

The Short Form Contract



Access UK Ltd. (Bookboon)

[REDACTED]

Attn: [REDACTED]

By email to: [REDACTED]

Date: March 2023

Our ref: [REDACTED]

Dear [REDACTED]

Following your proposal for the supply of online books and e-learning to Department of Work and Pensions (DWP), we are pleased confirm our intention to award this Contract to you.

The attached Order Form, contract Conditions and the *Annexes* set out the terms of the Contract between DWP and Access UK Limited (previously Bookboon). for the provision of the Deliverables set out in the Order Form.

We thank you for your co-operation to date and look forward to forging a successful working relationship resulting in a smooth and successful Delivery of the Deliverables. Please confirm your acceptance of this Contract by signing and returning the Order Form to [REDACTED] at the following email address: [REDACTED] within [3] days from the date of the Order Form. No other form of acknowledgement will be accepted. Please remember to include the reference number(s) above in any future communications relating to this Contract.

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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I. Order Form

1. Contract Reference	[REDACTED]	
2. Buyer	Department for Work and Pensions "CUSTOMER" [REDACTED] Attention: [REDACTED] Email: [REDACTED]	
3. Supplier	Access UK Ltd. (Bookboon) [REDACTED] Attention: [REDACTED] Telephone: [REDACTED] Email: [REDACTED]	
4. The Contract	<p>This Contract between the Buyer and the Supplier is for the supply of Deliverables.</p> <p>The Supplier shall supply the Deliverables described below on the terms set out in this Order Form and the attached contract conditions ("Conditions") and Annexes.</p> <p>Unless the context otherwise requires, capitalised expressions used in this Order Form have the same meanings as in the Conditions.</p> <p>In the event of any conflict between this Order Form and the Conditions, this Order Form shall prevail.</p>	
5. Deliverables	Goods	[None]
	Services	Description: The contract is for the services defined, Access/Bookboon - eBooks, Audio Books, Short Courses and Learning Journeys as set out in [Annex 2 – Specification] Date(s) of Delivery: 1 st April 2023 – 31 st March 2027

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6. Specification	The specification of the Deliverables is as set out in [Annex 2 – Specification]	
7. Start Date	1st April 2023	
8. Expiry Date	31st March 2027: Clause 11.3 of the Conditions will not apply and shall be deemed deleted.	
9. Extension Period	None	
10. Optional Intellectual Property Rights (“IPR”) Clauses	[Not applicable]	
11. Charges	The Charges for the Deliverables shall be as set out in [Annex 3 – Charges]	
12. Payment	<p>Payment of undisputed invoices will be made within 30 days of receipt of invoice, which must be submitted promptly by the Supplier.</p> <p>All invoices must be sent, quoting a valid Purchase Order Number (PO Number), to: [REDACTED]. Electronic Invoices (attached to E-Mails) should be sent to [REDACTED]</p> <p>Within 10 Working Days of receipt of your countersigned copy of this Order Form, we will send you a unique PO Number. You must be in receipt of a valid PO Number before submitting an invoice.</p> <p>To avoid delay in payment it is important that the invoice is compliant and that it includes a valid PO Number, item number (if applicable) and the details (name, email, and telephone number) of your Buyer contact (i.e. Buyer Authorised Representative). Non-compliant invoices may be sent back to you, which may lead to a delay in payment.</p>	

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	<p>Suppliers must be prepared to use electronic purchase to pay (P2P) routes, including Catalogue and eInvoicing. Suppliers must be prepared to work with DWP to set up and test all electronic P2P routes. This may involve creating technical ordering and invoice files, including working with our ERP system service suppliers and systems</p> <p>If you have a query regarding an outstanding payment please contact our Accounts Payable team by email to: [REDACTED]</p>								
13. Data Protection Liability Cap	In accordance with clause 12.5 of the Conditions, the Supplier's total aggregate liability under clause 14.7(e) of the Conditions is no more than the Data Protection Liability Cap, being [REDACTED].								
14. Progress Meetings and Progress Reports	<p>Please refer to Annex 2 – Specification for information regarding Performance and Reporting.</p> <ul style="list-style-type: none"> • The Supplier shall attend progress meetings with the Buyer every quarter. • The Supplier shall provide the Buyer with progress reports every quarter. 								
15. Insurance	<p>The Supplier shall put in place and maintain for the duration of the Contract and for one (1) year after the end of the Contract Term the following insurances with the following minimum cover per claim:</p> <table> <thead> <tr> <th>Type of insurance required</th><th>Minimum cover</th></tr> </thead> <tbody> <tr> <td>[Employer's Liability]</td><td>[REDACTED]</td></tr> <tr> <td>[Public Liability]</td><td>[REDACTED]</td></tr> <tr> <td>[Professional Indemnity]</td><td>[REDACTED]</td></tr> </tbody> </table>	Type of insurance required	Minimum cover	[Employer's Liability]	[REDACTED]	[Public Liability]	[REDACTED]	[Professional Indemnity]	[REDACTED]
Type of insurance required	Minimum cover								
[Employer's Liability]	[REDACTED]								
[Public Liability]	[REDACTED]								
[Professional Indemnity]	[REDACTED]								
16. Buyer Authorised Representative(s)	<p>For general liaison your contact will continue to be: [REDACTED]</p> <p>Email: [REDACTED] or, in their absence, [REDACTED]</p> <p>Email: [REDACTED]</p>								

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17. Supplier Authorised Representative(s)	For general liaison your contact will continue to be: [REDACTED] Email: [REDACTED] or, in their absence, [REDACTED] Email: [REDACTED]															
18. Address notices	<table border="0"> <tr> <td>for</td> <td>Buyer:</td> <td>Supplier:</td> </tr> <tr> <td></td> <td>Department for Work and Pensions</td> <td>Access UK Ltd. (Bookboon)</td> </tr> <tr> <td></td> <td>Attention: [REDACTED]</td> <td>Attention: [REDACTED]</td> </tr> <tr> <td></td> <td>Email: [REDACTED]</td> <td>Telephone: [REDACTED]</td> </tr> <tr> <td></td> <td></td> <td>Email: [REDACTED]</td> </tr> </table>	for	Buyer:	Supplier:		Department for Work and Pensions	Access UK Ltd. (Bookboon)		Attention: [REDACTED]	Attention: [REDACTED]		Email: [REDACTED]	Telephone: [REDACTED]			Email: [REDACTED]
for	Buyer:	Supplier:														
	Department for Work and Pensions	Access UK Ltd. (Bookboon)														
	Attention: [REDACTED]	Attention: [REDACTED]														
	Email: [REDACTED]	Telephone: [REDACTED]														
		Email: [REDACTED]														
19. Key Staff	Key Staff Role: Key Staff Name: Contact Details <u>DWP</u> [REDACTED] [REDACTED] <u>Access UK Limited (Bookboon)</u> [REDACTED] [REDACTED]															
20. Procedures and Policies	For the purposes of the Contract the: The Buyer's security / data security requirements are: https://www.gov.uk/government/publications/dwp-procurement-security-policies-and-standards (Please see Schedule 2).															

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	<p>The Buyer's additional sustainability requirements are: Sustainable procurement: the Government Buying Standards (GBS) - GOV.UK (www.gov.uk)</p> <p>https://www.gov.uk/government/policies/sustainable-development</p> <p>The Buyer's equality and diversity policy/requirements and instructions related to equality propose the Supplier shall support the Authority in fulfilling its Public Sector Equality duty under S149 of the Equality Act 2010.</p> <p>In addition, The Supplier is expected to demonstrate a commitment to reduce vulnerability to modern slavery threats and ensure that there is a consideration in the Contract supply chain for matters relating to the delivery of the Contract.</p> <p>Suppliers, who are within scope of the Legislation must ensure their Modern Slavery Statement is made available upon request of the Contracting Authority.</p> <p>https://www.gov.uk/government/collections/modern-slavery</p> <p>Any other DWP Procedures and Policies are captured in Schedule 3 – Buyer Specific Terms.</p>
21. Special Terms	N/A
	N/A
	N/A
22. Incorporated /terms	<p>The following documents are incorporated into the Contract. If there is any conflict, the following order of precedence applies:</p> <ul style="list-style-type: none"> a) The cover letter from the Buyer to the Supplier dated <i>March 2023</i> b) This Order Form

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	<p>c) The following Annexes in equal order of precedence:</p> <ul style="list-style-type: none"> i. Annex 1 – Processing Personal Data ii. [Annex 2 – Specification] iii. [Annex 3 – Charges] <p>d) Schedules</p> <ul style="list-style-type: none"> i) Schedule 1 – DWP Definitions ii) Schedule 2 – Security Schedule iii) Schedule 3 – Buyer Specific Terms
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Signed for and on behalf of the Supplier [Redacted]	Signed for and on behalf of the Buyer [Redacted]
Name - [Redacted] Job title - [Redacted]	Name - [Redacted] Job title - [Redacted]
Date: [Redacted]	Date: [Redacted]
Signature: [Redacted]	Signature: [Redacted]

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II. Annex 1 – Processing Personal Data

There is no Personal Data being processed, therefore there is no requirement to identify Data Controller relationship/responsibilities and there would be no Data Protection to consider.

A. Part A - Authorised Processing Template

Contract:	Access UK Limited - Bookboon Library Services Contract
Date:	01/04/2023
Description of authorised processing	Details
Identity of Controller and Processor for each category of Personal Data	N/A
Subject matter of the processing	N/A
Duration of the processing	N/A
Nature and purposes of the processing	N/A
Type of Personal Data	N/A
Categories of Data Subject	N/A
Plan for return and destruction of the data once the processing is complete UNLESS requirement under law to preserve that type of data	N/A
Locations at which the Supplier and/or its Subcontractors process Personal Data under this Contract	N/A

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Protective Measures that the Supplier and, where applicable, its Subcontractors have implemented to protect Personal Data processed under this Contract against a breach of security (insofar as that breach of security relates to data) or a Personal Data Breach	N/A
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B. Part B – Joint Controller Agreement - “NOT USED”

C. Part C – Independent Controllers – “NOT USED”

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III. [Annex 2 – Specification]



IV. [Annex 3 – Charges]



V. Short form Terms (“Conditions”)

1. Definitions used in the Contract

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

“Affiliates”	in relation to a body corporate, any other entity which directly or indirectly Controls (in either of the senses defined in sections 450 and 1124 of the Corporation Tax Act 2010 and “Controlled” shall be construed
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	accordingly), is Controlled by, or is under direct or indirect common Control of that body corporate from time to time;
"Audit"	<p>the Buyer's right to:</p> <ul style="list-style-type: none"> (a) verify the accuracy of the Charges and any other amounts payable by the Buyer under the Contract (including proposed or actual variations to them in accordance with the Contract); (b) verify the costs of the Supplier (including the costs of all Subcontractors and any third party suppliers) in connection with the provision of the Deliverables; (c) verify the Supplier's and each Subcontractor's compliance with the applicable Law; (d) identify or investigate actual or suspected breach of clauses 4 to 35, impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances the Buyer shall have no obligation to inform the Supplier of the purpose or objective of its investigations; (e) identify or investigate any circumstances which may impact upon the financial stability of the Supplier and/or any Subcontractors or their ability to provide the Deliverables; (f) obtain such information as is necessary to fulfil the Buyer's obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General; (g) review any books of account and the internal contract management accounts kept by the Supplier in connection with the Contract; (h) carry out the Buyer's internal and statutory audits and to prepare, examine and/or certify the Buyer's annual and interim reports and accounts; (i) enable the National Audit Office to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Buyer has used its resources;
"Buyer"	the person named as Buyer in the Order Form. Where the Buyer is a Crown Body the Supplier shall be treated as contracting with the Crown as a whole;

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"Buyer Cause"	any breach of the obligations of the Buyer or any other default, act, omission, negligence or statement of the Buyer, of its employees, servants, agents in connection with or in relation to the subject-matter of the Contract and in respect of which the Buyer is liable to the Supplier;
"Central Government Body"	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"	the charges for the Deliverables as specified in the Order Form;
"Claim"	any claim which it appears that the Buyer is, or may become, entitled to indemnification under this Contract;
"Compliance Officer"	the person(s) appointed by the Supplier who is responsible for ensuring that the Supplier complies with its legal obligations;
"Conditions"	means these short form terms and conditions of contract;
"Confidential Information"	all information, whether written or oral (however recorded), provided by the disclosing Party to the receiving Party and which (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;
"Conflict of Interest"	a conflict between the financial or personal duties of the Supplier or the Supplier Staff and the duties owed to the Buyer under the Contract, in the reasonable opinion of the Buyer;
"Contract"	the contract between (i) the Buyer and (ii) the Supplier which is created by the Supplier's counter signing the Order Form and includes the cover letter (if used), Order Form, these Conditions and the Annexes;
"Controller"	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
"Crown Body"	the government of the United Kingdom (including the

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	Northern Ireland Assembly and Executive Committee, the Scottish Government 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 held by the Processor under this Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of this Contract, including any Personal Data Breach;
"Data Protection Impact Assessment"	an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data;
"Data Protection Legislation"	(a) the UK GDPR, (b) the DPA 2018; (c) all applicable Law about the processing of personal data and privacy and guidance issued by the Information Commissioner and other regulatory authority; and (d) (to the extent that it applies) the EU GDPR (and in the event of conflict, the UK GDPR shall apply);
"Data Protection Liability Cap"	has the meaning given to it in row 13 of the Order Form;
"Data Protection Officer"	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
"Data Subject"	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
"Data Subject Access Request"	a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data;
"Date of Delivery"	that date by which the Deliverables must be Delivered to the Buyer, as specified in the Order Form;
"Deliver"	hand over of the Deliverables to the Buyer at the address and on the date specified in the Order Form, which shall include unloading and any other specific arrangements agreed in accordance with clause 4.2. "Delivered" and "Delivery" shall be construed accordingly;
"Deliverables"	means the Goods and/or Services to be supplied under the Contract as set out in the Order Form;
"DPA 2018"	the Data Protection Act 2018;
"EU"	the European Union;

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"EU GDPR"	Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) as it has effect in EU law;
"Existing IPR"	any and all intellectual property rights that are owned by or licensed to either Party and which have been developed independently of the Contract (whether prior to the date of the Contract or otherwise);
"Expiry Date"	the date for expiry of the Contract as set out in the Order Form;
"FOIA"	the Freedom of Information Act 2000 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation;
"Force Majeure Event"	<p>any event, circumstance, matter or cause affecting the performance by either the Buyer or the Supplier of its obligations arising from:</p> <ul style="list-style-type: none"> (a) acts, events, omissions, happenings or non-happenings beyond the reasonable control of the Party seeking to claim relief in respect of a Force Majeure Event (the "Affected Party") which prevent or materially delay the Affected Party from performing its obligations under the Contract; (b) riots, civil commotion, war or armed conflict, acts of terrorism, nuclear, biological or chemical warfare; (c) acts of a Crown Body, local government or regulatory bodies; (d) fire, flood or any disaster; or (e) an industrial dispute affecting a third party for which a substitute third party is not reasonably available <p>but excluding:</p> <ul style="list-style-type: none"> (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, 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

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	<p>(iii) any failure of delay caused by a lack of funds,</p> <p>and which is not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party;</p>
"Goods"	the goods to be supplied by the Supplier to the Buyer 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;
"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 Buyer's confidential information, and which: (i) are supplied to the Supplier by or on behalf of the Buyer; or (ii) the Supplier is required to generate, process, store or transmit pursuant to the Contract; or (b) any Personal Data for which the Buyer is the Controller;
"Independent Controller"	a party which is Controller of the same Personal Data as the other Party and there is no element of joint control with regards to that Personal Data;
"Information"	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"	<p>in respect of a person:</p> <p>(a) if that person is insolvent;</p> <p>(b) where that person is a company, LLP or a partnership, if an order is made or a resolution is passed for the winding up of the person (other than voluntarily for the purpose of solvent amalgamation or reconstruction);</p> <p>(c) if an administrator or administrative receiver is appointed in respect of the whole or any part of the person's assets or business;</p>

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	<p>(d) if the person makes any composition with its creditors; or</p> <p>(e) takes or suffers any similar or analogous action to any of the actions detailed in this definition as a result of debt in any jurisdiction;</p> <p>where that person is an individual:</p> <p>(f) an application for an interim order is made pursuant to Sections 252-253 of the Insolvency Act 1986 or a proposal is made for any composition scheme or arrangement with, or assignment for the benefit of, the Supplier's creditors;</p> <p>(g) a petition is presented and not dismissed within fourteen (14) days or order made for the Supplier's bankruptcy; or</p> <p>(h) he dies or is adjudged incapable of managing his affairs within the meaning of Part VII of the Mental Health Act 1983,</p> <p>and all references to the Insolvency Act 1986 shall be construed as being references to that Act as applied under the Limited Liability Partnerships Act 2000 subordinate legislation where the Supplier is a limited liability partnership;</p>
"IP Completion Day"	has the meaning given to it in the European Union (Withdrawal Agreement) Act 2020;
"Joint Controller Agreement"	the agreement (if any) entered into between the Buyer and the Supplier substantially in the form set out in <i>Part B – Joint Controller Agreement</i> of Annex 1 – <i>Processing Personal Data</i> ;
"Joint Controllers"	Where two or more Controllers jointly determine the purposes and means of processing;
"Key Staff"	any persons specified as such in the Order Form or otherwise notified as such by the Buyer to the Supplier in writing, following agreement to the same by the Supplier;
"Law"	any law, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, bye-law, right within the meaning of the European Union (Withdrawal) Act 2018 as amended by European Union (Withdrawal Agreement) Act 2020, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the Supplier is bound to comply;

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"Month"	a calendar month and "Monthly" shall be interpreted accordingly;
"National Insurance"	contributions required by the Social Security Contributions and Benefits Act 1992 and made in accordance with the Social Security (Contributions) Regulations 2001 (SI 2001/1004);
"New IPR"	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;
"New IPR Items"	means a deliverable, document, product or other item within which New IPR subsists;
"Open Licence"	means any material that is published for use, with rights to access and modify, by any person for free, under a generally recognised open licence including Open Government Licence as set out at http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/ and the Open Standards Principles documented at https://www.gov.uk/government/publications/open-standards-principles/open-standards-principles ;
"Order Form"	the order form signed by the Buyer and the Supplier printed above these Conditions;
"Party"	the Supplier or the Buyer (as appropriate) and "Parties" shall mean both of them;
"Personal Data"	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
"Personal Data Breach"	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires and includes any breach of Data Protection Legislation relevant to Personal Data processed pursuant to the Contract;
"Prescribed Person"	a legal adviser, an MP or an appropriate body which a whistle-blower may make a disclosure to as detailed in 'Whistleblowing: list of prescribed people and bodies', 24 November 2016, available online at: https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies as updated from time to time;
"Processor"	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
"Processor"	all directors, officers, employees, agents, consultants and suppliers of the Processor and/or of any Subprocessor

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Personnel"	engaged in the performance of its obligations under the Contract;
"Protective Measures"	<p>technical and organisational measures which must take account of:</p> <ul style="list-style-type: none"> (a) the nature of the data to be protected; (b) harm that might result from Data Loss Event; (c) state of technological development; (d) the cost of implementing any measures; <p>including pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it;</p>
"Purchase Order Number" or "PO Number"	the Buyer's unique number relating to the order for Deliverables to be supplied by the Supplier to the Buyer in accordance with the Contract;
"Rectification Plan"	<p>the Supplier's plan (or revised plan) to rectify its material default which shall include:</p> <ul style="list-style-type: none"> (a) full details of the material default that has occurred, including a root cause analysis; (b) the actual or anticipated effect of the material default; and (c) the steps which the Supplier proposes to take to rectify the material default (if applicable) and to prevent such material default from recurring, including timescales for such steps and for the rectification of the material default (where applicable);
"Regulations"	the Public Contracts Regulations 2015 and/or the Public Contracts (Scotland) Regulations 2015 (as the context requires) as amended from time to time;
"Request For Information"	has the meaning set out in the FOIA or the Environmental Information Regulations 2004 as relevant (where the meaning set out for the term "request" shall apply);
"Services"	the services to be supplied by the Supplier to the Buyer under the Contract;
"Specification"	the specification for the Deliverables to be supplied by the Supplier to the Buyer (including as to quantity, description

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	and quality) as specified in the Order Form;
"Staff Vetting Procedures"	vetting procedures that accord with Good Industry Practice or, where applicable, the Buyer's procedures or policies for the vetting of personnel as specified in the Order Form or provided to the Supplier in writing following agreement to the same by the Supplier from time to time;
"Start Date"	the start date of the Contract set out in the Order Form;
"Sub-Contract"	any contract or agreement (or proposed contract or agreement), other than the Contract, pursuant to which a third party: <ul style="list-style-type: none"> (a) provides the Deliverables (or any part of them); (b) provides facilities or services necessary for the provision of the Deliverables (or any part of them); and/or (c) is responsible for the management, direction or control of the provision of the Deliverables (or any part of them);
"Subcontractor"	any person other than the Supplier, who is a party to a Sub-Contract and the servants or agents of that person;
"Subprocessor"	any third party appointed to process Personal Data on behalf of the Processor related to the Contract;
"Supplier"	the person named as Supplier in the Order Form;
"Supplier Staff"	all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Subcontractor of the Supplier engaged in the performance of the Supplier's obligations under the Contract;
"Transparency Information"	In relation to Contracts with a value above the relevant threshold set out in Part 2 of the Regulations only, the content of the Contract, including any changes to this Contract agreed from time to time, as well as any information relating to the Deliverables and performance pursuant to the Contract required to be published by the Buyer to comply with its transparency obligations, including those set out in Public Procurement Policy Note 09/21 (update to legal and policy requirements to publish procurement information on Contracts Finder) (https://www.gov.uk/government/publications/ppn-0921-requirements-to-publish-on-contracts-finder) and Public Procurement Policy Note 01/17 (update to transparency principles) where applicable

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	https://www.gov.uk/government/publications/procurement-policy-note-0117-update-to-transparency-principles except for: <ul style="list-style-type: none"> (a) any information which is exempt from disclosure in accordance with the provisions of the FOIA, which shall be determined by the Buyer; and (b) Confidential Information;
"Term"	the period from the Start Date to the Expiry Date as such period may be extended in accordance with clause 11.2 or terminated in accordance with the Contract;
"Third Party IPR"	intellectual property rights owned by a third party which is or will be used by the Supplier for the purpose of providing the Deliverables;
"UK GDPR"	has the meaning as set out in section 3(10) of the DPA 2018, supplemented by section 205(4);
"VAT"	value added tax in accordance with the provisions of the Value Added Tax Act 1994;
"Worker"	any one of the Supplier Staff which the Buyer, in its reasonable opinion, considers is an individual to which Procurement Policy Note 08/15 (Tax Arrangements of Public Appointees) (https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees) applies in respect of the Deliverables; and
"Working Day"	a day (other than a Saturday or Sunday) on which banks are open for business in the City of London.

2. Understanding the Contract

In the Contract, unless the context otherwise requires:

- 2.1 references to numbered clauses are references to the relevant clause in these 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;

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- 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;
- 2.7 the word "including", "for example" and similar words shall be understood as if they were immediately followed by the words "without limitation";
- 2.8 any reference which, immediately before IP Completion Day (or such later date when relevant EU law ceases to have effect pursuant to section 1A of the European Union (Withdrawal) Act 2018), is a reference to (as it has effect from time to time):
- (a) any EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement ("**EU References**") which is to form part of domestic law by application of section 3 of the European Union (Withdrawal) Act 2018 and which shall be read on and after IP Completion Day as a reference to the EU References as they form part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018 as modified by domestic law from time to time; and
 - (b) any EU institution or EU authority or other such EU body shall be read on and after IP Completion Day as a reference to the UK institution, authority or body to which its functions were transferred.

3. How the Contract works

- 3.1 The Order Form is an offer by the Buyer to purchase the Deliverables subject to and in accordance with the terms and conditions of the Contract.
- 3.2 The Supplier is deemed to accept the offer in the Order Form when the Buyer receives a copy of the Order Form signed by the Supplier.
- 3.3 The Supplier warrants and represents that its tender (if any) and all statements made and documents submitted as part of the procurement of Deliverables are and remain true and accurate.
- 3.4 The Supplier shall be responsible for the accuracy of all drawings, documentation and information supplied to the Buyer by the Supplier in connection with the supply of the Goods and/or Services and shall pay the Buyer any extra costs occasioned due to the Buyer as a result of any discrepancies, errors or omissions therein except where such discrepancies, errors or omissions originate from documentation supplied by the Buyer.

4. What needs to be delivered

4.1 All Deliverables

- (a) The Supplier must provide Deliverables: (i) in accordance with the Specification, the tender in Annex 4 – Supplier Tender (where applicable) and the Contract; (ii) using reasonable skill and care; (iii) using Good Industry Practice; (iv) using its own policies, processes and internal quality control measures as long as they don't conflict with the Contract; (v) on the dates agreed; and (vi) that comply with all Law.

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- (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 Buyers) from Delivery against all obvious defects.
- (c) The Supplier shall at all times comply with the Quality Standards, and where applicable shall maintain accreditation with the relevant Quality Standards authorisation body and the standards specified in this Contract.

4.2 **Goods clauses – NOT USED**

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 Buyer and third party suppliers on all aspects connected with the delivery of the Services and ensure that Supplier Staff comply with any reasonable instructions including the security requirements (where any such requirements have been provided).
- (c) The Buyer 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 Buyer to the Supplier for supplying the Services remains the property of the Buyer and is to be returned to the Buyer on expiry or termination of the Contract.
- (e) The Supplier must allocate sufficient resources to the Contract and shall ensure that all Supplier Staff supplying the Services shall do so with all due skill, care and diligence and shall possess such qualifications, skills and experience as are necessary for the proper supply of the Services. The Supplier must take all reasonable care to ensure performance does not disrupt the Buyer's operations, employees or other contractors.
- (f) On completion of the Services, the Supplier is responsible for leaving the Buyer's premises in a clean, safe and tidy condition and making good any damage that it has caused to the Buyer's premises or property, other than fair wear and tear.
- (g) The Supplier must ensure all Services, and anything used to deliver the Services, are of good quality and free from defects.
- (h) The Buyer is entitled to withhold payment for partially or undelivered Services, but doing so does not stop it from using its other rights under the Contract.

5. **Pricing and payments**

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

5.2 All Charges:

- (a) exclude VAT, which is payable on provision of a valid VAT invoice issued in accordance with Clause 5.4; and include all costs and expenses connected with the supply of Deliverables.

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- 5.3 The Buyer must pay the Supplier the charges within 30 days of receipt by the Buyer of a valid, undisputed invoice, in cleared funds to the Supplier's account stated in the invoice or in the Order Form.
- 5.4 A Supplier invoice is only valid if it:
- (a) includes all appropriate references including the Purchase Order Number and other details reasonably requested by the Buyer; and
 - (b) includes a detailed breakdown of Deliverables which have been delivered.
- 5.5 If there is a dispute between the Parties as to the amount invoiced, the Buyer shall pay the undisputed amount. The Supplier shall not suspend the provision of the Deliverables unless the Supplier is entitled to terminate the Contract for a failure to pay undisputed sums in accordance with clause 11.6. Any disputed amounts shall be resolved through the dispute resolution procedure detailed in clause 37.
- 5.6 The Buyer may retain or set-off payment of any amount owed to it by the Supplier under this Contract or any other agreement between the Supplier and the Buyer if notice and reasons are provided.
- 5.7 The Supplier must ensure that all Subcontractors are paid, in full, within 30 days of receipt of a valid, undisputed invoice. If this doesn't happen, the Buyer can publish the details of the late payment or non-payment.
- 5.8 The Supplier shall make all payments due to the Buyer without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Supplier has a valid court order requiring an amount equal to such deduction to be paid by the Buyer to the Supplier.
- 5.9 The Buyer shall pay the Charges due to the Supplier under such an invoice no later than a period of thirty (30) days from the date on which the Buyer has determined that the invoice is valid and undisputed.
- 5.10 Where the Buyer fails to comply with Clause 5.3 and there is an undue delay in considering and verifying the invoice, the invoice shall be regarded as valid and undisputed for the purposes of Clause 5.9 after a reasonable period of time has passed.
- 5.11 Interest shall be payable by the Buyer on the late payment of any undisputed sums of money properly claimed in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 (as amended).
- 5.12 The Supplier shall add VAT to the Charges at the prevailing rate as applicable and the Buyer shall pay VAT to the Supplier following an undisputed claim for payment being notified by the Supplier in accordance with this Clause 5.
- 5.13 Without prejudice to Clause 5.17, for the avoidance of doubt, it shall at all times remain the sole responsibility of the Supplier to:
- a) assess the VAT rate(s) and tax liability arising out of or in connection with the Contract; and

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- b) account for or pay any VAT (and any other tax liability) relating to payments made to the Supplier under the Contract to HM Revenue & Customs ("HMRC").
- 5.14 The Buyer shall not be liable to the Supplier in any way whatsoever for any error or failure made by the Supplier (or the Buyer) in relation to VAT, including without limit:
- a) where the Supplier is subject to a VAT ruling(s) by HMRC (or such other relevant authority) in connection with the Contract;
 - b) where the Supplier has assumed that it can recover input VAT and (for whatever reason) this assumption is subsequently held by HMRC (or such other relevant authority) to be incorrect or invalid; and/or
 - c) where the Supplier's treatment of VAT in respect of any claim for payment made under the Contract is subsequently held by HMRC (or such other relevant authority) for whatever reason to be incorrect or invalid; and/or
 - d) where the Supplier has specified a rate of VAT, or a VAT classification, to the Buyer (including, but not limited to, Out of Scope, Exempt, 0%, Standard Rate and Reduced Rate) but the Supplier subsequently regards such a rate, or such a classification, as being a mistake on its part. Further, in the scenario described in this Clause 5.14(d), the Supplier shall be obliged to repay any overpayment by the Buyer on demand.
- 5.15 Where the Supplier does not include VAT on an invoice, the Buyer will not be liable to pay any VAT for that invoice either when it falls due, or at any later date.
- 5.16 The Supplier acknowledges that the Buyer has advised the Supplier that the Supplier should seek its own specialist VAT advice in relation to the Contract and, in the event of any uncertainty following specialist advice, the Supplier should seek clarification of the Contract's VAT status with HMRC.
- 5.17 The Supplier shall indemnify the Buyer on a continuing basis against any liability, including any interest, penalties or costs incurred which is levied, demanded or assessed on the Buyer at any time in respect of the Supplier's failure to account for or to pay any VAT relating to payments made to the Supplier under the Contract. Any amounts due under this Clause 5.17 shall be paid by the Supplier to the Buyer not less than five (5) Working Days before the date upon which the tax or other liability is payable by the Buyer.
- 5.18 The Supplier may not obtain any third party revenue, income or credit based on the Services and/or copyright works delivered under this Contract without the express prior written agreement of the Buyer.
- 5.19 Any overpayment by either Party, whether of the Charges or of VAT or otherwise, shall be a sum of money recoverable by the Party who made the overpayment from the Party in receipt of the overpayment.

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- 5.20 The Supplier acknowledges and has entered into this contract on the understanding that no guarantee is given by the Buyer in respect of levels or values of Services referred to in the Schedules which are indicative only and shall not be binding on the Buyer. The Buyer is not required to make any minimum spend, nor to order a minimum volume of Services or any part thereof, under this Contract.
- 5.21 Interest shall be payable by the Buyer on the late payment of any undisputed sums of money properly claimed in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 (as amended).
- 5.22 The Supplier shall add VAT to the Charges at the prevailing rate as applicable and the Buyer shall pay VAT to the Supplier following an undisputed claim for payment being notified by the Supplier in accordance with this Clause 5.

6. The Buyer's obligations to the Supplier

- 6.1 If Supplier fails to comply with the Contract as a result of a Buyer Cause:
- (a) the Buyer 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; and
 - (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 Buyer within 10 Working Days of becoming aware;
 - (b) demonstrates that the failure only happened because of the Buyer Cause; and
 - (c) mitigated the impact of the Buyer Cause.
- 6.3 If the Supplier is temporarily unable to fulfil the requirements of the Contract owing to disruption of normal business by direction of the Buyer, an appropriate allowance by way of extension of time will be approved by the Buyer. In addition, the Buyer will reimburse any additional expense reasonably incurred by the Supplier as a direct result of such disruption.

7. Record keeping and reporting

- 7.1 The Supplier must ensure that suitably qualified representatives attend progress meetings with the Buyer and provide progress reports when specified in the Order Form.
- 7.2 The Supplier must keep and maintain full and accurate records and accounts in respect of the Contract including the Services supplied under it, all expenditure reimbursed by the Buyer, and all payments made by the Buyer for seven (7) years after the End Date, or as long a period as may be agreed between the parties and in accordance with the UK GDPR or the EU GDPR as the context requires, including the records and accounts which the Buyer has a right to Audit. The Supplier shall on request afford the Buyer or the Buyer's Representatives such access to those

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records as may be requested by the Buyer in connection with the Contract. The Supplier must allow any auditor appointed by the Buyer access to its premises to verify all contract accounts and records of everything to do with the Contract and provide copies for the Audit.

- 7.3 The Supplier must allow any Auditor access, free of charge during normal business hours on reasonable notice to their premises, to all such documents and other information as the Auditor may reasonably require for the purpose of their financial Audit of the Buyer, for carrying out examinations into the economy, efficiency and effectiveness with which the Buyer has used its resources and to verify all Contract accounts and records of everything to do with the Contract and provide copies for an Audit. The Supplier shall provide such explanations as are reasonably required for these purposes. This Clause does not constitute a requirement or agreement for the examination, certification or inspection of the accounts of the Supplier under Section 6(3) (d) and (5) of the National Audit Act 1983. The Parties will bear their own costs when an Audit is undertaken unless the Audit identifies a material default by the Supplier, in which case the Supplier will repay the Buyer's reasonable costs in connection with the Audit.
- 7.4 If the Supplier is not providing any of the Deliverables, or is unable to provide them, it must immediately:
- (a) tell the Buyer and give reasons;
 - (b) propose corrective action; and
 - (c) provide a deadline for completing the corrective action.
- 7.5 If the Buyer, acting reasonably, is concerned as to the financial stability of the Supplier such that it may impact on the continued performance of the Contract then the Buyer may:
- (a) require that the Supplier provide to the Buyer (for its approval) a plan setting out how the Supplier will ensure continued performance of the Contract and the Supplier will make changes to such plan as reasonably required by the Buyer and once it is agreed then the Supplier shall act in accordance with such plan and report to the Buyer on demand; and
 - (b) if the Supplier fails to provide a plan or fails to agree any changes which are requested by the Buyer or fails to implement or provide updates on progress with the plan, terminate the Contract immediately for material breach (or on such date as the Buyer notifies).
- 7.6 If there is a material default, the Supplier must notify the Buyer within 3 Working Days of the Supplier becoming aware of the material default. The Buyer may request that the Supplier provide a Rectification Plan within 10 Working Days of the Buyer's request alongside any additional documentation that the Buyer requires. Once such Rectification Plan is agreed between the Parties (without the Buyer limiting its rights) the Supplier must immediately start work on the actions in the Rectification Plan at its own cost.
- 7.7 The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under Clauses 7.3 to 7.13,

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unless an Audit identifies a material Default by the Supplier in which case the Supplier shall reimburse:

a) the Buyer for all the Buyer's identifiable, reasonable costs and expenses properly incurred in the course of the audit; and

b) where the Buyer, a regulatory body, or the Comptroller and Auditor General appoint another Contracting Body to conduct an Audit under this clause, the Buyer shall be able to recover on demand from the Supplier the identifiable, reasonable and properly incurred costs and expenses of the relevant Contracting Body.

7.8 Except where an Audit is imposed on the Buyer by a regulatory body, the Buyer may at any time during the Contract Period and for a period of twelve (12) months after the Contract Period, conduct an Audit for the following purposes:

a) to confirm the accuracy of any Charges that become due and payable by the Buyer to the Supplier in respect of the Services (and proposed or actual variations to them in accordance with the Contract), or the costs of all suppliers used by the Supplier (including Subcontractors) in the provision of Services;

b) to review the integrity, confidentiality and availability of the Buyer Data;

c) to review the Supplier's compliance with the DPA, FOIA and other Law applicable to the Services;

d) to review the Supplier's compliance with its obligations under the Contract;

e) to review any records created during the provision of the Services;

f) to review any books of account kept by the Supplier in connection with the provision of the Services;

g) to carry out the Audit and certification of the Buyer's accounts;

h) to carry out an examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Buyer has used its resources; and

i) to verify the accuracy and completeness of any management information delivered or required by this Contract.

7.9 The Buyer shall use its reasonable endeavours to ensure that the conduct of each Audit does not unreasonably disrupt the Supplier or delay the provision of the Services.

7.10 Subject to the Buyer's obligations of confidentiality, the Supplier shall on demand provide the Buyer, the Comptroller and Auditor General and any relevant Regulatory Body (and/or their agents or representatives) with all reasonable co-operation, access and assistance in relation to each Audit, including:

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- a) all Information requested within the permitted scope of the Audit;
- b) reasonable access to any Premises or sites controlled by the Supplier and to any equipment used (whether exclusively or non-exclusively) in the performance of the Services;
- c) access to the Supplier Staff;
- d) access to the Supplier's Systems Environment; and
- e) accommodation (including desks) at the Premises as reasonably required to conduct the audit.

7.11 The Buyer shall endeavour to (but is not obliged to) provide at least fifteen (15) days' notice of its intention to conduct an Audit.

7.12 If an Audit identifies that:

- a) the Supplier has committed a default capable of remedy, the Supplier shall correct such default as soon as reasonably practicable and as directed by the Buyer;
- b) the Buyer has overpaid any Charges that become due and payable by the Buyer to the Supplier in respect of the Services, the Supplier shall pay to the Buyer the amount overpaid within twenty (20) Working Days. The Buyer may deduct the relevant amount from the charges if the Supplier fails to make this payment; and
- c) the Buyer has underpaid any Charges that become due and payable by the Buyer to the Supplier in respect of the Services, the Buyer shall pay to the Supplier the amount of the under-payment less the cost of Audit incurred by the Buyer if this was due to a Default by the Supplier within twenty (20) Working Days.

7.13 The Supplier shall permit the Buyer and/or its appointed representatives access to conduct an Audit (an "Exceptional Audit") of the Supplier in any of the following circumstances:

- a) actual or suspected impropriety or Fraud;
- b) there are reasonable grounds to suspect that:
 - (i) the Supplier is in Default under the Contract;
 - (ii) the Supplier is in financial distress or at risk of insolvency or bankruptcy, or any fact, circumstance or matter which is reasonably likely to cause the Supplier financial distress and result in a risk of the Supplier becoming insolvent or bankrupt has occurred; or
 - (iii) a breach of the Security Policies and Standards has occurred under the Contract,

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(each an "Exceptional Circumstance").

7.14 If the Buyer notifies the Supplier of an Exceptional Circumstance and that it wishes to conduct an Exceptional Audit, the Supplier shall provide access in accordance with Clause 7.10 as soon as reasonably practicable after such request and in any event within forty eight (48) hours. The requirement to give up to forty eight (48) hours under this Clause 7.14 shall not apply if the Buyer reasonably believes that the Supplier is in Default of any of its obligations under this Contract or Data Protection Legislation.

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 in accordance with the Staff Vetting Procedures; and
- (c) comply with all conduct requirements when on the Buyer's premises.

8.2 The Buyer may, by written notice to the Supplier, refuse to admit on to, or withdraw permission for the Supplier's Staff to remain on, the Buyer's Premises or work on the Contract where the admission or continued presence of:

- a) any member of the Supplier Staff; or
- b) any person employed or engaged by any member of the Supplier Staff,

would, in the reasonable opinion of the Buyer, be undesirable, and the decision of the Buyer as to whether any person is to be refused access to the Buyer's Premises and as to whether the Supplier has failed to comply with Clause 8.4 shall be final and conclusive. If requested, the Supplier must replace any person whose acts or omissions have caused the Supplier to breach clause 29.1 to 29.3 .

8.3 The Supplier must provide a list of Supplier Staff needing to access the Buyer's premises and say why access is required.

8.4 The Supplier indemnifies the Buyer against all claims brought by any person employed or engaged by the Supplier caused by an act or omission of the Supplier or any Supplier Staff.

8.5 The Supplier shall use those persons nominated (if any) as Key Staff in the Order Form or otherwise notified as such by the Buyer to the Supplier in writing, following agreement to the same by the Supplier to provide the Deliverables and shall not remove or replace any of them unless:

- (a) requested to do so by the Buyer or the Buyer approves such removal or replacement (not to be unreasonably withheld or delayed);
- (b) the person concerned resigns, retires or dies or is on parental 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.

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- 8.6 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 Buyer, or is of a type otherwise advised by the Buyer (each such conviction a "**Relevant Conviction**"), or is found by the Supplier to have a Relevant Conviction (whether as a result of a police check, a disclosure and barring service check or otherwise) is employed or engaged in the provision of any part of the Deliverables.
- 8.7 The Supplier shall comply with Staff Vetting Procedures in respect of all persons employed or engaged in the provision of the Services. The Supplier confirms that all persons employed or engaged by the Supplier shall have complied with the Staff Vetting Procedures prior to commencing the Services and accessing the Premises
- 8.8 The Supplier shall provide training on a continuing basis for all Supplier Staff employed or engaged in the provision of the Services in compliance with the Security Policies and Standards.
- 8.9 The Supplier shall use all reasonable endeavours to ensure that the Supplier Staff who are not UK nationals are legally entitled to reside in the United Kingdom and have a work permit, where applicable. The Supplier shall promptly take all reasonable steps to ensure compliance with this Clause.
- 8.10 The Supplier shall immediately inform the Buyer of any actual or potential industrial action, whether such action is by their own employees or others, which affects or might affect its ability at any time to perform its obligations under the Contract.
- 8.11 In the event of industrial action by the Supplier Staff, the Supplier shall seek Approval in relation to its proposals to continue to perform its obligations under the Contract. If the Supplier's proposals referred to in this clause 8.11 are considered insufficient or unacceptable by the Buyer (acting reasonably), the Buyer may terminate the Contract with immediate effect or such period as specified by the Buyer by notice in writing.
- 8.12 Offers of Employment

For the duration of the Contract and for a period of twelve (12) Months thereafter neither the Buyer nor the Supplier shall employ or offer employment to any of the other Party's staff who have been associated with the procurement and/or the Contract management of the Services without that other Party's prior written consent.

9. Rights and protection

- 9.1 The Supplier warrants and represents that:
- a) it has full capacity and authority to enter into and to perform the Contract;
 - b) the Contract is executed by its authorised representative;
 - c) it is a legally valid and existing organisation incorporated in the place it was formed;

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- d) 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) all necessary rights, authorisations, licences and consents (including in relation to IPRs) are in place to enable the Supplier to perform its obligations under the Contract and for the Buyer to receive the Deliverables;
- f) it does not have any contractual obligations which are likely to have a material adverse effect on its ability to perform the Contract
- g) it is not impacted by an Insolvency Event or a Financial Distress Event;
- h) neither it nor, to the best of its knowledge the Supplier Staff, have committed a Prohibited Act prior to the Start Date or been subject to an investigation relating to a Prohibited Act;
- i) in the three (3) years prior to the date of the Contract:
 - (i) 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;
 - (ii) it has been in full compliance with all applicable securities and tax laws and regulations in the jurisdiction in which it is established; and
 - (iii) it has not done or omitted to do anything which could have a material adverse effect on its assets, financial condition or position as an on-going business concern or its ability to fulfil its obligations under the Contract;
- j) in entering the Contract it has not committed any Fraud;
- k) as at the start date of the Contract, all information in the Tender Response remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Buyer prior to execution of the Contract and during the Contract Period the Supplier shall disclose any change to the information referred to in this Clause 9.1(k) and information in relation to the Prohibited Acts;
- l) that it is not aware of any financial or other advantage being given to any person working for or engaged by the Buyer, or that an agreement has been reached to that effect, in connection with the execution of the Contract; and
- m) that as at the Effective Date, it has notified the Buyer in writing of any Occasions of Tax Non-Compliance or any litigation that it is involved in that is in connection with any occasions of Tax Non-Compliance.

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- 9.2 The warranties and representations in clause 3.3 and clause 9.1 are repeated each time the Supplier provides Deliverables under the Contract.
- 9.3 The Supplier indemnifies the Buyer against each of the following:
- (a) wilful misconduct of the Supplier, any of its Subcontractor and/or Supplier Staff that impacts the Contract; and
 - (b) non-payment by the Supplier of any tax or National Insurance.
- 9.4 If the Supplier becomes aware of a representation or warranty made in relation to the Contract that becomes untrue or misleading, it must immediately notify the Buyer.
- 9.5 All third party warranties and indemnities covering the Deliverables must be assigned for the Buyer's benefit by the Supplier.
- 10. Intellectual Property Rights (IPRs)**
- 10.1 Each Party keeps ownership of its own Existing IPRs. The Supplier gives the Buyer a non-exclusive, perpetual, royalty-free, irrevocable, transferable worldwide licence to use, change and sub-license the Supplier's Existing IPR to enable the Buyer and its sub-licensees to both:
- (a) receive and use the Deliverables; and
 - (b) use the New IPR.
- 10.2 Any New IPR created under the Contract is owned by the Buyer. The Buyer gives the Supplier a licence to use any Existing IPRs and the New IPR which the Supplier reasonably requires for the purpose of fulfilling its obligations during the Term or using or exploiting the New IPR developed under the Contract.
- 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.
- 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 Buyer for actual or alleged infringement of a third party's intellectual property arising out of, or in connection with, the supply or use of the Deliverables (an "**IPR Claim**"), then the Supplier indemnifies the Buyer against all losses, damages, costs or expenses (including professional fees and fines) incurred as a result of the IPR Claim.
- 10.6 If an IPR Claim is made or anticipated the Supplier must at its own expense and the Buyer's sole option, either:
- (a) obtain for the Buyer the rights in clauses 10.1 and 10.2 without infringing any third party intellectual property rights; and
 - (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.

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10.7 The Supplier shall not use in the Delivery of the Deliverables any Third Party IPR unless it has notified the Buyer that the owner or an authorised licensor of the relevant Third Party IPR will grant a direct licence to the Buyer for the Third Party IPR and that licence has been granted. The Buyer, in its absolute discretion, shall have 10 Working Days following the Supplier's notification to reject the grant of the licence. If the Supplier cannot obtain for the Buyer a licence in respect of any Third Party IPR, for whatever reason, the Supplier shall:

- (a) notify the Buyer in writing; and
- (b) use the relevant Third Party IPR only if the Buyer has provided authorisation in writing, with reference to the acts authorised and the specific intellectual property rights involved.

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

11. Ending the contract

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

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

11.3 Ending the Contract without a reason

The Buyer has the right to terminate the Contract at any time without reason or liability by giving the Supplier not less than 90 days' written notice, and if it's terminated clause 11.5(a)(ii) to 11.5(a)(viii) applies.

11.4 When the Buyer can end the Contract

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

- a) there is a Supplier Insolvency Event;
- b) the Supplier fails to notify the Buyer in writing of any Occasion of Tax Non-Compliance;
- c) there is any material Default of the Contract;
- d) a Default that occurs and then continues to occur on one or more occasions within 6 Months following the Buyer serving a warning notice on the Supplier that it may terminate for persistent breach of the Contract;
- e) there is any material Default of any Joint Controller Agreement relating to the Contract;
- f) there is a Default of Clauses 9, 11, 12, 23 or 27;

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- g) there is a Change of Control of the Supplier which isn't pre-approved by the Buyer in writing;
- h) the Buyer discovers that the Supplier was in one of the situations in Regulation 57 (1) and/or 57(2) of the Regulations at the time the Contract was awarded;
- i) the Supplier or its Affiliates embarrass or bring the Buyer into disrepute or diminish the public trust in them;
- j) the Supplier fails to comply with its legal obligations in the field of environmental, social, equality or employment Law when providing the Deliverables; and/or
- k) the Contract has been subject to substantial modification which would have required a new procurement procedure in accordance with Regulation 72(9) of the Public Contracts Regulations 2015.

11.5 What happens if the Contract ends (Buyer termination)

(a) Where the Buyer terminates the Contract under clause 11.4(a), 7.7(b), 29.4(b), or Paragraph 8 of Part B – Joint Controller Agreement of Annex 1 – Processing Personal Data (if used), all of the following apply:

- (i) the Supplier is responsible for the Buyer's reasonable costs of procuring replacement Deliverables for the rest of the term of the Contract;
- (ii) the Buyer's payment obligations under the terminated Contract stop immediately;
- (iii) accumulated rights of the Parties are not affected;
- (iv) the Supplier must promptly delete or return the Government Data except where required to retain copies by Law;
- (v) the Supplier must promptly return any of the Buyer's property provided under the Contract;
- (vi) the Supplier must, at no cost to the Buyer, give all reasonable assistance to the Buyer and any incoming supplier and co-operate fully in the handover and re-procurement;

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(vii) the Supplier must repay to the Buyer all the Charges that it has been paid in advance for Deliverables that it has not provided as at the date of termination or expiry; and

(viii) the following clauses survive the termination of the Contract: 7, 8.5, 10, 12, 14, 15, 16, 19, 20, 37 and 38 and any clauses which are expressly or by implication intended to continue.

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

- (a) The Supplier can issue a reminder notice if the Buyer does not pay an undisputed invoice on time. The Supplier can terminate the Contract if the Buyer fails to pay an undisputed invoiced sum due and worth over 10% of the total Contract value or £1,000, whichever is the lower, within 30 days of the date of the reminder notice.
- (b) Where the Buyer terminates the Contract in accordance with clause 11.3 or the Supplier terminates the Contract under clause 11.6(a) or 24.4:
 - (i) the Buyer must promptly pay all outstanding charges incurred by the Supplier;
 - (ii) the Buyer must pay the Supplier reasonable committed and unavoidable losses as long as the Supplier provides a fully itemised and costed schedule with evidence - the maximum value of this payment is limited to the total sum payable to the Supplier if the Contract had not been terminated; and
 - (iii) clauses 11.5(a)(ii) to 11.5(a)(viii) apply.
- (c) The Supplier also has the right to terminate the Contract in accordance with Clauses 21.3 and 24.4.

11.7 Partially ending and suspending the Contract

- (a) Where the Buyer has the right to terminate the Contract it can terminate or suspend (for any period), all or part of it by giving 90 days' notice. If the Buyer suspends the Contract it can provide the Deliverables itself or buy them from a third party. The Buyer can only partially terminate or suspend the Contract if the remaining parts of it can still be used to effectively deliver the intended purpose.
- (b) The Parties must agree (in accordance with clause 26) any necessary variation required by clause 11.7, but the Supplier may not either:
 - (i) reject the variation; or
 - (ii) increase the Charges, except where the right to partial termination is under clause 11.3.
- (c) The Buyer can still use other rights available, or subsequently available to it if it acts on its rights under clause 11.7.

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12. How much you can be held responsible for

- 12.1 Each Party's total aggregate liability under or in connection with the Contract (whether in tort, contract or otherwise) is no more than 125% of the Charges paid or payable to the Supplier.
- 12.2 Neither Party is liable to the other for:
- a) any indirect or consequential Losses; and
 - 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; or
 - (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 5.7, 8.4, 9.3(b), 10.5. or 33.2 (b)
- 12.5 Notwithstanding clause 12.1, but subject to clauses 12.1 and 12.2, the Supplier's total aggregate liability under clause 14.7(e) shall not exceed the Data Protection Liability Cap.
- 12.6 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.
- 12.7 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:
- (a) comply and procure that its Subcontractors comply with the Supplier Code of Conduct:
(https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779660/20190220-Supplier_Code_of_Conduct.pdf) as such Code of Conduct may be updated from time to time, and such other sustainability requirements as set out in the Order Form;
 - (b) comply with the provisions of the Official Secrets Acts 1911 to 1989 and section 182 of the Finance Act 1989;
 - (c) support the Buyer in fulfilling its Public Sector Equality duty under section 149 of the Equality Act 2010;
 - (d) comply with the model contract terms contained in Example 1 of Annex C of the guidance to PPN 05/19 (Tackling Modern Slavery in Government Supply

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Chains) shall apply to the Contract, as such clauses may be amended or updated from time to time; and

- (e) 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>.

- (f) The Supplier shall comply with the provisions of Schedule 3 (Buyer Specific Terms).

13.2 The Supplier indemnifies the Buyer against any costs resulting from any default by the Supplier relating to any applicable Law to do with the Contract.

13.3 The Supplier must appoint a Compliance Officer who must be responsible for ensuring that the Supplier complies with Law, clause 13.1 and clauses 28 to 35.

14. Data Protection

14.1 The Supplier must not remove any ownership or security notices in or relating to the Government Data.

14.2 The Supplier must make accessible back-ups of all Government Data, stored in an agreed off-site location and send the Buyer copies every 6 Months.

14.3 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 Buyer (where any such requirements have been provided).

14.4 If at any time the Supplier suspects or has reason to believe that the Government Data is corrupted, lost or sufficiently degraded, then the Supplier must immediately notify the Buyer and suggest remedial action.

14.5 The Supplier must ensure that any Supplier system holding any Government Data, including back-up data, is a secure system that complies with the Security Policies and Standards detailed in Schedule 2 (Security).

14.6 The Supplier must pay each Party's reasonable costs of complying with clause 14.5 unless the Buyer is at fault.

14.7 The Supplier:

- (a) must provide the Buyer 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 Buyer unless required by Law to retain it; and

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- (e) indemnifies the Buyer against any and all losses incurred if the Supplier breaches clause 14 or any Data Protection Legislation.

14.8 The Parties acknowledge that for the purposes of the Data Protection Legislation, the nature of the activity carried out by each of them in relation to their respective obligations under the Contract dictates the status of each party under the DPA 2018. A Party may act as:

- (a) "Controller" in respect of the other Party who is "Processor";
- (b) "Processor" in respect of the other Party who is "Controller";
- (c) "Joint Controller" with the other Party;
- (d) "Independent Controller" of the Personal Data where the other Party is also "Controller",

in respect of certain Personal Data under the Contract and shall specify in Part A - *Authorised Processing Template* of Annex 1 – *Processing Personal Data* which scenario they think shall apply in each situation.

14.9 **Where one Party is Controller and the other Party its Processor**

- (a) Where a Party is a Processor, it must only process Personal Data if authorised to do so in Part A - *Authorised Processing Template* of Annex 1 – *Processing Personal Data* by the Controller. Any further written instructions relating to the processing of Personal Data are incorporated into Part A - *Authorised Processing Template* of Annex 1 – *Processing Personal Data*.
- (b) The Processor must give all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment before starting any processing, including:
 - (i) a systematic description of the expected processing and its purpose;
 - (ii) the necessity and proportionality of the processing operations;
 - (iii) the risks to the rights and freedoms of Data Subjects; and
 - (iv) the intended measures to address the risks, including safeguards, security measures and mechanisms to protect Personal Data.
- (c) The Processor must notify the Controller immediately if it thinks the Controller's instructions breach the Data Protection Legislation.
- (d) The Processor must put in place appropriate Protective Measures to protect against a Data Loss Event which must be approved by the Controller.
- (e) If lawful to notify the Controller, the Processor must promptly notify the Controller if the Processor is otherwise required to process Personal Data by Law before processing it.
- (f) The Processor must use all reasonable endeavours to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
 - (i) are aware of and comply with the Processor's duties under this clause 14;

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- (ii) are subject to appropriate confidentiality undertakings with the Processor or any Subprocessor;
 - (iii) are informed of the confidential nature of the Personal Data and do not provide any of the Personal Data to any third party unless directed in writing to do so by the Controller or as otherwise allowed by the Contract; and
 - (iv) have undergone adequate training in the use, care, protection and handling of Personal Data.
- (g) Where the Personal Data is subject to UK GDPR, the Processor must not transfer Personal Data outside of the UK unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
 - (i) the transfer is in accordance with Article 45 of the UK GDPR (or section 73 of DPA 2018); or
 - (ii) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with UK GDPR Article 46 or section 75 of the DPA 2018) as determined by the Controller which could include relevant parties entering into the International Data Transfer Agreement (the "**IDTA**"), or International Data Transfer Agreement Addendum to the European Commission's SCCs (the "**Addendum**"), as published by the Information Commissioner's Office from time to time as well as any additional measures determined by the Controller;
 - (iii) the Data Subject has enforceable rights and effective legal remedies when transferred;
 - (iv) the Processor meets its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - (v) the Processor complies with the Controller's reasonable prior instructions about the processing of the Personal Data.
- (h) Where the Personal Data is subject to EU GDPR, the Processor must not transfer Personal Data outside of the EU unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
 - (i) the transfer is in accordance with Article 45 of the EU GDPR; or
 - (i) the Controller or Processor has provided appropriate safeguards in relation to the transfer in accordance with Article 46 of the EU GDPR as determined by the Controller which could include relevant parties entering into Standard Contractual Clauses in the European Commission's decision 2021/914/EU or such updated version of such Standard Contractual Clauses as are published by the European Commission from time to time as well as any additional measures determined by the Controller;
 - (ii) the Data Subject has enforceable rights and effective legal remedies;

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- (iii) the Processor complies with its obligations under the EU GDPR by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and
 - (iv) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the processing of the Personal Data.
- (j) The Processor must notify the Controller immediately if it:
 - (i) receives a Data Subject Access Request (or purported Data Subject Access Request);
 - (ii) receives a request to rectify, block or erase any Personal Data;
 - (iii) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
 - (iv) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Contract;
 - (v) receives a request from any third Party for disclosure of Personal Data where compliance with the request is required or claims to be required by Law; and
 - (vi) becomes aware of a Data Loss Event.
- (k) Any requirement to notify under clause (j) includes the provision of further information to the Controller in stages as details become available.
 - (i) The Processor must promptly provide the Controller with full assistance in relation to any Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause (j). This includes giving the Controller:
 - (ii) full details and copies of the complaint, communication or request;
 - (iii) reasonably requested assistance so that it can comply with a Data Subject Access Request within the relevant timescales in the Data Protection Legislation;
 - (iv) any Personal Data it holds in relation to a Data Subject on request;
 - (v) assistance that it requests following any Data Loss Event; and
 - (vi) assistance that it requests relating to a consultation with, or request from, the Information Commissioner's Office or any other regulatory authority.
- (l) The Processor must maintain full, accurate records and information to show it complies with this clause 14. This requirement does not apply where the Processor employs fewer than 250 staff, unless either the Controller determines that the processing:
 - (i) is not occasional;

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- (ii) includes special categories of data as referred to in Article 9(1) of the UK GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the UK GDPR; or
 - (iii) is likely to result in a risk to the rights and freedoms of Data Subjects.
- (m) The Parties shall designate a Data Protection Officer if required by the Data Protection Legislation.
- (n) Before allowing any Subprocessor to process any Personal Data, the Processor must:
 - (i) notify the Controller in writing of the intended Subprocessor and processing;
 - (ii) obtain the written consent of the Controller;
 - (iii) enter into a written contract with the Subprocessor so that this clause 14 applies to the Subprocessor; and
 - (iv) provide the Controller with any information about the Subprocessor that the Controller reasonably requires.
- (o) The Processor remains fully liable for all acts or omissions of any Subprocessor.
- (p) At any time the Buyer can, with 30 Working Days' notice to the Supplier, change this clause 14 to replace it with any applicable standard clauses (between the controller and processor) or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to the Contract).
- (q) The Parties agree to take account of any non-mandatory guidance issued by the Information Commissioner's Office or any other regulatory authority.

14.10 Joint Controllers of Personal Data

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

14.11 Independent Controllers of Personal Data

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

14.12 Security The Supplier shall, and shall procure that any Supplier Staff shall comply with the Buyer's Security Requirements. The Buyer's Security Requirements include, but are not limited to, requirements regarding the confidentiality, integrity and availability of Buyer assets, the Buyer's Systems Environment and the Supplier's Systems Environment.

14.13 Data - The Supplier shall take responsibility for preserving the integrity of Government Data and preventing the corruption or loss of that data.

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- 14.14 The Supplier shall ensure that any system or media on which the Supplier holds any Government Data, including back-up data, is a secure system that complies with the Security Policies and Standards detailed in Schedule 2 (Security).
- 14.15 The Supplier and any of its Supplier Staff, shall not access, process, host or transfer Government Data outside the United Kingdom without the prior written consent of the Buyer, and where the Buyer gives consent, the Supplier shall comply with any reasonable instructions notified to it by the Buyer in relation to the Government Data in question. The provisions set out in this Clause 14.15 shall apply to Landed Resources.
- 14.16 Where the Buyer has given its prior written consent to the Supplier to access, process, host or transfer Government Data from premises outside the United Kingdom :
- a) the Supplier must notify the Buyer (in so far as they are not prohibited by Law) where any regulatory bodies seek to gain or has gained access to such Government Data;
 - b) the Supplier shall take all necessary steps in order to prevent any access to, or disclosure of, any Government Data to any regulatory bodies outside the United Kingdom unless required by Law without any applicable exception or exemption
- 14.17 If the Supplier goes into Liquidation or the Contract is terminated by the Buyer pursuant to the provisions of the Contract relating to termination on insolvency in accordance with Clause 11.4(a), the Supplier (or a liquidator or provisional liquidator acting on behalf of the Supplier) shall at its own cost and at no cost to the Buyer:
- a) conduct a full and thorough search for any electronic and paper records held by the Supplier which contain Government Data/Information/Information [relating to a customer/service user]; in accordance with the Buyer instructions;
 - b) return all such records as described in Clause 14.7(a) to the Buyer in accordance with their instructions;
 - c) permanently destroy all copies of any relevant electronic records; and
 - d) provide written confirmation to the Buyer that the actions outlined above in this Clause have been completed.
- 14.18 In the event of a Subcontractor being in Liquidation then it is the responsibility of the Supplier to recover records held by the Subcontractor and provide assurance to the Buyer that they have been recovered.
- 14.19 If the Supplier is put into administration the Buyer will work closely with the administrator to ensure the Supplier is able to maintain Buyer and other records they have created and held in accordance with this Contract and maintain these standards in the safekeeping of Government Data. All such records must be stored in accordance with Buyer information assurance and HMG Cabinet Office information security standards.

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- 14.20 If Malicious Software is found, the Parties shall co-operate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of Buyer Data, assist each other to mitigate any loss and to restore the Services to their desired operating efficiency.
- 14.21 Any cost arising out of the actions of the Parties taken in compliance with the provisions of Clause 14.20 shall be borne by the Parties as follows:
- a) by the Supplier where the Malicious Software originates from the Supplier's Systems Environment or the Buyer Data (whilst the Buyer Data was under the control of the Supplier); and
 - b) by the Buyer if the Malicious Software originates from the Buyer's Systems Environment or the Buyer Data (whilst the Buyer Data was under the control of the Buyer).

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; and
 - (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, a regulatory body or 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;
 - (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) on a confidential basis, 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; and

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- (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 shall remain responsible at all times for compliance with the confidentiality obligations set out in this Contract by the persons to whom disclosure has been made.
- 15.4 The Buyer may disclose Confidential Information in any of the following cases:
 - (a) on a confidential basis to the employees, agents, consultants and contractors of the Buyer;
 - (b) on a confidential basis to any other Central Government Body, any successor body to a Central Government Body or any company that the Buyer transfers or proposes to transfer all or any part of its business to;
 - (c) if the Buyer (acting reasonably) considers disclosure necessary or appropriate to carry out its public functions;
 - (d) where requested by Parliament; and
 - (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 Transparency Information, and Information which is exempt from disclosure by clause 16 is not Confidential Information.
- 15.7 The Supplier must not make any press announcement or publicise the Contract or any part of it in any way, without the prior written consent of the Buyer and must take all reasonable endeavours to ensure that Supplier Staff do not either.
- 16. When you can share information**
- 16.1 The Supplier shall and shall procure that its Subcontractors shall:
 - a) transfer to the Buyer all Requests for Information that it receives as soon as practicable and in any event within [two (2)] Working Days of receiving a Request for Information;
 - b) provide the Buyer with full co-operation, all necessary assistance as reasonably requested by the Buyer, and a copy of all Information in its possession or power in the form that the Buyer requires within [five (5)] Working Days (or such other period as the Buyer may specify) of the Buyer's request so that the Buyer can:
 - i) publish the Transparency Information;
 - ii) comply with any Freedom of Information Act (FOIA) request; and

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iii) comply with any Environmental Information Regulations (EIR) request,

and in no event shall the Supplier respond directly to a Request for Information unless expressly authorised in writing to do so by the Buyer.

16.2 Not Used

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

16.4 The Supplier acknowledges that the Buyer may, acting in accordance with the Department for Constitutional Affairs' Code of Practice on the Discharge of the Functions of Public Authorities under section 45 of FOIA ("the Code"), be obliged under the FOIA, or the Environmental Information Regulations to disclose information concerning the Supplier or the Services:

A) in certain circumstances without consulting the Supplier; or

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

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

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

17. Insurance

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

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

19. No other terms apply

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

20. Other people's rights in the 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.

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This does not affect third party rights and remedies that exist independently from CRTPA.

21. Circumstances beyond your control

21.1 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; and
- (b) uses all reasonable measures practical to reduce the impact of the Force Majeure Event.

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

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

21.4 Where a Party terminates under clause 21.3:

- (a) each Party must cover its own losses; and
- (b) clause 11.5(a)(ii) to 11.5(a)(viii) applies.

22. 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.

23. Giving up contract rights

23.1 The failure of either party to insist upon strict performance of any provision of the contract, or the failure of either party to exercise, or any delay in exercising any right or remedy, shall not constitute a waiver of that right or remedy and shall not diminish or affect any other cause a diminution of the obligations established by the contract.

23.2 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 27 (How to communicate about the contract).

23.3 A waiver of any right or remedy arising from a breach of the Contract shall not constitute a waiver of any right or remedy arising from any other or subsequent breach of the Contract.

24. Transferring responsibilities

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

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- 24.2 The Buyer can assign, novate or transfer its Contract or any part of it to any Crown Body, public or private sector body which performs the functions of the Buyer.
- 24.3 When the Buyer uses its rights under clause 24.2 the Supplier must enter into a novation agreement in the form that the Buyer specifies.
- 24.4 The Supplier can terminate the Contract novated under clause 24.2 to a private sector body that is experiencing an Insolvency Event.
- 24.5 The Supplier remains responsible for all acts and omissions of the Supplier Staff as if they were its own.
- 24.6 Any change in the legal status of the Buyer such that it ceases to be a Contracting Body shall not affect the validity of the Contract. In such circumstances, the Contract shall continue in full force and effect for bind and inure to the benefit of any successor body to the Buyer.
- 24.7 The Buyer may disclose to any transferee any Confidential Information of the Supplier which relates to the performance of the Supplier's obligations under the Contract. In such circumstances the Buyer shall authorise the Transferee to use such Confidential Information only for purposes relating to the performance of the Supplier's obligations under the Contract and for no other purpose and shall take all reasonable steps to ensure that the Transferee gives a confidentiality undertaking in relation to such Confidential Information
- 24.8 Each Party shall at its own cost and expense carry out, or use all reasonable endeavours to ensure it carries out whatever further actions (including the execution of further documents) the other Party reasonably requires from time to time for the purpose of giving that other Party the full benefit of the provisions of the Contract.

25. Supply Chain

- 25.1 The Supplier cannot sub-contract the Contract or any part of it without the Buyer's prior written consent. The Supplier shall provide the Buyer with the name of any Subcontractor the Supplier proposes to engage for the purposes of the Contract. The decision of the Buyer to consent or not will not be unreasonably withheld or delayed. If the Buyer does not communicate a decision to the Supplier within 10 Working Days of the request for consent then its consent will be deemed to have been given. The Buyer may reasonably withhold its consent to the appointment of a Subcontractor if it considers that:
 - (a) the appointment of a proposed Subcontractor may prejudice the provision of the Deliverables or may be contrary to its interests;
 - (b) the proposed Subcontractor is unreliable and/or has not provided reliable goods and or reasonable services to its other customers; and/or
 - (c) the proposed Subcontractor employs unfit persons.
- 25.2 If the Buyer asks the Supplier for details about Subcontractors, the Supplier must provide details of all such Subcontractors at all levels of the supply chain including:
 - (a) their name;

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- (b) the scope of their appointment; and
 - (c) the duration of their appointment.
- 25.3 The Supplier must exercise due skill and care when it selects and appoints Subcontractors.
- 25.4 The Supplier will ensure that all Sub-Contracts in the Supplier's supply chain entered into after the Start Date wholly or substantially for the purpose of performing or contributing to the performance of the whole or any part of this Contract contain provisions that:
 - (a) allow the Supplier to terminate the Sub-Contract if the Subcontractor fails to comply with its obligations in respect of environmental, social, equality or employment Law;
 - (b) require the Supplier to pay all Subcontractors in full, within 30 days of receiving a valid, undisputed invoice; and
 - (c) allow the Buyer to publish the details of the late payment or non-payment if this 30-day limit is exceeded.
- 25.5 The Supplier will take reasonable endeavours to ensure that all Sub-Contracts in the Supplier's supply chain entered into before the Start Date but made wholly or substantially for the purpose of performing or contributing to the performance of the whole or any part of this Contract contain provisions that:
 - (a) allow the Supplier to terminate the Sub-Contract if the Subcontractor fails to comply with its obligations in respect of environmental, social, equality or employment Law;
 - (b) require the Supplier to pay all Subcontractors in full, within 30 days of receiving a valid, undisputed invoice; and
 - (c) allow the Buyer to publish the details of the late payment or non-payment if this 30-day limit is exceeded.
- 25.6 At the Buyer's request, the Supplier must terminate any Sub-Contracts in any of the following events:
 - (a) there is a change of control within the meaning of Section 450 of the Corporation Tax Act 2010 of a Subcontractor which isn't pre-approved by the Buyer in writing;
 - (b) the acts or omissions of the Subcontractor have caused or materially contributed to a right of termination under Clause 11.4;
 - (c) a Subcontractor or its Affiliates embarrasses or brings into disrepute or diminishes the public trust in the Buyer;
 - (d) the Subcontractor fails to comply with its obligations in respect of environmental, social, equality or employment Law; and/or
 - (e) the Buyer has found grounds to exclude the Subcontractor in accordance with Regulation 57 of the Regulations.

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

26. Changing the contract

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

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

- a) a General Change in Law; or
 - b) a Specific Change in Law where the effect of that Specific Change in Law on the Services is reasonably foreseeable at the Commencement Date; or
 - c) a change in guidance and/or best practice as set out by the Information Commissioner's Office.
- 26.3 If a Specific Change in Law occurs or will occur during the Contract Period the Supplier shall:
- a) notify the Buyer as soon as is reasonably practicable of the likely effects of that Specific Change in Law, including:
 - (i) whether a Variation is required, including to the Services, the Contract Price and/or any other part of this Contract; and
 - (ii) whether any relief from the Supplier's obligations is required, including an obligation to meet a KPI; and
 - a) provide the Buyer with evidence:
 - (i) that the Supplier has minimised any increase in costs or maximised any reduction in costs, including in respect of the costs of its Subcontractor(s);
 - (ii) as to how the Specific Change in Law has affected the cost of providing the Services;
 - (iii) demonstrating that any expenditure that has been avoided has been taken into account in amending the Charges payable under the Contract.

27. How to communicate about the contract

27.1 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.

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27.2 Any notice or other communication which is to be given by either Party to the other shall be given by electronic mail or by letter (such letter may be delivered by hand or sent by registered post or by recorded delivery). Provided the relevant communication is not returned as undelivered, the notice or communication shall be deemed to have been given two (2) Working Days after the day on which the letter was posted, or four (4) hours, in the case of electronic mail or sooner where the other Party acknowledges receipt of such letters, or item of electronic mail. Such letters shall be addressed to the other Party in the manner referred to in Clause 27.3.

27.3 For the purposes of Clause 27.2, the address of each Party shall be:

For the Buyer:

Department for Work and Pensions

Attention:

Email:

For the Supplier:

Access UK Ltd

Attention:

Telephone:

Email:

28. Dealing with claims

28.1 If the Buyer becomes aware of any Claim, the Buyer must:

- (a) notify the Supplier as soon as reasonably practical becoming aware of a Claim;
- (b) at the Supplier's cost, allow the Supplier to conduct all negotiations and proceedings to do with a Claim;
- (c) at the Supplier's cost, give the Supplier reasonable assistance with the Claim if requested; and
- (d) not make admissions about the Claim without the prior written consent of the Supplier which cannot be unreasonably withheld or delayed.

28.2 The Supplier must:

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

29. Preventing fraud, bribery and corruption

29.1 The Supplier shall not:

- (a) commit any criminal offence referred to in 57(1) and 57(2) of the Regulations; or
- (b) offer, give, or agree to give anything, to any person (whether working for or engaged by the Buyer or any other public body) an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act

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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.

- 29.2 The Supplier shall take all reasonable endeavours (including creating, maintaining and enforcing adequate policies, procedures and records), in accordance with Good Industry Practice, to prevent any matters referred to in clause 29.1 and any fraud by the Supplier Staff and the Supplier (including its shareholders, members and directors) in connection with the Contract and shall notify the Buyer immediately if it has reason to suspect that any such matters have occurred or is occurring or is likely to occur.
- 29.3 If the Supplier notifies the Buyer as required by clause 29.2, the Supplier must respond promptly to their further enquiries, co-operate with any investigation and allow the Audit of any books, records and relevant documentation.
- 29.4 If the Supplier or the Supplier Staff engages in conduct prohibited by clause 29.1 or commits fraud in relation to the Contract or any other contract with the Crown (including the Buyer) the Buyer may:
- (a) require the Supplier to remove any Supplier Staff from providing the Deliverables if their acts or omissions have caused the default; and
 - (b) immediately terminate the Contract.
- 29.5 The Supplier must comply with the requirements of Schedule 2 (Buyer Specific Terms) in respect of the prevention of fraud, bribery and corruption.

30. Equality, diversity and human rights

- 30.1 The Supplier must follow all applicable equality Law when they perform their obligations under the Contract, including:
- a) not to unlawfully discriminate either directly or indirectly on such grounds as age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex or sexual orientation and without prejudice to the generality of the foregoing the Supplier shall not unlawfully discriminate within the meaning and scope of the Equality Act 2010 or other relevant or equivalent legislation, or any statutory modification or re-enactment thereof; and
 - b) any other requirements and instructions which the Buyer reasonably imposes related to equality Law.
- 30.2 The Supplier must use all reasonable endeavours, and inform the Buyer of the steps taken, to prevent anything that is considered to be unlawful discrimination by any court or tribunal, or the Equality and Human Rights Commission (or any successor organisation) when working on the Contract.
- 30.3 The Supplier shall comply with the provisions of the Human Rights Act 1998.
- 30.4 The Supplier shall take all reasonable steps to secure the observance of Schedule 3 (Buyer Specific Terms).

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31. Health and safety

- 31.1 The Supplier must perform its obligations meeting the requirements of:
- (a) all applicable Law regarding health and safety; and
 - (b) the Buyer's current health and safety policy while at the Buyer's premises, as provided to the Supplier.
- 31.2 The Supplier must as soon as possible notify the Buyer of any health and safety incidents or material hazards they're aware of at the Buyer Premises that relate to the performance of the Contract, including but not limited to where such incident causes any personal injury or damage to property which could give rise to personal injury.
- 31.3 The Supplier shall ensure that its health and safety policy statement (as required by the Health and Safety at Work Act etc.1974) is made available to the Buyer on request

32. Environment and sustainability

- 32.1 In delivering the Service, the Supplier must perform its obligations under the Buyer's Environmental requirements and comply with the Buyer's requirements set out in Schedule 3 (Buyer Specific Terms).
- 32.2 The Supplier must ensure that Supplier Staff are aware of the Buyer's environmental policy.

33. Tax

- 33.1 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.
- 33.2 If an Occasion of Tax Non-Compliance occurs, the Supplier must notify the Buyer of it within five (5) Working Days including:
- a) the steps that the Supplier is taking to address the Occasion of Tax Non-Compliance and any mitigating factors that it considers relevant; and
 - b) other information relating to the Occasion of Tax Non-Compliance that the Buyer may reasonably need.
- 33.3 If any of the Supplier Staff are Workers who receive payment relating to the Deliverables, then the Supplier must ensure that its contract with the Worker contains requirements that:
- (a) the Buyer may, at any time during the term of the Contract, request that the Worker provides information which demonstrates they comply with clause 33.1, or why those requirements do not apply, the Buyer can specify the information the Worker must provide and the deadline for responding;
 - (b) the Worker's contract may be terminated at the Buyer's request if the Worker fails to provide the information requested by the Buyer within the time specified by the Buyer;

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- (c) the Worker's contract may be terminated at the Buyer's request if the Worker provides information which the Buyer considers isn't good enough to demonstrate how it complies with clause 33.1 or confirms that the Worker is not complying with those requirements; and
- (d) the Buyer may supply any information they receive from the Worker to HMRC for revenue collection and management.

34. Conflict of interest

- 34.1 The Supplier must take action to ensure that neither the Supplier nor the Supplier Staff are placed in the position of an actual, potential or perceived Conflict of Interest.
- 34.2 The Supplier must promptly notify and provide details to the Buyer if an actual, potential or perceived Conflict of Interest happens or is expected to happen.
- 34.3 The Buyer will consider whether there are any appropriate measures that can be put in place to remedy an actual, perceived or potential Conflict of Interest. If, in the reasonable opinion of the Buyer, such measures do not or will not resolve an actual or potential conflict of interest, the Buyer may terminate the Contract immediately by giving notice in writing to the Supplier where there is or may be an actual or potential Conflict of Interest and clauses 11.5(a)(ii) to 11.5(a)(viii) shall apply.
- 34.4 The actions of the Buyer pursuant to this clause shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Buyer.
- 34.5 This Clause 31 shall apply for the duration of this Contract and for a period of [two (2)] years after its termination.

35. Reporting a breach of the contract

- 35.1 As soon as it is aware of it the Supplier and Supplier Staff must report to the Buyer any actual or suspected breach of Law, clause 13.1, or clauses 28 to 34.
- 35.2 The Supplier must not retaliate against any of the Supplier Staff who in good faith reports a breach listed in clause 35.1 to the Buyer or a Prescribed Person.

36. Further Assurances

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

37. Resolving disputes

- 37.1 If there is a dispute between the Parties, their senior representatives who have authority to settle the dispute will, within 28 days of a written request from the other Party, meet in good faith to resolve the dispute by commercial negotiation.
- 37.2 If the dispute is not resolved at that meeting, the Parties can attempt to settle it by mediation using the Centre for Effective Dispute Resolution ("CEDR") Model Mediation Procedure current at the time of the dispute. If the Parties cannot agree on a mediator, the mediator will be nominated by CEDR. If either Party does not wish to use, or continue to use mediation, or mediation does not resolve the dispute, the dispute must be resolved using clauses 37.3 to 37.5.

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- 37.3 Unless the Buyer refers the dispute to arbitration using clause 37.4, the Parties irrevocably agree that the courts of England and Wales have the exclusive jurisdiction to:
- (a) determine the dispute;
 - (b) grant interim remedies; and
 - (c) grant any other provisional or protective relief.
- 37.4 The Supplier agrees that the Buyer has the exclusive right to refer any dispute to be finally resolved by arbitration under the London Court of International Arbitration Rules current at the time of the dispute. There will be only one arbitrator. The seat or legal place of the arbitration will be London and the proceedings will be in English.
- 37.5 The Buyer has the right to refer a dispute to arbitration even if the Supplier has started or has attempted to start court proceedings under clause 37.3, unless the Buyer has agreed to the court proceedings or participated in them. Even if court proceedings have started, the Parties must do everything necessary to ensure that the court proceedings are stayed in favour of any arbitration proceedings if they are started under clause 37.4.
- 37.6 The Supplier cannot suspend the performance of the Contract during any dispute.

38. Which law applies

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

39. Insurance

- 39.1 Subject to section 15 of the order form and unless otherwise confirmed in writing by the buyer, as a minimum level of protection, the supplier shall put in place and/or maintain in force at its own cost with a reputable commercial insurer, insurance arrangements in respect of employer's liability, public liability, product liability and professional indemnity in accordance with good industry practice with the minimum cover per claim of the greater of five million pounds (£5,000,000) or any sum as required by law unless otherwise agreed with the buyer in writing.
- 39.2 Without limitation to any insurance arrangements as required by law, the supplier shall put in place and/or maintain the different types and/or levels of indemnity arrangements explicitly required by the buyer, if specified in the order form.

40. Cumulative remedies

Except as otherwise expressly provided for by the contract, all remedies available to either party for breach of the contract are cumulative and may be exercised

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concurrently or separately. The exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

41. Counterparts

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

Schedules –

Schedule 1 – DWP Definitions:

<i>Affiliates</i>	means in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control of that body corporate from time to time;
<i>Approval</i>	means the prior written consent of the Buyer and " Approve " and " Approved " shall be construed accordingly;

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Audit	<p>means the Buyer's right to:</p> <ul style="list-style-type: none"> a) verify the integrity and content of any Financial Report; b) verify the accuracy of the Charges and any other amounts payable by the Buyer under a Contract (including proposed or actual variations to them in accordance with the Contract); c) verify the costs of the Supplier (including the costs of all Subcontractors and any third party suppliers) in connection with the provision of the Services; d) verify the Open Book Data; e) verify the Supplier's and each Subcontractor's compliance with the applicable Law; f) identify or investigate actual or suspected breach of this Contract, impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances the Buyer shall have no obligation to inform the Supplier of the purpose or objective of its investigations; g) identify or investigate any circumstances which may impact upon the financial stability of the Supplier, any Guarantor, and/or any Subcontractors or their ability to provide the Deliverables; h) obtain such information as is necessary to fulfil the Buyer's obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General; i) review any books of account and the internal contract management accounts kept by the Supplier in connection with the Contract; j) carry out the Buyer's internal and statutory audits and to prepare, examine and/or certify the Buyer's annual and interim reports and accounts; k) enable the National Audit Office to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Buyer has used its resources;
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“Auditor”	<ul style="list-style-type: none"> a) <i>the Buyer’s internal and external auditors;</i> b) <i>the Buyer’s statutory or regulatory auditors;</i> c) <i>the Comptroller and Auditor General, their staff and/or any appointed representatives of the National Audit Office;</i> d) <i>HM Treasury or the Cabinet Office;</i> e) <i>any party formally appointed by the Buyer to carry out audit or similar review functions; and</i> f) <i>successors or assigns of any of the above;</i>
“Buyer”	means the public sector purchaser identified as such in the Order Form;
“Buyer Premises”	<i>means premises owned, controlled or occupied by the Buyer which are made available for use by the Supplier or its Subcontractors for the provision of the Deliverables (or any of them);</i>
“Buyer Systems Environment”	means the Buyer’s computing environment (consisting of hardware, software and/or telecommunications networks or equipment) used by the Buyer or the Supplier in connection with this Contract which is owned by the Buyer or licensed to it by a third party and which interfaces with the Supplier System or which is necessary for the Buyer to receive the Services;
“Change of Control”	means a change of control within the meaning of Section 450 of the Corporation Tax Act 2010;
“Change in Law”	means any change in Law which impacts on the supply of the Deliverables and performance of the Contract which comes into force after the Start Date;
“Contract Change”	means any change to this Contract other than an Operational Change;
“Contract Period”	<p>means the term of the Contract from the earlier of the:</p> <ul style="list-style-type: none"> a) Start Date; or b) the Effective Date c) until the End Date;
“Contracting Body”	means the Buyer and/or any other contracting authority entitled to receive the Goods and/or Services under this Contract;

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“Default”	means any breach of the obligations of the Supplier (including abandonment of the Contract in breach of its terms) or any other default (including material default), act, omission, negligence, or statement of the Supplier, of its Subcontractors or any Supplier Staff howsoever arising in connection with or in relation to the subject-matter of the Contract and in respect of which the Supplier is liable to the Buyer;
“Deliverables”	means Goods and/or Services that may be ordered under the Contract including the Documentation;
“Effective Date”	means the date on which the final Party has signed the Contract;
“Financial Distress Event”	<p>means the occurrence of one or more the following events:</p> <ul style="list-style-type: none"> a) the credit rating of any FDE Group entity drops below the applicable Credit Rating Threshold of the relevant Rating Agency; b) any FDE Group entity issues a profits warning to a stock exchange or makes any other public announcement, in each case about a material deterioration in its financial position or prospects; c) there being a public investigation into improper financial accounting and reporting, suspected fraud or any other impropriety of any FDE Group entity; d) any FDE Group entity commits a material breach of covenant to its lenders; e) a Key Subcontractor notifies the Buyer that the Supplier has not paid any material sums properly due under a specified invoice and not subject to a genuine dispute; f) any FDE Group entity extends the filing period for filing its accounts with the Registrar of Companies so that the filing period ends more than 9 months after its accounting reference date without an explanation to the Buyer which the Buyer (acting reasonably) considers to be adequate; g) any FDE Group entity is late to file its annual accounts without a public notification or an explanation to the Buyer which the Buyer (acting reasonably) considers to be adequate; h) the directors and/or external auditors of any FDE Group entity conclude that a material uncertainty exists in relation to that FDE Group entity’s going concern in the annual report including in a reasonable but plausible downside scenario. This includes, but is

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	<p>not limited to, commentary about liquidity and trading prospects in the reports from directors or external auditors; or</p> <p>i) any of the following:</p> <p>(i) any FDE Group entity makes a public announcement which contains commentary with regards to that FDE Group entity's liquidity and trading and trading prospects, such as but not limited to, a profit warning or ability to trade as a going concern;</p> <p>(ii) commencement of any litigation against any FDE Group entity with respect to financial indebtedness greater than £5m or obligations under a service contract with a total contract value greater than £5m;</p> <p>(iii) non-payment by any FDE Group entity of any financial indebtedness;</p> <p>(iv) any financial indebtedness of any FDE Group entity becoming due as a result of an event of default;</p> <p>(v) the cancellation or suspension of any financial indebtedness in respect of any FDE Group entity; or</p> <p>(vi) an external auditor of any FDE Group entity expressing a qualified opinion on, or including an emphasis of matter in, its opinion on the statutory accounts of that FDE Group entity,</p> <p>in each case which the Buyer reasonably believes (or would be likely reasonably to believe) could directly impact on the continued provision of the Deliverables in accordance with the Contract.</p>
<i>"Fraud"</i>	<p>means any offence under laws creating offences in respect of fraudulent acts or at common law in respect of fraudulent acts in relation to the Contract or defrauding or attempting to defraud or conspiring to defraud the Crown.</p>
<i>"Intellectual Property Rights or IPR"</i>	<p>means:</p> <p>a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in internet domain names and website addresses and other rights in trade or business names, goodwill, designs, Know-How, trade secrets and other rights in Confidential Information;</p>

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	<p>b) applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and</p> <p>all other rights having equivalent or similar effect in any country or jurisdiction;</p>
“Law”	means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, right within the meaning of the European Union (Withdrawal) Act 2018 as amended by European Union (Withdrawal Agreement) Act 2020, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the Supplier is bound to comply;
“Liquidation”	means the appointment of a Liquidator who collects in and distributes the company’s assets and dissolves the company. The company can also be put into provisional Liquidation before a final winding up order is granted;
“Malicious Software”	means any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether the malicious software is introduced wilfully, negligently or without knowledge of its existence;
“Occasion of Tax Non-Compliance”	<p>means where:</p> <p>a) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which is found on or after 1 April 2013 to be incorrect as a result of:</p> <p>(iv) a Relevant Tax Authority successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation in any jurisdiction that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle;</p> <p>(v) the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime in any jurisdiction; and/or</p>

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	any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which gives rise, on or after 1 April 2013, to a criminal conviction in any jurisdiction for tax related offences which is not spent
<i>“Operational Change”</i>	<p>means any change in the Supplier's operational procedures which in all respects, when implemented:</p> <ul style="list-style-type: none"> a) will not affect the Charges and will not result in any other costs to the Buyer; b) may change the way in which the Services are delivered but will not adversely affect the output of the Services or increase the risks in performing or receiving the Services; c) will not adversely affect the interfaces or interoperability of the Services with any of the Buyer's IT infrastructure; and <p>will not require a Variation to this Contract;</p>
<i>“Quality Standards”</i>	means the quality standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardisation or other reputable or equivalent body, and their successor bodies that a skilled and experienced operator in the same type of industry or business sector as the Supplier would reasonably and ordinarily be expected to comply with, and as may be further detailed in this Contract.
<i>“Replacement Deliverables”</i>	means any deliverables which are substantially similar to any of the Deliverables and which the Buyer receives in substitution for any of the Deliverables, whether those goods are provided by the Buyer internally and/or by any third party;
<i>“Request for Information”</i>	means a request for information or an apparent request relating to the Contract for the provision of the Deliverables or an apparent request for such information under the FOIA or the EIRs;
<i>“Security Policy”</i>	means the Buyer's security policy, referred to in the Award Form, in force as at the Start Date (a copy of which has been supplied to the Supplier), as updated from time to time and notified to the Supplier;

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“Security Requirements”	means the Buyer’s security requirements as set out in Schedule 2 (Security);
“Specific Change in Law”	means a Change in Law that relates specifically to the business of the Buyer and which would not affect a Comparable Supply where the effect of that Specific Change in Law on the Deliverables is not reasonably foreseeable at the Start Date;
“Standards”	<p>means any:</p> <ul style="list-style-type: none"> a) standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardisation or other reputable or equivalent bodies (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Supplier would reasonably and ordinarily be expected to comply with; b) standards detailed in the specification in Schedule 2 (Specification); c) standards detailed by the Buyer in the Award Form or agreed between the Parties from time to time; <p>relevant Government codes of practice and guidance applicable from time to time;</p>
“Staff Vetting Procedures”	means the Buyer’s procedures for the vetting of Supplier Staff as set out in the Award Form;
“Start Date”	means the date specified on the Award Form, “ Commencement Date ” shall be construed accordingly;
“Subcontractor”	means any person other than the Supplier, who is a party to a Sub-Contract and the servants or agents of that person;
“Supplier Equipment”	means the Supplier's hardware, computer and telecoms devices, equipment, plant, materials and such other items supplied and used by the Supplier (but not hired, leased or loaned from the Buyer) in the performance of its obligations under this Contract;
“Systems Environment”	means the information and communications technology system used by the Supplier in implementing and performing the Services including the Software, the Supplier Equipment, configuration and management utilities, calibration and testing tools and related cabling (but excluding the Buyer Systems Environment);

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<i>“Tender Response”</i>	means the tender submitted by the Supplier to the Buyer;
<i>“Termination Notice”</i>	means a written notice of termination given by one Party to the other, notifying the Party receiving the notice of the intention of the Party giving the notice to terminate the Contract on a specified date and setting out the grounds for termination;
<i>“Transparency Information”</i>	<p>means the Transparency Reports and the content of the Contract, including any changes to this Contract agreed from time to time, except for –</p> <p>a) any information which is exempt from disclosure in accordance with the provisions of the FOIA, which shall be determined by the Buyer; and</p> <p>Commercially Sensitive Information;</p>

Schedule 2 – Security:



Schedule 3 – Buyer Specific Terms:



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