



Short Form Contract

UK Health Security Agency
5th floor
10 South Colonnade
London
E14 4PU

AKOYA BIOSCIENCE INC
100 CAMPUS DRIVE 6TH FLOOR
MARLBOROUGH
MA MA 01752
United States
By email to:

[REDACTED]

Date: 1st November 2023

Dear,

[REDACTED]

UKHSA – Phenolmager-Maintenance service contract

Following your proposal for the service of Phenolmager-Maintenance service contract for UKHSA, we are pleased to confirm our intention to award this contract to you.

The attached contract details ("**Order Form**"), contract conditions and the Annexes set out the terms of the contract between UKHSA for the provision of the deliverables set out in the Order Form.

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

We will then arrange for the Order Form to be countersigned which will create a binding contract between us.

Yours faithfully,

[REDACTED]

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Order Form

1. Contract Reference	C203300
2. Date	Contract commences on date of last signature.
3. Authority	The Secretary of State for Health and Social Care acting as part of the Crown through the UK Health Security Agency of 10 South Colonnade, London, E14 4PU
4. Supplier	AKOYA 100 CAMPUS DRIVE 6TH FLOOR MARLBOROUGH MA MA 01752 United States Company Number: 11611409
5. The Contract	The Supplier shall supply the deliverables described below on the terms set out in this Order Form and the attached contract conditions ("Conditions") and any Annexes. Unless the context otherwise requires, capitalised expressions used in this Order Form have the same meanings as in Conditions. In the event of any conflict between this Order Form and the Conditions, this Order Form shall prevail. Please do not attach any Supplier terms and conditions to this Order Form as they will not be accepted by the Authority and may delay conclusion of the Contract.
6. Deliverables - Service	Purchase of: Servicing for testing of Phenolmager-Maintenance service contract (the "Service") The Service shall be performed at the Authority's address: UKHSA Porton Manor Farm Rd Porton Down Salisbury SP4 0JG



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	Delivery Contact: The Authority's primary delivery contact is: [REDACTED] email: [REDACTED] k Additional delivery contact: The additional delivery contact is: [REDACTED]						
7. Specification	The specification of the Deliverables is as set in Annex.						
8. Term	The Term shall commence on the date of last signature (the "Commencement Date") and the Expiry Date shall, unless terminated earlier, or extended in accordance with the terms and conditions of the Contract, expire on 31st August 2029 (the "Term") The Authority may extend the Contract for a period of up to twelve (12) months by giving not less than ten (10) Working Days' notice in writing to the Supplier prior to the Expiry Date. The terms and conditions of the Contract shall apply throughout any such extended period. Without prejudice to any other right of termination set out in this Contract, the Authority may terminate this contract, in whole or in part, for convenience by giving the Supplier not less than thirty (30) days' notice in writing.						
9. Charges	The Charges for the Deliverables shall be as set out below: Table 1 <table border="1"> <thead> <tr> <th>Description</th><th>Customer Part No</th><th>Unit Price</th></tr> </thead> <tbody> <tr> <td><i>Phenolmager providing 1 PM (preventive maintenance) visit per year through the bronze service package</i></td><td>[REDACTED]</td><td>£ [REDACTED] (x72 months)</td></tr> </tbody> </table> The maximum value of the Goods that can be ordered under this Contract is sixty-one thousand, nine hundred, and twenty pounds (£61,920.00). The charges outlined in table 1 shall remain fixed throughout the Contract Term and shall not be subjected to any indexation. For the avoidance of doubt the Charges in table 1 shall remain fixed and not be subjected to any indexation. The Contract Price excludes VAT at the applicable rate and any other taxes.	Description	Customer Part No	Unit Price	<i>Phenolmager providing 1 PM (preventive maintenance) visit per year through the bronze service package</i>	[REDACTED]	£ [REDACTED] (x72 months)
Description	Customer Part No	Unit Price					
<i>Phenolmager providing 1 PM (preventive maintenance) visit per year through the bronze service package</i>	[REDACTED]	£ [REDACTED] (x72 months)					



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10. Payment	Within ten (10) Working Days of receipt of your countersigned copy of this letter, we will send you a unique PO Number. You must be in receipt of a valid PO Number before submitting an invoice. All invoices must be sent for approval and must include the proof of delivery to the Authority's designated finance mailbox e-mail: payables@ukhsa.gov.uk and their agreed representative before submitted for payment. The Supplier shall provide a compliant invoice that includes, as a minimum, a valid PO number, PO line-item number (if applicable), PO line description, and the details (name and telephone number) of the Authority's authorised representative. Non-compliant invoices will be sent back to you, which may lead to a delay in payment. If you have a query regarding an outstanding payment, please contact our Accounts Payable section either by email to: procuretopay@ukhsa.gov.uk		
11. Authority Authorised Representative(s)	For general liaison your contact will continue to be [REDACTED] Or in their absence; [REDACTED] For contract management your contact to be [REDACTED], email: [REDACTED]		
12. Address for notices	<table border="0"> <tr> <td style="vertical-align: top;"> <u>Authority:</u> UK Health Security Agency 5th floor 10 South Colonnade London E14 4PU Attention: [REDACTED] Email: [REDACTED] </td><td style="vertical-align: top;"> <u>Supplier:</u> AKOYA 100 CAMPUS DRIVE 6TH FLOOR MARLBOROUGH MA MA 01752 United States Attention : [REDACTED] [REDACTED] Email : [REDACTED] Email : [REDACTED] </td></tr> </table>	<u>Authority:</u> UK Health Security Agency 5th floor 10 South Colonnade London E14 4PU Attention: [REDACTED] Email: [REDACTED]	<u>Supplier:</u> AKOYA 100 CAMPUS DRIVE 6TH FLOOR MARLBOROUGH MA MA 01752 United States Attention : [REDACTED] [REDACTED] Email : [REDACTED] Email : [REDACTED]
<u>Authority:</u> UK Health Security Agency 5th floor 10 South Colonnade London E14 4PU Attention: [REDACTED] Email: [REDACTED]	<u>Supplier:</u> AKOYA 100 CAMPUS DRIVE 6TH FLOOR MARLBOROUGH MA MA 01752 United States Attention : [REDACTED] [REDACTED] Email : [REDACTED] Email : [REDACTED]		

13. Key Personnel	<u>Authority:</u> UK Health Security Agency 5th floor 10 South Colonnade London E14 4PU Attention: [REDACTED] Email: [REDACTED]	<u>Supplier:</u> AKOYA 100 CAMPUS DRIVE 6TH FLOOR MARLBOROUGH MA MA 01752 United States Attention : [REDACTED] [REDACTED] Email : [REDACTED] Email : [REDACTED]
14. Procedures and Policies	The Authority may require the Supplier to ensure that any person employed in the delivery of the Deliverables has undertaken a Disclosure and Barring Service check. The Supplier shall ensure that no person who discloses that he/she has a conviction that is relevant to the nature of the Contract, relevant to the work of the Authority, or is of a type otherwise advised by the Authority (each such conviction a "Relevant Conviction"), or is found by the Supplier to have a Relevant Conviction (whether because of a police check, a Disclosure and Barring Service check or otherwise) is employed or engaged in the provision of any part of the Deliverables.	

Signed for and on behalf of the Supplier

Signed for and on behalf of the Authority

Date Signed: 3rd November 2023

Date Signed: 03/11/2023

Annex 1 - Specifications

Context and Background

Akoya is the original manufacturer of the Phenolmager (PI), and the only company licensed to provide service on installed systems within the UK. The PI is a multimodal digital pathology instrument. It integrates both multispectral analysis and automated slide scanning, allowing individuals to visualise, analyse, quantify and phenotype immune cells in situ in formalin fixed paraffin embedded tissue sections and tissue microarrays. It can perform whole slide scanning, acquiring multispectral regions of interest (MSI).

This enables the detection and quantification of multiple overlapping biomarkers, allowing unmixing of autofluorescence on a platform up to x400 magnification. The system has been optimised to image samples stained with Akoya Opal multiplexed fluorescent immunohistochemistry reagent kits. The use of these kits allows the visualisation of immunofluorescent and immunohistochemical staining within the tissue, allowing individuals to analyse the pathophysiological process present.

Aims and Objectives

- Aim:
Effective servicing and maintenance to allow for on-going research provided by the PI instrument.
- Objectives:
Evaluate in one go the immune responses, efficacy and safety of new vaccine and treatment in our preclinical animal models, using a multiple staining technology and digital objective image analysis in comparison with the usual lengthy subjective analysis of several single staining steps used in more “classic” histopathology settings.
- Shorten the time to gather results from a preclinical trial and increase the number of tests to evaluate the pathogenicity and efficacy, saving precious staff time.

Contract Management

- The Supplier may be required to attend contract management meetings every quarter , subject to KPI performance.
- The Supplier shall be able to provide a summary of all the maintenance completed.

ISO accreditation

- The Supplier is required to be ISO 13485:2016 approved throughout the Contract Term. The Supplier shall inform the Authority within one (1) Working Day to any changes to its ISO accreditation. [Annex 3]

Scheduling

- UKHSA (The Authority) will schedule Service / maintenance every 12 months.

Scope

- See annex 1.A below.

KPIs

- See annex 2.

Annex 1.A Scope

Phenolmager HT PM Checklist

Pre PM Testing

View the last performed FL and BF references and inspect for any abnormalities (dust/debris/shading)	☐
Create a 40x BF protocol and acquire a BF test scan. Inspect for any abnormalities.	☐
Create a 20x FL MOTIF protocol (include all the MOTIF channels) and acquire a FL test scan. Inspect for any abnormalities.	☐

Phenolmager HT PC

Confirm the latest software is installed. Update to the newest version the customer is eligible to receive.	☐
Make copies of the configuration files and save them into the D drive and upload into the asset page of SFDC.	☐
Open the latest VectraPolaris.log file and confirm the FPGA (1.49.11) and camera firmware (1.04)	☐
Open the Objective.dat file and confirm the objective magnification values are different than the default values “nonzero after decimal points”	☐
Only for MOTIF upgraded units: Open the VectaPolarisIlluminator.config file and confirm the FL calibration drive levels are as shown below: Old Hamamatsu camera “6 LED”: 850,850,850,4095,4095,4095 New Hamamatsu (VP2046N2063+) camera: 850,850,850,3000,2400,2600	☐

Cleaning Optics

Remove all removable optics (objectives, EPI filter cubes, and condenser cells), clean them thoroughly with puffed air and lens/optical wipes (if needed). Before reinstalling the condenser cells, used puffed air to clean beam splitter below condenser cells. Check EPI filter retaining rings are tight. Reinstall optics.	☐
If pre-PM inspection on the FL references and scan showed excessive dust and debris, clean/blow off external optics of the FL and camera module including the launch optics, fold mirrors, pin hole optic, and exit tube lens.	☐
Blow off brightfield filters and the top end of the brightfield light guide (disconnect brightfield light guide from the light source, blow it off using the puffer, and reinstall)	☐
If pre-PM inspection on the FL references and scan showed excessive dust and debris, clean/blow off external optics of the FL and camera module including the launch optics, fold mirrors, pin hole optic, and exit tube lens.	☐

Mechanical Inspection and Cleaning

Replace the FL light guide.	☐
Visually inspect the vibration isolators. Confirm there is no cracking and/or uneven settling and sagging.	☐
Clean the stage adapter plate (stage insert) with alcohol wipes or equivalent. Inspect and exercise the spring-loaded finger that holds the carrier to the adapter plate. Verify that it is functioning properly.	☐
Confirm XY stage auto-gain-controller LEDs are set-up correctly. If not, re-activate the AGC.	☐
Disconnect the condenser copper cable from both ends. Using the puffer blow off the connectors and the sockets and reinstall.	☐
Test all 20 hotel spots for issues with the detent spring mechanism. Confirm indicator lights illuminate when a carrier is present. If necessary, replace any worn detent springs.	☐
Inspect the hotel robot gripper teeth and spring for wear. Replace the bottom delrin tooth if worn.	☐
Inspect the robot right limit sensor cable for any damage. Re-route the cable if necessary.	☐
Ensure the gripper jaw lead screw is tight and loctited.	☐
Clean the objective engagement forks and ball bearings with alcohol wipes or equivalent. Look for any excessive wear.	☐
Apply DuPont Krytox GPL205 grease to the ball bearings if necessary.	☐
Inspect the two Geneva mechanisms for signs of excess wear and/or noise	☐
Grease hotel rails/bearings with DuPont Krytox GPL205 grease	
Inspect the front door mechanism. Replace the two bearings in the front door mechanism if worn.	☐
Inspect the condenser elevation belt for any wear.	☐
Inspect the gap between motion controller and the door hinge screws. If necessary, remove the washers from the hinge screws to create a gap.	☐

Adjustments

Check and as necessary adjust the optical alignment of the system.	☐
Verify all locking screws are tight after the optical alignment step is complete.	☐

Check the intensity of the brightfield lamp using the service app. Adjust the intensity if needed. If the attenuation screw is maxed out and the intensity is below the minimum threshold, replace the brightfield light guide and/or the brightfield flash lamp.	☐
Check all slide loading/unloading positions for the hotel and stage. Retrain any steps as necessary. Run stage drop off training for all slots.	☐

Testing

Perform a system confidence test and a slide carrier transaction. Confirm there are no problems and/or unexpected noise.	☐
Confirm the LCTF truck movement sounds normal and the WFOV mechanism is smooth.	☐
Run BF references and inspect for any optical issues.	☐
Run DAPI only FL references and inspect for any optical issues. If there are no issues in DAPI, run full FL references for all the channels.	☐

Completion

FL Run manual BF and FL scans, whole slide and MSI	☐
Check for image quality, this includes tile alignment, focus tilt, and illumination uniformity/shading	☐
Discuss any issues found with the customer.	☐

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Annex 2 – Service Level / KPIs**1. Service Level: KPI**

The Supplier agrees to conform to the following Key Performance Indicators ("KPIs") during the Term of this Contract:

Table 1

Ref	Service Level	Definition	Who measures?	Compliance rate (Yearly)	Actions as a result of non-compliance	Review Frequency
0.1	Telephone Helpline	On-site service called are available during normal working hours, Monday to Friday, from 09:00 am to 17:00pm local time, (excluding public holidays).	Supplier	98.5%	Reasons for the delay in supply of service must be reported to UKHSA with remedial actions identified to prevent further non-compliance	Quarterly
0.2	Telephone Support	Guaranteed call back within 3 working hours (Monday 09:00am to 17:00pm) from breakdowns.	Suppliers	98.5%	Reasons for the delay in supply of service must be reported to UKHSA with remedial actions identified to prevent further non-compliance	Quarterly

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2. **Service credits**

The Supplier must agree if any of the KPI's identified fall below 98.5% a service credit(s) will be applied.

The service level KPI is set at 98.5% across all indicators below;

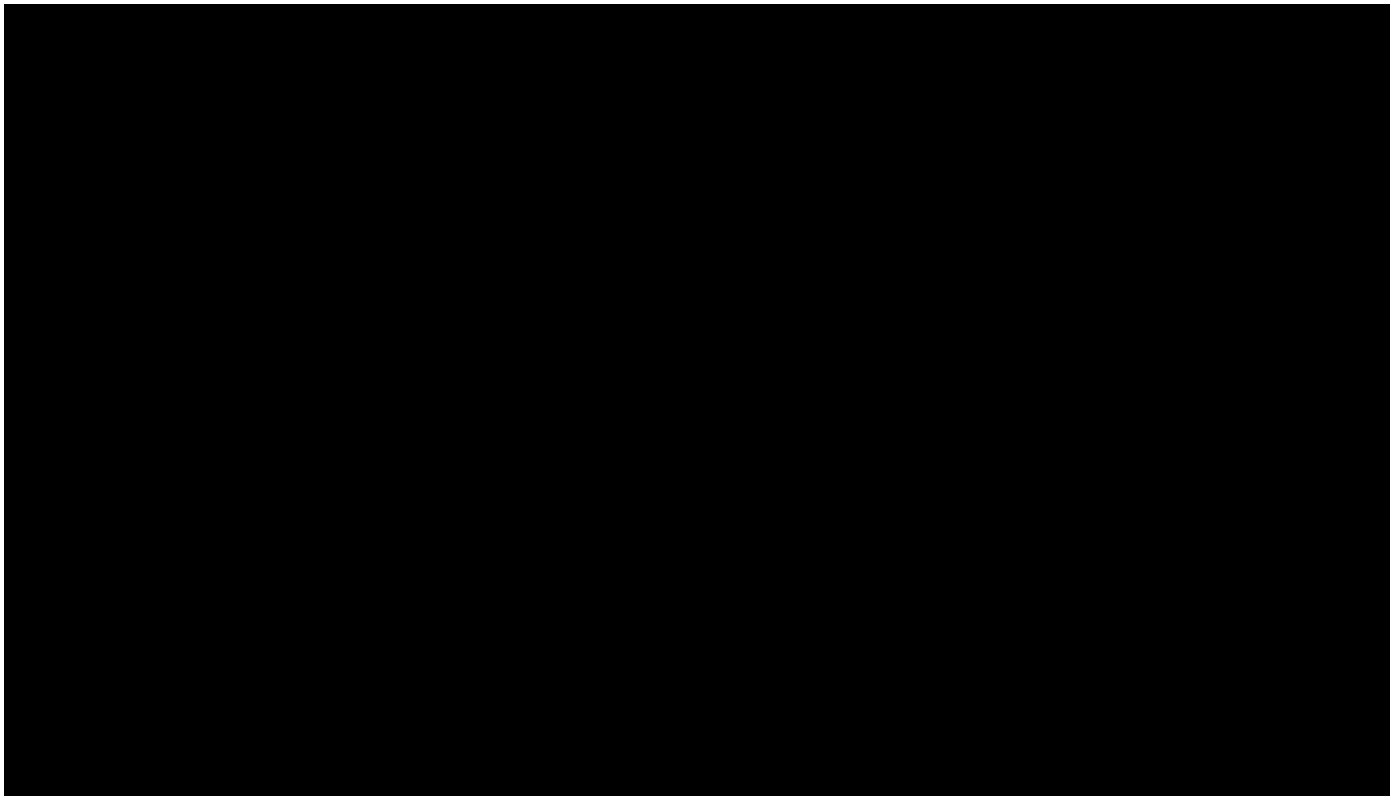
Telephone Helpline

Telephone Support

The above indicators will be monitored on a quarterly basis. Where a quarterly review identifies a failure of the 98.5% on any one of the indicators, an improvement plan must be implemented to address the failure. At this point a service credit will not be initiated. If the following monthly service review continues to see a failing of the 98.5% KPI, a service credit will be initiated.

Examples of service credits are as outlined:

Service Credits are a reduction of the amounts payable in respect of the servicing and do not include VAT. The supplier shall set-off the value of any Service Credits against the appropriate invoice



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Annex 3

Certificate US20/819944064

The management system of

Akoya Biosciences, Inc.**SGS**

100 Campus Drive, 6th Floor, Marlborough, MA, 01752, United States Of America

has been assessed and certified as meeting the requirements of

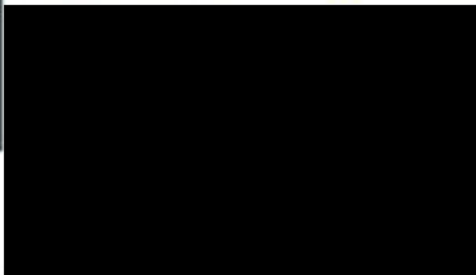
ISO 13485:2016**EN ISO 13485:2016**

For the following activities

Design, development, manufacturing, installation, and service of automated quantitative pathology imaging assays (consisting of instruments and reagents).

This certificate is valid from 17 September 2023 until 17 September 2026 and remains valid subject to satisfactory surveillance audits.
Issue 3. Certified since 17 September 2020

Certified activities performed by additional sites are listed on subsequent pages.



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Certificate US201819944064, continued
Akoya Biosciences, Inc.



ISO 13485:2016
EN ISO 13485:2016

Issue 3
Sites
Akoya Biosciences, Inc. 100 Campus Drive, 6th Floor, Marlborough, MA, 01752, United States Of America
Design, development, manufacturing, installation, and service of automated quantitative pathology imaging assays (consisting of instruments and reagents).
Akoya Biosciences, Inc. 500 Nickerson Road, Suite 101, Marlborough, MA 01752 United States of America
Design, development, manufacturing, installation, and service of automated quantitative pathology imaging assays (consisting of instruments and reagents).



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Short Form Terms

1. Definitions used in the Contract

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

"Authority"	means the person identified in the letterhead of the Order Form;
"Authority Cause"	any breach of the obligations of the Authority or any other default, act, omission, negligence or statement of the Authority, of its employees, servants, agents in connection with or in relation to the subject-matter of the Contract and in respect of which the Authority is liable to the Supplier;
"Central Government Body"	means a body listed in one of the following sub- categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics: a) Government Department; b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal); c) Non-Ministerial Department; or d) Executive Agency;
"Charges"	means the charges for the Deliverables as specified in the Order Form;
"Confidential Information"	means all information, whether written or oral (however recorded), provided by the disclosing Party to the receiving Party and which (i) is known by the receiving Party to be confidential; (ii) is marked as or stated to be confidential; or (iii) ought reasonably to be considered by the receiving Party to be confidential;
"Contract"	means the contract between (i) the Authority and (ii) the Supplier which is created by the Supplier's counter signing the Order Form and includes the Order Form and Annexes;
"Controller"	has the meaning given to it in the GDPR;
"Date of Delivery"	means that date by which the Deliverables must be delivered to the Authority, as specified in the Order Form;
"Data Protection Legislation"	i) The GDPR, the LED and any applicable national implementing Laws as amended from time to time ii) The Data Protection Act 2018 to the extent that it relates to processing of personal data and privacy; iii) all applicable Law about the processing of personal data and privacy;
"Data Protection Impact Assessment"	an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data;
"Data Protection Officer"	has the meaning given to it in the GDPR;

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"Data Subject"	has the meaning given to it in the GDPR;
"Data Loss Event"	any event that results, or may result, in unauthorised access to Personal Data held by the Supplier under this Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of this Contract, including any Personal Data Breach;
"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;
"Deliver"	means hand over the Deliverables to the Authority at the address and on the date specified in the Order Form, which shall include unloading and any other specific arrangements agreed in accordance with Clause 6 of the Order Form. Delivered and Delivery shall be construed accordingly;
"Existing IPR"	any and all intellectual property rights that are owned by or licensed to either Party and which have been developed independently of the Contract (whether prior to the date of the Contract or otherwise);
"Expiry Date"	means the date for expiry of the Contract as set out in the Order Form;
"FOIA"	means the Freedom of Information Act 2000 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation;
"Force Majeure Event"	any event, occurrence, circumstance, matter or cause affecting the performance by either Party of its obligations under the Contract arising from acts, events, omissions happenings or non-happenings beyond its reasonable control which prevent or materially delay it from performing its obligations under the Contract but excluding: i) any industrial dispute relating to the Supplier, the Supplier Staff (including any subsets of them) or any other failure in the Supplier or the Subcontractor's supply chain; ii) any event, occurrence, Subcontractor's supply chain; iii) any event, occurrence circumstance, matter or cause which is attributable to the wilful act, neglect or failure to take reasonable precautions against it by the Party concerned; and iv) any failure of delay caused by a lack of funds;
"GDPR"	the General Data Protection Regulation (Regulation (EU) 2016/679);
"Goods"	means the goods to be supplied by the Supplier to the Authority under the Contract;
"Good Industry Practice"	standards, practices, methods and procedures conforming to the law and the exercise of the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged within the relevant industry or business sector;

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"Government Data"	a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, including any of the Authority's confidential information, and which: i) are supplied to the Supplier by or on behalf of the Authority; or ii) the Supplier is required to generate, process, store or transmit pursuant to the Contract; or b) any Personal Data for which the Authority is the Data Controller;
"Information"	has the meaning given under section 84 of the FOIA;
"Information Commissioner"	the UK's independent authority which deals with ensuring information relating to rights in the public interest and data privacy for individuals is met, whilst promoting openness by public bodies;
"Insolvency Event"	in respect of a person: a) if that person is insolvent; b) if an order is made or a resolution is passed for the winding up of the person (other than voluntarily for the purpose of solvent amalgamation or reconstruction); c) if an administrator or administrative receiver is appointed in respect of the whole or any part of the persons assets or business; d) if the person makes any composition with its creditors or takes or suffers any similar or analogous action to any of the actions detailed in this definition as a result of debt in any jurisdiction;
"Key Personnel"	means any persons specified as such in the Order Form or otherwise notified as such by the Authority to the Supplier in writing;
"LED"	Law Enforcement Directive (Directive (EU) 2016/680);
"New IPR"	all and intellectual property rights in any materials created or developed by or on behalf of the Supplier pursuant to the Contract but shall not include the Supplier's Existing IPR;
"Order Form"	means the letter from the Authority to the Supplier printed above these terms and conditions;
"Party"	the Supplier or the Authority (as appropriate) and "Parties" shall mean both of them;
"Personal Data"	has the meaning given to it in the GDPR;
"Personal Data Breach"	has the meaning given to it in the GDPR;
"Processor"	has the meaning given to it in the GDPR;

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"Purchase Order Number"	means the Authority's unique number relating to the order for Deliverables to be supplied by the Supplier to the Authority in accordance with the terms of the Contract;
"Regulations"	the Public Contracts Regulations 2015 and/or the Public Contracts (Scotland) Regulations 2015 (as the context requires) as amended from time to time;
"Request for Information"	has the meaning set out in the FOIA or the Environmental Information Regulations 2004 as relevant (where the meaning set out for the term "request" shall apply);
"Services"	means the services to be supplied by the Supplier to the Authority under the Contract;
"Service Credits"	means a deduction from the contract price payable by a customer in response to a service provider's failure to meet a service level in a service level agreement
"A service-level agreement"	(SLA) defines the level of service you expect from a supplier, laying out the metrics by which service is measured, as well as remedies or penalties should agreed-on service levels not be achieved.
"Specification"	means the specification for the Deliverables to be supplied by the Supplier to the Authority (including as to quantity, description and quality) as specified in the Order Form;
"Staff"	means all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any sub-contractor of the Supplier engaged in the performance of the Supplier's obligations under the Contract;
"Staff Vetting Procedures"	means vetting procedures that accord with good industry practice or, where applicable, the Authority's procedures for the vetting of personnel as provided to the Supplier from time to time;
"Subprocessor"	any third Party appointed to process Personal Data on behalf of the Supplier related to the Contract;
"Supplier Staff"	all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Subcontractor engaged in the performance of the Supplier's obligations under a Contract;
"Supplier"	means the person named as Supplier in the Order Form;
"Term"	means the period from the start date of the Contract set out in the Order Form to the Expiry Date as such period may be extended in accordance with clause 8 of the Order Form or terminated in accordance with the terms and conditions of the Contract;
"US-EU Privacy Shield Register"	a list of companies maintained by the United States of America Department for Commerce that have self-certified their commitment to adhere to the European legislation relating to the processing of personal data to non-EU countries which is available online at: https://www.privacyshield.gov/list ;
"VAT"	means value added tax in accordance with the provisions of the Value Added Tax Act 1994;

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"Workers"	any one of the Supplier Staff which the Authority, in its reasonable opinion, considers is an individual to which Procurement Policy Note 08/15 (Tax Arrangements of Public Appointees) (https://www.gov.uk/government/publications/procurement-policynote-0815-tax-arrangements-of-appointees) applies in respect of the Deliverables;
"Working Day"	means a day (other than a Saturday or Sunday) on which banks are open for business in the City of London; and
"Contract Year"	a consecutive period of twelve (12) Months commencing on the Effective Date or each anniversary thereof.

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2. Understanding the Contract

In the Contract, unless the context otherwise requires:

- 2.1 references to numbered clauses are references to the relevant clause in these terms and conditions;
- 2.2 any obligation on any Party not to do or omit to do anything shall include an obligation not to allow that thing to be done or omitted to be done;
- 2.3 the headings in this Contract are for information only and do not affect the interpretation of the Contract;
- 2.4 references to "writing" include printing, display on a screen and electronic transmission and other modes of representing or reproducing words in a visible form;
- 2.5 the singular includes the plural and vice versa;
- 2.6 a reference to any law includes a reference to that law as amended, extended, consolidated or re-enacted from time to time and to any legislation or byelaw made under that law; and
- 2.7 the word 'including', "for example" and similar words shall be understood as if they were immediately followed by the words "without limitation".

3. How the Contract works

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

4. What needs to be delivered

4.1 All Deliverables

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

4.2 Goods clauses

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

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

4.3 Services clauses

- (a) Late delivery of the Services will be a default of the Contract.
- (b) The Supplier must co-operate with the Authority and third party suppliers on all aspects connected with the delivery of the Services and ensure that Supplier Staff comply with any reasonable instructions including any security requirements.
- (c) The Authority must provide the Supplier with reasonable access to its premises at reasonable times for the purpose of supplying the Services
- (d) The Supplier must at its own risk and expense provide all equipment required to deliver the Services. Any equipment provided by the Authority to the Supplier for supplying the Services remains the property of the Authority and is to be returned to the Authority on expiry or termination of the Contract.
- (e) The Supplier must allocate sufficient resources and appropriate expertise to the Contract.

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- (f) The Supplier must take all reasonable care to ensure performance does not disrupt the Authority's operations, employees or other contractors.
- (g) On completion of the Services, the Supplier is responsible for leaving the Authority's premises in a clean, safe and tidy condition and making good any damage that it has caused to the Authority's premises or property, other than fair wear and tear.
- (h) The Supplier must ensure all Services, and anything used to deliver the Services, are of good quality and free from defects
- (i) The Authority is entitled to withhold payment for partially or undelivered Services, but doing so does not stop it from using its other rights under the Contract.

5. Pricing and payments

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

6. The Authority's obligations to the Supplier

- 6.1 If Supplier fails to comply with the Contract as a result of a Authority Cause:
 - (a) the Authority cannot terminate the Contract under clause 11;
 - (b) the Supplier is entitled to reasonable and proven additional expenses and to relief from liability under this Contract;
 - (c) the Supplier is entitled to additional time needed to deliver the Deliverables;
 - (d) the Supplier cannot suspend the ongoing supply of Deliverables.
- 6.2 Clause 6.1 only applies if the Supplier:
 - (a) gives notice to the Authority within 10 Working Days of becoming aware;
 - (b) demonstrates that the failure only happened because of the Authority Cause;

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- (c) mitigated the impact of the Authority Cause.

7. Record keeping and reporting

- 7.1 The Supplier must ensure that suitably qualified representatives attend progress meetings with the Authority and provide progress reports when specified in the Order Form.
- 7.2 The Supplier must keep and maintain full and accurate records and accounts on everything to do with the Contract for seven years after the date of expiry or termination of the Contract.
- 7.3 The Supplier must allow any auditor appointed by the Authority access to their premises to verify all contract accounts and records of everything to do with the Contract and provide copies for the audit.
- 7.4 The Supplier must provide information to the auditor and reasonable co-operation at their request.
- 7.5 If the Supplier is not providing any of the Deliverables, or is unable to provide them, it must immediately:
 - (a) tell the Authority and give reasons;
 - (b) propose corrective action;
 - (c) provide a deadline for completing the corrective action.
- 7.6 If the Authority, acting reasonably, is concerned as to the financial stability of the Supplier such that it may impact on the continued performance of the Contract then the Authority may:
 - (a) require that the Supplier provide to the Authority (for its approval) a plan setting out how the Supplier will ensure continued performance of the Contract and the Supplier will make changes to such plan as reasonably required by the Authority and once it is agreed then the Supplier shall act in accordance with such plan and report to the Authority on demand
 - (b) if the Supplier fails to provide a plan or fails to agree any changes which are requested by the Authority or fails to implement or provide updates on progress with the plan, terminate the Contract immediately for material breach (or on such date as the Authority notifies).

8. Supplier staff

- 8.1 The Supplier Staff involved in the performance of the Contract must:
 - (a) be appropriately trained and qualified;
 - (b) be vetted using Good Industry Practice
 - (c) comply with all conduct requirements when on the Authority's premises.
- 8.2 Where a Authority decides one of the Supplier's Staff isn't suitable to work on the Contract, the Supplier must replace them with a suitably qualified alternative.
- 8.3 If requested, the Supplier must replace any person whose acts or omissions have caused the Supplier to breach clause 8.
- 8.4 The Supplier must provide a list of Supplier Staff needing to access the Authority's premises and say why access is required.
- 8.5 The Supplier indemnifies the Authority against all claims brought by any person employed by the Supplier caused by an act or omission of the Supplier or any Supplier Staff.

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- 8.6 The Supplier shall use those persons nominated in the Order Form (if any) to provide the Deliverables and shall not remove or replace any of them unless:
- (a) requested to do so by the Authority (not to be unreasonably withheld or delayed);
 - (b) the person concerned resigns, retires or dies or is on maternity or long-term sick leave; or
 - (c) the person's employment or contractual arrangement with the Supplier or any subcontractor is terminated for material breach of contract by the employee.

9. Rights and protection

- (a) The Supplier warrants and represents that:
 - (b) it has full capacity and authority to enter into and to perform the Contract;
 - (c) the Contract is executed by its authorised representative;
 - (d) it is a legally valid and existing organisation incorporated in the place it was formed; there are no known legal or regulatory actions or investigations before any court, administrative body or arbitration tribunal pending or threatened against it or its affiliates that might affect its ability to perform the Contract;
 - (e) it maintains all necessary rights, authorisations, licences and consents to perform its obligations under the Contract;
 - (f) it doesn't have any contractual obligations which are likely to have a material adverse effect on its ability to perform the Contract; and
 - (g) it is not impacted by an Insolvency Event.
- 9.2 The warranties and representations in clause 9.1 are repeated each time the Supplier provides Deliverables under the Contract.
- 9.3 The Supplier indemnifies the Authority against each of the following:
- (a) wilful misconduct of the Supplier, any of its subcontractor and/or Supplier Staff that impacts the Contract;
 - (b) non-payment by the Supplier of any tax or National Insurance.
- 9.4 If the Supplier becomes aware of a representation or warranty that becomes untrue or misleading, it must immediately notify the Authority.
- 9.5 All third party warranties and indemnities covering the Deliverables must be assigned for the Authority's benefit by the Supplier.

10. Intellectual Property Rights (IPRs)

- 10.1 Each Party keeps ownership of its own Existing IPRs. The Supplier gives the Authority a non-exclusive, perpetual, royalty-free, irrevocable, transferable worldwide licence to use, change and sub-license the Supplier's Existing IPR to enable it and its sub- licensees to both:
- (a) receive and use the Deliverables;
 - (b) use the New IPR.
- 10.2 Any New IPR created under the Contract is owned by the Authority. The Authority gives the Supplier a licence to use any Existing IPRs for the purpose of fulfilling its obligations under the Contract and a perpetual, royalty-free, non-exclusive licence to use any New IPRs.
- 10.3 Where a Party acquires ownership of intellectual property rights incorrectly under this Contract it must do everything reasonably necessary to complete a transfer assigning them in writing to the other Party on request and at its own cost.

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- 10.4 Neither Party has the right to use the other Party's intellectual property rights, including any use of the other Party's names, logos or trademarks, except as provided in clause 10 or otherwise agreed in writing.
- 10.5 If any claim is made against the Authority for actual or alleged infringement of a third party's intellectual property arising out of, or in connection with, the supply or use of the Deliverables (an "**IPR Claim**"), then the Supplier indemnifies the Authority against all losses, damages, costs or expenses (including professional fees and fines) incurred as a result of the IPR Claim.
- 10.6 If an IPR Claim is made or anticipated the Supplier must at its own expense and the Authority's sole option, either:
- (a) obtain for the Authority the rights in clauses 10.1 and 10.2 without infringing any third party intellectual property rights;
 - (b) replace or modify the relevant item with substitutes that don't infringe intellectual property rights without adversely affecting the functionality or performance of the Deliverables.

11. Ending the contract

- 11.1 The Contract takes effect on the date of or (if different) the date specified in the Order Form and ends on the earlier of the date of expiry or termination of the Contract or earlier if required by Law.
- 11.2 The Authority can extend the Contract where set out in the Order Form in accordance with the terms in the Order Form.
- 11.3 **Ending the Contract without a reason**
The Authority has the right to terminate the Contract at any time without reason or liability by giving the Supplier not less than 90 days' written notice and if it's terminated clause 11.5(b) to 11.5(g) applies.
- 11.4 **When the Authority can end the Contract**
- (a) If any of the following events happen, the Authority has the right to immediately terminate its Contract by issuing a termination notice in writing to the Supplier:
 - (i) there's a Supplier Insolvency Event;
 - (ii) if the Supplier repeatedly breaches the Contract in a way to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms and conditions of the Contract;
 - (iii) if the Supplier is in material breach of any obligation which is capable of remedy, and that breach is not remedied within 30 days of the Supplier receiving notice specifying the breach and requiring it to be remedied;
 - (iv) there's a change of control (within the meaning of section 450 of the Corporation Tax Act 2010) of the Supplier which isn't pre-approved by the Authority in writing;
 - (v) if the Authority discovers that the Supplier was in one of the situations in 57 (1) or 57(2) of the Regulations at the time the Contract was awarded;
 - (vi) the Court of Justice of the European Union uses Article 258 of the Treaty on the Functioning of the European Union (TFEU) to declare that the Contract should not have been awarded to the Supplier because of a serious breach of the TFEU or the Regulations;
 - (vii) the Supplier or its affiliates embarrass or bring the Authority into disrepute or diminish the public trust in them.

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- (b) If any of the events in 73(1) (a) to (c) of the Regulations (substantial modification, exclusion of the Supplier, procurement infringement) happen, the Authority has the right to immediately terminate the Contract and clause 11.5(b) to 11.5(g) applies.

11.5 What happens if the Contract ends

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

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

11.6 When the Supplier can end the Contract

- (a) The Supplier can issue a reminder notice if the Authority does not pay an undisputed invoice on time. The Supplier can terminate the Contract if the Authority fails to pay an undisputed invoiced sum due and worth over 10% of the total Contract value or £1,000, whichever is the lower, within 30 days of the date of the reminder notice.
- (b) If a Supplier terminates the Contract under clause 11.6(a):
 - (i) the Authority must promptly pay all outstanding charges incurred to the Supplier;
 - (ii) the Authority must pay the Supplier reasonable committed and unavoidable losses as long as the Supplier provides a fully itemised and costed schedule with evidence - the maximum value of this payment is limited to the total sum payable to the Supplier if the Contract had not been terminated;
 - (iii) clauses 11.5(d) to 11.5(g) apply.

11.7 Partially ending and suspending the Contract

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

12. How much you can be held responsible for

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

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- 12.2 No Party is liable to the other for:
- (a) any indirect losses;
 - (b) loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect).
- 12.3 In spite of clause 12.1, neither Party limits or excludes any of the following:
- (a) its liability for death or personal injury caused by its negligence, or that of its employees, agents or subcontractors;
 - (b) its liability for bribery or fraud or fraudulent misrepresentation by it or its employees;
 - (c) any liability that cannot be excluded or limited by law.
- 12.4 In spite of clause 12.1, the Supplier does not limit or exclude its liability for any indemnity given under clauses 4.2(j), 4.2(m), 8.5, 9.3, 10.5, 13.2, 14.26(e) or 30.2(b).
- 12.5 Each Party must use all reasonable endeavours to mitigate any loss or damage which it suffers under or in connection with the Contract, including any indemnities.
- 12.6 If more than one Supplier is party to the Contract, each Supplier Party is fully responsible for both their own liabilities and the liabilities of the other Suppliers.
- 13. Obeying the law**
- 13.1 The Supplier must, in connection with provision of the Deliverables, use reasonable endeavours to:
- (a) comply and procure that its subcontractors comply with the Supplier Code of Conduct appearing at (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779660/20190220-Supplier_Code_of_Conduct.pdf) and such other corporate social responsibility requirements as the Authority may notify to the Supplier from time to time;
 - (b) support the Authority in fulfilling its Public Sector Equality duty under S149 of the Equality Act 2010;
 - (c) not use nor allow its subcontractors to use modern slavery, child labour or inhumane treatment;
 - (d) meet the applicable Government Buying Standards applicable to Deliverables which can be found online at: <https://www.gov.uk/government/collections/sustainable-procurement-the-government-buying-standards-gbs>
- 13.2 The Supplier indemnifies the Authority against any costs resulting from any default by the Supplier relating to any applicable law to do with the Contract.
- 13.3 The Supplier must appoint a Compliance Officer who must be responsible for ensuring that the Supplier complies with Law, Clause 13.1 and Clauses 27 to 32
- 13.4 "Compliance Officer" the person(s) appointed by the Supplier who is responsible for ensuring that the Supplier complies with its legal obligations;
- 14. Data protection**
- 14.1 The Authority is the Controller and the Supplier is the Processor for the purposes of the Data Protection Legislation.

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- 14.2 The Supplier must process Personal Data and ensure that Supplier Staff process Personal Data only in accordance with this Contract.
- 14.3 The Supplier must not remove any ownership or security notices in or relating to the Government Data.
- 14.4 The Supplier must make accessible back-ups of all Government Data, stored in an agreed off-site location and send the Authority copies every six Months.
- 14.5 The Supplier must ensure that any Supplier system holding any Government Data, including back-up data, is a secure system that complies with the security requirements specified [in writing] by the Authority.
- 14.6 If at any time the Supplier suspects or has reason to believe that the Government Data provided under the Contract is corrupted, lost or sufficiently degraded, then the Supplier must notify the Authority and immediately suggest remedial action.
- 14.7 If the Government Data is corrupted, lost or sufficiently degraded so as to be unusable the Authority may either or both:
- (a) tell the Supplier to restore or get restored Government Data as soon as practical but no later than five Working Days from the date that the Authority receives notice, or the Supplier finds out about the issue, whichever is earlier;
 - (b) restore the Government Data itself or using a third party.
- 14.8 The Supplier must pay each Party's reasonable costs of complying with clause 14.7 unless the Authority is at fault.
- 14.9 The Supplier must give all reasonable assistance to the Authority in the preparation of any Data Protection Impact Assessment before starting any processing, including:
- (a) a systematic description of the expected processing and its purpose;
 - (b) the necessity and proportionality of the processing operations;
 - (c) the risks to the rights and freedoms of Data Subjects;
 - (d) the intended measures to address the risks, including safeguards, security measures and mechanisms to protect Personal Data.
- 14.10 The Supplier must notify the Authority immediately if it thinks the Authority's instructions breach the Data Protection Legislation.
- 14.11 The Supplier must put in place appropriate Protective Measures to protect against a Data Loss Event which must be approved by the Authority.
- 14.12 If lawful to notify the Authority, the Supplier must notify it if the Supplier is required to process Personal Data by Law promptly and before processing it.
- 14.13 The Supplier must take all reasonable steps to ensure the reliability and integrity of any Supplier Staff who have access to the Personal Data and ensure that they:
- (a) are aware of and comply with the Supplier's duties under this clause 11;
 - (b) are subject to appropriate confidentiality undertakings with the Supplier or any Subprocessor;
 - (c) are informed of the confidential nature of the Personal Data and do not provide any of the Personal Data to any third Party unless directed in writing to do so by the Authority

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or as otherwise allowed by the Contract;

- (d) have undergone adequate training in the use, care, protection and handling of Personal Data.

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

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

14.15 The Supplier must notify the Authority immediately if it:

- (a) receives a Data Subject Access Request (or purported Data Subject Access Request);
- (b) receives a request to rectify, block or erase any Personal Data;
- (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
- (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Contract;
- (e) receives a request from any third Party for disclosure of Personal Data where compliance with the request is required or claims to be required by Law;
- (f) becomes aware of a Data Loss Event.

14.16 Any requirement to notify under clause 14.17 includes the provision of further information to the Authority in stages as details become available.

14.17 The Supplier must promptly provide the Authority with full assistance in relation to any Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 14.17. This includes giving the Authority:

- (a) full details and copies of the complaint, communication or request;
- (b) reasonably requested assistance so that it can comply with a Data Subject Access Request within the relevant timescales in the Data Protection Legislation;
- (c) any Personal Data it holds in relation to a Data Subject on request;
- (d) assistance that it requests following any Data Loss Event;
- (e) assistance that it requests relating to a consultation with, or request from, the Information Commissioner's Office.

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

- (a) is not occasional;
- (b) includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR;
- (c) is likely to result in a risk to the rights and freedoms of Data Subjects.

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14.19 The Supplier must appoint a Data Protection Officer responsible for observing its obligations in this Schedule and give the Authority their contact details.

14.20 Before allowing any Subprocessor to process any Personal Data, the Supplier must:

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

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

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

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

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

14.24 The Supplier:

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

15. What you must keep confidential

15.1 Each Party must:

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

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

- (a) where disclosure is required by applicable Law or by a court with the relevant jurisdiction if the recipient Party notifies the disclosing Party of the full circumstances, the affected Confidential Information and extent of the disclosure;
- (b) if the recipient Party already had the information without obligation of confidentiality before it was disclosed by the disclosing Party;

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- (c) if the information was given to it by a third party without obligation of confidentiality;
 - (d) if the information was in the public domain at the time of the disclosure;
 - (e) if the information was independently developed without access to the disclosing Party's Confidential Information;
 - (f) to its auditors or for the purposes of regulatory requirements;
 - (g) on a confidential basis, to its professional advisers on a need-to-know basis;
 - (h) to the Serious Fraud Office where the recipient Party has reasonable grounds to believe that the disclosing Party is involved in activity that may be a criminal offence under the Bribery Act 2010.
- 15.3 The Supplier may disclose Confidential Information on a confidential basis to Supplier Staff on a need-to-know basis to allow the Supplier to meet its obligations under the Contract. The Supplier Staff must enter into a direct confidentiality agreement with the Authority at its request.
- 15.4 The Authority may disclose Confidential Information in any of the following cases:
- (a) on a confidential basis to the employees, agents, consultants and contractors of the Authority;
 - (b) on a confidential basis to any other Central Government Body, any successor body to a Central Government Body or any company that the Authority transfers or proposes to transfer all or any part of its business to;
 - (c) if the Authority (acting reasonably) considers disclosure necessary or appropriate to carry out its public functions;
 - (d) where requested by Parliament;
 - (e) under clauses 5.7 and 16.
- 15.5 For the purposes of clauses 15.2 to 15.4 references to disclosure on a confidential basis means disclosure under a confidentiality agreement or arrangement including terms as strict as those required in clause 15.
- 15.6 Information which is exempt from disclosure by clause 16 is not Confidential Information.
- 15.7 The Supplier must not make any press announcement or publicise the Contract or any part of it in any way, without the prior written consent of the Authority and must take all reasonable steps to ensure that Supplier Staff do not either.
- 16. When you can share information**
- 16.1 The Supplier must tell the Authority within 48 hours if it receives a Request For Information.
- 16.2 Within the required timescales the Supplier must give the Authority full co-operation and information needed so the Authority can:
- (a) comply with any Freedom of Information Act (FOIA) request;
 - (b) comply with any Environmental Information Regulations (EIR) request.
- 16.3 The Authority may talk to the Supplier to help it decide whether to publish information under clause 16. However, the extent, content and format of the disclosure is the Authority's decision, which does not need to be reasonable.
- 17. Invalid parts of the contract**
- If any part of the Contract is prohibited by Law or judged by a court to be unlawful, void or unenforceable, it must be read as if it was removed from that Contract as much as required

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and rendered ineffective as far as possible without affecting the rest of the Contract, whether it's valid or enforceable.

18. No other terms apply

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

19. Other people's rights in a contract

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

20. Circumstances beyond your control

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

- (a) provides written notice to the other Party;
- (b) uses all reasonable measures practical to reduce the impact of the Force Majeure Event.

20.2 Either party can partially or fully terminate the Contract if the provision of the Deliverables is materially affected by a Force Majeure Event which lasts for 90 days continuously.

20.3 Where a Party terminates under clause 20.2:

- (a) each party must cover its own losses;
- (b) clause 11.5(b) to 11.5(g) applies.

21. Relationships created by the contract

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

22. Giving up contract rights

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

23. Transferring responsibilities

23.1 The Supplier cannot assign the Contract without the Authority's written consent.

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

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

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

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

23.6 If the Authority asks the Supplier for details about Subcontractors, the Supplier must provide

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details of Subcontractors at all levels of the supply chain including:

- (a) their name;
- (b) the scope of their appointment;
- (c) the duration of their appointment.

24. Changing the contract

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

25. How to communicate about the contract

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

26. Preventing fraud, bribery and corruption

- 26.1 The Supplier shall not:
- (a) commit any criminal offence referred to in the Regulations 57(1) and 57(2);
 - (b) offer, give, or agree to give anything, to any person (whether working for or engaged by the Authority or any other public body) an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of the Contract or any other public function or for showing or refraining from showing favour or disfavour to any person in relation to the Contract or any other public function.
- 26.2 The Supplier shall take all reasonable steps (including creating, maintaining and enforcing adequate policies, procedures and records), in accordance with good industry practice, to prevent any matters referred to in clause 26.1 and any fraud by the Staff and the Supplier (including its shareholders, members and directors) in connection with the Contract and shall notify the Authority immediately if it has reason to suspect that any such matters have occurred or is occurring or is likely to occur.
- 26.3 If the Supplier or the Staff engages in conduct prohibited by clause 26.1 or commits fraud in relation to the Contract or any other contract with the Crown (including the Authority) the Authority may:
- (a) terminate the Contract and recover from the Supplier the amount of any loss suffered by the Authority resulting from the termination, including the cost reasonably incurred by the Authority of making other arrangements for the supply of the Deliverables and any additional expenditure incurred by the Authority throughout the remainder of the Contract; or
 - (b) recover in full from the Supplier any other loss sustained by the Authority in consequence of any breach of this clause.

27. Equality, diversity and human rights

- 27.1 The Supplier must follow all applicable equality law when they perform their obligations under

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the Contract, including:

- (a) protections against discrimination on the grounds of race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise;
- (b) any other requirements and instructions which the Authority reasonably imposes related to equality Law.

27.2 The Supplier must take all necessary steps, and inform the Authority of the steps taken, to prevent anything that is considered to be unlawful discrimination by any court or tribunal, or the Equality and Human Rights Commission (or any successor organisation) when working on the Contract.

28. Health and safety

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

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

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

29. Environment

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

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

30. Tax

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

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

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

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

- (a) the Authority may, at any time during the term of the Contract, request that the Worker provides information which demonstrates they comply with clause 30.2, or why those requirements do not apply, the Authority can specify the information the Worker must provide and the deadline for responding;

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- (b) the Worker's contract may be terminated at the Authority's request if the Worker fails to provide the information requested by the Authority within the time specified by the Authority;
- (c) the Worker's contract may be terminated at the Authority's request if the Worker provides information which the Authority considers isn't good enough to demonstrate how it complies with clause 30.2 or confirms that the Worker is not complying with those requirements;
- (d) the Authority may supply any information they receive from the Worker to HMRC for revenue collection and management.

31. Conflict of interest

- 31.1 The Supplier must take action to ensure that neither the Supplier nor the Supplier Staff are placed in the position of an actual or potential conflict between the financial or personal duties of the Supplier or the Supplier Staff and the duties owed to the Authority under the Contract, in the reasonable opinion of the Authority.
- 31.2 The Supplier must promptly notify and provide details to the Authority if a conflict of interest happens or is expected to happen.
- 31.3 The Authority can terminate its Contract immediately by giving notice in writing to the Supplier or take any steps it thinks are necessary where there is or may be an actual or potential conflict of interest.

32. Reporting a breach of the contract

- 32.1 As soon as it is aware of it the Supplier and Supplier Staff must report to the Authority any actual or suspected breach of law, clause 13.1, or clauses 26 to 31.
- 32.2 The Supplier must not retaliate against any of the Supplier Staff who in good faith reports a breach listed in clause 32.1.

33. Resolving disputes

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

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arbitration will be London and the proceedings will be in English.

33.5 The Authority has the right to refer a dispute to arbitration even if the Supplier has started or has attempted to start court proceedings under clause 33.3, unless the Authority has agreed to the court proceedings or participated in them. Even if court proceedings have started, the Parties must do everything necessary to ensure that the court proceedings are stayed in favour of any arbitration proceedings if they are started under clause 33.4.

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

34. Business Continuity

34.1 Within the first 90 calendar days of the signature of this contract, the Parties agree to work together in good faith to develop a Business Continuity Plan that covers at least the following matter as a minimum:

- (a) Introduction
- (b) Purpose
- (c) Business Continuity Events:
 - i) What the Business Continuity Events cover or include;
 - ii) When the Business Continuity is activated;
 - iii) Records retention;
 - iv) Debriefing and post-incident reports;
 - v) Process for post incident debriefs; and
 - vi) Lessons Identified Report

34.2 Throughout the term, the Supplier shall ensure its Business Continuity Plan provides continuity of the Services pursuant to the terms of this Contract during a Business Continuity Event. The Supplier shall test its Business Continuity Plan at reasonable intervals, and in any event no less than once during any twelve (12) month period from the commencement date. The Supplier shall in a timely fashion provide to the Authority a copy of any updated or revised Business Continuity Plan within fourteen (14) Business Days of any material update or revision to the Business Continuity Plan

34.3 The Authority may suggest reasonable and proportionate amendments to the Supplier regarding the Business Continuity Plan at any time and the Supplier shall consider them accordingly.

34.4 Should a Business Continuity Event occur at any time, the Supplier agrees to implement and comply with its Business Continuity Plan and provide regular written reports to the Authority on such implementation

34.5 During and following a Business Continuity Event, the Supplier shall continue to provide the Services in accordance with this Contract unless the Parties agree that the Supplier is unable to. in sufficient detail to ensure the continuity of Services is maintained throughout the term

35. Review Meetings

35.1 The Parties shall meet on a quarterly basis to review performance under the Contract. The quarterly review meeting.

35.2 Governance meetings may be conducted at Authority Premises, to be notified to the Contractor from time to time, unless otherwise directed by the Authority. All meetings shall have the facility for remote electronic access.

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- 35.3 The Parties shall agree whether quarterly contract performance review meetings shall be held via remote electronic access due to prevailing health and safety considerations.
- 35.4 The Authority will make a written record of all governance meetings and circulate it to all participants.
- 35.5 The Contractor shall, at the reasonable direction of the Authority, attend governance group meetings with the Authority and other contractors involved.

36. Which law applies

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