this Contract (and in particular SCHEDULE 13 (Processing, Personal Data and Data Subjects));
 - 18.4.3.2 it takes all reasonable steps to ensure the reliability and integrity of any Publisher Personnel who have access to the Personal Data and ensure that they:
 - a) are aware of and comply with the Publisher's duties under this Clause 18;
 - b) are subject to appropriate confidentiality undertakings with the Publisher or any Sub-processor;
 - c) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Authority or as otherwise permitted by this Contract; and
 - d) have undergone adequate training in the use, care, protection and handling of Personal Data;
 - 18.4.4 not transfer Personal Data outside of the UK unless the prior written consent of the Authority has been obtained and the following conditions are fulfilled:
 - 18.4.4.1 the Authority or the Publisher has provided appropriate safeguards in relation to the transfer as determined by the Authority;

- 18.4.4.2 the Data Subject has enforceable rights and effective legal remedies;
- 18.4.4.3 the Publisher complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Authority in meeting its obligations); and
- 18.4.4.4 the Publisher complies with any reasonable instructions notified to it in advance by the Authority with respect to the Processing of the Personal Data; and
- 18.4.5 at the written direction of the Authority, delete or return to the Authority all Personal Data (and any copies of it) on termination of this Contract unless the Publisher is required by Law to retain the Personal Data.
- 18.5 Subject to Clause 18.6, the Publisher shall notify the Authority immediately if it:
 - 18.5.1 receives a Data Subject Access Request (or purported Data Subject Access Request);
 - 18.5.2 receives a request to rectify, block or erase any Personal Data;
 - 18.5.3 receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
 - 18.5.4 receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data Processed under this Contract;
 - 18.5.5 receives a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
 - 18.5.6 becomes aware of a Data Loss Event.
- 18.6 The Publisher's obligation to notify the Authority under Clause 18.5 shall include the provision of further information to the Authority in phases, as details become available.
- 18.7 Taking into account the nature of the Processing, the Publisher shall provide the Authority with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under Clause 18.5 (and insofar as possible within the timescales reasonably required by the Authority) including by promptly providing:
 - 18.7.1 the Authority with full details and copies of the complaint, communication or request;
 - 18.7.2 such assistance as is reasonably requested by the Authority to enable the Authority to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
 - 18.7.3 the Authority, at its request, with any Personal Data it holds in relation to a Data Subject;
 - 18.7.4 assistance as requested by the Authority following any Data Loss Event; and
 - 18.7.5 assistance as requested by the Authority with respect to any request from the Information Commissioner's Office or any other regulatory authority, or any consultation by the Authority with the Information Commissioner's Office

or any other regulatory authority.

- 18.8 The Publisher shall maintain complete and accurate records and information to demonstrate its compliance with this Clause 18. This requirement does not apply where the Publisher employs fewer than two hundred and fifty (250) staff, unless:
- 18.8.1 the Authority determines that the Processing is not occasional;
 - 18.8.2 the Authority determines the Processing includes special categories of data as referred to in Article 9(1) of the UK GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the UK GDPR; and
 - 18.8.3 the Authority determines that the Processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 18.9 The Publisher shall allow for audits of its Processing activity by the Authority or the Authority's designated auditor.
- 18.10 The Publisher shall designate a Data Protection Officer if required by the Data Protection Legislation.
- 18.11 Before allowing any Sub-processor to Process any Personal Data related to this Contract, the Publisher must:
- 18.11.1 notify the Authority in writing of the intended Sub-processor and Processing;
 - 18.11.2 obtain the written consent of the Authority;
 - 18.11.3 enter into a written agreement with the Sub-processor which gives effect to the terms set out in this Clause 18 such that they apply to the Sub-processor; and
 - 18.11.4 provide the Authority with such information regarding the Sub-processor as the Authority may reasonably require.
- 18.12 The Publisher shall remain fully liable for all acts or omissions of any Sub-processor.
- 18.13 The Authority may, at any time on not less than thirty (30) Working Days' notice, revise this Clause 18 by replacing it with any applicable Controller to Processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Contract).
- 18.14 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Authority may, with not less than thirty (30) Working Days' notice to the Publisher, amend this Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office.
- 18.15 The provision of this Clause 18 shall apply during the Contract Period and indefinitely after its expiry.

19. INTELLECTUAL PROPERTY RIGHTS

19.1 General

- 19.1.1 The Authority retains all Intellectual Property Rights and other rights throughout the world in the Works, Materials, the Site, the Authority Data, and any Information, Confidential Information or Commercially Sensitive Information of the Authority, and any Authority Software (the "**Authority Materials**") and all versions and formats of and updates to the Authority Materials created during the Contract Period (including the published

versions of the Works).

19.1.2 All Intellectual Property Rights in:

- 19.1.2.1 the Authority Materials (including the Site), including any versions, formats, updates, modifications, enhancements or amendments created, developed or obtained by the Publisher or Publisher Personnel; or
- 19.1.2.2 the materials, documents, software, designs, or content created, developed, or obtained by the Publisher or any Publisher Personnel in connection with the Services,

shall be the property of the Authority. To the extent such Intellectual Property Rights do not vest automatically in the Authority, the Publisher hereby assigns to the Authority absolutely with full title guarantee all its rights, title and interest in and to such Intellectual Property Rights throughout the world, including, without limitation: (a) the entire copyright and all other rights in the nature of copyright and any database right subsisting in, and all other rights of whatever nature in, the works described in Clauses 19.1.2.1 and 19.1.2.2 (and in all preliminary drafts or earlier versions of such works), whether now known or created in the future, to which the Publisher is now, or at any time after the date of this Contractt may be, entitled by virtue of the Laws in force in the UKand in any other part of the world, in each case for the whole term including any renewals, reversions, revivals and extensions; and (b) all related rights and powers arising or accrued, including the right to bring, make, oppose, defend, appeal proceedings, claims or actions and obtain relief (and to retain any damages recovered) in respect of any infringement, or any other cause of action arising from ownership, of any such Intellectual Property Rights, whether occurring before, on, or after the Commencement Date (the “**Assigned Rights**”).

- 19.1.3 The Publisher shall (and shall use all reasonable endeavours to procure that any necessary third party shall), without charge to the Authority, promptly execute and deliver all such documents and do all such further acts as the Authority may require for the purpose of giving full effect to Clauses 19.1.1 and 19.1.2, including registration of the Authority as proprietor of the Assigned Rights, assisting the Authority in obtaining, defending and enforcing the Assigned Rights, and assisting the Authority with any other proceedings which may be brought by or against the Authority against or by any third party relating to the Assigned Rights.

19.2 **Moral Rights**

- 19.2.1 The Publisher shall procure that its Publisher Personnel shall waive, in writing, absolutely and irrevocably all their moral rights arising under the Copyright, Designs and Patents Act 1988 and, so far as is legally possible, any broadly equivalent or analogous rights such Publisher Personnel may have in any territory of the world or under the laws of any other jurisdictions in relation to the Assigned Rights. The Publisher shall provide such written waivers to the Authority on or before the Commencement Date or, if relating to works created, developed or obtained after the Commencement Date, promptly on the creation, development or acquisition of the relevant work.

19.3 **Licence of Rights by the Authority**

- 19.3.1 The Authority grants to the Publisher during the Contract Period the non-exclusive right to publish and sell the Works in whole, partial or adapted form, in all existing and future media and formats in all languages throughout the Territory for use by single or multiple End Users. The Publisher

acknowledges that any adaptation or abridgement of the Works or any part of the Works may be undertaken subject to obtaining the Approval of the Authority.

- 19.3.2 The Authority grants to the Publisher a non-exclusive right to sub-license single or multiple End Users to download, view, access, display and use any electronic or digitised versions of the Works sold by the Publisher. The terms and conditions on which End Users may download, view, access, display and use such versions of the Works shall be set out in a standard End User licence, the text of which shall be submitted to the Authority for prior Approval.
- 19.3.3 The Authority grants to the Publisher a non-exclusive, royalty-free, non-transferable, limited licence during the Contract Period to use the Authority Software, the Works, the Materials and the Site and (to the extent the relevant Intellectual Property Rights are owned by or assigned to the Authority under Clause 19.1) any materials, documents, designs, content, software or Source Code created, developed or obtained by the Publisher or any Publisher Personnel in connection with the Services.
- 19.3.4 The licences granted in Clause 19.3 are granted solely to the extent necessary for performing the Services in accordance with this Contract. The Publisher shall not use the licensed materials for any other purpose.
- 19.3.5 Except as expressly set out, the Publisher may not sub-license the rights or licences granted in Clause 19.3 without the Authority's Approval.
- 19.3.6 Where the Publisher in exercise of the rights granted under Clause 19.3.1 produces foreign language translations of the Works, the Publisher shall arrange at its own expense for the translation of the Works, such translation to be undertaken faithfully and accurately by a qualified and competent translator, whose name and qualifications shall be sent to the Authority. The Publisher agrees and acknowledges that the text of each translation shall be submitted to the Authority for Approval and that publication of such translation shall be subject to obtaining such Approval.
- 19.3.7 All rights not specifically and expressly granted to the Publisher by this Contract are reserved to the Authority on behalf of the Crown.
- 19.3.8 The Publisher acknowledges that the Authority has the sole and exclusive right on behalf of the Crown to license third parties to use the Material or any other materials in which Crown copyright (as defined in Section 163 of the Copyright, Designs and Patents Act 1988) subsists in part or in its entirety.
- 19.3.9 In the event of the termination or expiry of this Contract, the licences granted to the Publisher by the Authority under this Contract shall terminate automatically and the Publisher shall deliver to the Authority all material licensed to the Publisher in its or its Publisher Personnel's possession or control.

19.4 Copyright Notice and Statements

- 19.4.1 The Publisher shall acknowledge Crown ownership of the copyright in the Material in the Works by the inclusion of a copyright notice in the following form in all editions and formats of the Works on the first page:

© Crown Copyright 20[XX]

Published by The Stationery Office on behalf of the Medicines and Healthcare products Regulatory Agency (MHRA) except that:

European Pharmacopoeia texts and monographs are reproduced with the permission of the Council of Europe and are not Crown Copyright. These monographs are identified in the publication by a chaplet of stars.

This publication is a "value added" product. If you wish to re-use the Crown Copyright material from this publication, applications must be made to bpcom@mhra.gov.uk, clearly stating the material requested for re-use, and the purpose for which it is required.

19.5 Publisher's Intellectual Property Rights

- 19.5.1 The Publisher hereby grants to the Authority or shall procure that the Authority is granted (without charge to the Authority) a perpetual, irrevocable, worldwide, non-exclusive, royalty-free, transferable licence (including the right to sub-license) to use, reproduce, modify, adapt, develop and maintain all Intellectual Property Rights owned by the Publisher, including the Publisher's Software and excluding the Assigned Rights, in each case to the extent that they are or may be used in the performance of this Contract or are required for the exploitation or enjoyment of the Authority Materials.

19.6 Third Party Licences

- 19.6.1 To the extent it is permitted to do so, the Publisher hereby grants to the Authority (without charge to the Authority) a perpetual, irrevocable, worldwide, non-exclusive, royalty-free, transferable licence (including the right to sub-license) to use, reproduce, modify, adapt, develop and maintain all Intellectual Property Rights licensed by a third party (other than the Authority) to the Publisher that are or may be used to perform this Contract or required for the exploitation or enjoyment of the Authority Materials.
- 19.6.2 The Publisher shall ensure that any third party owner of any Intellectual Property Rights that are or may be used to perform this Contract or required for the exploitation or enjoyment of the Authority Materials grants to the Authority (without charge to the Authority) a perpetual, irrevocable, worldwide, non-exclusive, royalty-free, transferable licence (including the right to sub-license) to use, reproduce, modify, adapt, develop and maintain such Intellectual Property Rights.
- 19.6.3 The Publisher warrants that:
- 19.6.3.1 it is the sole legal and beneficial owner of, and owns all the rights and interests in, the Assigned Rights and the rights licensed under Clause 19.5.1;
 - 19.6.3.2 it has not licensed or assigned any of the Assigned Rights, and the Assigned Rights are free from any security interest, option, mortgage, charge or lien;
 - 19.6.3.3 it is unaware of any infringement or likely infringement of, or any challenge to the ownership, subsistence, validity or use of, any of the Assigned Rights; and
 - 19.6.3.4 the supply, receipt or use of the Services, and the exploitation and enjoyment of the Assigned Rights and the rights licensed under Clauses 19.5.1, 19.6.1 and 19.6.2, do not and will not infringe any Intellectual Property Rights of any third party.

19.7 IPR Indemnity

- 19.7.1 In this Clause 19.7, a reference to the Authority shall include a reference to the Crown, and the provisions of this Clause 19.7 shall be for the benefit of the Authority and the Crown, and shall be enforceable by the Crown, in addition to the Authority. Notwithstanding Clause 21.5, liability under this Clause 19.7 is unlimited.
- 19.7.2 The Publisher shall, at all times during and after the Contract Period, indemnify and keep indemnified and hold the Authority harmless from and against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by, awarded against or agreed to be paid by the Authority as a result of or arising out of or in connection with:
- 19.7.2.1 any breach or negligent performance or non-performance of this Clause 19 by the Publisher or the Publisher Personnel;
 - 19.7.2.2 any breach of the warranties contained in Clause 19.6.3;
 - 19.7.2.3 the enforcement of this Clause 19;
 - 19.7.2.4 any claim or demand made or action brought against the Authority for actual or alleged infringement of a third party's Intellectual Property Rights arising out of or in connection with use of the materials supplied or licensed by the Publisher, the works described in Clauses 19.1.2.1 and 19.1.2.2 (and in all preliminary drafts or earlier versions of such works), the Assigned Rights, or the rights licensed under Clauses 19.5.1, 19.6.1 or 19.6.2, or otherwise arising out of or in connection with the performance of the Publisher's obligations under this Contract (a "**Claim**").
- 19.7.3 If a payment due from the Publisher under this Clause 19 is subject to tax (whether by way of direct assessment or withholding at its source), the Authority shall be entitled to receive from the Publisher such amounts as shall ensure that the net receipt, after tax, to the Authority in respect of the payment is the same as it would have been were the payment not subject to tax.
- 19.7.4 The Authority shall notify the Publisher in writing of any Claim.
- 19.7.5 Provided that the Publisher complies with Clause 19.7.6, the Publisher shall have authority to avoid, dispute, compromise or defend ("**Defend**") the Claim and shall at its own expense conduct all negotiations and any litigation or proceedings arising in connection with any Claim.
- 19.7.6 The Publisher:
- 19.7.6.1 shall consult the Authority on all substantive issues which arise during the Defence of any Claim, including the conduct of any litigation, proceedings or negotiations arising in connection with any Claim;
 - 19.7.6.2 shall take due and proper account of the interests of the Authority;
 - 19.7.6.3 shall not settle or compromise any Claim without the Authority's prior written consent (such consent not to be

unreasonably withheld or delayed); and

- 19.7.6.4 shall consider and Defend any Claim diligently, using competent counsel and in such a way as not to bring the reputation of the Authority into disrepute.
- 19.7.7 The Authority shall at the request of the Publisher afford to the Publisher reasonable assistance for the purpose of Defending any Claim and the Publisher shall indemnify the Authority for all costs and expenses (including, but not limited to, legal costs and disbursements) incurred in doing so.
- 19.7.8 The Authority shall not make any admissions of liability, agreement or compromise in relation to the Claim without the prior written consent of the Publisher (such consent not to be unreasonably conditioned, withheld or delayed), provided that the Authority may settle the Claim (after giving prior written notice of the terms of settlement (to the extent legally possible) to the Publisher, but without obtaining the Publisher's consent) if the Authority believes that failure to settle the Claim would be prejudicial to it in any material respect.
- 19.7.9 If a Claim is made or, in the reasonable opinion of the Publisher, is likely to be made, the Publisher shall notify the Authority and, at its own expense, use its best endeavours to:
 - 19.7.9.1 modify any or all of the Services without reducing the performance or functionality of the same, or substitute alternative Services of equivalent performance and functionality, so as to avoid the infringement or the alleged infringement, provided that there is no adverse effect on any of the Services and the provisions herein shall apply mutatis mutandis to such modified Services or to the substitute Services; or
 - 19.7.9.2 procure the right or licence for the Publisher and the Authority to continue using the part of the material which is subject to the Claim, on terms which are acceptable to the Authority;
- 19.7.10 In the event that the Publisher is unable to comply with Clauses 19.7.9.1 or 19.7.9.2 or is unable to do so in a way that avoids or resolves the Claim, within twenty (20) Working Days of receipt of the Publisher's notification under Clause 19.7.9 (or, if earlier, the Authority's notification under Clause 19.7.4) the Authority may terminate this Contract with immediate effect by notice in writing.

20. ESCROW

- 20.1 The Publisher shall by 1 March 2023 deposit the Source Code (including any existing annotations, notes and instructions) of all software provided to the Authority, the Publisher's Software and any other software used in the performance of this Contract ("**Software**") in escrow with an agreed escrow agent on the basis of the terms set out in SCHEDULE 9 (Escrow Agreement).
- 20.2 The Publisher shall ensure that the deposited version of the Source Code is the current version of the Software and that the deposited version is kept up to date as the Software is modified or upgraded.
- 20.3 Where the Publisher is unable to procure compliance with the provisions of Clause 20.1 in respect of any third party Software, it shall provide the Authority with written evidence of its inability to comply with these provisions and shall agree with the Authority a suitable alternative to escrow that affords the Authority the nearest equivalent

protection. The Publisher shall be excused from its obligations under Clause 20.1 only to the extent that the Parties have agreed on a suitable alternative.

- 20.4 In circumstances where the Authority obtains the release of the Source Code from escrow, the Publisher hereby grants to the Authority (on behalf of itself and the Replacement Contractor) a perpetual, assignable, royalty-free and non-exclusive licence to use, support, modify and enhance the Source Code version of the Software to the extent necessary for the receipt of the Services or any Replacement Services.

21. LIABILITY

- 21.1 Neither Party excludes or limits liability to the other Party for:

21.1.1 death or personal injury caused by its negligence, or that of its employees, agents or sub-contractor; or

21.1.2 bribery or Fraud by it or its employees; or

21.1.3 fraudulent misrepresentation; or

21.1.4 any liability to the extent that it cannot be excluded or limited by Law.

- 21.2 Subject to Clause 21.3, the Publisher shall indemnify the Authority and keep the Authority indemnified fully against all claims, proceedings, actions, damages, costs, expenses and any other liabilities which may arise out of, or in consequence of, the supply, or the late or purported supply, of the Services or the performance or non-performance by the Publisher of its obligations under this Contract, including in respect of any death or personal injury, loss of or damage to property, financial loss arising from any advice given or omitted to be given by the Publisher, or any other loss which is caused directly or indirectly by any act or omission of the Publisher.

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

- 21.4 The Authority shall indemnify and keep the Publisher indemnified against all liabilities, costs, expenses, damages and losses suffered or incurred by the Publisher arising out of or in connection with a breach of the warranty in Clause 9.2.

- 21.5 Subject always to Clauses 19.7, 21.1 and 21.6, the total liability (including any indemnity) of either Party shall be subject to the following financial limits:

21.5.1 in respect of direct loss of or damage to the property of the other under or in connection with this Contract shall in no event exceed one million five hundred thousand pounds (£1,500,000.00); and

21.5.2 the annual aggregate liability under this Contract of either Party for all other claims, losses or damages, whether arising from tort (including negligence), breach of contract or otherwise under or in connection with this Contract shall in no event exceed one million five hundred thousand pounds (£1,500,000.00).

- 21.6 Subject always to Clause 21.1, in no event shall either Party be liable to the other for any:

21.6.1 loss of profits, loss of business, loss of revenue, loss of an opportunity, or loss of goodwill; and/or

21.6.2 loss of savings (whether anticipated or otherwise); and/or

21.6.3 indirect or consequential loss or damage.

- 21.7 The Publisher shall not be able to exclude liability to the Authority for additional operational, administrative costs and/or expenses or wasted expenditure which the Authority incurs resulting from the direct Default of the Publisher.
- 21.8 The Publisher acknowledges that the Authority may, amongst other things, recover from the Publisher the following losses incurred by the Authority to the extent that they arise as a result of a Default by the Publisher:
- 21.8.1 any additional operational and/or administrative costs and expenses incurred by the Authority, including costs relating to time spent by or on behalf of the Authority in dealing with the consequences of the Default;
 - 21.8.2 any wasted expenditure or charges;
 - 21.8.3 the additional costs of procuring Replacement Services for the remainder of the Contract Period, which shall include any incremental costs associated with such Replacement Services above those which would have been payable under this Contract;
 - 21.8.4 any compensation or interest paid to a third party by the Authority; and
 - 21.8.5 any fine, penalty or costs incurred by the Authority pursuant to Law.
- 21.9 Each Party shall use its respective reasonable endeavours to mitigate any loss or damage suffered arising out of or in connection with this Contract.

22. INSURANCE

- 22.1 The Publisher shall effect and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover in respect of risks which may be incurred by the Publisher, arising out of the Publisher's performance of its obligations under this Contract, including death or personal injury, loss of or damage to property or any other loss. Such insurance shall be maintained for the duration of the Contract Period and for a minimum of six (6) years following the expiration or earlier termination of this Contract.
- 22.2 The Publisher shall hold employer's liability insurance in respect of Publisher Personnel in accordance with any legal requirement from time to time in force.
- 22.3 The Publisher shall give the Authority, on request, evidence to demonstrate that the appropriate insurance cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.
- 22.4 If, for whatever reason, the Publisher fails to give effect to and maintain the insurances required by the provisions of this Contract the Authority may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Publisher.
- 22.5 The provisions of any insurance or the amount of cover shall not relieve the Publisher of any liabilities under this Contract. It shall be the responsibility of the Publisher to determine the amount of insurance cover that will be adequate to enable the Publisher to satisfy any liability referred to in Clause 21 (Liability).

23. PROFESSIONAL INDEMNITY

- 23.1 Where the Services are professional services the Publisher shall, where appropriate, effect and maintain appropriate professional indemnity insurance cover during the Contract Period and shall ensure that all agents, professional consultants and sub-contractors involved in the supply of the Services do the same. To comply with its obligations under this Clause 23 and as a minimum, the Publisher shall ensure professional indemnity insurance held by the Publisher and by any agent, sub-

contractors or consultant involved in the supply of the Services has a limit of indemnity of five million pounds (£5,000,000) for each individual claim or such higher limit as the Authority may reasonably require from time to time. Such insurance shall be maintained for a minimum of six (6) years following the expiration or earlier termination of this Contract.

- 23.2 Where the Publisher or its agents, professional consultants, and sub-contractors do not hold professional indemnity insurance which the Authority believes is reasonably required, the Authority may allow a period of twenty (20) Working Days for a policy of such insurance to be obtained. If such insurance is not taken out the Authority may terminate this Contract with immediate effect by giving notice in writing.

24. TRANSFER AND SUB-CONTRACTING

- 24.1 The Publisher shall not assign, transfer, novate, sub-contract or otherwise dispose of or create any trust in relation to any or all of its rights, obligations or liabilities under this Contract or any part of it without the prior written consent of the Authority.

- 24.2 The Authority may assign, novate or otherwise dispose of any or all of its rights, liabilities and obligations under this Contract or any part thereof to:

- 24.2.1 any other body established by the Crown; or
- 24.2.2 under statute in order substantially to perform any of the functions that had previously been performed by the Authority; or
- 24.2.3 any private sector body which substantially performs the functions of the Authority,

and the Publisher shall, at the Authority's request, enter into a novation agreement in such form as the Authority shall reasonably specify in order to enable the Authority to exercise its rights pursuant to this Clause 24.2.

- 24.3 A change in the legal status of the Authority shall not, subject to Clause 24.4 affect the validity of this Contract and this Contract shall be binding on any successor body to the Authority.

- 24.4 If the Authority assigns, novates or otherwise disposes of any of its rights, obligations or liabilities under this Contract to a private sector body in accordance with Clause 24.2.3 (the "**Transferee**" in the rest of this clause) the right of termination of the Authority in Clause 25 (Termination on Insolvency and Change of Control) shall be available to the Publisher in the event of the insolvency of the Transferee (as if the references to Publisher in Clause 25 (Termination on Insolvency and Change of Control) were references to the Transferee).

- 24.5 The Publisher shall exercise due skill and care in the selection of any sub-contractors to ensure that the Publisher is able to:

- 24.5.1 manage any sub-contractors in accordance with Good Industry Practice;
- 24.5.2 comply with its obligations under this Contract in the provision of the Services; and
- 24.5.3 assign, novate or otherwise transfer to the Authority or any Replacement Contractor any of its rights and/or obligations under each sub-contract that relates exclusively to this Contract.

- 24.6 Prior to sub-contracting any of its obligations under this Contract, the Publisher shall notify the Authority and provide the Authority with:

- 24.6.1 the proposed sub-contractor's name, registered office and company

- registration number; and
 - 24.6.2 the scope of any Services to be provided by the proposed sub-contractor.
- 24.7 If requested by the Authority within ten (10) Working Days of receipt of the Publisher's notice issued pursuant to Clause 24.6, the Publisher shall also provide:
 - 24.7.1 details of the proposed sub-contract; and
 - 24.7.2 any further information reasonably requested by the Authority.
- 24.8 The Authority may, within ten (10) Working Days of receipt of the Publisher's notice issued pursuant to Clause 24.6 (or, if later, receipt of any further information requested pursuant to Clause 24.7), object to the appointment of the relevant sub-contractor if it considers that:
 - 24.8.1 the appointment of a proposed sub-contractor may prejudice the provision of the Services or may be contrary to the interests respectively of the Authority under this Contract;
 - 24.8.2 the proposed sub-contractor is unreliable and/or has not provided reliable goods and or reasonable services to its other customers; and/or
 - 24.8.3 the proposed sub-contractor employs unfit persons,

in which case, the Publisher shall not proceed with the proposed appointment.
- 24.9 If the Authority has not notified the Publisher that it objects to the proposed sub-contractor's appointment by the later of ten (10) Working Days of receipt of:
 - 24.9.1 the Publisher's notice issued pursuant to Clause 24.6; and
 - 24.9.2 any further information requested by the Authority pursuant to Clause 24.7

the Publisher may proceed with the proposed appointment.
- 24.10 The Publisher shall ensure that all sub-contracts contain a provision:
 - 24.10.1 requiring the Publisher to pay any undisputed sums which are due from it to the sub-contractor within a specified period not exceeding thirty (30) days from the receipt of a valid invoice;
 - 24.10.2 requiring that any invoices submitted by a sub-contractor shall be considered and verified by the Publisher in a timely fashion and that undue delay in doing so shall not be sufficient justification for failing to regard an invoice as valid and undisputed;
 - 24.10.3 requiring the sub-contractor to include in any sub-contract which it in turn awards suitable provisions to impose, as between the parties to that sub-contract, requirements to the same effect as those required by Clauses 24.10.1 and 24.10.2 above; and
 - 24.10.4 conferring a right to the Authority to publish the Publisher's compliance with its obligation to pay undisputed invoices within the specified payment period.
- 24.11 The Publisher shall pay any undisputed sums which are due from it to a sub-contractor within thirty (30) days from the receipt of a valid invoice.
- 24.12 Any invoices submitted by a sub-contractor shall be considered and verified by the Publisher in a timely fashion. Undue delay in doing so shall not be sufficient justification for failing to regard an invoice as valid and undisputed.

- 24.13 Notwithstanding any provision of Clauses 16 (Confidential Information) and 33 (Publicity) if the Publisher notifies the Authority that the Publisher has failed to pay an undisputed sub-contractor's invoice within thirty (30) days of receipt, or the Authority otherwise discovers the same, the Authority shall be entitled to publish the details of the late or non-payment (including on government websites and in the press).
- 24.14 Notwithstanding the Publisher's right to sub-contract pursuant to this Clause 24, the Publisher shall remain responsible for all acts and omissions of its sub-contractors and the acts and omissions of those employed or engaged by the sub-contractors as if they were its own.

25. TERMINATION ON INSOLVENCY AND CHANGE OF CONTROL

- 25.1 The Authority may terminate this Contract with immediate effect by giving notice in writing where the Publisher is a company and in respect of the Publisher:
- 25.1.1 a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignment for the benefit of, its creditors; or
 - 25.1.2 a shareholders' meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding-up is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation); or
 - 25.1.3 a petition is presented for its winding up (which is not dismissed within fourteen (14) days of its service) or an application is made for the appointment of a provisional liquidator or a creditors' meeting is convened pursuant to Section 98 of the Insolvency Act 1986; or
 - 25.1.4 a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets; or
 - 25.1.5 an application order is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given; or
 - 25.1.6 it is deemed unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986; or
 - 25.1.7 being a "small company" within the meaning of Section 382(3) of the Companies Act 2006, a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or
 - 25.1.8 any event similar to those listed in Clauses 25.1.1 to 25.1.7 occurs under the laws of any other jurisdiction.
- 25.2 Separate provisions on insolvency and change of control apply where the Publisher is:
- 25.2.1 a limited liability partnership; or
 - 25.2.2 a partnership under the Partnership Act 1890; or
 - 25.2.3 an individual.
- 25.3 The Publisher shall notify the Authority immediately if the Publisher undergoes a change of control within the meaning of Sections 450 and 451 of the Corporation Tax Act 2010 ("**Change of Control**"). The Authority may terminate this Contract by notice in writing with immediate effect within six (6) Months of:
- 25.3.1 being notified that a Change of Control has occurred; or

- 25.3.2 where no notification has been made, the date that the Authority becomes aware of the Change of Control, but shall not be permitted to terminate where the Authority agreed in writing prior to the Change of Control.

26. TERMINATION ON DEFAULT

- 26.1 The Authority may terminate this Contract, or terminate the provision of any part of the Services, with immediate effect by giving notice in writing to the Publisher if the Publisher is in material Default of any obligation under this Contract (including a Service Failure) and:
- 26.1.1 the Publisher has not remedied such Default to the satisfaction of the Authority within thirty (30) days, or such other period as may be specified by the Authority, after service of written notice specifying the Default and requiring it to be remedied; or
- 26.1.2 the Default is not capable of remedy; or
- 26.1.3 the Default is a fundamental breach of this Contract.
- 26.2 Where the Authority is terminating this Contract for a material Default, it may rely on a single material Default or on a number of Defaults or repeated Defaults that, taken together, constitute a material Default.
- 26.3 In the event that: (a) the warranty given by the Publisher pursuant to Clause 42.1 is materially untrue; or (b) the Publisher commits a material breach of its obligation to notify the Authority of any Occasion of Tax Non-Compliance as required by Clause 42.2; or (c) the Publisher fails to provide details of proposed mitigating factors which in the reasonable opinion of the Authority, are acceptable the Authority shall be entitled to terminate this Contract with immediate effect by giving notice in writing to the Publisher.

27. TERMINATION BY SERVICE OF NOTICE

- 27.1 The Authority may terminate this Contract, or terminate the provision of any part of the Services, at any time by giving eighteen (18) Months' notice in writing to the Publisher. The Authority may extend the period of notice at any time before it expires, subject to agreement on the level of Services to be provided by the Publisher during the period of extension of such notice.

28. TERMINATION FOR BREACH OF THE REGULATIONS

- 28.1 The Authority may terminate this Contract with immediate effect by giving notice in writing to the Publisher on the occurrence of any of the statutory provisos contained in Regulation 44(1)(a) to (b) of the Regulations.

29. CONSEQUENCES OF EXPIRY OR TERMINATION

- 29.1 Where the Authority terminates this Contract under Clause 26 (Termination on Default) and then makes other arrangements for the supply of Services, the Authority may recover from the Publisher the costs reasonably incurred of making those other arrangements and any additional expenditure incurred by the Authority throughout the remainder of the Contract Period. The Authority shall take all reasonable steps to mitigate such additional expenditure.
- 29.2 Subject to Clauses 21 (Liability) and 22 (Insurance), where the Authority terminates this Contract under Clause 27 (Termination by Service of Notice), the Authority shall indemnify the Publisher against any commitments, liabilities or expenditure which represent an unavoidable direct loss to the Publisher by reason of the termination of this Contract, provided that the Publisher takes all reasonable steps to mitigate such loss. Where the Publisher holds insurance, the Authority shall only indemnify the

Publisher for those unavoidable direct costs that are not covered by the insurance available. The Publisher shall submit a fully itemised and costed list of unavoidable direct loss which it is seeking to recover from the Authority, with supporting evidence, of losses reasonably and actually incurred by the Publisher as a result of termination under Clause 27 (Termination by Service of Notice).

- 29.3 The Authority shall not be liable under Clause 29.2 to pay any sum which:
 - 29.3.1 was claimable under insurance held by the Publisher, and the Publisher has failed to make a claim on its insurance, or has failed to make a claim in accordance with the procedural requirements of the insurance policy;
 - 29.3.2 when added to any sums paid or due to the Publisher under this Contract, exceeds the total sum that would have been payable to the Publisher if this Contract had not been terminated prior to the expiry of the Contract Period; or
 - 29.3.3 is a claim by the Publisher for loss of profit, due to early termination of this Contract
- 29.4 The Parties shall comply with the exit management provisions set out in SCHEDULE 10 (Exit Management).
- 29.5 Save as otherwise expressly provided in this Contract:
 - 29.5.1 termination or expiry of this Contract shall be without prejudice to any rights, remedies or obligations accrued under this Contract prior to termination or expiration and nothing in this Contract shall prejudice the right of either Party to recover any amount outstanding at such termination or expiry; and
 - 29.5.2 termination of this Contract shall not affect the continuing rights, remedies or obligations of the Authority or the Publisher under Clauses 8 (Consideration and Payments to the Authority), 14 (Right of Audit and Open Book Data), 15 (Recovery of Sums Due), 16 (Confidential Information), 18 (Data Protection), 19 (Intellectual Property Rights), 21 (Liability), 22 (Insurance), 23 (Professional Indemnity), 29 (Consequences of Expiry or Termination), 32 (Waiver and Remedies Cumulative), 34 (Official Secrets Acts and Finance Act), 35 (Prevention of Fraud, Bribery and Corruption), 46 (Freedom of Information Act and Environmental Regulations) and 54 (Law and Jurisdiction).

30. DISRUPTION

- 30.1 The Publisher shall take reasonable care to ensure that, in the performance of its obligations under this Contract, it does not disrupt the operations of the Authority, its employees or any other supplier employed or engaged by the Authority.
- 30.2 The Publisher shall immediately inform the Authority of any actual or potential industrial action, whether such action be by its own employees or others, which affects or might affect its ability at any time to perform its obligations under this Contract.
- 30.3 In the event of industrial action by the Publisher Personnel, the Publisher shall prepare proposals for the continuation of its obligations under this Contract for the Authority to Approve.
- 30.4 If the Publisher's proposals referred to in Clause 30.3 are considered insufficient or unacceptable by the Authority, acting reasonably, then this Contract may be terminated with immediate effect by the Authority by notice in writing.
- 30.5 If the Publisher is temporarily unable to fulfil the requirements of this Contract owing to

disruption of normal business of the Authority, the Publisher may request a reasonable allowance of time and in addition, the Authority will reimburse any additional expense reasonably incurred by the Publisher as a direct result of such disruption.

31. REMEDIES IN THE EVENT OF INADEQUATE PERFORMANCE

- 31.1 Where a complaint is received about the standard of Services or about the manner in which any Services have been supplied or work has been performed or about the materials or procedures used or about any other matter connected with the performance of the Publisher's obligations under this Contract, then the Authority shall notify the Publisher, and where considered appropriate by the Authority, the Publisher shall investigate the complaint. The Authority may, in its sole discretion, uphold the complaint and take further action in accordance with Clause 26 (Termination on Default) of this Contract.
- 31.2 In the event that the Authority is of the reasonable opinion that there has been a material breach of this Contract by the Publisher, then the Authority may, without prejudice to its rights under Clause 26 (Termination on Default), do any of the following:
- 31.2.1 without terminating this Contract, itself supply or procure the supply of all or part of the Services until such time as the Publisher shall have demonstrated to the reasonable satisfaction of the Authority that the Publisher will once more be able to supply all or such part of the Services in accordance with this Contract;
 - 31.2.2 without terminating the whole of this Contract, terminate this Contract in respect of part of the Services only and thereafter itself supply or procure a third party to supply such part of the Services; and/or
 - 31.2.3 terminate, in accordance with Clause 26 (Termination on Default), the whole of the Contract.
- 31.3 Without prejudice to its right under Clause 15 (Recovery of Sums Due), the Authority may charge the Publisher for any costs reasonably incurred and any reasonable administration costs in respect of the supply of any part of the Services by the Authority or a third party and provided that the Authority uses its reasonable endeavours to mitigate any additional expenditure in obtaining replacement Services.
- 31.4 If the Publisher fails to supply any of the Services in accordance with the provisions of this Contract and such failure is capable of remedy, then the Authority shall instruct the Publisher to remedy the failure and the Publisher shall, at its own cost and expense, remedy such failure (and any damage resulting from such failure) within ten (10) Working Days or such other period of time as the Authority may direct.
- 31.5 In the event that:
- 31.5.1 the Publisher fails to comply with Clause 31.4 above and the failure is materially adverse to the interests of the Authority or prevents the Authority from discharging a statutory duty; or
 - 31.5.2 the Publisher persistently fails to comply with Clause 31.4 above;
- the Authority may terminate this Contract with immediate effect by giving notice in writing.

32. WAIVER AND CUMULATIVE REMEDIES

- 32.1 The failure of either Party to insist upon strict performance of any provision of this Contract, or the failure of either Party to exercise, or any delay in exercising, any right or remedy shall not constitute a waiver of that right or remedy and shall not cause a

diminution of the obligations established by this Contract.

- 32.2 No waiver shall be effective unless it is expressly stated to be a waiver and communicated to the other Party in writing in accordance with Clause 44 (Service of Notices and Communications).
- 32.3 A waiver of any right or remedy arising from a breach of contract shall not constitute a waiver of any right or remedy arising from any other breach of this Contract.
- 32.4 Except as otherwise expressly provided by this Contract, all remedies available to either Party for breach of this Contract are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

33. PUBLICITY

- 33.1 The Publisher shall not and shall procure that its sub-contractors shall not:
 - 33.1.1 make any press announcements or publicise this Contract in any way; or
 - 33.1.2 use the Authority's name, brand or logo in any publicity, promotion, marketing or announcement; or
 - 33.1.3 use the name, brand or logo of any of the Authority's agencies or arms-length bodies in any publicity, promotion, marketing or announcement,without the prior written consent of the Authority.
- 33.2 The Authority shall be entitled to publicise this Contract in accordance with any legal obligation upon the Authority, including any examination of this Contract, by the National Audit Office pursuant to the National Audit Act 1983 or otherwise.
- 33.3 Each Party acknowledges that nothing in this Contract either expressly or impliedly constitutes an endorsement of any products or services of the other Party and each Party shall not conduct itself in such a way as to imply or express any such approval or endorsement.
- 33.4 The provisions of this Clause 33 shall apply during the continuance of this Contract and after its termination howsoever arising, without limitation of time.

34. OFFICIAL SECRETS ACTS AND FINANCE ACT

- 34.1 The Publisher shall comply with, and shall ensure the Publisher Personnel comply with, the provisions of:
 - 34.1.1 the Official Secrets Acts 1911 to 1989; and
 - 34.1.2 section 182 of the Finance Act 1989.
- 34.2 The Authority may terminate this Contract with immediate effect by giving notice in writing to the Publisher or Publisher Personnel do not comply with Clause 34.1.

35. PREVENTION OF FRAUD, BRIBERY AND CORRUPTION

- 35.1 The Publisher:
 - 35.1.1 represents and warrants that it has not, at any time prior to the Commencement Date committed any criminal offence; and
 - 35.1.2 will not during the Contract Period commit any criminal offenceas set out in Regulation 38(8) and 38(9) of the Regulations.

- 35.2 The Publisher represents and warrants that neither it, nor to the best of its knowledge any Publisher Personnel, have at any time prior to the Commencement Date:
- 35.2.1 committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act;
 - 35.2.2 been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act.
- 35.3 The Publisher shall not during the Contract Period:
- 35.3.1 commit a Prohibited Act; and/or
 - 35.3.2 do or suffer anything to be done which would cause the Authority or any of the Authority's employees, consultants, Publishers, sub-contractors or agents to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements.
- 35.4 The Publisher shall during the Contract Period:
- 35.4.1 establish, maintain and enforce, and require that its sub-contractors establish, maintain and enforce, policies and procedures which are adequate to ensure compliance with the Relevant Requirements and prevent the occurrence of a Prohibited Act;
 - 35.4.2 keep appropriate records of its compliance with its obligations under Clause 35.4.1 and make such records available to the Authority on request;
 - 35.4.3 if so required by the Authority, no later than 1st June in each year during the Contract Period, certify in writing to the Authority, the compliance with this Clause 35 of all persons associated with the Publisher or its sub-contractors who are responsible for supplying the Services in connection with this Contract. The Publisher shall provide such supporting evidence as the Authority may reasonably request; and
 - 35.4.4 have, maintain and, where appropriate, enforce an anti-bribery policy (which shall be disclosed to the Authority on request) to prevent it and any Publisher Personnel or any person acting on the Publisher's behalf from committing a Prohibited Act.
- 35.5 The Publisher shall immediately notify the Authority in writing if it becomes aware of any breach of Clause 35.1, or has reason to believe that it has or any of the Publisher Personnel has:
- 35.5.1 been subject to an investigation or prosecution which relates to an alleged Prohibited Act;
 - 35.5.2 been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act; and/or
 - 35.5.3 received a request or demand for any undue financial or other advantage of any kind in connection with the performance of this Contract or otherwise suspects that any person or Party directly or indirectly connected with this Contract has committed or attempted to commit a Prohibited Act.
- 35.6 If the Publisher makes a notification to the Authority pursuant to Clause 35.5, the Publisher shall respond promptly to the Authority's enquiries, co-operate with any

investigation, and allow the Authority to audit any books, records and/or any other relevant documentation in accordance with Clause 14 (Right of Audit and Open Book Data).

35.7 If the Publisher breaches Clause 35.1, the Authority may by notice:

35.7.1 require the Publisher to remove from the performance of this Contract any Publisher Personnel whose acts or omissions have caused the Publisher's breach; or

35.7.2 immediately terminate this Contract for material Default.

35.8 Any notice served by the Authority under Clause 35.7 shall specify the nature of the Prohibited Act, the identity of the Party who the Authority believes has committed the Prohibited Act and the action that the Authority has elected to take (including, where relevant, the date on which the Contract shall terminate).

36. COMPLIANCE

36.1 The Publisher shall use reasonable endeavours to comply with the provisions of SCHEDULE 14 (Corporate Social Responsibility) and SCHEDULE 15 (Supply Chain Visibility).

36.2 The Publisher must appoint a Compliance Officer who is responsible for ensuring that the Publisher complies with the Law and Clauses 34 (Official Secrets and Finance Act), 35 (Prevention of Fraud Bribery and Corruption), 36 (Compliance), 39 (Equality Diversity and Human Rights), 41 (Environment) and 42 (Occasion of Tax Non-Compliance).

37. NON-SOLICITATION

37.1 Except in respect of any transfer of staff pursuant to SCHEDULE 7 (Employment Exit Provisions), neither Party shall (except with the prior written consent of the other Party) directly or indirectly solicit or entice away (or attempt to solicit or entice away) from the employment of the other Party any person employed or engaged by such other Party in the provision of the Services or (in the case of the Authority) in the receipt of the Services at any time during the Contract Period or for a further period of twelve (12) Months after the termination of this Contract other than by means of a national advertising campaign open to all comers and not specifically targeted at any of the staff of the other Party.

37.2 If either the Publisher or the Authority commits any breach of Clause 37.1 the breaching Party shall, on demand, pay to the claiming party a sum equal to one year's basic salary or the annual fee that was payable by the claiming party to that employee, worker or independent publisher plus the recruitment costs incurred by the claiming party in replacing such person.

38. CONFLICT OF INTEREST

38.1 The Publisher shall take appropriate steps to ensure that neither the Publisher nor the Publisher Personnel are placed in a position where (in the reasonable opinion of the Authority) there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interest of the Publisher or the Publisher Personnel and the duties owed to the Authority and other Contracting Authorities under the provisions of this Contract.

38.2 The Publisher shall promptly notify and provide full particulars to the Authority or the relevant other Contracting Authority if such conflict arises or may reasonably be foreseen as arising.

- 38.3 The Authority reserves the right to terminate this Contract with immediate effect by giving notice in writing to the Publisher and/or take such other steps it deems necessary where, in the reasonable opinion of the Authority, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Publisher and the duties owed to the Authority under the provisions of this Contract. The action of the Authority pursuant to this Clause 38 shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Authority.

39. EQUALITY, DIVERSITY AND HUMAN RIGHTS

- 39.1 The Publisher shall:

- 39.1.1 perform its obligations under this Contract (including those in relation to provision of the Services) in accordance with:

39.1.1.1 all applicable equality Law (whether in relation to race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise); and

39.1.1.2 any other requirements and instructions which the Authority reasonably imposes in connection with any equality obligations imposed on the Authority at any time under applicable equality Law;

- 39.1.2 take all necessary steps, and inform the Authority of the steps taken, to prevent unlawful discrimination designated as such by any court or tribunal, or the Equality and Human Rights Commission or (any successor organisation).

- 39.2 The Publisher shall not unlawfully discriminate within the meaning and scope of any law, enactment, order, or regulation relating to discrimination (whether in sex, age, race, gender, religion or belief, disability, sexual orientation, gender reassignment, maternity, pregnancy, marriage, civil partnership or otherwise) in employment.

- 39.3 The Publisher shall take all reasonable steps (at its own expense) to secure the observance of Clause 39.1 by all of its servants, employees or agents engaged in performance of this Contract and shall impose on any sub-contractor obligations substantially similar to those imposed on the Publisher by Clause 39.1.

- 39.4 The Publisher shall indemnify the Authority against all costs, claims, charges, demands, liabilities, damages, losses and expenses incurred or suffered by the Authority arising out of or in connection with any investigation conducted or any proceedings brought under the Equality Act 2010 due directly or indirectly to any act or omission by the Publisher, its agents, employees or sub-contractors.

- 39.5 The Publisher shall (and shall use its reasonable endeavours to procure that its staff shall) at all times comply with the provisions of the Human Rights Act 1998 in the performance of this Contract.

- 39.6 The Publisher shall undertake, or refrain from undertaking, such acts as the Authority requests so as to enable the Authority to comply with its obligations under the Human Rights Act 1998.

- 39.7 Subject to Clause 21 (Liability), the Publisher agrees to indemnify and keep indemnified the Authority against all loss, costs, proceedings or damages whatsoever arising out of or in connection with any breach by the Publisher of its obligations under this Clause 39 (Equality, Diversity and Human Rights).

40. HEALTH AND SAFETY

- 40.1 The Publisher shall take all measures necessary to comply with the requirements of the Health and Safety at Work etc. Act 1974 and any other Acts, orders, regulations and Codes of Practice relating to health and safety, which may apply to Publisher Personnel in the performance of the Services.
- 40.2 The Publisher shall promptly notify the Authority of any health and safety hazards which may arise in connection with the performance of the Services.
- 40.3 The Publisher shall ensure that its health and safety policy statement (as required by the Health and Safety at Work etc. Act 1974) is made available to the Authority on request.

41. ENVIRONMENT

- 41.1 When working on Premises, the Publisher must perform its obligations in accordance with the Authority's current Environmental Policy, which the Authority shall provide.
- 41.2 The Publisher must ensure that the Publisher Personnel are aware of the Environmental Policy.

42. OCCASION OF TAX NON-COMPLIANCE

- 42.1 The Publisher represents and warrants that as at the Commencement Date, it has notified the Authority in writing of any Occasions of Tax Non-Compliance or any litigation that it is involved in that is in connection with any Occasions of Tax Non-Compliance.
- 42.2 If, at any point during the Contract Period, an Occasion of Tax Non-Compliance occurs, the Publisher shall: a) notify the Authority in writing of such fact within five (5) Working Days of its occurrence; and b) promptly provide to the Authority: i) details of the steps which the Publisher is taking to address the Occasion of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors that it considers relevant; and ii) such other information in relation to the Occasion of Tax Non-Compliance as the Authority may reasonably require.

43. RELATIONSHIP OF THE PARTIES

- 43.1 Except as expressly provided otherwise in this Contract, nothing in this Contract, nor any actions taken by the Parties pursuant to this Contract shall create a partnership, joint venture or relationship of employer and employee or principal and agent between the Parties, or authorise either Party to make representations or enter into any commitments for or on behalf of any other Party.

44. SERVICE OF NOTICES AND COMMUNICATIONS

- 44.1 Except as otherwise expressly provided within this Contract, no notice or other communication from one Party to the other shall have any validity under this Contract unless made in writing by or on behalf of the Party concerned.
- 44.2 Any notice or other communication which is to be given by either Party to the other shall be given by letter (sent by hand, first class post, recorded delivery or special delivery), or by facsimile transmission or electronic mail (confirmed in either case by letter). Provided the relevant communication is not returned as undelivered, the notice or communication shall be deemed to have been given two (2) Working Days after the day on which the letter was posted, or four (4) hours, in the case of electronic mail or facsimile transmission or sooner where the other Party acknowledges receipt of such letters, facsimile transmission or item of electronic mail.

45. EMPLOYMENT EXIT AND HANDOVER PROVISIONS

- 45.1 The Contract envisages that the identity of the provider of the Services or any part of

the Services may change (whether as a result of termination of this Contract, or part of this Contract, or otherwise) resulting in a transfer of the Services in whole or in part. If a Service Transfer constitutes a relevant transfer, as defined under the TUPE Regulations and/or if the provisions of the Cabinet Office Statement of Practice in relation to Staff Transfers in the Public Sector apply ("**Relevant Transfer**") then, as the case may be, either the Authority or the Replacement Contractor will inherit liabilities in respect of the Transferring Employees. The provisions in paragraphs 2.5 to 2.9 (inclusive) of SCHEDULE 7 (Employment Exit Provisions) shall apply to a Relevant Transfer.

- 45.2 Paragraph 2.10 of SCHEDULE 7 (Employment Exit Provisions) shall apply to a Service Transfer which is not a Relevant Transfer.
- 45.3 Paragraphs 2.1 to 2.4 (inclusive) of SCHEDULE 7 (Employment Exit Provisions) shall apply to all Service Transfers whether or not they are a Relevant Transfer.
- 45.4 Where no Relevant Transfer occurs upon the termination of all (or part) of this Contract, the Publisher will be liable in all respects for the continuing engagement and/or termination of any of the Publisher Personnel who have been engaged in the Services (or any part thereof) and the Authority will bear no liability, financial or otherwise, in respect of the Publisher Personnel.
- 45.5 The Publisher shall assist and co-operate with the Authority to ensure an orderly transition of the provision of the Services to the Replacement Contractor and/or the completion of any work in progress.
- 45.6 The Publisher shall promptly provide all information concerning the provision of the Services which may reasonably be requested by the Authority for the purposes of adequately understanding the manner in which the Services have been provided or for the purpose of allowing the Authority or the Replacement Contractor to conduct due diligence.
- 45.7 Where the end of the Contract Period arises due to the Publisher's Default, the Publisher shall provide all assistance under Clause 45.5 and 45.6 free of charge.
- 45.8 Otherwise, the Authority shall pay the Publisher's reasonable costs of providing the assistance and the Publisher shall take all reasonable steps to keep such costs to the minimum.
- 45.9 It is not envisaged that entry into this Contract will constitute a Relevant Transfer. The Authority shall indemnify the Publisher in full for and against all claims, costs, expenses or liabilities whatsoever and howsoever arising, incurred or suffered by the Publisher including without limitation all legal expenses and other professional fees (together with any VAT thereon) in relation to any claim made by or in respect of any person employed or formerly employed by the Authority or a Previous Contractor for which it is alleged the Publisher may be liable by virtue of this Contract and/or the TUPE Regulations.

46. FREEDOM OF INFORMATION ACT AND ENVIRONMENTAL INFORMATION REGULATIONS

- 46.1 The Publisher acknowledges that the Authority is subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and shall:
 - 46.1.1 provide all necessary assistance and cooperation as reasonably requested by the Authority, at the Publisher's expense, to enable the Authority to comply with its obligations under the FOIA and the Environmental Information Regulations;
 - 46.1.2 transfer to the Authority all requests for information that it receives under the FOIA and the Environmental Information Regulations ("**Requests for**

Information") relating to this Contract that it receives as soon as practicable and in any event within two (2) Working Days of receipt;

- 46.1.3 provide the Authority with a copy of all information belonging to the Authority requested in the Request for Information which is in the Publisher's possession or control in the form that the Authority requires within five (5) Working Days (or such other period as the Authority may reasonably specify) of the Authority's request for information; and
- 46.1.4 not respond directly to a Request for Information unless authorised in writing to do so by the Authority.
- 46.2 The Authority shall be responsible for determining in its absolute discretion, and notwithstanding any other provision in this Contract or any other agreement, whether the Commercially Sensitive Information and/or any other Information is exempt from disclosure in accordance with the provisions of the Code of Practice on Government Information, FOIA or the Environmental Information Regulations.
- 46.3 In no event shall the Publisher respond directly to a request for information unless expressly authorised to do so by the Authority.
- 46.4 The Publisher acknowledges that (notwithstanding the provisions of Clause 16 ([Confidential Information](#))) the Authority may, acting in accordance with the Department of Constitutional Affairs' Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of Information Act 2000 (the "**Code**"), be obliged under the FOIA, or the Environmental Information Regulations to disclose information concerning the Publisher or the Services:
 - 46.4.1 in certain circumstances without consulting the Publisher; or
 - 46.4.2 following consultation with the Publisher and having taken their views into account,provided always that where Clause 46.4.1 applies the Authority shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Publisher advance notice, or failing that, to draw the disclosure to the Publisher's attention as soon as practicable after any such disclosure.
- 46.5 The Publisher shall ensure that all Information is retained for disclosure in accordance with Clause 14 (Right of Audit and Open Book Data) and shall permit the Authority to inspect such records as the Authority requests from time to time.
- 46.6 The Publisher acknowledges that the Commercially Sensitive Information listed in SCHEDULE 6 (Commercially Sensitive Information) of the Contract is of indicative value only and that the Authority may be obliged to disclose it in accordance with Clause 46.4.

47. TRANSPARENCY

- 47.1 The Parties agree and acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Contract is not Confidential Information and should be made available in accordance with the Procurement Policy Note 01/17 (Update to Transparency Principles) and the Transparency Principles referred to in it.
- 47.2 The Authority may consult with the Publisher to inform its decision regarding any redactions but the Authority shall have the final decision in its absolute discretion.
- 47.3 The Publisher shall assist and cooperate with the Authority to enable the Authority to publish this Contract.

- 47.4 Notwithstanding any other term of this Contract, the Publisher hereby gives consent for the Authority to publish this Contract in its entirety, including from time to time any agreed changes to this Contract, to the general public.

48. FORCE MAJEURE

- 48.1 Neither Party shall be liable to the other Party for any delay in performing, or failure to perform, its obligations under this Contract (other than a payment of money) to the extent that such delay or failure is a result of Force Majeure. Notwithstanding the foregoing, each Party shall use all reasonable endeavours to continue to perform its obligations under this Contract for the duration of such Force Majeure. However, if such Force Majeure prevents either Party from performing its material obligations under this Contract for a period in excess of six (6) Months, either Party may terminate this Contract with immediate effect by giving notice in writing.
- 48.2 Any failure or delay by the Publisher in performing its obligations under this Contract which results from any failure or delay by an agent, sub-contractor or supplier shall be regarded as due to Force Majeure only if that agent, sub-contractor or supplier is itself impeded by Force Majeure from complying with an obligation to the Publisher.
- 48.3 If either Party becomes aware of Force Majeure which gives rise to, or is likely to give rise to, any failure or delay on its part as described in Clause 48.1 it shall immediately notify the other by the most expeditious method then available and shall inform the other of the period for which it is estimated that such failure or delay shall continue.

49. DISPUTE RESOLUTION

- 49.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with this Contract within twenty (20) Working Days of either Party notifying the other of the dispute and such efforts shall involve the escalation of the dispute to senior management of each Party.
- 49.2 Nothing in this dispute resolution procedure shall prevent the Parties from seeking from any court of competent jurisdiction an interim order restraining the other Party from doing any act or compelling the other Party to do any act.
- 49.3 If the dispute cannot be resolved by the Parties pursuant to Clause 49.1 the Parties shall refer it to mediation unless the Authority considers that the dispute is not suitable for resolution by mediation; or the Publisher does not agree to mediation.
- 49.4 The obligations of the Parties under this Contract shall not cease, or be suspended or delayed by the referral of a dispute to mediation and the Publisher and the Publisher Personnel shall comply fully with the requirements of this Contract at all times.
- 49.5 Subject to Clause 49.2, the Parties shall not instigate court proceedings until the procedures set out in Clauses 49.1 and 49.3 have been completed.

50. SEVERABILITY

- 50.1 If any provision of this Contract is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions of this Contract shall continue in full force and effect as if this Contract had been executed with the invalid, illegal or unenforceable provision eliminated. In the event of a holding of invalidity so fundamental as to prevent the accomplishment of the purpose of this Contract, the Parties shall immediately commence negotiations in good faith to remedy the invalidity.

51. ENTIRE AGREEMENT

- 51.1 This Contract constitutes the entire agreement between the Parties in respect of the

matters dealt with herein. This Contract supersedes all prior negotiations between the Parties and all representations and undertakings made by one Party to the other, whether written or oral, except that this Clause 51 shall not exclude liability in respect of any Fraud or fraudulent misrepresentation.

52. FURTHER ASSURANCES

- 52.1 Subject to Clause 19.1.3, each Party undertakes at the request of the other, and at the cost of the requesting Party, to do all acts and execute all documents which may be necessary to give effect to the meaning of this Contract.

53. THE CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

- 53.1 A person who is not a party to this Contract shall have no right to enforce any of its provisions which, expressly or by implication, confer a benefit on him, without the prior written agreement of both Parties. This Clause 53 does not affect any right or remedy of any person which exists or is available apart from the Contracts (Rights of Third Parties) Act 1999 and does not apply to the Crown.

54. LAW AND JURISDICTION

- 54.1 This Contract is made under, governed by and interpreted in accordance with English Law and shall be subject to the jurisdiction of the Courts of England.

SIGNATURE PAGE

REDACTED

SIGNED by

Chief Executive Officer

(Authorised Signatory)

for and on behalf of

.....28 November 2022.....

(Date)

**THE SECRETARY OF STATE FOR HEALTH AND
SOCIAL CARE**

**by the Medicines and Health products Regulatory
Agency an Executive Agency of the Department of
Health and Social Care**

REDACTED

SIGNED by

for and on behalf of

(Authorised Signatory)

.....1 September 2022.....

(Date)

The Stationery Office Limited

SCHEDULE 1. Specification

British Pharmacopoeia Publications Tender Specification

1. SUMMARY

- 1.1 This tender specification is for the manufacture, sales, marketing and distribution of the British Pharmacopoeia ("BP") – this includes the BP (Veterinary)) in all three product formats (online, hardcopy and Offline Download) for the publication of the BP 2024 – BP 2028 including in-year updates and the British Approved Names ("BAN") in two product formats (online and hardcopy) for the publication of the BAN 2022 Supplement 2 – BAN 2027 Supplement 1.
- 1.2 The Publisher shall provide to the Authority:
 - 1.2.1 the Implementation Services in section 2 of this SCHEDULE 1 (Specification); and
 - 1.2.2 the Services set out in paragraphs 3 and 4 of this SCHEDULE 1 (Specification); and
 - 1.2.3 the payments set out in SCHEDULE 2 (Royalty Payments).

2. IMPLEMENTATION SERVICES

- 2.1 In advance of providing the Services set out in paragraphs 3 to 6 of this SCHEDULE 1 (Specification), the Publisher shall:
 - 2.1.1 Ensure that, unless otherwise specifically agreed in writing with the Authority the following Implementation Services are completed ready for Approval by the Authority prior to 30 September 2022:
 - 2.1.1.1 submit to the Authority for its Approval proposals for a process of continuous improvement over the lifetime of this Contract, in accordance with paragraph 8.3.1 of this SCHEDULE 1 (Specification), which are consistent with the requirements of this Contract and include the provision of a dedicated fund or equivalent for investment over the lifetime of this Contract; and
 - 2.1.1.2 submit to the Authority for its Approval proposals for a discount framework in accordance with paragraph 13.3 of this SCHEDULE 1 (Specification).
 - 2.1.2 Ensure that, unless specifically agreed in writing with the Authority the following Implementation Services are completed and Approved by the Authority prior to 31 December 2022:
 - 2.1.2.1 submit to the Authority for its Approval, project plans as described in paragraph 7.8.2 (including key milestones) of this SCHEDULE 1 (Specification).
 - 2.1.2.2 provide to the Authority for its Approval suitable quality assurance documentation for all aspects of the Contract in accordance with paragraph 8.4.1 of this SCHEDULE 1 (Specification).
 - 2.1.2.3 submit to the Authority for its Approval plans, proposals and procedures for services required under paragraph 12 of this SCHEDULE 1 (Specification) ; and

- 2.1.2.4 submit to the Authority for its Approval proposals for KPIs and Reports in accordance with paragraph 14 of this SCHEDULE 1 (Specification).
 - 2.2 The Publisher shall ensure that a description of all IT services required for implementation is submitted for Approval by the Authority prior to 30 September 2022 and shall ensure that that all Services described are implemented (where Approved) by 01 February 2023.
 - 2.3 The Publisher shall submit a website development and transition plan, which shall comply with the requirements set out in paragraph 10 of this SCHEDULE 1 (Specification), to the Authority for its Approval prior to 31 October 2022. The Publisher acknowledges that all IT and website requirements/aspects (which shall for the avoidance of doubt include developing the website and testing of the IT system in accordance with the terms of this specification) shall be subject to Approval by the Authority and shall be in place (to the extent Approved) and fully operational by 01 February 2023, unless otherwise specifically agreed in writing with the Authority.
- 3. PRODUCTION SERVICES (SECTIONS 8 TO 11)**
- 3.1 The Publisher shall manufacture the hardcopy, online and Offline Download products for each of the BP annual publications and three (3) in-year updates for each of the BP 2024, 2025, 2026, 2027 and 2028 online and Offline Download products. The Publisher shall also manufacture the hardcopy and online products for each of the BAN annual publications.
- 4. SALES, MARKETING AND LOGISTICS/DISTRIBUTION SERVICES (SECTIONS 12 & 13)**
- 4.1 The Publisher shall provide a range of marketing services. These include marketing of the BP and BAN in all regions to different sectors, as well as the preparation of various plans and reports to track and measure marketing activities.
 - 4.2 The Publisher shall provide a range of sales services. These include sales of the BP and BAN globally to different sectors and the provision of a customer services function. The Publisher will be required to manage all logistics, distribution and fulfilment services to store and distribute the BP and BAN to customers globally.
- 5. KPIS, REPORTS, STANDARDS AND ANALYTICS (SECTIONS 14 TO 16)**
- 5.1 The Publisher shall propose appropriate KPIs and provide a range of reports relating to the KPIs. The Publisher shall comply with the standards cited in paragraph 16 of this SCHEDULE 1 (Specification) and the "Service Level Agreement" for the IT services referred to in paragraph 15.1 of this SCHEDULE 1 (Specification).
- 6. COMPLEMENTARY COPIES, BIBLIOGRAPHIC AND LIBRARIES (SECTION 17)**
- 6.1 The Publisher shall provide complimentary copies to the Authority, as well as meet minimum ex gratia requirements for bibliographic and library obligations.
- 7. PRODUCTION PROCESS**
- 7.1 BP annual publication
 - 7.1.1 Upon Contract implementation, the legacy dataset (including content required to reproduce the online archive) shall be provided to the Publisher on the Commencement Date, in the BP style/template as

XML (Extensible Markup Language) files with schema.

- 7.1.2 For each annual publication the Authority shall provide:
 - 7.1.2.1 new and revised content, including images, tables, chemical structures and infrared spectra for each annual publication by 15 May of the year of publication at the latest;
 - 7.1.2.2 a set of typesetting rules (Annex 1) to be applied by the Publisher.
 - 7.1.3 For each annual publication the Publisher shall provide the following drafts, based on the new and revised content provided by the Authority, for the Approval of the Authority:
 - 7.1.3.1 a document map (describing the structure of the publication);
 - 7.1.3.2 a rules and processes file (describing additional content added to European Pharmacopoeia texts)
 - 7.1.3.3 a linking specification that defines hypertext links to be added to the content of the online/ Offline Download formats. For example, to make a reagent name used in a monograph into a link to the reagent specification given elsewhere in the publication.
 - 7.1.3.4 any additional revised BP files (i.e. contents pages).
 - 7.1.4 The Publisher shall maintain, amend and revise the BP templates, document maps, rules and processes linking specifications and typesetting rules as required by the Authority.
 - 7.1.5 The Publisher shall manage and maintain the content in a single-source Content Management System ("**CMS**") that includes version control for the preparation/creation of the print, online/web and Offline Download formats.
- 7.2 In-year updates to the BP annual publication
- 7.2.1 Three (3) in-year updates are to be made to the online and Offline Download formats of the BP annual publication before the legally effective dates of 1st January, 1st April and 1st July of each Contract Year. These updates are to integrate new/revised content from the European Pharmacopoeia which is published by the EDQM (European Directorate for the Quality of Medicines and HealthCare).
 - 7.2.2 In exceptional circumstances (e.g. for public health need) the Authority may require addition and/or revision of specific text outside of the usual publication timeline described in paragraph 7.8.3 of this SCHEDULE 1 (Specification). In these circumstances, an update to the online format should be implemented as described below and a pdf erratum produced of the typeset text.
 - 7.2.3 For each in-year update, the Authority shall provide:
 - 7.2.3.1 the EDQM XML and other files for new/revised content on the date of publication (or before) stated by the EDQM (as published on the EDQM website).

- 7.2.4 For each in-year update, the Publisher shall provide the following drafts for the Approval of the Authority:
 - 7.2.4.1 a document map (describing the structure of the publication);
 - 7.2.4.2 a rules and processes file (describing additional content added to European Pharmacopoeia texts);
 - 7.2.4.3 a linking specification that defines hypertext links to be added to the content of the online/ Offline Download formats. For example, to make a reagent name used in a monograph into a link to the reagent specification given elsewhere in the publication; and
 - 7.2.4.4 any additional revised BP files (i.e. contents pages).
- 7.2.5 The Publisher shall convert the EDQM data, including the images, tables and equations, into the BP format. The data is fully integrated, by the Publisher, into the BP annual publication dataset in the single source CMS for the preparation of the online/web and Offline Download formats.
- 7.3 British Approved Names (BAN)
 - 7.3.1 Upon implementation, the legacy dataset (i.e. existing) shall be provided to the Publisher on the Commencement Date, as a QuarkXPress book format dataset. The Publisher shall convert the legacy dataset into an appropriate format for the BAN publications covered under this Contract.
 - 7.3.2 For each annual publication, the Authority shall provide:
 - 7.3.2.1 new and revised content, including images, tables, chemical structures for each annual publication by 15th May of the year of publication at the latest;
 - 7.3.2.2 a set of typesetting rules (Annex 1) to be applied by the Publisher.
 - 7.3.3 For each annual publication, the Publisher shall provide the following drafts for the Approval of the Authority:
 - 7.3.3.1 a document map (describing the structure of the publication);
 - 7.3.3.2 a linking specification that defines any hypertext links to be added to the content.
 - 7.3.4 The Publisher shall maintain, amend and revise the BAN templates, document maps, linking specifications and typesetting rules as required by the Authority.
 - 7.3.5 The Publisher shall manage and maintain the content in a single-source Content Management System (CMS) that includes version control for the preparation/creation of the print and online/web formats.
- 7.4 Content – For all publications
 - 7.4.1 The Publisher shall create content proofs for new/revised content in

an agreed format. These shall then be proof read for content by hardcopy or electronically, iteratively with the Publisher in accordance with the following steps:

- 7.4.1.1 the Authority shall mark-up corrections in an agreed format/tool;
 - 7.4.1.2 the Publisher shall make the corrections;
 - 7.4.1.3 the Authority shall review the corrected content proofs; and
 - 7.4.1.4 this process shall continue iteratively until all corrections have been completed to the satisfaction of the Authority and all content proofs Approved by the Authority.
- 7.4.2 The Publisher shall ensure any changes during proofing are made in the master version held in its CMS. Where hardcopy proofs are required, the Publisher is responsible for distribution to and from the Authority.
- 7.4.3 The Authority shall include primary index terms for content after the title of each article. For preliminary sections and other content the Authority shall also include additional index terms within the text. The Publisher shall generate the required index for proof reading (iteratively with the Authority, see steps detailed in paragraph 7.4.1 of this SCHEDULE 1 (Specification)). The final draft index shall be subject to Approval by the Authority.
- 7.5 Hardcopy – For BP annual publication and BANs only
 - 7.5.1 The Publisher shall provide to the Authority page proofs for the print publication, including the index for the updated and consolidated dataset. These shall then be proofread for layout changes by hardcopy or electronically, iterative with the Publisher (see the steps described in paragraph 7.4.1 of this SCHEDULE 1 (Specification), including Approval). Content errors should also be corrected by the Publisher at this stage, if identified by the Authority. Where hardcopy proofs are required, the Publisher is responsible for distribution to and from the Authority.
 - 7.5.2 The Publisher shall generate the final paginated index for proof reading, iterative with the Authority (see steps described in paragraph 7.4.1 of this SCHEDULE 1 (Specification), including Approval).
- 7.6 Online/website - For all publications
 - 7.6.1 The Publisher shall provide to the Authority a digital proof for the online publication in a test environment mirroring the live Site, as described in Section 10 (Production Services – Online Product). This should include all links within the content made as per the Linking Specification defined in paragraph 7.1.3.3 of this SCHEDULE 1 (Specification). This digital proof shall be reviewed by the Authority. Any required iterations to correct errors shall be carried out in accordance with the following steps:
 - 7.6.1.1 the Authority shall provide corrections in an agreed format/tool,

- 7.6.1.2 the Publisher shall make the corrections,
 - 7.6.1.3 the Authority shall review the corrections made by the Publisher; and
 - 7.6.1.4 this process shall continue iteratively until all corrections have been completed to the satisfaction of the Authority and Approved by the Authority.
- 7.6.2 The final digital proof of the online publication shall be subject to Approval by the Authority. The Approved online publication shall then be transferred to the live environment at the appropriate time by the Publisher (see paragraph 7.8.1 of this SCHEDULE 1 (Specification)).
- 7.7 Offline Download - BP annual publication and in-year updates only
 - 7.7.1 The Publisher shall create the Offline Download format which shall be reviewed by the Authority. Any required iterations to correct errors shall be carried out in accordance with the following steps:
 - 7.7.1.1 the Authority shall provide corrections in an agreed format/tool,
 - 7.7.1.2 the Publisher shall make the corrections,
 - 7.7.1.3 the Authority shall review that corrections made by the Publisher; and
 - 7.7.1.4 this process shall continue iteratively until all corrections have been completed to the satisfaction of the Authority and Approved by the Authority.
 - 7.7.2 The final Offline Download format shall be subject to Approval by the Authority.
- 7.8 Project Management – for all publications
 - 7.8.1 All product formats shall be subject to Approval by the Authority and ready for publication at least one week before the dates described in paragraph 8.1.1 of this SCHEDULE 1 (Specification).
 - 7.8.2 The Publisher shall submit to the Authority for its Approval, project plans (including key milestones) for each annual BP publication, in-year update and BAN supplement at the start of each new publication cycle (September of each Contract Year).
 - 7.8.3 The current timetable for production activities is detailed in Annex 2. Future timeframes shall be agreed with the Authority for each of the project plans.
 - 7.8.4 The Publisher shall provide the Authority with continuous access to the complete dataset in order to revise or create new content.
 - 7.8.5 The Publisher shall supply a copy of the updated complete dataset to the Authority following publication, no later than one (1) week post publication.

8. PRODUCTION SERVICE MANAGEMENT

8.1 Publication timetable

- 8.1.1 The Publisher shall publish the British Pharmacopoeia and British Approved Names according to a publication timetable approved annually by the Authority. The initially applicable timetable is listed in Annex 3.
- 8.2 Collaboration
- 8.2.1 The Publisher shall provide suitable collaboration tools for use by both Parties (at no charge to the Authority) to enable effective collaboration for tasks including, but not limited to, content management and editing, project tasks, issue management, sharing documents securely and strategic planning.
- 8.3 Continuous Improvement
- 8.3.1 The Publisher shall submit proposals for a process of continuous improvement over the lifetime of this Contract. This process must enable the Publisher and Authority to collaboratively innovate the BP and BAN products and services, as well as implement improvements to processes and the Authority Data and routine maintenance. The Publisher will provision resources to support this process, which may be a dedicated fund or equivalent, the allocation of which shall be subject to the Authority's Approval. These resources are not to be used for implementation services or creation of the publications described in paragraph 7 (Production Process). Any changes to this Contract as a result of such improvements shall be agreed by the Parties as part of the governance structure of this Contract.
- 8.3.2 The Publisher shall use recognised operational excellence methodologies e.g. Lean 6-sigma or equivalent to identify areas and deliver improvements and efficiencies to the service (for example, to the publication processes) through the process agreed under paragraph 8.3.1 of this SCHEDULE 1 (Specification).
- 8.3.3 The Publisher shall utilise market research, customer insights and product research insights, assess the relevance of the BP portfolio of products and develop proposals for new products or product enhancements, through the process agreed under paragraph 8.3.1 of this SCHEDULE 1 (Specification), in order to ensure the product mix remains relevant to End Users, adds value to them and drives engagement and revenue.
- 8.3.4 Recognising changes in user behaviour towards the BP's digital formats, the Publisher shall submit proposals, for the Authority's Approval, for a review of the viability of the different publication formats over the course of this Contract. Proposals should include consideration of user need, market analysis and consultation with stakeholders, as well as an impact analysis to operational costs and revenue. The Authority shall confirm changes as a formal written Variation to the Publisher to implement any agreed changes to the product formats and where applicable any impact/changes to the royalty approach/structure and/or the discount framework.
- 8.3.5 Before implementing any changes developed under the continuous improvement process, the Publisher shall create proofs of the innovation, improvement or maintenance for review by the Authority in accordance with the following steps:
- 8.3.5.1 the Authority shall provide corrections in an agreed format/tool;

- 8.3.5.2 the Publisher shall make the corrections;
 - 8.3.5.3 the Authority shall review the corrections made by the Publisher; and
 - 8.3.5.4 this process shall continue iteratively until all corrections have been completed to the satisfaction of the Authority and Approved by the Authority.
- 8.4 Quality
- 8.4.1 The Publisher shall provide a suitable quality assurance process for all aspects of this Contract, subject to Approval by the Authority and provide full process mapping and overview documentation for all aspects of this Contract, including agreed changes brought about through paragraph 8.3 of this SCHEDULE 1 (Specification);
 - 8.4.2 The Publisher shall use recognised project management and development methodologies with agreement from the Authority e.g. Prince2, Agile or equivalent for the management of all aspects of the Contract; and
 - 8.4.3 The Publisher shall comply with relevant standards listed in paragraph 16 (Standards) of this SCHEDULE 1 (Specification).

9. PRODUCTION SERVICES – HARDCOPY PRODUCT

- 9.1 For the British Pharmacopoeia and British Approved Names:
- 9.1.1 The Publisher shall print and store sufficient numbers of the BP and BAN based on historical sales data and projections in compliance at all times with the sales KPIs. The Publisher shall prepare a hardcopy production plan for the proposed print number in advance of publication, which shall be subject to Approval by the Authority.
 - 9.1.2 Annex 4 contains relevant historic sales data and the Publisher shall refer to it in order to inform its proposed print numbers in its draft hardcopy production plan.
 - 9.1.3 The hardcopy specifications are detailed in the following annexes:
 - 9.1.3.1 Annex 5, Hardcopy product specifications for the BP;
 - 9.1.3.2 Annex 6, Hardcopy product specifications for the BAN.

10. PRODUCTION SERVICES – ONLINE PRODUCT

- 10.1 For the British Pharmacopoeia and British Approved Names, the Publisher shall:
- 10.1.1 Redesign, host and manage a new web-based platform at the top-level domain www.pharmacopoeia.com which is superior to the functionality of the current Site. The Publisher shall ensure that Software required for the proper functioning of the Site is updated as required.
 - 10.1.2 Develop the Site in line with the Authority's architecture design principles (Annex 7), as Approved by the Authority, and including all current functionality and content.
 - 10.1.3 The Site must ensure a seamless user experience with no changes to brand and look or feel when navigating between content (including

publications and BPCRS shop).

- 10.1.4 In addition to the specifications cited in paragraph 10.1.6 of this SCHEDULE 1 (Specification), provide the Authority with the ability to create tiered access to subsets of the publication content. For example, a single monograph and texts referenced within it, or a collection of guidelines.
- 10.1.5 Undertake any development required to integrate, via RESTful APIs or equivalent:
 - 10.1.5.1 their content management systems, infrastructure and other IT systems with the website for publication of the BP, BAN and in-year updates;
 - 10.1.5.2 their sales systems for the purchase of publication subscriptions; and
 - 10.1.5.3 the Authority's Enterprise Resource Planning and/or sales systems for the purchase of British Pharmacopoeia Chemical Reference Substances (BPCRS).
- 10.1.6 The online product specifications are detailed in the following annexes:
 - 10.1.6.1 Annex 8, Online Functional Specification;
 - 10.1.6.2 Annex 9, Online and Offline Technical Specification.
- 10.1.7 The Publisher shall maintain multiple online environments to enable continuous Site access to End Users. For example, this may include live, test and development environments.

11. PRODUCTION SERVICES – OFFLINE DOWNLOAD PRODUCT

- 11.1 For the British Pharmacopoeia, the Publisher shall:
 - 11.1.1 Ensure that the online/website product is available as an Offline Download product. The Publisher shall build the BP offline installable application for all BP main editions and in-year updates;
 - 11.1.2 Make the Offline Download product available as an Offline Download via the Site;
- 11.2 The Offline Download product specifications are detailed in the following annexes:
 - 11.2.1 Annex 10, Offline Functional Specification;
 - 11.2.2 Annex 9, Online and Offline Technical Specification.

12. SALES, MARKETING AND LOGISTICS/DISTRIBUTION SERVICES

- 12.1 The Publisher shall:
 - 12.1.1 sell, market (including advertising and promotion), fulfil, distribute and store (as required) the BP and BAN publication products globally;
 - 12.1.2 in the event that access to individual texts is requested, prepare and supply a secure digital copy of the requested text via the Site. Any

linked text should be incorporated in the digital copy and provided to the Authority for Approval. Pricing for ad-hoc requests should be developed by the Publisher for Approval by the Authority.

- 12.1.3 provide a customer services function, including sales and issue resolution roles:
 - 12.1.3.1 a dedicated email address and telephone number (not premium rate);
 - 12.1.3.2 provision of the function for at least part of the working day for all sales regions (global); and
 - 12.1.3.3 triage and management of issues ensuring that those that belong to the Authority are forwarded without delay.
- 12.1.4 undertake a programme of regular market research to an agreed timeframe with the Authority. Use insight and data to help inform marketing strategy development, product positioning and pricing and tactical planning;
- 12.1.5 undertake a programme of regular customer and product research to an agreed timeframe with the Authority. Use insight and data to support product developments, inform product perceptions including fitness for purpose; value for money; overall satisfaction;
- 12.1.6 prepare and implement marketing strategies, sales strategies, marketing communications and brand campaign plans with transparent and agreed objectives to acquire new End Users, retain current End Users and promote new products or service to current End Users, that include proposals for major countries/regions (e.g. regional – Europe, North America, China, Asia-Pacific, South America, Africa, Middle East) and customer type (e.g. academic, industrial, governmental etc.) including evaluation measures. The plans must detail the costs of designing, developing and delivering/producing any required brand communications or marketing collateral (e.g., events, event stands, giveaways, merchandise, competitions, etc.) and outline proposed responsibilities between the Publisher and the Authority. The Publisher shall submit draft plans, including success measures to an agreed timeframe with the Authority for the Authority's Approval;
- 12.1.7 prepare distribution and fulfilment strategies and plans for each of the key markets for the BP portfolio of products with transparent objectives and success measures to an agreed timeframe with the Authority and for the Authority's approval;
- 12.1.8 adhere to the Authority's latest branding guidelines. The current guideline is detailed in Annex 11;
- 12.1.9 create and submit procedures that ensure adherence to trademarks, copyright and IPR management (to include, without limitation, processes for identifying and taking action to remove any unauthorised copies of extracts of the Works); correct application of logos and brand assets and the approval thereof to an agreed timeframe with the Authority for the Authority's Approval;
- 12.1.10 create plans/procedures to transparently manage and escalate potential reputational issues that may appear in the media, including

but not limited to: customer complaints, product failures or recalls, Service Failures or disruption, errors and omissions, etc. The Publisher will be required to submit these plans and procedures in draft to an agreed timeframe to the Authority for the Authority's Approval; and

- 12.1.11 submit all marketing collateral to the Authority to an agreed timeframe for the Authority's Approval;

13. PRICING

- 13.1 The Publisher shall market products on an access to edition basis, at the prices in Annex 12, unless otherwise agreed with the Authority.
- 13.2 The Publisher shall routinely monitor, review and propose an annual adjustment (in January preceeding the publication of each edition) to retail pricing of the Works, or if required by the Publisher or requested by the Authority, specifically in writing. The Authority is not obliged or committed to enact the proposed changes in retail pricing of any of the Works. The Authority shall confirm changes as a formal written Variation by the Authority to the Publisher to implement any agreed changes in the retail pricing and where applicable any impact/changes to the royalty approach/structure and/or the discount framework.
- 13.3 The Publisher shall submit proposals for a discount framework, including thresholds for discounts and geographical discounts which shall be Approved by the Authority. The current discount framework is detailed in Annex 13. The Authority shall confirm changes as a formal written Variation by the Authority to the Publisher to implement any agreed changes in the discount framework and where applicable any impact/changes to the royalty approach/structure.

14. KPIS, REPORTING AND ANALYTICS

14.1 KPIs

- 14.1.1 The Publisher will be required to comply with KPIs, to be detailed in draft by the Publisher and Approved by the Authority, for the following:

- 14.1.1.1 the production process, for example:

- 14.1.1.1.1 time from submission of content (both BP agreed format and EDQM XML) to the Publisher to provision of typeset, online and download proofs to the Authority;

- 14.1.1.1.2 time from submission of corrected content (both BP agreed format and EDQM XML) to the Publisher to provision of revised typeset, online and download proofs to the Authority;

- 14.1.1.1.3 errors made in converting EDQM XML to BP agreed format (% right first time);

- 14.1.1.1.4 errors made in converting BP agreed format to typeset proofs (% right first time);

- 14.1.1.1.5 errors made in converting BP agreed

- format to HTML (% right first time);
and
 - 14.1.1.1.6 errors made in converting BP agreed format to the Offline Download product (% right first time).
 - 14.1.1.2 timeframes from order to delivery for all products;
 - 14.1.1.3 time taken to provide refund to a customer from point of agreement that a refund is applicable;
 - 14.1.1.4 responses to complaints from time of initial submission of complaint to first response and to final resolution; and
 - 14.1.1.5 additional performance measures from the Publisher's Tender, as agreed with the Authority and included in the Contract.
- 14.2 Reports and Analytics
- 14.2.1 In addition to reports covering KPI's described in 14.1, and any other reports specified elsewhere in this SCHEDULE 1 (Specification) or this Contract, the Publisher shall provide reports, the content and frequency of which shall be agreed with the Authority, for Approval by the Authority in respect of the following:
- 14.2.1.1 Contract royalties;
 - 14.2.1.2 sales % increase edition-on-edition (total sales);
 - 14.2.1.3 full sales data, broken down by product type, region and purchaser;
 - 14.2.1.4 full direct customer and reseller customer sales data, including contract information, pricing and revenue;
 - 14.2.1.5 periodic reports for marketing campaigns/plans that include: the local context (pricing, competitors, etc.), SMART objectives (lead generation), multi-channel activities and evaluation measures (including engagement metrics for digital activity);
 - 14.2.1.6 return on marketing investment and ratio of market-driven revenue to sales revenue, per campaign, per region/territory;
 - 14.2.1.7 retention rate (customer numbers and sales value);
 - 14.2.1.8 sales funnel conversion rates (to help inform and optimise marketing and sales strategies. For example, a model that covers similar themes: Initial communication, needs assessment, presentation, negotiation, commitment and fulfilment (Customer numbers, sector and sales value at each stage));
 - 14.2.1.9 sales channel availability and effectiveness (digital, face-to-face, etc);
 - 14.2.1.10 lead generation (potential sales revenue);

- 14.2.1.11 market penetration and share data; intelligence and trends;
- 14.2.1.12 competitor analyses and data;
- 14.2.1.13 customer acquisition/retention rates;
- 14.2.1.14 customer feedback/surveys/satisfaction score;
- 14.2.1.15 customer queries (including support calls) and complaints;
- 14.2.1.16 a breakdown of operating costs for each aspect of the requirement;
- 14.2.1.17 results of information security testing (e.g. annual website penetration testing, and vulnerability tests where critical or high vulnerabilities are identified) and remediation plans for fixing identified vulnerabilities;
- 14.2.1.18 full website analytics for the Site (including the BPCRS catalogue) as agreed by the Authority – as a minimum to include sales performance, user journeys, event/content tracking and effectiveness tracking via social media, provision of customer reports and campaigns. Analytics should be based on the Government Service Manual (<https://www.gov.uk/service-manual>);
- 14.2.1.19 wasted production costs e.g. over production of stock; and
- 14.2.1.20 other reports, as agreed with the Authority.

15. IT SERVICE DESIGN AND SLA

- 15.1 The Publisher shall comply with the minimum requirements as detailed in Annex 14 (IT Service Design SLAs and KPIs).

16. STANDARDS

- 16.1 The Publisher shall comply with the following minimum standards which shall form part of the definition of Standards in this Contract:
 - 16.1.1 Government Digital Service design standards;
 - 16.1.2 Accessibility requirements specified by the GDS: <https://www.gov.uk/guidance/accessibility-requirements-for-public-sector-websites-and-apps>;
 - 16.1.3 The Publisher will deliver the Services in a way that enables the Authority to comply with its obligations under the Technology Code of Practice, which is available at <https://www.gov.uk/government/publications/technology-code-of-practice/technology-code-of-practice>;
 - 16.1.4 Equality Act 2010 (or the Disability Discrimination Act 1995 in Northern Ireland) and any of the future iterations of these regulations;
 - 16.1.5 ISO9001 certification, equivalent standard or comparable in house Quality Management System;

- 16.1.6 ISO 22301 Business Continuity Management System (BCM), equivalent standard or comparable in-house business continuity plan/system;
- 16.1.7 Confirmation of Registration of Information Commissioner Office (ICO) via a copy of the Data Protection certificate with the name of the current Data Protection Officer or details of exemption. (<http://www.ico.org.uk>);
- 16.1.8 UKAS approved ISO 27001-2013 certificate (<http://www.ukas.com>);
- 16.1.9 HMG Security Policy Framework (HMG SPF) compliance (<https://www.gov.uk/government/publications/security-policy-framework>);
- 16.1.10 Cyber Essentials Scheme/ Cyber Essentials Plus certification (<https://www.ncsc.gov.uk/cyberessentials/overview>);
- 16.1.11 Compliance with the '10 Steps: summary 'guidance to cyber security with evidence of implementation. (<https://www.ncsc.gov.uk/collection/10-steps-to-cyber-security>);
- 16.1.12 Compliance with the Government Cloud Security Principles (<https://www.ncsc.gov.uk/collection/cloud-security>); and
- 16.1.13 Indemnity & Cyber security insurance (<https://www.gov.uk/government/news/cyber-security-insurance-new-steps-to-make-uk-world-centre>).

17. COMPLEMENTARY COPIES, BIBLIOGRAPHIC AND LIBRARIES

- 17.1 The Publisher shall provide the Authority with access to all publications and features of the Site as an unlimited multi-user network licence for all Authority networks.
- 17.2 The Publisher shall provide fifty (50) copies of the hardcopy format and three hundred (300) copies of the digital format, as a mixture of online (access to all features and BAN) and Offline Download, of each annual BP publication to the Authority. The Publisher shall make complimentary copies available to End Users/customers as specified by the Authority.
- 17.3 The Publisher shall provide twenty five (25) copies of the hardcopy format of each annual BAN publication to the Authority. The Publisher shall make complimentary copies available to End Users/customers as specified by the Authority.
- 17.4 The Publisher shall supply bibliographic information to the UK Official Publications (UKOP), presently published by The Stationery Office Limited, for inclusion in the UKOP official bibliographic database.
- 17.5 The Publisher shall deposit such copies of the Works in the libraries in which such deposit is defined and required by law pursuant to the Legal Deposit Libraries Act 2003 within the time stipulated. In the case of libraries which are entitled to copies only on specific claim, the Publisher shall despatch copies automatically without the need for libraries to claim them.

SCHEDULE 2.
Royalty Payments

1. COMMERCIAL (ROYALTY PAYMENTS TO THE AUTHORITY)

- 1.1 The Publisher shall pay the Authority a guaranteed minimum royalty sum (each a “**Guaranteed Minimum Royalty Payment**”) in respect of each edition of the Works, as set out in paragraphs 1.1.1 to 1.1.5 inclusive of this SCHEDULE 2 (Royalty Payments) (which sums in each case are exclusive of VAT noting, for the avoidance of doubt, that VAT is payable by the Publisher on all Guaranteed Minimum Royalty Payments at the prevailing rate):
- 1.1.1 on or before 20 March 2024 an amount, which shall be payable as a single, lump sum payment, equal to REDACTED
[REDACTED] multiplied by the percentage change in the Consumer Prices Index most recently published for the twelve (12) month period ending in February 2024;
- 1.1.2 on or before 20 March 2025 an amount, which shall be payable as a single, lump sum payment, equal to the aggregate of (a) the Guaranteed Minimum Royalty Payment payable on 20 March 2024; and (b) an amount equal to the Guaranteed Minimum Royalty Payment payable on 20 March 2024 multiplied by the percentage change in the Consumer Prices Index most recently published for the twelve (12) month period ending in February 2025;
- 1.1.3 on or before 20 March 2026 an amount, which shall be payable as a single, lump sum payment, equal to the aggregate of (a) the Guaranteed Minimum Royalty Payment payable on 20 March 2025; and (b) an amount equal to the Guaranteed Minimum Royalty Payment payable on 20 March 2025 multiplied by the percentage change in the Consumer Prices Index most recently published for the twelve (12) month period ending in February 2026;
- 1.1.4 on or before 20 March 2027 an amount, which shall be payable as a single, lump sum payment, equal to the aggregate of (a) the Guaranteed Minimum Royalty Payment payable on 20 March 2026; and (b) an amount equal to the Guaranteed Minimum Royalty Payment payable on 20 March 2026 multiplied by the percentage change in the Consumer Prices Index most recently published for the twelve (12) month period ending in February 2027; and
- 1.1.5 on or before 20 March 2028 an amount, which shall be payable as a single, lump sum payment, equal to the aggregate of (a) the Guaranteed Minimum Royalty Payment payable on 20 March 2027; and (b) an amount equal to the Guaranteed Minimum Royalty Payment payable on 20 March 2027 multiplied by the percentage change in the Consumer Prices Index most recently published for the twelve (12) month period ending in February 2028.
- 1.2 In addition to the Guaranteed Minimum Royalty Payments outlined in paragraph 1.1 above, the Authority shall be entitled to the payment of royalty based on the revenue from sales generated by the Publisher in respect of each edition of the Works published by the Publisher, which shall be calculated and paid by the Publisher to the Authority as follows:
- 1.2.1 on the 1st of October of each year as referenced in the table at paragraph 1.3 below (each an “**Interim Royalty Calculation Date**”),

the Publisher shall calculate the total revenue from sales received to date in respect of the relevant edition shown in that table (the **"Interim Sales Revenue Figure"**), and then calculate the Authority's share of that revenue (the **"Interim Sales Royalty"**) by multiplying the Interim Sales Revenue Figure by the applicable Sales Royalty Percentage shown in the table at paragraph 1.3 below;

- 1.2.2 if the Interim Sales Royalty exceeds a sum equal to the Guaranteed Minimum Royalty Payment (exclusive of VAT) for that edition (as calculated in accordance with paragraph 1.1 above), the royalty payable by the Publisher in respect of that Interim Sales Royalty (the **"Interim Royalty Payment"**) shall be calculated as the sum equal to the difference between the Interim Sales Royalty and the relevant Guaranteed Minimum Royalty Payment;
 - 1.2.3 the Publisher shall confirm the amount of the Interim Royalty Payment to the Authority in relation to each edition of the Works published by the Publisher within five (5) Working Days following the relevant Interim Royalty Calculation Date for that edition, and the Authority having satisfied itself that the sum of the Interim Royalty Payment as confirmed by the Publisher is correct, shall submit an invoice for the sum confirmed by the Publisher which shall be due for payment by the Publisher within five (5) Working Days of the date of the invoice;
 - 1.2.4 if additional revenues are generated from the sale of an edition of the Works after the Interim Royalty Calculation Date for that edition (**"Additional Sales Revenue"**), the Authority shall be entitled to the payment of royalty in respect of such Additional Sales Revenue, which shall be calculated by multiplying the sum of the Additional Sales Revenue for an edition by the applicable Sales Royalty Percentage shown in the table at paragraph 1.3 below (each such payment being a **"Sales Royalty Balancing Payment"**), and the Publisher shall provide a breakdown of the Sales Royalty Balancing Payment for the Authority's approval no later than the date on which the Publisher is required to confirm the Interim Royalty Payment in relation to the next edition of the Works, in accordance with paragraph 1.2.3 above;
 - 1.2.5 subject to paragraph 1.4 below, each Sales Royalty Balancing Payment shall be due from the Publisher on the date on which the Interim Royalty Payment for the edition of the Works, next published by the Publisher in accordance with this Contract, falls due (and, for the avoidance of doubt, the Sales Royalty Balancing Payment shall not be taken into account by the Publisher in calculating the Interim Sales Revenue Figure for any subsequent edition of the British Pharmacopoeia);
 - 1.2.6 for the avoidance of doubt if the royalty based on revenue from sales in respect of an edition of the Works does not exceed the Guaranteed Minimum Royalty Payment (exclusive of VAT) payable in respect of that edition, then no Interim Royalty Payment or Sales Royalty Balancing Payment is payable in respect of that edition; and
 - 1.2.7 VAT at the prevailing rate is payable by the Publisher on all Interim Royalty Payments and Sales Royalty Balancing Payments.
- 1.3 The Interim Royalty Calculation Date and applicable Sales Royalty Percentage for each edition of the Works shall be as follows:

| Edition | Interim Calculation Date | Royalty Sales Percentage | Royalty |
|------------------------------------|-------------------------------------|---|----------------|
| BP 2024 & BAN 2022 Supplement 2 | 20 October 2024 | RE | |
| BP 2025 & BAN 2022 Supplement 3 | 20 October 2025 | RE | |
| BP 2026 & BAN 2022 Supplement 4 | 20 October 2026 | RE | |
| BP 2027 & BAN 2027 | 20 October 2027 | RE | |
| BP 2028 & BAN 2027 Supplement 1 | 20 October 2028 | RE | |

- 1.4 As of the Handover Date, the Authority's chosen Replacement Contractor shall be entitled to collect all revenue in relation to the sale of the Works. In the event that the Publisher receives any revenue relating to the period after the Handover Date and which is not accounted for within the Publisher's final payment of the Interim Royalty Payment or Sales Royalty Balancing Payment, the Publisher shall account to the Authority for the same.
- 1.5 Except as set out in paragraph 1.1 above, no costs, expenses, fees or charges shall be adjusted to take account of any inflation, change to exchange rate, change to interest rate or any other factor or element which might otherwise increase the cost to the Publisher or its subcontractors of the performance of their obligations.

SCHEDULE 3.
Performance Measures

1. KEY PERFORMANCE INDICATORS (KPIs)

1.1 The KPIs contained in the table below shall be used to measure the performance of the Publisher in providing the Services to the Authority.

| KPI description | KPI measurement criteria | Target KPI |
|---|--|--|
| Time from submission of content (both BP agreed format and EDQM XML) to the Publisher to provision of typeset, online and offline download proofs to the Authority. | For EDQM XML, includes agreement of configuration files (e.g. document map) with the Authority and conversion to BP format. For BP, convert templated data to agreed BP output. | For EDQM XML = 20 Working Days For BP = 3 Working Days |
| Time from submission of corrected content (both BP agreed format and EDQM XML) to the Publisher to provision of revised typeset, online and Offline Download proofs to the Authority. | | For typeset = 2 Working Days For website and Offline Download = 5 Working Days |
| Errors made in converting EDQM XML to BP agreed format (% right first time). | % right first time = files with errors/total files converted x 100 | 98% |
| Errors made in converting BP agreed format to typeset proofs (% right first time). | % right first time = pages with errors/total pages proofed x 100 | 98% |
| Errors made in converting BP agreed format to HTML (% right first time). | % right first time = files with errors/total files converted x 100 | 98% |
| Errors made in converting BP agreed format to the Offline Download product (% right first time). | % right first time = files with errors/total files converted x 100 | 98% |
| Timeframes from order to delivery for all products. | | Hardcopy, UK and Europe = 3 Working Days Hardcopy, Rest of the world = 6 Working Days Online/ Offline Download = 1 Working Day |
| Time taken to provide refund to a customer from point of agreement that a refund is applicable. | | Cards = 3 Working Days Bank transfers = 14 Working Days |
| Responses to complaints from time of initial submission of complaint to first response and to final resolution | | First response = 1 Working Day Final resolution = 5 Working Days |
| Wasted production costs e.g. over-production of stock. | % of the initial print run remaining after December of its edition year, i.e., after the time period for sales of a given edition has passed. | 10%. |

- 1.2 The Publisher shall perform this Contract in accordance with the KPIs and achieve the corresponding Target KPIs.
- 1.3 The Publisher shall send to the Authority a Management Report detailing the Achieved KPIs in accordance with the requirements of the Specification.

2. SATISFACTION SURVEYS

- 2.1 In order to assess the level of performance of the Publisher, the Authority may undertake satisfaction surveys in respect of the Publisher's provision of the Services.
- 2.2 The Authority shall be entitled to notify the Publisher of any aspects of their performance of the provision of the Services which the responses to the satisfaction surveys reasonably suggest are not in accordance with this Contract.

SCHEDULE 4.
Governance and Reporting Arrangements

1. STRATEGIC GOVERNANCE

| | Frequency | MHRA/BP Representatives | Publisher Representatives | Purpose/aspects discussed |
|---------------------------|---|--|---|---|
| Annual Contract Review | Once a year | Head of Standards and Regulatory Governance Head of BP and Labs BP Publication Team MHRA representatives as needed. | Service Director; Senior account executive; BP production project manager; Account Manager; Executives related to Marketing, production process | Strategic review of performance and service for the year; Project review; Planning for next production cycle; and Marketing and sales aspects. |
| Quarterly Contract Review | Quarterly (3x a year, 4 th meeting replaced with annual meeting) | Head of BP and Labs BP Publication Team MHRA representatives as needed. | Service Director Senior account executive; Account Manager; BP production project manager; Executives related to Marketing, production process | High level review of performance against Project Plan and service for the quarter; Risk escalation; Process improvement; Planning; and Marketing and sales aspects. |

2. OPERATIONAL DELIVERY

| | Frequency | MHRA/BP Representatives | Publisher Representatives | Purpose/aspects discussed |
|--------------------|------------------|--------------------------------|---|--|
| Production meeting | Once a week | BP Publication team | BP production project manager; Account Manager; Relevant staff involved in operational delivery | Tracking delivery and planning; Risk identification and mitigation; Service improvement actions; Resolving minor issues. |
| Marketing meeting | Once a week | BP Publication team | BP production project manager; Account Manager; Relevant staff involved in operational delivery | Tracking delivery and planning |

| | Frequency | MHRA/BP Representatives | Publisher Representatives | Purpose/aspects discussed |
|---------------------------------|-------------------------------------|--|--|--|
| Change Control Board - website | Quarterly | Head of Standards and Regulatory Governance Head of BP and Labs BP Publication Team MHRA representatives as needed. | Senior account executive; Account Manager; Executives related to Website maintenance, control and development | Review and approve any product/service development/changes. |
| Technical Review/lessons learnt | Once a year | Head of BP and Labs BP Publication Team | Senior account executive; BP production project manager; Account Manager; Executives related to Marketing, production process | Identify and implement process improvements |
| Ad-hoc meetings | As needed up to and including daily | BP Publication Team MHRA representatives as needed. | BP production project manager; Account Manager; Relevant members of staff as needed | To manage operational delivery issues or projects if needed. |

3. REPORTS

- 3.1 The Publisher shall provide to the Authority the reports detailed in paragraph 17 of SCHEDULE 1 (Specification) and comply with all reporting requirements therein and elsewhere in this Contract.

SCHEDULE 5.
Financial Transparency Objectives and Open Book Data

1. FINANCIAL TRANSPARENCY OBJECTIVES

The Publisher acknowledges that the provisions of this SCHEDULE 5 (Financial Transparency Objectives and Open Book Data) are designed (inter alia) to facilitate, and the Publisher shall co-operate with the Authority in order to achieve, the following objectives:

Understanding the Payments and Costs

- 1.1 for the Authority to understand the payments made by the Publisher including an analysis of the costs and time spent by Publisher Personnel in providing the Services; and
- 1.2 for both Parties to be able to understand the Publisher's payment model and cost forecasts and to have confidence that these are based on justifiable numbers and appropriate forecasting techniques;

Agreeing the impact of Change

- 1.3 for both Parties to agree the quantitative impact of any variations or changes that affect ongoing costs and to identify how these could be mitigated;
- 1.4 for both Parties to be able to review, address issues with and re-forecast progress in relation to the provision of the Services;

Continuous improvement

- 1.5 for the Parties to challenge each other with ideas for efficiency and improvements; and
- 1.6 to enable the Authority to demonstrate that it is achieving value for money for the tax payer,

(together the "**Financial Transparency Objectives**").

2. OPEN BOOK DATA

- 2.1 The Publisher acknowledges the importance to the Authority of the Financial Transparency Objectives and the Authority's need for complete financial transparency.
- 2.2 During the Contract Period, and for a period of seven (7) years following the end of the Contract Period, the Publisher shall:
 - 2.2.1 maintain and retain the Open Book Data; and
 - 2.2.2 disclose and allow the Authority access to the Open Book Data.
- 2.3 The Publisher shall annually:
 - 2.3.1 provide confirmation that all methods of cost apportionment and Overheads allocation are consistent with and not more onerous than such methods applied generally by the Publisher; and
 - 2.3.2 provide an explanation of the type and value of risk and contingencies associated with the provision of the Services, including the amount of money attributed to each risk and/or contingency.
- 2.4 The Publisher shall provide the following information annually to the Authority at a date agreed by the Authority:

- 2.4.1 Gross Sales
- 2.4.2 Average Discount
- 2.4.3 Net Sales
- 2.4.4 Royalty

Production Costs

- 2.4.5 Production costs (print and bind)
- 2.4.6 Technology
- 2.4.7 Service delivery
- 2.4.8 Design
- 2.4.9 Editorial
- 2.4.10 Typesetting

Sales and Marketing

- 2.4.11 Marketing
- 2.4.12 Authority services
- 2.4.13 Sales

Support

- 2.4.14 Technology
- 2.4.15 Infrastructure
- 2.4.16 Innovation/Investment fund
- 2.4.17 Overheads
- 2.4.18 Profit

SCHEDULE 6.
Commercially Sensitive Information

1. COMMERCIALLY SENSITIVE INFORMATION

- 1.1 Details of any reports or other information provided under the requirements of SCHEDULE 5 (Financial Transparency Objectives and Open Book Data)
- 1.2 The following information, shared by the Publisher as part of its Tender, is considered by the Publisher to be commercially sensitive and, without prejudice to the Parties' obligations in Clause 18 (Data Protection) of this Contract such information is to be kept confidential for five (5) years from the date of its disclosure:
- pricing;
 - production costs (as given in an example of open book accounting);
 - pen test results;
 - technical design; and
 - re-seller information.

SCHEDULE 7.
Employment Exit Provisions

1. INTERPRETATION

1.1 The definitions and rules of interpretation in this paragraph apply in this SCHEDULE 7 (Employment Exit Provisions).

| | |
|---|--|
| "Employee Liability Information" | <p>in respect of each of the Publisher's Personnel listed in the Publisher's Final Staff List:</p> <ul style="list-style-type: none">(a) the identity and age of the employee;(b) the employee's written statement of employment particulars (as required under section 1 of the Employment Rights Act 1996);(c) information about any disciplinary action taken against the employee and any grievances raised by the employee within the previous two years;(d) information about any court or tribunal case, claim or action brought by the employee against the Publisher within the previous two years and any such potential legal action where the Publisher has reasonable grounds to believe such actions might occur; and(e) information about any collective agreement which will have effect after the Service Transfer Date in relation to the Employee pursuant to Regulation 5 of the TUPE Regulations. |
| "Publisher's Final Staff List" | <p>the list of all the Publisher's Personnel engaged in or wholly or mainly assigned to an organised grouping of employees whose principal purpose is the provision of the Services (or the part thereof which will be subject to the Relevant Transfer) at the Service Transfer Date.</p> |
| "Publisher's Provisional Staff List" | <p>a list prepared and updated by the Publisher of all the Publisher's Personnel engaged in, or wholly or mainly assigned to, an organised grouping of employees whose principal purpose is the provision of the Services (or the part thereof which will be subject to the Relevant Transfer) at the date of preparation of the list.</p> |
| "Service Transfer Date" | <p>the date on which the Services (or any part of the Services), for whatever reason transfer from the Publisher to the Authority or any Replacement Contractor.</p> |
| "Staffing Information" | <p>in relation to all persons detailed on the Publisher's Provisional Staff List, such information as the Authority may reasonably request, including but not limited to, in an anonymised format:</p> <ul style="list-style-type: none">(a) their ages, dates of commencement of employment or engagement and gender;(b) details of whether they are employees, workers, self-employed, contractors or consultants, agency workers or otherwise;(c) the identity of their employer or relevant contracting |

party;

- (d) their relevant notice periods and any other terms relating to termination of employment or engagement, including any redundancy procedures and contractual redundancy payment schemes;
- (e) the current wages, salaries, profit sharing, incentive and bonus arrangements applicable to them;
- (f) details of other employment-related benefits including (without limitation) medical insurance, life assurance, pension or other retirement benefit schemes, share option schemes and car schemes applicable to them;
- (g) any outstanding or potential contractual, statutory or other liabilities in respect of such individuals (including in respect of personal injury claims);
- (h) details of any such individuals on long-term sickness absence, maternity or other statutory leave or otherwise absent from work; and
- (i) copies of all relevant documents and materials relating to such information including copies of relevant contracts of employment or engagement (or relevant standard contracts if applied generally in respect of such individuals).

2. EMPLOYMENT EXIT PROVISIONS

2.1 The Publisher agrees that, subject to compliance with the Data Protection Legislation:

2.1.1 Within twenty (20) days of the earliest of:

- 2.1.1.1 receipt of a notification from the Authority of a Service Transfer or intended Service Transfer; or
- 2.1.1.2 receipt of the giving of notice of early termination of this Contract or any part thereof; or
- 2.1.1.3 the date which is 6 months before the expiry of the Contract Period or any renewal term,

and, in any event, on receipt of a written request of the Authority at any time, it shall provide the Publisher's Provisional Staff List and the Staffing Information to the Authority or, at the direction of the Authority, to a Replacement Contractor and it shall provide an updated Publisher's Provisional Staff List when reasonably requested by the Authority or, any Replacement Contractor;

2.1.2 at least fourteen (14) days prior to the Service Transfer Date, the Publisher shall prepare and provide to the Authority and/or, at the direction of the Authority, to the Replacement Contractor, the Publisher's Final Staff List, which shall be complete and accurate in all material respects. The Publisher's Final Staff List shall identify which of the Publisher's Personnel named are Transferring Employees;

2.1.3 the Authority shall be permitted to use and disclose the Publisher's Provisional Staff List, the Publisher's Final Staff List and the Staffing Information for informing any prospective Replacement Contractor for any

services which are substantially the same type of services (or any part thereof) as the Services; and

- 2.1.4 upon reasonable request by the Authority the Publisher shall provide the Authority or at the request of the Authority, the Replacement Contractor, with access (on reasonable notice and during normal working hours) to such employment records (and provide copies) as the Authority reasonably requests.
 - 2.2 The Publisher warrants that the Publisher's Provisional Staff List, the Publisher's Final Staff List and the Staffing Information will be true and accurate in all material respects.
 - 2.3 From the date of the earliest event referred to in paragraph 2.1.1 of this SCHEDULE 7 (Employment Exit Provisions), the Publisher agrees that it shall not without the prior written consent of the Authority, assign any person to the provision of the Services (or the relevant part) which is the subject of a Service Transfer who is not listed in the Publisher's Provisional Staff List and shall not without the prior written consent of the Authority (such consent not to be unreasonably withheld or delayed):
 - 2.3.1 increase the total number of employees listed on the Publisher's Provisional Staff List save for fulfilling assignments and projects previously scheduled and agreed with the Authority;
 - 2.3.2 make, propose or permit any changes to the terms and conditions of employment of any employees listed on the Publisher's Provisional Staff List;
 - 2.3.3 increase the proportion of working time spent on the Services (or the relevant part) by any of the Publisher's Personnel save for fulfilling assignments and projects previously scheduled and agreed with the Authority;
 - 2.3.4 introduce any new contractual or customary practice concerning the making of any lump sum payment on the termination of employment of any employees listed on the Publisher's Provisional Staff List; and
 - 2.3.5 replace any of the Publisher's Personnel listed on the Publisher's Provisional Staff List or deploy any other person to perform the Services (or the relevant part) or increase the number of employees or terminate or give notice to terminate the employment or contracts of any persons on the Publisher's Provisional Staff List.
- The Publisher will promptly notify the Authority or, at the direction of the Authority, the Replacement Contractor of any notice to terminate employment received from any persons listed on the Publisher's Provisional Staff List regardless of when such notice takes effect.
- 2.4 At least fourteen (14) days before the expected Service Transfer Date, the Publisher shall provide to the Authority or any Replacement Contractor, in respect of each person (subject to compliance with Data Protection Legislation) on the Publisher's Final Staff List who is a Transferring Employee, their:
 - 2.4.1 pay slip data for the most recent month;
 - 2.4.2 cumulative pay for tax and pension purposes;
 - 2.4.3 cumulative tax paid;
 - 2.4.4 tax code;
 - 2.4.5 voluntary deductions from pay; and
 - 2.4.6 bank or building society account details for payroll purposes.

- 2.5 In connection with a Relevant Transfer, the Parties agree that:
- 2.5.1 the Publisher shall perform and discharge all its obligations to and in respect of all the Transferring Employees and their representatives up to and including the Service Transfer Date;
 - 2.5.2 the Publisher shall indemnify the Authority and any Replacement Contractor in full for and against all claims, costs, expenses or liabilities whatsoever and howsoever arising, incurred or suffered by the Authority or any Replacement Contractor including without limitation all legal expenses and other professional fees (together with any VAT thereon) in relation to:
 - 2.5.2.1 the Publisher's failure to perform and discharge any such obligation;
 - 2.5.2.2 any act or omission by the Publisher on or before the Service Transfer Date or any other matter, event or circumstance occurring before the Service Transfer Date;
 - 2.5.2.3 all and any claims in respect of all emoluments and outgoings in relation to the Transferring Employees (including without limitation all wages, bonuses, PAYE, National Insurance contributions, pension contributions and otherwise) payable in respect of any period on or before the Service Transfer Date;
 - 2.5.2.4 any claim arising out of the provision of, or proposal by the Publisher to offer any change to any benefit, term or condition or working condition of any Transferring Employee arising on or before the Service Transfer Date;
 - 2.5.2.5 any claim made by or in respect of any person employed or formerly employed by the Publisher other than a Transferring Employee for which it is alleged the Authority or any Replacement Contractor may be liable by virtue of this Contract and/or the TUPE Regulations;
 - 2.5.2.6 any act or omission of the Publisher in relation to its obligations under Regulations 11 or 13 of the TUPE Regulations, or in respect of an award of compensation under Regulations 12 or 15 of the TUPE Regulations except to the extent that the liability arises from the Authority or Replacement Contractor's failure to comply with Regulation 11 of the TUPE Regulations; and
 - 2.5.2.7 any statement communicated to or action done by the Publisher or in respect of, any Transferring Employee on or before the Service Transfer Date regarding the Service Transfer which has not been agreed in advance with the Authority in writing.
- 2.6 The Publisher shall indemnify the Authority and any Replacement Contractor in respect of any claims arising from any act or omission of the Publisher in relation to any other Publisher's Personnel who is not a Transferring Employee during any period whether before, on or after the Service Transfer Date.
- 2.7 The Authority shall on its own behalf, and shall procure that the Replacement Contractor shall on its own behalf, indemnify the Publisher against all claims arising from the Authority's or the Replacement Contractor's failure to perform and discharge any obligation and against any Claims in respect of any Transferring Employees arising from

or as a result of:

- 2.7.1 any act or omission by the Authority and/or a Replacement Contractor relating to a Transferring Employee occurring on or after the Service Transfer Date;
 - 2.7.2 all and any claims in respect of all emoluments and outgoings in relation to the Transferring Employees (including without limitation all wages, bonuses, PAYE, National Insurance contributions, pension contribution and otherwise) accrued and payable after the Service Transfer Date;
 - 2.7.3 any claim arising out of the provision of, or proposal by the Authority and/or a Replacement Contractor to offer any change to any benefit, term or condition or working condition of any Transferring Employee arising on or after the Service Transfer Date; and
 - 2.7.4 any act or omission of the Authority and/or a Replacement Contractor in relation to its obligations under Regulations 11 or 13 of the TUPE Regulations.
- 2.8 The Parties shall co-operate to ensure that any requirement to inform and consult with the employees and or employee representatives in relation to any Relevant Transfer will be fulfilled. Each Party shall be liable for any costs it incurs as a failure to comply with this paragraph 2.8.
- 2.9 The Parties agree that the Contracts (Rights of Third Parties) Act 1999 shall apply to paragraphs 2.4 to 2.8 (inclusive) of this SCHEDULE 7 (Employment Exit Provisions) to the extent necessary to ensure that any Replacement Contractor shall have the right to enforce the obligations owed to, and indemnities given to, the Replacement Contractor by the Publisher in its own right under section 1(1) of the Contracts (Rights of Third Parties) Act 1999.
- 2.10 In the event of a Service Transfer to which the TUPE Regulations do not apply the following provisions shall apply:
- 2.10.1 the Authority or the Replacement Contractor can, at its discretion, make an offer in writing to any of the employees listed on the Publisher's Provisional Staff List or any Publisher's Personnel assigned to the Services, to employ that employee under a new contract of employment to take effect at the earliest reasonable opportunity;
 - 2.10.2 when the offer has been made by the Authority or Replacement Contractor and accepted by any employee or worker, the Publisher shall permit the employee or worker to leave his or her employment, as soon as practicable depending on the business needs of the Publisher which could be without the employee or worker having worked his full notice period, if the employee so requests and where operational obligations allow;
 - 2.10.3 if the employee does not accept an offer of employment made by the Authority or Replacement Contractor, the employee shall remain employed by the Publisher and all claims in relation to the employee shall remain with the Publisher; and
 - 2.10.4 if the Authority or the Replacement Contractor does not make an offer to any employee on the Publisher's Provisional Staff List or any Publisher's Personnel, then that employee and all claims in relation to that employee remains with the Publisher.

SCHEDULE 8.
Variation Form

No. of Contract being varied:

.....

Variation Form No:

.....

BETWEEN:

[insert name of Authority] ("the **Authority**")

and

[insert name of Contract] ("the **Publisher**")

1. The Contract is varied as follows and shall take effect on the date signed by both Parties:

[Insert details of the Variation]

2. Words and expressions in this Variation shall have the meanings given to them in the Contract.
3. The Contract, including any previous Variations, shall remain effective and unaltered except as amended by this Variation.

Signed by an authorised signatory for and on behalf of the Authority

Signature

Date

Name (in Capitals)

Address

.....
.....
.....
.....

Signed by an authorised signatory to sign for and on behalf of the Publisher

Signature

Date

Name (in Capitals)

Address

.....
.....
.....
.....

SCHEDULE 9.
Escrow Agreement

1. In accordance with Clause 20 (Escrow) of this Contract, the Publisher will deposit the Source Code (including any existing annotations, notes or instructions) of all Software provided to the Authority and any other Software used in this Contract in escrow no later than 1 March 2023 with SES (ses-escrow.co.uk).
2. Updated Source Code will then be deposited by 31 August 2023 following publication of the BP 2024 and thereafter on an annual basis made no later than 31 August in each subsequent year during the Contract Period.

SCHEDULE 10.

Exit Management

1. DEFINITIONS

1.1 In this SCHEDULE 10 (Exit Management), the following definitions shall apply:

- | | |
|---------------------------|--|
| "Exit Information" | has the meaning given to it in paragraph 4.1 of this SCHEDULE 10 (Exit Management); |
| "Exit Plan" | means the exit plan to be prepared by the Publisher in accordance with paragraph 5 of this SCHEDULE 10 (Exit Management); and |
| "Registers" | means the register and configuration database referred to in paragraphs 3.1.1 and 3.1.2 of this SCHEDULE 10 (Exit Management). |

2. INTRODUCTION

- 2.1 This SCHEDULE 10 (Exit Management) describes provisions that should be included in the Exit Plan and the duties and responsibilities of the Publisher to the Authority leading up to and covering the Expiry Date.
- 2.2 The Publisher acknowledges that the exit process and the duties and responsibilities of the Publisher to the Authority set out in this SCHEDULE 10 (Exit Management) shall commence in March 2027.
- 2.3 The objectives of the exit planning arrangements are to ensure a smooth transition of the availability of the Services from the Publisher to the Authority and/or a Replacement Contractor at the Expiry Date.

3. OBLIGATIONS DURING THE CONTRACT PERIOD TO FACILITATE EXIT

3.1 During the Contract Period, the Publisher shall:

- | | |
|---------|--|
| 3.1.1 | create and maintain (and share with the Authority upon request) a Register detailing all: |
| 3.1.1.1 | sub-contracts and other relevant agreements (including relevant Software licences, maintenance and support agreements) required for the performance of the Services; |
| 3.1.1.2 | publication content data; |
| 3.1.1.3 | resellers of the publication; |
| 3.1.1.4 | direct customers of the publication including subscription details; |
| 3.1.1.5 | relevant subscription and standing order lists developed by the Publisher during the Contract Period; |
| 3.1.1.6 | third party obligations and outstanding financial commitments; and |
| 3.1.1.7 | all financial and sales account information including costs data. |
| 3.1.2 | create and maintain a configuration database detailing the technical |

infrastructure and operating procedures through which the Publisher provides the Services, which shall contain sufficient detail to permit the Authority and/or Replacement Contractor to understand how the Publisher provides the Services and to enable the smooth transition of the Services with the minimum of disruption;

- 3.1.3 maintain full transparency of data models and designs. A robust data extraction process (including timings) shall be drafted by the Publisher for approval by the Authority.
 - 3.1.4 agree the format of the Registers with the Authority as part of the process of agreeing the Exit Plan; and
 - 3.1.5 at all times keep the Registers up to date.
 - 3.1.6 The Publisher shall (unless otherwise agreed by the Authority in writing) procure that all licences for third party IPR supplied by third parties and all sub-contracts shall be assignable and/or capable of novation at the request of the Authority to the Authority (and/or its nominee) and/or any Replacement Contractor upon the Publisher ceasing to provide the Services (or part of them) without restriction (including any need to obtain any consent or approval) or payment by the Authority.
- 3.2 Where the Publisher is unable to procure that any sub-contract or other agreement referred to in paragraph 3.1.6 of this SCHEDULE 10 (Exit Management) which the Publisher proposes to enter into after the Commencement Date is assignable and/or capable of novation to the Authority (and/or its nominee) and/or any Replacement Contractor without restriction or payment, the Publisher shall promptly notify the Authority of this and the Parties shall (acting reasonably and without undue delay) discuss the appropriate action to be taken which, where the Authority so directs, may include the Publisher seeking an alternative sub-contractor or provider of services to which the relevant agreement relates.
- 3.3 Each Party shall appoint an exit manager for the purposes of managing the Parties' respective obligations under this SCHEDULE 10 (Exit Management) and provide written notification of such appointment to the other Party within three (3) months of the Commencement Date. The Publisher's exit manager shall be responsible for ensuring that the Publisher and its employees, agents and sub-contractors comply with this SCHEDULE 10 (Exit Management). The Publisher shall ensure that its exit manager has the requisite authority to arrange and procure any resources of the Publisher as are reasonably necessary to enable the Publisher to comply with the requirements set out in this SCHEDULE 10 (Exit Management). The Parties' exit managers will liaise with one another in relation to all issues relevant to the termination of this Contract and all matters connected with this SCHEDULE 10 (Exit Management) and each Party's compliance with it.

4. OBLIGATIONS TO ASSIST ON RE-TENDERING OF SERVICES

- 4.1 On reasonable notice at any point during the Contract Period, the Publisher shall provide to the Authority and/or its potential Replacement Contractor (subject to the potential Replacement Contractor entering into reasonable written confidentiality undertakings), the following material and information in order to facilitate the preparation by the Authority of any invitation to tender and/or to facilitate any potential Replacement Contractors undertaking due diligence:
- 4.1.1 details of the Service(s);
 - 4.1.2 a copy of the Registers, updated by the Publisher up to the date of delivery of such Registers;

- 4.1.3 an inventory of Authority Data in the Publisher's possession or control;
- 4.1.4 details of any key terms of any third party contracts and licences, particularly as regards charges, termination, assignment and novation;
- 4.1.5 a list of on-going and/or threatened disputes in relation to the provision of the Services; and
- 4.1.6 such other material and information as the Authority shall reasonably require,

(together, the "**Exit Information**").

- 4.2 The Publisher acknowledges that the Authority may disclose the Publisher's Confidential Information to an actual or prospective Replacement Contractor or any third party whom the Authority is considering engaging to the extent that such disclosure is necessary in connection with such engagement (except that the Authority may not under this paragraph 4.2 of this SCHEDULE 10 (Exit Management) disclose any Publisher's Confidential Information which is information relating to the Publisher's or its sub-contractors' prices or costs).

- 4.3 The Publisher shall:

- 4.3.1 allow the Authority or Replacement Contractor upon service of reasonable written notice, access to the Publisher's premises and to inspect the Publisher's working systems and procedures relating to the provision of the Services;
- 4.3.2 notify the Authority within five (5) Working Days of any material change to the Exit Information which may adversely impact upon the provision of any Services and shall consult with the Authority regarding such proposed material changes; and
- 4.3.3 provide complete updates of the Exit Information on an as-requested basis as soon as reasonably practicable and in any event within ten (10) Working Days of a request in writing from the Authority.

- 4.4 The Exit Information shall be accurate and complete in all material respects and the level of detail to be provided by the Publisher shall be such as would be reasonably necessary to enable a third party to:

- 4.4.1 prepare an informed offer for the Services; and
- 4.4.2 not be disadvantaged in any subsequent procurement process compared to the Publisher (if the Publisher is invited to participate).

5. EXIT PLAN

- 5.1 The Publisher shall, both within three (3) months after the Commencement Date and by six (6) months prior to the commencement of exit management in accordance with paragraph 5.1.3 below, deliver to the Authority an Exit Plan which:

- 5.1.1 sets out the Publisher's proposed methodology for achieving an orderly transition of the Services from the Publisher to the Authority and/or its Replacement Contractor on the expiry or termination of this Contract;
- 5.1.2 recognises that the exit process shall commence from March 2027
- 5.1.3 complies with the requirements set out in paragraph 5.3 of this SCHEDULE 10 (Exit Management);

- 5.1.4 is otherwise reasonably satisfactory to the Authority.
- 5.2 The Parties shall use reasonable endeavours to agree the contents of the Exit Plan. If the Parties are unable to agree the contents of the Exit Plan within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
- 5.3 Unless otherwise specified by the Authority, the Exit Plan shall set out, as a minimum:
 - 5.3.1 how the Exit Information is obtained;
 - 5.3.2 a detailed description of both the transfer and cessation processes, including a timetable;
 - 5.3.3 how the Services will transfer to the Replacement Contractor and/or the Authority, including details of the processes, documentation, data transfer, systems migration, security and the segregation of the Authority's technology components from any technology components operated by the Publisher or its sub-contractors (where applicable);
 - 5.3.4 details of contracts (if any) which will be available for transfer to the Authority and/or the Replacement Contractor upon the Expiry Date together with any reasonable costs required to effect such transfer (and the Publisher agrees that all assets and contracts used by the Publisher in connection with the provision of the Services will be available for such transfer);
 - 5.3.5 proposals for the training of key members of the Replacement Contractor's personnel in connection with the continuation of the provision of the Services following the Expiry Date charged at rates agreed between the Parties at that time;
 - 5.3.6 proposals for providing the Authority or a Replacement Contractor copies of all documentation:
 - 5.3.6.1 used in the provision of the Services and necessarily required for the continued use thereof, in which the Intellectual Property Rights are owned by the Publisher; and
 - 5.3.6.2 relating to the use and operation of the Services;
 - 5.3.7 proposals for the assignment or novation of the provision of all services, maintenance agreements and support agreements utilised by the Publisher in connection with the performance of the supply of the Services
 - 5.3.8 how each of the issues set out in this SCHEDULE 10 (Exit Management) will be addressed to facilitate the transition of the Services from the Publisher to the Replacement Contractor and/or the Authority with the aim of ensuring that there is no disruption to the Services;
 - 5.3.9 proposals for the supply of any other information or assistance reasonably required by the Authority or a Replacement Contractor in order to effect an orderly handover of the provision of the Services; and
 - 5.3.10 proposals for periodic review of the exit plan to ensure it remains up to date reflecting any changes to the service.

6. EXIT OBLIGATIONS

- 6.1 The Publisher shall comply with all of its obligations contained in the Exit Plan.
- 6.2 Upon termination or expiry all licences and/or rights granted to the Publisher shall

terminate and immediately and automatically revert to the Authority.

- 6.3 Upon termination or expiry or earlier as per paragraph 2.2 of this SCHEDULE 10 (Exit Management), the Publisher shall:
- 6.3.1 cease to use the Authority Data;
 - 6.3.2 return all publication content data in all forms;
 - 6.3.3 transfer to the Authority, a copy of all work in progress relating to the Works as shall exist as at the Expiry Date or the date of termination.
 - 6.3.4 provide the Authority with details of resellers of the publication together with details of direct customers of the publication;
 - 6.3.5 provide the Authority with all financial and sales account information;
 - 6.3.6 provide the Authority and/or the Replacement Contractor with a complete and uncorrupted version of the Authority Data in electronic form (or such other format as reasonably required by the Authority);
 - 6.3.7 provide all such assistance as is requested by the Authority to transfer the hosting of the Site to the Authority or a Replacement Contractor.
 - 6.3.8 provide the Authority with the following:
 - 6.3.8.1 Source Code and documentation for all Software of the Site;
 - 6.3.8.2 executed copy of the escrow agreement put in place pursuant to Clause 20 (Escrow) of the Contract; and
 - 6.3.8.3 details of any third party IPR necessary for the continuance of the Site.
 - 6.3.9 return to the Authority such of the following as is in the Publisher's possession or control:
 - 6.3.9.1 the Authority Software, the originals of all Material, all copies of any Software licensed by the Authority to the Publisher under this Contract together with an electronic copy of the Site;
 - 6.3.9.2 all Confidential Information and materials created by the Publisher under this Contract in which the IPRs are owned by the Authority;
 - 6.3.10 where it holds printed stock of the Works, dispose of the stock after receipt of confirmation from the Authority;
 - 6.3.11 provide access during normal working hours to the Authority and/or the Replacement Contractor for up to twelve (12) months after expiry or termination to:
 - 6.3.11.1 such information relating to the Services as remains in the possession or control of the Publisher; and
 - 6.3.11.2 such members of the Publisher Personnel as have been involved in the design, development and provision of the Services and who are still employed by the Publisher, provided that the Authority and/or the Replacement Contractor shall pay the reasonable costs of the Publisher

actually incurred in responding to requests for access under this paragraph.

7. CHARGES

- 7.1 Except as otherwise expressly specified in this Contract, the Publisher shall not make any charges for the Services provided by the Publisher pursuant to this SCHEDULE 10 (Exit Management), and the Authority shall not be obliged to pay for costs incurred by the Publisher in relation to its compliance with, this SCHEDULE 10 (Exit Management) including the preparation and implementation of the Exit Plan and any activities mutually agreed between the Parties.

SCHEDULE 11.

Tender

The response submitted by TSO to ITT project 'C57492 Concession for Printing and Marketing of the British Pharmacopoeia' on 24th June 2022 on the MHRA's Atamis eTendering system and accepted by the MHRA on 29th July 2022.

SCHEDULE 12.
Discount Framework

| Hard Copy | | |
|----------------------------|-------------|----------|
| Region | Direct Sale | Reseller |
| UK | REDA | |
| North America | REDA | |
| South and Central America | REDA | |
| Pacific | REDA | |
| Africa | REDA | |
| Asia (not including China) | REDA | |
| Middle East | REDA | |
| Europe (not including UK) | REDA | |
| China | REDA | |

| MUL | | |
|----------------------------|-------------|----------|
| Region | Direct Sale | Reseller |
| UK | REDA | |
| North America | REDA | |
| South and Central America | REDA | |
| Pacific | REDA | |
| Africa | REDA | |
| Asia (not including China) | REDA | |
| Middle East | REDA | |
| Europe (not including UK) | REDA | |
| China | REDA | |

| Global MUL* | | |
|----------------------------|-------------|----------|
| Region | Direct Sale | Reseller |
| UK | REDA | |
| North America | REDA | |
| South and Central America | REDA | |
| Pacific | REDA | |
| Africa | REDA | |
| Asia (not including China) | REDA | |
| Middle East | REDA | |
| Europe (not including UK) | REDA | |
| China | REDA | |

* TSO reserve the right to offer a direct sale discount of up to REDA for new subscribers of the Global MUL. This will be on the first year only, as part of a three year introductory offer to help customers implement the large global licence cost to their budgets. For year two they would receive a decreased discount and we would expect the customer to be paying full price by year three. Where resellers are involved, up to a REDA discount can be offered in total to include the resellers discount as a commission (up to REDA of sale price) and the end users introductory discount. e.g. REDA off RRP then REDA off discount cost, this comes to a total of REDA where the RRP is REDAC

SCHEDULE 13.

Processing, Personal Data and Data Subjects

1. The contact details of the Authority's Data Protection Officer is:

REDACTED

2. The contact details of the Publisher's Data Protection Officer is:

REDACTED

3. The Processor shall comply with any further written instructions with respect to Processing by the Controller.
4. Any such further instructions shall be incorporated into this Schedule.

| Description | Details |
|--|--|
| Subject matter of the Processing | The marketing, sales and supply of the British Pharmacopoeia |
| Duration of the Processing | For the duration of this Contract |
| Nature and purposes of the Processing | <p>Collection and storage of basic information including of account holders to provide access to online British Pharmacopoeia publications.</p> <p>Collection and storage of additional information including company name, delivery preferences and payment information to sell and supply British Pharmacopoeia products including licenses, hardcopy publications and British Pharmacopoeia Chemical Reference Standards (BPCRS).</p> <p>Provision of access to data to authorised Sub-processors.</p> <p>Maintenance of consent and preference records and suppression lists for direct marketing purposes.</p> <p>Amendment, destruction or return of data as instructed by the Controller.</p> |
| Types of Personal Data | Name, email address, job title, organisation, and telephone number, delivery preferences and payment information, online identifiers |
| Categories of Data Subject | Staff, customers, suppliers, members of the public, End Users of Pharmacopoeia.com |
| Plan for return and destruction of the Personal Data once the Processing is complete UNLESS requirement under Law to preserve that type of Personal Data | Destroy or return all the Personal Data Processed under (or relating to) this Contract once this Contract has expired. |

SCHEDULE 14

Corporate Social Responsibility

1. Supplier Code of Conduct

- 1.1 In February 2019, HM Government published a Supplier Code of Conduct (the "**Supplier Code**") setting out the standards and behaviours expected of suppliers who work with government (which can be found online at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779660/20190220-Supplier_Code_of_Conduct.pdf).
- 1.2 The Authority expects its suppliers and subcontractors to meet the standards set out in that Supplier Code. In addition, the Authority expects its suppliers and subcontractors to comply with the standards set out in this SCHEDULE 14 (Corporate Social Responsibility).

2. Equality and Accessibility

- 2.1 In addition to legal obligations, the Publisher shall support the Authority in fulfilling its Public Sector Equality duty under S149 of the Equality Act 2010 by ensuring that it fulfils its obligations under each contract in a way that seeks to:
 - 2.1.1 eliminate discrimination, harassment or victimisation of any kind; and
 - 2.1.2 advance equality of opportunity and good relations between those with a protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, and marriage and civil partnership) and those who do not share it.

3. Modern Slavery, Child Labour and Inhumane Treatment

"Modern Slavery Helpline" means the mechanism for reporting suspicion, seeking help or advice and information on the subject of modern slavery available online at <https://www.modernslaveryhelpline.org/report> or by telephone on 08000 121 700.

- 3.1 The Publisher:
 - 3.1.1 shall not use, nor allow its sub-contractors to use forced, bonded or involuntary prison labour;
 - 3.1.2 shall not require any Publisher Personnel or sub-contractor staff to lodge deposits or identify papers with its employer and shall be free to leave their employer after reasonable notice;
 - 3.1.3 warrants and represents that it has not been convicted of any slavery or human trafficking offences anywhere around the world;
 - 3.1.4 warrants that to the best of its knowledge it is not currently under investigation, inquiry or enforcement proceedings in relation to any allegation of slavery or human trafficking offenses anywhere around the world;
 - 3.1.5 shall make reasonable enquires to ensure that its officers, employees and sub-contractors have not been convicted of slavery or human trafficking offenses anywhere around the world;
 - 3.1.6 shall have and maintain throughout the term of this Contract its own policies and procedures to ensure its compliance with the Modern Slavery Act 2015 and include in its contracts with its sub-contractors anti-slavery and human trafficking provisions;

- 3.1.7 shall implement due diligence procedures to ensure that there is no slavery or human trafficking in any part of its supply chain performing obligations under this Contract;
- 3.1.8 shall prepare and deliver to the Authority, an annual slavery and human trafficking report setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its business with its annual certification of compliance with this paragraph 3 ;
- 3.1.9 shall not use, nor allow its employees or sub-contractors to use physical abuse or discipline, the threat of physical abuse, sexual or other harassment and verbal abuse or other forms of intimidation of its employees or sub-contractors;
- 3.1.10 shall not use or allow child or slave labour to be used by its sub-contractors;
- 3.1.11 shall report the discovery or suspicion of any slavery or trafficking by it or its sub-contractors to the Authority and Modern Slavery Helpline.

4. Income Security

- 4.1 The Publisher shall:
 - 4.1.1 ensure that that all wages and benefits paid for a standard working week meet, at a minimum, national legal standards in the country of employment;
 - 4.1.2 ensure that all Publisher Personnel are provided with written and understandable Information about their employment conditions in respect of wages before they enter;
 - 4.1.3 provide all workers with written and understandable Information about their employment conditions in respect of wages before they enter employment and about the particulars of their wages for the pay period concerned each time that they are paid;
 - 4.1.4 not make deductions from wages:
 - 4.1.4.1 as a disciplinary measure except where permitted by law; or
 - 4.1.4.2 without expressed permission of the worker concerned;
 - 4.1.5 record all disciplinary measures taken against Publisher Personnel; and
 - 4.1.6 ensure that Publisher Personnel are engaged under a recognised employment relationship established through national law and practice.

5. Working Hours

- 5.1 The Publisher shall:
 - 5.1.1 ensure that the working hours of Publisher Personnel comply with national laws, and any collective agreements;
 - 5.1.2 ensure that the working hours of Publisher Personnel, excluding overtime, I be defined by contract, and shall not exceed forty eight (48) hours per week unless the individual has agreed in writing;
 - 5.1.3 ensure that use of overtime used responsibly, taking into account:
 - 5.1.3.1 the extent;

5.1.3.2 frequency; and

5.1.3.3 hours worked,

by individuals and by the Publisher Personnel as a whole.

5.2 The total hours worked in any seven (7) day period shall not exceed sixty (60) hours, except where covered by paragraph 5.3 below.

5.3 Working hours may exceed sixty (60) hours in any seven (7) day period only in exceptional circumstances where all of the following are met:

5.3.1 this is allowed by national law;

5.3.2 this is allowed by a collective agreement freely negotiated with a workers' organisation representing a significant portion of the workforce;

5.3.3 appropriate safeguards are taken to protect the workers' health and safety; and

5.3.4 the employer can demonstrate that exceptional circumstances apply such as unexpected production peaks, accidents or emergencies.

5.4 All Publisher Personnel shall be provided with at least one (1) day off in every seven (7) day period or, where allowed by national law, two (2) days off in every fourteen (14) day period.

6. Sustainability

6.1 The Publisher shall meet the applicable Government Buying Standards (as relevant to this Contract) which can be found online at:

<https://www.gov.uk/government/collections/sustainable-procurement-the-government-buying-standards-gbs>

SCHEDULE 15

Supply Chain Visibility

1. Definitions

- 1.1 In this SCHEDULE 15 (Supply Chain Visibility), the following words shall have the following meanings and they shall supplement Clause 1 of this Contract (Definitions):

"Contracts Finder" the Government's publishing portal for public sector procurement opportunities;

"SME" an enterprise falling within the category of micro, small and medium sized enterprises defined by the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium sized enterprises;

"Supply Chain Information Report Template" the document in Annex 15; and

2. Visibility of Sub-Contract Opportunities in the Supply Chain

- 2.1 The Publisher shall:

2.1.1 subject to paragraph 2.3 of this SCHEDULE 15 (Supply Chain Visibility), advertise on Contracts Finder all sub-contract opportunities arising from or in connection with the provision of the Services above a minimum threshold of twenty five thousand pounds (£25,000) that arise during the Contract Period;

2.1.2 within ninety (90) days of awarding a sub-contract to a sub-contractor, update the notice on Contract Finder with details of the successful sub-contractor;

2.1.3 monitor the number, type and value of the sub-contract opportunities placed on Contracts Finder advertised and awarded in its supply chain during the Contract Period;

2.1.4 provide reports on the information at paragraph 2.1.3 to the Authority in the format and frequency as reasonably specified by the Authority; and

2.1.5 promote Contracts Finder to its suppliers and encourage those organisations to register on Contracts Finder.

- 2.2 Each advert referred to at paragraph 2.1.1 of this SCHEDULE 15 shall provide a full and detailed description of the sub-contract opportunity with each of the mandatory fields being completed on Contracts Finder by the Publisher.

- 2.3 The obligation on the Publisher set out at paragraph 2.1 shall only apply in respect of sub-contract opportunities arising after the Commencement Date.

- 2.4 Notwithstanding paragraph 2.1 of this SCHEDULE 15 (Supply Chain Visibility), the Authority may by giving its Approval, agree that a sub-contract opportunity is not required to be advertised by the Publisher on Contracts Finder.

3. Visibility of Supply Chain Spend

- 3.1 In addition to any other management information requirements set out in this Contract, the Publisher agrees and acknowledges that it shall, at no charge, provide timely, full, accurate and complete SME management information reports (the “**SME Management Information Reports**”) to the Authority which incorporates the data described in the Supply Chain Information Report Template which is:
- 3.1.1 the total contract revenue received directly on this Contract;
 - 3.1.2 the total value of sub-contracted revenues under this Contract (including revenues for non-SMEs/non-Voluntary Community Social Enterprises (VCSEs)); and
 - 3.1.3 the total value of sub-contracted revenues to SMEs and VCSEs.
- 3.2 The SME Management Information Reports shall be provided by the Publisher in the correct format as required by the Supply Chain Information Report Template and any guidance issued by the Authority from time to time. The Publisher agrees that it shall use the Supply Chain Information Report Template to provide the information detailed at paragraph 3.1.1 to 3.1.3 and acknowledges that the template may be changed from time to time (including the data required and/or format) by the Authority issuing a replacement version. The Authority agrees to give at least thirty (30) days’ notice in writing of any such change and shall specify the date from which it must be used.
- 3.3 The Publisher further agrees and acknowledges that it may not make any amendment to the Supply Chain Information Report Template without the prior Approval of the Authority.