

Date: 23/08/2024

## A Contract for Goods

Between

The Secretary of State for Justice

And

Stuart Canvas Ltd

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**This contract is dated: 23/08/2024**

**PARTIES:**

- (1) THE SECRETARY OF STATE FOR JUSTICE of 102 Petty France, London, SW1H 9AJ acting as part of the Crown (the “**Authority**”);

**AND**

- (2) Stuart Canvas Ltd with registered company number 01032862, whose registered office is Unit 6, Hardwick Grange, Warrington, WA1 4RF (the “**Supplier**”)

(each a “**Party**” and together the “**Parties**”).

**WHEREAS**

- A. Following a competitive tender process, the Authority wishes to appoint the Supplier to provide the supply of Hessian, Twine and Polypropylene to Prison Industries and the Supplier agrees to provide those goods in accordance with these terms and conditions.

**NOW IT IS HEREBY AGREED:**

**A GENERAL**

**A1 Definitions and Interpretation**

Unless the context otherwise requires the following terms shall have the meanings given to them below:

“**Affected Party**” means the Party seeking to claim relief in respect of a Force Majeure Event.

“**Affiliate**” 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 with, that body corporate from time to time.

“**Anti-Malicious Software**” means software which scans for and identifies possible Malicious Software in the ICT Environment.

“**Approve**”, “**Approval**” and “**Approved**” means the prior written consent of the Authority.

“**Assessment Tool**” means the modern slavery risk identification and management tool which can be found at:

<https://supplierregistration.cabinetoffice.gov.uk/msat>

“**Associated Person**” means as it is defined in section 44(4) of the Criminal Finances Act 2017.

“**Authorised Representative**” means the Authority representative named in a CCN who is authorised to approve Changes.

“**Authority Data**” means:

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

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

**“Authority Premises”** means any premises owned, occupied or controlled by the Authority or any other Crown Body which are made available for use by the Supplier or its Sub-Contractors for delivery of the Goods.

**“Authority Software”** means software which is owned by or licensed to the Authority (other than under or pursuant to the Contract) and which is or will be used by the Supplier for the purposes of providing the Goods.

**“Authority System”** means the Authority’s computing environment (consisting of hardware, software and/or telecommunications networks or equipment) used by the Authority or the Supplier in connection with the Contract which is owned by or licensed to the Authority by a third party and which interfaces with the Supplier System or which is necessary for the Authority to receive the Goods.

**“Authority Technical Security Guidance”** means the technical security guidance published by the Authority at:

<https://security-guidance.service.justice.gov.uk/#cyber-and-technical-security-guidance>

**“Basware”** means Basware eMarketplace, the procurement software used by the Authority for its financial transactions.

**“BPSS”** means the Government’s Baseline Personnel Security Standard for Government employees.

**“Breach of Security”** means an event which results in or could result in:

(a) any unauthorised access to or use of the Authority Data, the Services and/or the Information Management System; and/or

(b) the loss, corruption and/or unauthorised disclosure of any information or data (including Confidential Information and Authority Data), including any copies of such information or data, used by the Authority and/or the Supplier in connection with the Contract.

**“BS 8555”** means the standard published to help organisations improve their environmental performance by the British Standards Institution.

**“CCN”** means a contract change notice in the form set out in Schedule 3.

**“Certification Requirements”** means the requirements described in paragraph 6 of Schedule 6.

**“Change”** means a change in the Specification, the Price or any of the terms or conditions of the Contract.

**“Change in Law”** means any change in Law which affects the Goods or the delivery of the Goods which comes into force after the Commencement Date.

**“CHECK Service Provider”** means an organisation which has been certified by the NCSC, holds “Green Light” status and is authorised to provide the IT Health Check services required by paragraph 7.1 of Schedule 6.

**“Commencement Date”** means the date specified in clause A5.1.

**“Commercially Sensitive Information”** means the information listed in Schedule 4 comprising the information of a commercially sensitive nature relating to:

- (a) the Price; and/or
- (b) the Supplier's business and investment plans

which the Supplier has informed the Authority would cause the Supplier significant commercial disadvantage or material financial loss if it was disclosed.

**“Comparable Supply”** means the supply of goods to another customer of the Supplier which are the same or similar to any of the Goods.

**“Confidential Information”** means any information which has been designated as confidential by either Party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information the disclosure of which would, or would be likely to, prejudice the commercial interests of any person or trade secrets or Intellectual Property Rights of either Party and all Personal Data. Confidential Information shall not include information which:

- (a) was public knowledge at the time of disclosure otherwise than by breach of clause E3;
- (b) was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party;
- (c) is received from a third party (who lawfully acquired it) without restriction as to its disclosure; or
- (d) is independently developed without access to the Confidential Information.

**“Contract”** means these terms and conditions, the attached Schedules, terms implied by law that are not excluded by this contract and any other provisions the Parties expressly agree are included.

**“Contracting Authority”** means any contracting authority (other than the Authority) as defined in regulation 3 of the Regulations.

**“Contracts Finder”** means the Government's portal for public sector procurement opportunities.

**“Control”** means that a person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the other person (whether through the ownership of voting shares, by contract or otherwise) and **“Controls”** and **“Controlled”** are interpreted accordingly.

**“Copyright”** means as it is defined in s.1 of Part 1 Chapter 1 of the Copyright, Designs and Patents Act 1988.

**“CREST Service Provider”** means an organisation with a SOC Accreditation from CREST International.

**“Crown”** means the government of the UK (including the Northern Ireland Executive Committee and Northern Ireland Departments, the Scottish Executive and the National Assembly for Wales), including, but not limited to, government ministers, government departments, government offices and government agencies and **“Crown Body”** is an emanation of the foregoing.

**“Cyber Essentials”** means the Cyber Essentials certificate issued under the Cyber Essentials Scheme.

**“Cyber Essentials Plus”** means the Cyber Essentials Plus certificate issued under the Cyber Essentials Scheme.

**“Cyber Essentials Scheme”** means the Cyber Essentials scheme operated by the NCSC.

**“Database Rights”** means as rights in databases are defined in s.3A of Part 1 Chapter 1 of the Copyright, Designs and Patents Act 1988.

**“Default”** means any breach of the obligations or warranties of the relevant Party (including abandonment of the Contract in breach of its terms, repudiatory breach or breach of a fundamental term) or any other default, act, omission, negligence or statement of the relevant Party or the Staff in connection with the subject-matter of the Contract and in respect of which such Party is liable to the other.

**“DOTAS”** means the Disclosure of Tax Avoidance Schemes rules which require a promotor of tax schemes to tell HMRC of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Part 7 of the Finance Act and as extended to NICs by the National Insurance (Application of Part 7 of the Finance Act 2004) regulations 2012, SI 2012/1868 made under section 132A of the Social Security Administration Act 1992.

**“EEA”** means the European Economic Area.

**“EIR”** means the Environmental Information Regulations 2004 (SI 2004/3391) and any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations.

**“End Date”** means the date specified in clause A5.1.

**“Equipment”** means the Supplier’s equipment, consumables, plant, materials and such other items supplied and used by the Supplier in the delivery of the Goods.

**“EU”** means the European Union.

**“Exit Day”** means as it is defined in the Withdrawal Act.

**“Extension”** means as defined in clause A5.2.

**“Financial Year”** means the period from 1<sup>st</sup> April each year to the 31<sup>st</sup> March the following year.

**“FOIA”** means the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner in relation to such legislation.

**“Force Majeure Event”** means any event outside the reasonable control of either Party affecting its performance of its obligations under the Contract arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control and which are not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party, including acts of God, riots, war or armed conflict, acts of terrorism, acts of government, local government or regulatory bodies, for flood, storm or earthquake, or disaster but excluding any industrial dispute relating to the Supplier or the Staff or any other failure in the Supplier’s supply chain caused by the Covid 19 pandemic or the UK’s exit from the EU.

**“General Anti-Abuse Rule”** means:

- (a) the legislation in Part 5 of the Finance Act 2013; and
- (b) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid NICs.

**“General Change in Law”** means a Change in Law where the change is of a general legislative nature (including taxation or duties of any sort affecting the Supplier) or which affects or relates to a Comparable Supply.

**“Good Industry Practice”** means standards, practices, methods and procedures conforming to the Law and the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar type of undertaking under the same or similar circumstances.

**“Goods”** means any goods supplied by the Supplier (or by a Sub-Contractor) under the Contract as specified in Schedule 1 including any modified or alternative goods.

**“Government”** means the government of the UK.

**“Government Buying Standards”** means the standards published here:

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

**“Greening Government Commitments”** means the Government’s policy to reduce its effects on the environment, the details of which are published here:

<https://www.gov.uk/government/collections/greening-government-commitments>

**“Halifax Abuse Principle”** means the principle explained in the CJEU Case C-255/02 Halifax and others.

**“Higher Risk Sub-contractor”** means a Sub-Contractor which processes Authority Data where that data includes:

- (a) the Personal Data of 1000 or more individuals in aggregate during the Term; or
- (b) any part of that data includes any of the following:
  - i) financial information relating to any person;
  - ii) any information relating to actual or alleged criminal offences;
  - iii) any information relating to vulnerable people;
  - iv) any information relating to social care;
  - v) any information relating to a person’s employment;
  - vi) Special Category Personal Data;
- (c) the Authority, at its discretion designates a Sub-Contractor as a Higher Risk Sub-contractor in any procurement document related to the Contract; or
- (d) the Authority considers, at its discretion, that any actual or potential Processing carried out by the Sub-Contractor is high risk.

**“HMRC”** means HM Revenue & Customs.



**“ICT Environment”** means the Authority System and the Supplier System.

**“Incident Management Process”** means the process which the Supplier shall implement immediately after it becomes aware of a Breach of Security which is intended to restore normal operations as quickly as possible, minimising any adverse effect on the Authority Data, the Authority, the Services and/or users of the Services and which shall be prepared by the Supplier in accordance with paragraph 4 Information Security Approval Statement of Schedule 6 using the template set out in annex 3 of Schedule 6.

**“Information”** has the meaning given under section 84 of the FOIA.

**“Information Assets”** means definable pieces of information stored in any manner which are determined by the Authority to be valuable and relevant to the Goods.

**“Information Assurance Assessment”** means the set of policies, procedures, systems and processes which the Supplier shall implement, maintain and update in accordance with paragraph 4 of Schedule 6 in order to manage, mitigate and, where possible, avoid information security risks including cyber-attacks, hacks, data leaks, Personal Data Breaches and/or theft and which shall be prepared by the Supplier using the template set out in **Error! Reference source not found.** of Schedule 6.

**“Information Management System”** means:

- (a) those parts of the Supplier System, and those of the Premises, which the Supplier or its Sub-contractors use to provide the parts of the Service which require Processing Authority Data; and
- (b) the associated information assets and systems (including organisational structure, controls, policies, practices, procedures, processes and resources).

**“Information Security Approval Statement”** means a notice issued by the Authority which sets out the information risks which the Supplier has identified as being associated with using the Information Management System and confirms that:

- (a) the Authority is satisfied that the identified risks have been adequately and appropriately addressed;
- (b) the Authority has accepted the residual risks; and
- (c) the Supplier may use the Information Management System to process Authority Data.

**“Initial Term”** means the period from the Commencement Date to the End Date.

**“Intellectual Property Rights”** means:

- (a) patents, utility models, inventions, trademarks, service marks, logos, design rights (whether registrable or otherwise), Database Rights, domain names, semi-conductor topography rights, rights in Internet domain names, Know-How, trade or business names, moral rights, the right to sue for passing off, trade secrets and other rights in Confidential Information, in each whether registrable or not in any country;
- (b) applications for registration, and the right to apply for registration, for any of the rights listed in (a) that are capable of being registered in any country or jurisdiction; and
- (c) all other rights having equivalent or similar effect in any country or jurisdiction.

**“ISO”** means the International Organisation for Standardisation.

**“ISO/IEC 14001”** means the family of standards related to environmental management published by the ISO.

**“ISO/IEC 27001”** means the family of standards related to information security management published by the ISO.

**“ISO/IEC 27002”** means the family of standards related to information security, cyber security and privacy protection published by the ISO.

**“ITEPA”** means the Income Tax (Earnings and Pensions) Act 2003.

**“IT Health Check”** means as it is defined in paragraph 7.1(a) of Schedule 6.

**“Know-How”** means all information not in the public domain held in any form (including without limitation that comprised in or derived from drawings, data formulae, patterns, specifications, notes, samples, chemical compounds, biological materials, computer software, component lists, instructions, manuals, brochures, catalogues and process descriptions and scientific approaches and methods).

**“Law”** means any law, statute, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Supplier is bound to comply.

**“Losses”** means losses, liabilities, damages, costs, fines and expenses (including legal fees on a solicitor/client basis) and disbursements and costs of investigation, litigation, settlement, judgment interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty or otherwise.

**“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.

**“Material Breach”** means a breach (including an anticipatory breach):

- i) which has a material effect on the benefit which the Authority would otherwise derive from a substantial or material portion of the Contract; or
- ii) of any of the obligations set out in clauses D1, D2, D3, G3, I4 or paragraph 9 of Schedule 8.

**“Medium Risk Sub-contractor”** means a Sub-Contractor which processes Authority Data where that data:

- (a) includes the Personal Data of between 100 and 999 individuals (inclusive) in aggregate during the Term; and
- (b) does not include Special Category Personal Data.

**“Modern Slavery Helpline”** means the point of contact for reporting suspicion, seeking help or advice and information on the subject of modern slavery available by telephone on 08000 121 700 or online at:

<https://www.modernslaveryhelpline.org/report>

**“Month”** means calendar month.

**“MSA”** means the Modern Slavery Act 2015.

**“NCSC”** means the National Cyber Security Centre.

**“NICs”** means National Insurance Contributions.

**“Occasion of Tax Non-Compliance”** means:

- (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:
  - i) 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 that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle; or
  - ii) the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been, notified to the Relevant Tax Authority under the DOTAS or any equivalent or similar regime; and/or
- (b) 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 at the Commencement Date or to a civil penalty for fraud or evasion.

**“Personal Data”** means as it is defined in the UK GDPR.

**“Personal Data Breach”** means as it is defined in the UK GDPR.

**“Premises”** means the location where the Goods are to be supplied set out in the Specification.

**“Price”** means the price (excluding any applicable VAT) payable to the Supplier by the Authority under the Contract, as set out in Schedule 2 for the full and proper performance by the Supplier of its obligations under the Contract.

**“Process”** means any operation or set of operations which is performed on data or on sets of data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction and **“Processing”** is construed accordingly.

**“Prohibited Act”** means:

- (a) to directly or indirectly offer, promise or give any person working for or engaged by the Authority a financial or other advantage to:
  - i) induce that person to perform improperly a relevant function or activity; or
  - ii) reward that person for improper performance of a relevant function or activity;
- (b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with the Contract;

- (c) an offence:
  - i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act;
  - ii) under legislation or common law concerning fraudulent acts (including offences by the Supplier under Part 3 of the Criminal Finances Act 2017); or
  - iii) the defrauding, attempting to defraud or conspiring to defraud the Authority;
- (d) any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct has been carried out in the UK.

**“Property”** means the property, other than real property, issued or made available to the Supplier by the Authority in connection with the Contract.

**“Purchase Order”** the Authority’s order for the supply of the Goods.

**“Quality Standards”** means the quality standards published by BSI British Standards, the National Standards Body of the UK, the International Organisation for Standardization 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 Schedule 1.

**“Regulations”** means the Public Contracts Regulations 2015 (SI 2015/102).

**“Regulatory Body”** means a Government department and regulatory, statutory and other entities, committees, ombudsmen and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in the Contract or any other affairs of the Authority.

**“Relevant Conviction”** means a conviction that is relevant to the nature of the Goods or as listed by the Authority and/or relevant to the work of the Authority.

**“Relevant Requirements”** means all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State for Justice pursuant to section 9 of the Bribery Act 2010.

**“Relevant Tax Authority”** means HMRC or, if applicable, a tax authority in the jurisdiction in which the Supplier is established.

**“Remediation Plan”** means as it is defined in paragraph 7.3(c)(i) of Schedule 6.

**“Replacement Supplier”** means any third party supplier appointed by the Authority to supply any goods which are substantially similar to any of the Goods in substitution for any of the Goods following the expiry, termination or partial termination of the Contract.

**“Request for Information”** means a request for information under the FOIA or the EIR.

**“Required Changes Register”** means the register within the Security Management Plan which is to be maintained and updated by the Supplier and which shall record each of the changes that the Supplier shall make to the Information Management System and/or the Security Management Plan as a consequence of the occurrence of any of the events set out in paragraph 5.2 of Schedule 6 together with the date by which such change shall be implemented and the date on which such change was implemented.

**“Results”** means any guidance, specifications, reports, studies, instructions, toolkits, plans, data, drawings, databases, patents, patterns, models, designs or other material which is:

- (a) prepared by or for the Supplier for use in relation to the performance of its obligations under the Contract; or
- (b) the result of any work done by the Supplier or any Staff in relation to the provision of the Goods.

**“Risk Register”** means the risk register within the Information Assurance Assessment which is to be prepared and submitted for Approval in accordance with paragraph 4 of Schedule 6.

**“Security Incident”** means the access to the ICT Environment by an unauthorised person for any reason or the unauthorised alteration of the functionality of the ICT Environment.

**“Security Management Plan”** means the plan prepared by the Supplier using the template in Annex 3 of Schedule 6, comprising:

- (a) the Information Assurance Assessment;
- (b) the Required Changes Register; and
- (c) the Incident Management Process.

**“Security Policy Framework”** means the Government’s security policy framework (available from the Cabinet Office’s Government Security Secretariat) as updated from time to time.

**“SME”** means an enterprise falling within the category of micro, small and medium-sized enterprises defined by the European Commission’s Recommendation of 6 May 2003 available at:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:124:0036:0041:en:PDF>

**“Special Category Personal Data”** means the categories of Personal Data set out in article 9(1) of the UK GDPR.

**“Specific Change in Law”** means a Change in Law that relates specifically to the business of the Authority and which would not affect a Comparable Supply.

**“Specification”** means the description of the Goods to be supplied under the Contract as set out in Schedule 1 including, where appropriate, the Premises and the Quality Standards.

**“SSCBA”** means the Social Security Contributions and Benefits Act 1992.

**“Staff”** means all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any of its Sub-Contractors engaged in the performance of the Supplier’s obligations under the Contract.

**“Sub-Contract”** means a contract between two or more suppliers, at any stage of remoteness from the Authority in a sub-contracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of the Contract and **“Sub-Contractor”** shall be construed accordingly.

**“Supplier Software”** means software which is proprietary to the Supplier, including software which is or will be used by the Supplier to provide the Goods and which is set out in Schedule 5.

**“Supplier System”** means the information and communications technology system used by the Supplier in providing the Goods including the Software, the Equipment and related cabling (but excluding the Authority System).

**“Tender”** means the Supplier’s tender submitted in response to the Authority’s invitation to suppliers for offers to supply the Goods.

**“Term”** means the period from the Commencement Date to:

- (a) the End Date; or
- (b) following an Extension, the end date of the Extension

or such earlier date of termination or partial termination of the Contract in accordance with the Law or the Contract.

**“Third Party IP Claim”** has the meaning given to it in clause E1.5 (Intellectual Property Rights).

**“Third Party Software”** means software which is proprietary to any third party which is or will be used by the Supplier to provide the Goods including the software and which is specified as such in Schedule 5.

**“UK”** means United Kingdom.

**“UK GDPR”** means the UK General Data Protection Regulation.

**“Valid Invoice”** means an invoice containing the information set out in clauses C1.3 or C1.4.

**“VAT”** means value added tax charged or regulated in accordance with the Value-Added Tax Act 1994.

**“VCSE”** means a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives.

**“Welsh Language Scheme”** means the Authority’s Welsh language scheme as amended from time to time and available at:

*<http://www.justice.gov.uk/publications/corporate-reports/moj/2010/welsh-language-scheme>*

**“Withdrawal Act”** means the European Union (Withdrawal) Act 2018.

**“Working Day”** means a day (other than a Saturday or Sunday) on which banks are open for general business in the City of London.

In the Contract, unless the context implies otherwise:

- (a) the singular includes the plural and vice versa unless the context requires otherwise;
- (b) words importing the masculine include the feminine and the neuter;
- (c) reference to a clause is a reference to the whole of that clause unless stated otherwise;
- (d) references to a person include natural persons, a company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or central Government body;
- (e) the words “other”, “in particular”, “for example”, “including” and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words “without limitation”;

- (f) headings are included for ease of reference only and shall not affect the interpretation or construction of the Contract;
- (g) the annexes and Schedules form an integral part of the Contract and have effect as if set out in full in the body of the Contract. A reference to the Contract includes the annexes and Schedules;
- (h) a reference to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time;
- (i) references to the Contract are references to the Contract as amended from time to time; and
- (j) any reference in the Contract which immediately before Exit Day was a reference to (as it has effect from time to time):
  - (i) 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 Withdrawal Act shall be read as a reference to the EU References as they form part of domestic law by virtue of section 3 of the Withdrawal Act as modified by domestic law from time to time; and
  - (ii) any EU institution or EU authority or other such EU body shall be read as a reference to the UK institution, authority or body to which its functions were transferred.

## **A2 Authority Obligations**

Save as expressly provided, the Authority’s obligations under the Contract are the Authority’s obligations in its capacity as a contracting counterparty and nothing in the Contract operates as an obligation on, or in any other way fetters or constrains, the Authority in any other capacity.

## **A3 Supplier’s Status**

- A3.1 The Supplier is an independent contractor and nothing in the Contract creates a contract of employment, a relationship of agency or partnership or a joint venture between the Parties and accordingly neither Party is authorised to act in the name of, or on behalf of, or otherwise bind the other Party save as expressly permitted by the Contract.
- A3.2 The Supplier shall not (and shall ensure that any other person engaged in relation to the Contract shall not) say or do anything that might lead another person to believe that the Supplier is acting as the agent or employee of the Authority.

## **A4 Mistakes in Information**

The Supplier is responsible for the accuracy of all drawings, documentation and information supplied to the Authority by the Supplier in connection with the Goods and shall pay the Authority any extra costs occasioned by any discrepancies, errors or omissions therein.

## **A5 Term**

- A5.1 The Contract starts on 05/11/2024 (the “**Commencement Date**”) and ends on 04/11/2028 (the “**End Date**”) unless it is terminated early or extended in accordance with the Contract.

## **B. THE GOODS**

### **B1 Basis of the Contract**

- B1.1 In consideration of the Supplier’s performance of its obligations under the Contract the Authority shall pay the Supplier the Price in accordance with clause C1.
- B1.2 The terms and conditions contained in the Contract apply to the exclusion of any other terms and conditions the Supplier seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

### **B2 Samples**

- B2.1 If requested by the Authority the Supplier shall provide the Authority with samples of Goods for evaluation and Approval.
- B2.2 The Supplier shall ensure that the Goods are fully compatible with any equipment to the extent specified in the Specification.
- B2.3 The Supplier acknowledges that the Authority relies on the skill and judgment of the Supplier in the supply of the Goods and the performance of the Supplier’s obligations under the Contract.

### **B3 Delivery**

- B3.1 Unless otherwise stated in the Specification, if the Goods are delivered by the Supplier, delivery is completed when the Goods are signed for by the Authority. If the Goods are collected by the Authority, the point of delivery is when the Goods are loaded on the Authority’s vehicle.
- B3.2 Except where otherwise provided in the Contract, delivery includes the unloading, stacking or installation of the Goods by the Staff or the Supplier’s suppliers or carriers at such place as the Authority or duly authorised person reasonably directs.
- B3.3 The Authority is deemed to have accepted the Goods if it expressly states the same in writing or fails to reject the Goods in accordance with clause B4.7.
- B3.4 The issue by the Authority of a receipt note for delivery of the Goods does not constitute any acknowledgement of the condition, quantity or nature of those Goods or the Authority’s acceptance of them.
- B3.5 Any access to the Premises and any labour and equipment provided by the Authority in connection with delivery is provided without acceptance by the Authority of any liability whatsoever to the extent permitted by law.
- B3.6 Where access to the Premises is necessary in connection with delivery or installation of the Goods, the Supplier and its Sub-Contractors shall at all times comply with the security requirements of the Authority.
- B3.7 The Authority is under no obligation to accept or pay for any Goods supplied earlier than the date for delivery stated in the Specification.



- B3.8 The Authority is under no obligation to accept or pay for any Goods delivered in excess of the quantity ordered. If the Authority elects not to accept such over-delivered Goods it shall give notice to the Supplier to remove them within 5 Working Days and to refund to the Authority any expenses incurred by it as a result of such over-delivery (including but not limited to the costs of moving and storing the Goods), failing which the Authority may dispose of such Goods and charge the Supplier for the costs of such disposal. The risk in any over-delivered Goods remains with the Supplier unless they are accepted by the Authority.
- B3.9 Unless expressly agreed to the contrary, the Authority shall not accept delivery by instalments. If the Authority specifies or agrees to delivery by instalments, delivery of any instalment later than the date specified or agreed for its delivery shall, without prejudice to any other rights or remedies of the Authority, entitle the Authority to terminate the whole of any unfulfilled part of the Contract without further liability to the Authority.
- B3.10 Timely supply of the Goods is of the essence of the Contract, including in relation to commencing the supply of the Goods within the time agreed or on a specified date. If the Supplier fails to deliver the Goods within the time promised or specified in the Specification, the Authority is released from any obligation to accept and pay for the Goods and may terminate the Contract, in either case without prejudice to any other rights and remedies of the Authority.
- B3.11 If, in delivering the Goods, the Supplier is required to visit Authority Premises which are prisons, the Supplier shall comply with Schedule 7.

#### **B4 Quality**

- B4.1 The Supplier shall perform its obligations under the Contract:
- (a) with appropriately experienced, qualified and trained personnel with all due skill, care and diligence;
  - (b) in accordance with Good Industry Practice and all applicable Laws; and
  - (c) shall comply with the standards and requirements set out in Schedule 8.
- B4.2 The Supplier shall ensure the Goods:
- (a) correspond with their description;
  - (b) conform with the Specification;
  - (c) conform, if applicable, with any sample which has been Approved;
  - (d) operate in accordance with the relevant technical specifications;
  - (e) be of satisfactory quality within the meaning of the Sale of Goods Act 1979;
  - (f) conform in all respects with all applicable Laws; and
  - (g) are free from defects in design, materials and workmanship and are fit and sufficient for all the purposes for which such goods are ordinarily used and for any particular purpose made known to the Supplier by the Authority.

- B4.3 The Authority may inspect and test the Goods at any time on reasonable notice. The Supplier shall provide at its own cost all such facilities as the Authority may reasonably require for such inspection and testing.
- B4.4 If, following such inspection or testing, the Authority considers that the Goods do not conform or are unlikely to conform with the Supplier's undertakings in clauses B4.1 and B4.2, the Authority may enforce one or more of its rights set out in clause B4.7.
- B4.5 Notwithstanding any inspection or testing, the Supplier remains fully responsible for the Goods and any inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract, and the Authority may conduct further inspections and tests after the Supplier has carried out its remedial actions.
- B4.6 If reasonably requested to do so by the Authority, the Supplier shall co-ordinate its activities in supplying the Goods with those of the Authority and other contractors engaged by the Authority.
- B4.7 Pursuant to clause B4.4, the Authority may by notice to the Supplier:
- (a) reject any of the Goods;
  - (b) have the Goods promptly, free of charge and in any event within 5 Working Days, either repaired by the Supplier or replaced by the Supplier with Goods which conform in all respects with the approved sample or with the Specification and due delivery shall not be deemed to have taken place until such repair or replacement has occurred; and/or
  - (c) treat the Contract as discharged by the Supplier's breach and obtain a refund (if payment for the Goods has already been made) from the Supplier in respect of the Goods concerned together with payment of any additional expenditure reasonably incurred by the Authority in obtaining other goods in replacement.
- B4.8 Any Goods rejected or returned by the Authority as set out in clause B4.7 shall be returned to the Supplier at the Supplier's risk and expense.
- B4.9 The Supplier hereby guarantees the Goods against faulty materials or workmanship for such period as may be specified in the Specification or, if no period is specified, for a period of 18 months from the date of delivery. If the Authority within such period or within 25 Working Days thereafter gives notice to the Supplier of any defect in any of the Goods as may have arisen during such period under proper and normal use, the Supplier shall (without prejudice to any other rights and remedies which the Authority may have) promptly remedy such defects (whether by repair or replacement as the Authority shall elect) free of charge.
- B4.10 The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract in respect of the Goods.

## **B5 Risk and Ownership**

- B5.1 Subject to clauses B4.4 and B4.5, risk in the Goods shall, without prejudice to any other rights or remedies of the Authority (including the Authority's rights and remedies under clause F2 (Contract Performance)), pass to the Authority on completion of delivery.
- B5.2 Title in the Goods shall, without prejudice to any other rights or remedies of the Authority (including the Authority's rights and remedies under clause F2), pass to the Authority on completion of delivery (or payment, if earlier).

## **B6 Non-Delivery**

- B6.1 On dispatch of any consignment of the Goods the Supplier shall send the Authority a note specifying the means of transport, the place and date of dispatch, the number of packages and their weight and volume.
- B6.2 If the Goods are not delivered to the Authority on the agreed date for delivery, the Authority shall, within 10 Working Days of that date give notice to the Supplier that the Goods have not been delivered and may:
- (a) request the Supplier to deliver substitute Goods free of charge by a date specified by the Authority;
  - (b) refuse to take any subsequent attempted delivery;
  - (c) subject to clause G1.3 claim damages for any other costs, expenses or losses resulting from the Supplier's failure to deliver; or
  - (d) terminate the Contract with immediate effect.

## **B7 Labelling and Packaging**

- B7.1 The Supplier shall ensure that the Goods are labelled and packaged in accordance with the Contract.
- B7.2 The Supplier shall comply with the Packaging (Essential Requirements) Regulations 2015 (SI 2015/1640). The container in which the Goods are held shall be labelled with the Supplier's name, the net, gross and tare weights, and contain a description of its contents. All containers of hazardous Goods (and all documents relating thereto) shall bear prominent and adequate warnings.
- B7.3 The Supplier shall remove and dispose of all packaging materials from the Premises within the period specified by the Authority and at no cost to the Authority.
- B7.4 If no period for collection and disposal is specified by the Authority, the Supplier shall collect the packaging from the Premises no later than 10 Working Days from the date of delivery of the Goods. The Authority may dispose of any packaging materials which have not been collected by the Supplier within those 10 Working Days or such other period specified by the Authority for collection. The Supplier is responsible for the payment of any costs incurred by the Authority in connection with its collection and disposal of that packaging material.
- B7.5 The Supplier shall:
- (a) use packaging capable of easy recovery for further use or recycling. Packaging materials shall be easily separable by hand into recyclable parts consisting of one material (e.g. cardboard, paper, plastic, textile);
  - (b) reuse the packaging and, where reuse is not practicable, recycle the materials in the manufacture of crates, pallets, boxes, cartons, cushioning and other forms of packaging, where these fulfil other packaging specifications;
  - (c) make maximum use of materials taken from renewable sources, if recycled materials are not suitable or not readily available;

- (d) review packaging specifications periodically to ensure that no unnecessary limitations on the use of recycled materials exist; and
- (e) if requested, provide the Authority with a description of the product packaging and evidence to satisfy the Authority that it is reusing, recycling and reviewing its use of packaging. The evidence should provide proof of compliance with BS EN 13430 on recyclability or BS EN 13429 on reusability, or equivalent.

## **B8 Training**

If included in the Specification, the Price includes the cost of instruction of the Authority's personnel in the use and maintenance of the Goods and such instruction shall be in accordance with the requirements detailed in the Specification.

## **B9 Equipment**

- B9.1 The Supplier shall provide all the Equipment and resource necessary for the supply of the Goods.
- B9.2 The Supplier shall not deliver any Equipment to, or begin any work on, the Premises without Approval.
- B9.3 All Equipment brought onto the Premises is at the Supplier's own risk and the Authority has no liability for any loss of or damage to any Equipment unless the Supplier demonstrates that such loss or damage was caused or contributed to by the Authority's Default. The Supplier shall provide for the haulage or carriage thereof to the Premises and the removal of Equipment when no longer required at its sole cost.
- B9.4 Equipment brought onto the Premises remains the property of the Supplier.
- B9.5 If the cost of any Equipment is reimbursed to the Supplier such Equipment shall be the property of the Authority and shall on request be delivered to the Authority as directed by the Authority. The Supplier will keep a full and accurate inventory of such Equipment and will deliver that inventory to the Authority on request and on completion of delivery of the Goods.
- B9.6 The Supplier shall maintain all Equipment in a safe, serviceable and clean condition.
- B9.7 The Supplier shall, at the Authority's written request, at its own cost and as soon as reasonably practicable:
  - (a) remove immediately from the Premises Equipment which is, in the Authority's opinion, hazardous, noxious or not supplied in accordance with the Contract; and
  - (b) replace such item with a suitable substitute item of Equipment.
- B9.8 Within 20 Working Days of the end of the Term, the Supplier shall remove the Equipment together with any other materials used by the Supplier to supply the Goods and shall leave the Premises in a clean, safe and tidy condition. The Supplier shall make good any damage to those Premises and any fixtures and fittings in the Premises which is caused by the Supplier or Staff.

## **B10 Staff**

- B10.1 The Authority may, by notice to the Supplier, refuse to admit onto, or withdraw permission to remain on, the Authority's Premises:

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

whose admission or continued presence would, in the Authority's reasonable opinion, be undesirable.

- B10.2 The Authority shall maintain the security of the Authority's Premises in accordance with its standard security requirements, including Prison Rules 1999 Part III, the Prison (Amendment) Rules 2005, the Young Offender Institute Rules 2000 Part III and the Young Offender Institute (Amendment) Rules 2008, available to the Supplier on request. The Supplier shall comply with all security requirements of the Authority while on the Authority's Premises and ensure that all Staff comply with such requirements.
- B10.3 The Authority may search any persons or vehicles engaged or used by the Supplier at the Authority's Premises.
- B10.4 At the Authority's written request, the Supplier shall, at its own cost, provide a list of the names, addresses, national insurance numbers and immigration status of all people who may require admission to the Authority's Premises, specifying the capacities in which they are concerned with the Contract and giving such other particulars as the Authority may reasonably request.
- B10.5 The Supplier shall ensure that all Staff who have access to the Authority's Premises, the Authority System or the Authority Data have been cleared in accordance with the BPSS.
- B10.6 The Supplier shall co-operate with any investigation relating to security carried out by the Authority or on behalf of the Authority and, at the Authority's request:
- (a) use reasonable endeavours to make available any Staff requested by the Authority to attend an interview for the purpose of an investigation; and
  - (b) provide documents, records or other material in whatever form which the Authority may reasonably request, or which may be requested on the Authority's behalf, for the purposes of an investigation.
- B10.7 The Supplier shall comply with PSI 10/2012 as amended from time to time and available from the Authority on request.

## **B11 Due Diligence**

Save as the Authority may otherwise direct, the Supplier is deemed to have inspected the Premises before submitting its Tender and to have completed due diligence in relation to all matters connected with the performance of its obligations under the Contract.

## **B12 Licence to Occupy**

- B12.1 Any land or Premises made available from time to time to the Supplier by the Authority in connection with the Contract are on a non-exclusive licence basis free of charge and are used by the Supplier solely for the purpose of performing its obligations under the Contract. The Supplier has the use of such land or Premises as licensee and shall vacate the same on termination of the Contract.

- B12.2 The Supplier shall limit access to the land or Premises to such Staff as is necessary for it to perform its obligations under the Contract and the Supplier shall co-operate (and ensure that its Staff co-operate) with other persons working concurrently on such land or Premises as the Authority may reasonably request.
- B12.3 If the Supplier requires modifications to the Authority's Premises such modifications are subject to Approval and shall be carried out by the Authority at the Supplier's cost. The Authority shall undertake Approved modification work without undue delay.
- B12.4 The Supplier shall (and shall ensure that any Staff on the Authority's Premises shall) observe and comply with such rules, regulations and requirements (including those relating to security arrangements) as may be in force from time to time for the conduct of personnel when on the Authority's Premises as determined by the Authority.
- B12.5 The Contract does not create a tenancy of any nature in favour of the Supplier or its Staff and no such tenancy has or shall come into being and, notwithstanding any rights granted pursuant to the Contract, the Authority may use the Premises owned or occupied by it in any manner it sees fit.

### **B13 Property**

- B13.1 All Property is and remains the property of the Authority and the Supplier irrevocably licenses the Authority and its agents to enter any Premises of the Supplier during normal business hours on reasonable notice to recover any such Property.
- B13.2 The Supplier does not have a lien or any other interest on the Property and the Supplier at all times possesses the Property as fiduciary agent and bailee of the Authority. The Supplier shall take all reasonable steps to ensure that the title of the Authority to the Property and the exclusion of any such lien or other interest are brought to the notice of all Sub-Contractors and other appropriate persons and shall, at the Authority's request, store the Property separately and ensure that it is clearly identifiable as belonging to the Authority.
- B13.3 The Property is deemed to be in good condition when received by or on behalf of the Supplier unless the Supplier notifies the Authority otherwise within 5 Working Days of receipt.
- B13.4 The Supplier shall maintain the Property in good order and condition (excluding fair wear and tear) and shall use the Property solely in connection with the Contract and for no other purpose without Approval.
- B13.5 The Supplier shall ensure the security of all the Property whilst in its possession, either on the Premises or elsewhere during the supply of the Goods, in accordance with the Authority's reasonable security requirements as required from time to time.
- B13.6 The Supplier is liable for all loss of or damage to the Property, unless such loss or damage was caused by the Authority's negligence. The Supplier shall inform the Authority immediately of becoming aware of any defects appearing in, or losses or damage occurring to, the Property.

### **B14 Offers of Employment**

- B14.1 Neither Party shall, directly or indirectly, solicit or procure (otherwise than by general advertising or under TUPE, any employees or contractors (including the Staff) of the other Party who are directly employed or engaged in connection with the provision of the Goods while such persons are employed or engaged and for a period of 6 Months thereafter.

- B14.2 If either Party breaches the clause B14.1, it shall pay the other Party a sum equivalent to 20% of the annual base salary payable by the Party in breach in respect of the first year of person's employment.
- B14.3 The Parties agree that the sum specified in clause B14.2 is a reasonable pre-estimate of the loss and damage which the party not in breach would suffer if there was a breach of clause B14.1.

## **C. PAYMENT**

### **C1 Payment and VAT**

- C1.1 The Supplier shall submit invoices to the Authority in accordance with this clause C1 and Schedule 2.
- C1.2 The Authority issues Purchase Orders using Basware and, unless Approved otherwise, the Supplier shall, when invited, register on Basware.
- C1.3 If the Supplier registers on Basware, a Valid Invoice is an invoice issued through Basware, unless the invoice contains:
- (a) additional lines not included in the relevant Purchase Order;
  - (b) line descriptions which have been materially altered so that they no longer match the equivalent description in the relevant Purchase Order; or
  - (c) Prices and/or volumes which have been increased without Approval.
- C1.4 If, with Approval, the Supplier does not register on Basware, a Valid Invoice is an invoice which complies with clauses 1.5 to 1.7.
- C1.5 Other than invoices submitted through Basware, all invoices submitted to the Authority must clearly state the word 'invoice' and contain:
- (a) a unique identification number (invoice number);
  - (b) the Supplier's name, address and contact information;
  - (c) the name and address of the department/agency in the Authority with which the Supplier is working;
  - (d) a clear description of the Goods being invoiced for;
  - (e) the date the Goods were provided;
  - (f) the date of the invoice;
  - (g) the amount being charged;
  - (h) VAT amount if applicable;
  - (i) the total amount owed;
  - (j) the Purchase Order number; and

- (k) the amount of the invoice in sterling or any other currency which is Approved.

C1.6 Other than invoices submitted through Basware, all invoices submitted to the Authority must meet the following criteria:

- (a) email size must not exceed 4mb;
- (b) one invoice per file attachment (PDF). Multiple invoices can be attached as separate files;
- (c) any supporting information, backing data etc. must be contained within the invoice PDF file;
- (d) not contain any lines for items which are not on the Purchase Order;
- (e) replicate, as far as possible, the structure of and the information contained in the Purchase Order in respect of the number of lines, line descriptions, price and quantity; and
- (f) if required by the Authority, be submitted in a structured electronic invoice in an Electronic Data Interchange or XML formats.

C1.7 Other than invoices submitted through Basware, all invoices submitted to the Authority must, if requested by the Authority, include:

- (a) timesheets for Staff engaged in providing the Services signed and dated by the Authority's representative on the Premises on the day;
- (b) the name of the individuals to whom the timesheet relates and hourly rates for each;
- (c) identification of which individuals are Supplier's staff and which are Sub-Contractors' staff;
- (d) the address of the Premises and the date on which work was undertaken;
- (e) the time spent working on the Premises by the individuals concerned;
- (f) details of the type of work undertaken by the individuals concerned;
- (g) details of plant or materials operated and on standby;
- (h) separate identification of time spent travelling and/or meal or rest breaks; and
- (i) if appropriate, details of journeys made and distances travelled.

**C1.8 The Authority shall not pay an invoice which is not a Valid Invoice.**

C1.9 The Authority shall not pay the Supplier's overhead costs unless Approved and overhead costs include, without limitation: facilities, utilities, insurance, tax, head office overheads, indirect staff costs and other costs not specifically and directly ascribable solely to the provision of the Goods.

C1.10 If Schedule 2 expressly provides that the Authority may be charged for plant which is on standby and if plant was waiting to be transferred between Premises or if the Authority has



instructed that the plant is retained on the Premises, then a standby charge of 60% of agreed rates may be made in respect of such relevant periods if supported by timesheets.

- C1.11 The Authority shall not pay a stand-by rate if plant is on standby because no work was being carried out on the Premises at that time or no operator or other relevant staff were available (unless the standby is because the Supplier is awaiting licensing of the Premises on the Authority's instructions).
- C1.12 The Authority shall not pay for plant or equipment which is stood down during any notice period pursuant to clauses H1, H2 and/or H3 and the Supplier shall mitigate such costs as far as is reasonably possible, for example, by reutilising Staff, plant, materials and services on other contracts.
- C1.13 The Supplier may claim expenses only if they are clearly identified, supported by original receipts and Approved.
- C1.14 If the Authority pays the Supplier prior to the submission of a Valid Invoice this payment is on account of and deductible from the next payment to be made.
- C1.15 If any overpayment has been made or the payment or any part is not supported by a Valid Invoice the Authority may recover this payment against future invoices raised or directly from the Supplier. All payments made by the Authority to the Supplier are on an interim basis pending final resolution of an account with the Supplier in accordance with the terms of this clause C1.
- C1.16 The Supplier shall:
- (a) add VAT to the Price at the prevailing rate as applicable and show the amount of VAT payable separately on all invoices as an extra charge. If the Supplier fails to show VAT on an invoice, the Authority is not, at any later date, liable to pay the Supplier any additional VAT;
  - (b) ensure that a provision is included in all Sub-Contracts which requires payment to be made of all sums due to Sub-Contractors within 30 days from the receipt of a valid invoice; and
  - (c) not suspend delivery of the Goods unless the Supplier is entitled to terminate the Contract under clause H2.3 for failure to pay undisputed sums of money.
- C1.17 The Supplier indemnifies the Authority on a continuing basis against any liability, including any interest, penalties or costs incurred, which is levied, demanded or assessed on the Authority 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 shall be paid by the Supplier to the Authority not less than 5 Working Days before the date upon which the tax or other liability is payable by the Authority.
- C1.18 The Authority shall:
- (a) in addition to the Price and following receipt of a Valid Invoice, pay the Supplier a sum equal to the VAT chargeable on the value of the Goods supplied in accordance with the Contract; and
  - (b) pay all sums due to the Supplier within 30 days of receipt of a Valid Invoice unless an alternative arrangement has been Approved.

- C1.19 If the Authority fails to pay any undisputed invoices under the Contract, the Supplier may charge interest on the overdue amount at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998, accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgment.

## **C2 Recovery of Sums Due**

- C2.1 If under the Contract any sum of money is recoverable from or payable by the Supplier to the Authority (including any sum which the Supplier is liable to pay to the Authority in respect of any breach of the Contract), the Authority may unilaterally deduct that sum from any sum then due, or which at any later time may become due to the Supplier from the Authority under the Contract or under any other agreement with the Authority or the Crown.
- C2.2 Any overpayment by either Party, whether of the Price or of VAT or otherwise, is a sum of money recoverable by the Party who made the overpayment from the Party in receipt of the overpayment.
- C2.3 The Supplier shall make all payments due to the Authority 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 Authority to the Supplier.
- C2.4 All payments due shall be made within a reasonable time unless otherwise specified in the Contract, in cleared funds, to such bank or building society account as the recipient Party may from time to time direct.

## **C3 Price During Extension**

Subject to Schedule 2 and clause F4 (Change), the Price applies for the Initial Term and until the end of any Extension or such earlier date of termination or partial termination of the Contract in accordance with the Law or the Contract.

## **D. PROTECTION OF INFORMATION**

### **D1 Authority Data**

- D1.1 The Supplier shall:
- (a) not store, copy, disclose, or use the Authority Data except as necessary for the performance by the Supplier of its obligations under the Contract or as otherwise Approved;
  - (b) preserve the integrity of Authority Data and prevent the corruption or loss of Authority Data;
  - (c) not delete or remove any proprietary notices contained within or relating to the Authority Data;
  - (d) to the extent that Authority Data is held and/or Processed by the Supplier, supply Authority Data to the Authority as requested by the Authority in the format specified in the Specification;
  - (e) perform secure back-ups of all Authority Data and ensure that up-to-date back-ups are stored securely off-site. The Supplier shall ensure that such back-ups are made available to the Authority immediately upon request;
  - (f) ensure that any system on which the Supplier holds any Authority Data, including back-up data, is a secure system that complies with the Security Policy Framework;
  - (g) identify, and disclose to the Authority on request those members of Staff with access to or who are involved in handling Authority Data;

- (h) on request, give the Authority details of its policy for reporting, managing and recovering from information risk incidents, including losses of data, and its procedures for reducing risk;
- (i) notify the Authority immediately and inform the Authority of the remedial action the Supplier proposes to take if it has reason to believe that Authority Data has or may become corrupted, lost or sufficiently degraded in any way for any reason; and
- (j) comply with Schedule 6 (Information Assurance & Security).

D1.2 If Authority Data is corrupted, lost or sufficiently degraded as a result of the Supplier's Default so as to be unusable, the Authority may:

- (a) require the Supplier (at the Supplier's cost) to restore or procure the restoration of Authority Data and the Supplier shall do so promptly; and/or
- (b) itself restore or procure the restoration of Authority Data, and be repaid by the Supplier any reasonable costs incurred in doing so.

## **D2 Official Secrets Acts and Finance Act**

D2.1 The Supplier shall comply with:

- (a) the Official Secrets Acts 1911 to 1989; and
- (b) section 182 of the Finance Act 1989.

## **D3 Confidential Information**

D3.1 Except to the extent set out in this clause D3 or if disclosure or publication is expressly allowed elsewhere in the Contract each Party shall treat all Confidential Information belonging to the other Party as confidential and shall not disclose any Confidential Information belonging to the other Party to any other person without the other Party's consent, except to such persons and to such extent as may be necessary for the performance of the Party's obligations under the Contract.

D3.2 The Supplier hereby gives its consent for the Authority to publish the whole Contract (but with any information which is Confidential Information belonging to the Authority redacted) including from time to time agreed changes to the Contract, to the general public.

D3.3 If required by the Authority, the Supplier shall ensure that Staff, professional advisors and consultants sign a non-disclosure agreement prior to commencing any work in connection with the Contract in a form approved by the Authority. The Supplier shall maintain a list of the non-disclosure agreements completed in accordance with this clause D3.3.

D3.4 If requested by the Authority, the Supplier shall give the Authority a copy of the list and, subsequently upon request by the Authority, copies of such of the listed non-disclosure agreements as required by the Authority. The Supplier shall ensure that Staff, professional advisors and consultants are aware of the Supplier's confidentiality obligations under the Contract.

D3.5 The Supplier may disclose the Authority's Confidential Information only to Staff who are directly involved in supplying the Goods and who need to know the information, and shall ensure that such Staff are aware of and shall comply with these obligations as to confidentiality.

- D3.6 The Supplier shall not, and shall procure that the Staff do not, use any of the Authority's Confidential Information received otherwise than for the purposes of the Contract.
- D3.7 Clause D3.1 shall not apply to the extent that:
- (a) such disclosure is a requirement of Law placed upon the Party making the disclosure, including any requirements for disclosure under the FOIA or the EIR;
  - (b) such information was in the possession of the Party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;
  - (c) such information was obtained from a third party without obligation of confidentiality;
  - (d) such information was already in the public domain at the time of disclosure otherwise than by a breach of the Contract; or
  - (e) it is independently developed without access to the other Party's Confidential Information.
- D3.8 Nothing in clause D3.1 prevents the Authority disclosing any Confidential Information obtained from the Supplier:
- (a) for the purpose of the examination and certification of the Authority's accounts;
  - (b) for the purpose of any examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources;
  - (c) to Parliament and Parliamentary committees;
  - (d) to any Crown Body or any Contracting Authority and the Supplier hereby acknowledges that all government departments or Contracting Authorities receiving such Confidential Information may further disclose the Confidential Information to other government departments or other Contracting Authorities on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any government department or any Contracting Authority; or
  - (e) to any consultant, contractor or other person engaged by the Authority
- provided that in disclosing information under clauses E3.8 (d) and (e) the Authority discloses only the information which is necessary for the purpose concerned and requests that the information is treated in confidence and that a confidentiality undertaking is given where appropriate.
- D3.9 Nothing in clauses D3.1 to D3.6 prevents either Party from using any techniques, ideas or Know-How gained during the performance of its obligations under the Contract in the course of its normal business, to the extent that this does not result in a disclosure of the other Party's Confidential Information or an infringement of the other Party's Intellectual Property Rights.
- D3.10 The Authority shall use reasonable endeavours to ensure that any government department, Contracting Authority, employee, third party or Sub-Contractor to whom the Supplier's Confidential Information is disclosed pursuant to clause D3.8 is made aware of the Authority's obligations of confidentiality.

- D3.11 If the Supplier does not comply with clauses D3.1 to D3.8 the Authority may terminate the Contract immediately on notice.
- D3.12 To ensure that no unauthorised person gains access to any Confidential Information or any data obtained in the supply of the Goods, the Supplier shall maintain adequate security arrangements that meet the requirements of professional standards and best practice.
- D3.13 The Supplier shall:
- (a) immediately notify the Authority of any breach of security in relation to Confidential Information and all data obtained in the supply of the Goods and will keep a record of such breaches;
  - (b) use best endeavours to recover such Confidential Information or data however it may be recorded;
  - (c) co-operate with the Authority in any investigation as a result of any breach of security in relation to Confidential Information or data; and
  - (d) at its own expense, alter any security systems at any time during the Term at the Authority's request if the Authority reasonably believes the Supplier has failed to comply with clause D3.12.

#### **D4 Freedom of Information**

- D4.1 The Supplier acknowledges that the Authority is subject to the requirements of the FOIA and the EIR.
- D4.2 The Supplier shall transfer to the Authority all Requests for Information that it receives as soon as practicable and in any event within 2 Working Days of receipt and shall:
- (a) give the Authority a copy of all Information in its possession or control in the form that the Authority requires within 5 Working Days (or such other period as the Authority may specify) of the Authority's request;
  - (b) provide all necessary assistance as reasonably requested by the Authority to enable the Authority to comply with its obligations under the FOIA and EIR; and
  - (c) not respond to directly to a Request for Information unless authorised to do so in writing by the Authority.
- D4.3 The Authority shall determine in its absolute discretion and notwithstanding any other provision in the Contract or any other agreement whether the Commercially Sensitive Information and any other Information is exempt from disclosure in accordance with the FOIA and/or the EIR.

#### **D5 Publicity, Branding and Media**

- D5.1 The Supplier shall not:
- (a) make any press announcements or publicise the Contract or its contents in any way;
  - (b) use the Authority's name, brand or logo in any publicity, promotion, marketing or announcement of order; or

- (c) use the name, brand or logo of any of the Authority's agencies or arms-length bodies in any publicity, promotion, marketing or announcement of orders

without Approval.

- D5.2 Each Party acknowledges that nothing in the Contract either expressly or impliedly constitutes an endorsement of any products or services of the other Party (including the Goods and the ICT Environment) and each Party shall not conduct itself in such a way as to imply or express any such approval or endorsement.
- D5.3 The Supplier shall use reasonable endeavours to ensure that its Staff and professional advisors comply with clause D5.1.

## **E. INTELLECTUAL PROPERTY**

### **E1 Intellectual Property Rights**

#### **E1.1 All Intellectual Property Rights in:**

- (a) the Results; or
- (b) any guidance, specifications, reports, studies, instructions, toolkits, plans, data, drawings, databases, patents, patterns, models, designs or other material which is furnished to or made available to the Supplier by or on behalf of the Authority (together with the Results, the "**IP Materials**")

shall vest in the Authority (save for Copyright and Database Rights which shall vest in His Majesty the King) and the Supplier shall not, and shall ensure that the Staff shall not, use or disclose any IP Materials without Approval save to the extent necessary for performance by the Supplier of its obligations under the Contract.

#### **E1.2 The Supplier hereby assigns:**

- (a) to the Authority, with full title guarantee, all Intellectual Property Rights (save for Copyright and Database Rights) which may subsist in the IP Materials. This assignment shall take effect on the date of the Contract or (in the case of rights arising after the date of the Contract) as a present assignment of future rights that will take effect immediately on the coming into existence of the Intellectual Property Rights produced by the Supplier; and
- (b) to His Majesty the King, with full title guarantee, all Copyright and Database Rights which may subsist in the IP Materials

and shall execute all documents and do all acts as are necessary to execute these assignments.

#### **E1.3 The Supplier shall:**

- (a) waive or procure a waiver of any moral rights held by it or any third party in copyright material arising as a result of the Contract or the performance of its obligations under the Contract;
- (b) ensure that the third party owner of any Intellectual Property Rights that are or which may be used to supply the Goods grants to the Authority a non-exclusive licence or, if

itself a licensee of those rights, shall grant to the Authority an authorised sub-licence, to use, reproduce, modify, develop and maintain the Intellectual Property Rights in the same. Such licence or sub-licence shall be non-exclusive, perpetual, royalty-free, worldwide and irrevocable and shall include the right for the Authority to sub-license, transfer, novate or assign to other Contracting Authorities, the Crown, the Replacement Supplier or to any other third party supplying goods and/or services to the Authority ("**Indemnified Persons**");

- (c) not infringe any Intellectual Property Rights of any third party in supplying the Goods; and
- (d) during and after the Term, indemnify and keep indemnified the Authority and Indemnified Persons from and against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which the Authority and Indemnified Persons may suffer or incur as a result of or in connection with any breach of clause E1.3, except to the extent that any such claim results directly from:
  - i) items or materials based upon designs supplied by the Authority; or
  - ii) the use of data supplied by the Authority which is not required to be verified by the Supplier under any provision of the Contract.

E1.4 The Authority shall notify the Supplier in writing of any claim or demand brought against the Authority or Indemnified Person for infringement or alleged infringement of any Intellectual Property Right in materials supplied and/or licensed by the Supplier to the Authority.

E1.5 The Supplier shall at its own expense conduct all negotiations and any litigation arising in connection with any claim, demand or action by any third party for infringement or alleged infringement of any third party Intellectual Property Rights (whether by the Authority, the Supplier or Indemnified Person) arising from the performance of the Supplier's obligations under the Contract ("**Third Party IP Claim**"), provided that the Supplier shall at all times:

- (a) consult the Authority on all material issues which arise during the conduct of such litigation and negotiations;
- (b) take due and proper account of the interests of the Authority; and
- (c) not settle or compromise any claim without Approval (not to be unreasonably withheld or delayed).

E1.6 The Authority shall, at the request of the Supplier, afford to the Supplier all reasonable assistance for the purpose of contesting any Third-Party IP Claim and the Supplier shall indemnify the Authority for all costs and expenses (including, but not limited to, legal costs and disbursements) incurred in doing so. The Supplier is not required to indemnify the Authority under this clause in relation to any costs and expenses to the extent that such arise directly from the matters referred to in clause E1.3 (d) i) and ii).

E1.7 The Authority shall not, without the Supplier's consent, make any admissions which may be prejudicial to the defence or settlement of any Third-Party IP Claim.

E1.8 If any Third-Party IP Claim is made or in the reasonable opinion of the Supplier is likely to be made, the Supplier shall notify the Authority and any relevant Indemnified Person, at its own expense and subject to Approval (not to be unreasonably withheld or delayed), shall (without prejudice to the rights of the Authority under clause E1.3 (b) and G2.1 (g)) use its best endeavours to:

- (a) modify any or all of the Goods without reducing the performance or functionality of the same, or substitute alternative goods of equivalent performance and functionality, so as to avoid the infringement or the alleged infringement; or
- (b) procure a licence to use the Intellectual Property Rights and supply the Goods which are the subject of the alleged infringement, on terms which are acceptable to the Authority

and if the Supplier is unable to comply with clauses E1.8 (a) or (b) within 20 Working Days of receipt by the Authority of the Supplier's notification the Authority may terminate the Contract immediately by notice to the Supplier.

- E1.9 The Supplier grants to the Authority and, if requested by the Authority, to a Replacement Supplier, a royalty-free, irrevocable, worldwide, non-exclusive licence (with a right to sub-license) to use any Intellectual Property Rights that the Supplier owned or developed prior to the Commencement Date and which the Authority (or the Replacement Supplier) reasonably requires in order for the Authority to exercise its rights under, and receive the benefit of, the Contract (including, without limitation, the Goods).

## **F. CONTROL OF THE CONTRACT**

### **F1 Contract Performance**

- F1.1 The Supplier shall immediately inform the Authority if any of the Goods are not being or are unable to be supplied, the reasons for non-supply, any corrective action and the date by which that action will be completed.
- F1.2 At or around 6 Months from the Commencement Date and each anniversary of the Commencement Date thereafter, the Authority may carry out a review of the performance of the Supplier (a "**Review**"). Without prejudice to the generality of the foregoing, the Authority may in respect of the period under review consider such items as (but not limited to):
- a) the Supplier's delivery of the Goods;
  - b) the Supplier's contribution to innovation in the Authority; whether the Goods provide the Authority with best value for money; consideration of any changes which may need to be made to the Goods;
  - c) a review of future requirements in relation to the Goods; and
  - d) progress against key milestones.
- F1.3 The Supplier shall provide at its own cost any assistance reasonably required by the Authority to perform Reviews including the provision of data and information.
- F1.4 The Authority may produce a report (a "**Review Report**") of the results of each Review stating any areas of exceptional performance and areas for improvement in the provision of the Goods and where there is any shortfall in any aspect of performance reviewed as against the Authority's expectations and the Supplier's obligations under the Contract.
- F1.5 The Authority shall give the Supplier a copy of the Review Report (if applicable). The Authority shall consider any Supplier comments and may produce a revised Review Report.
- F1.6 The Supplier shall, within 10 Working Days of receipt of the Review Report (revised as appropriate) provide the Authority with a plan to address resolution of any shortcomings and implementation of improvements identified by the Review Report.



- F1.7 Actions required to resolve shortcomings and implement improvements (either as a consequence of the Supplier's failure to meet its obligations under the Contract identified by the Review Report, or those which result from the Supplier's failure to meet the Authority's expectations notified to the Supplier or of which the Supplier ought reasonably to have been aware) shall be implemented at no extra cost to the Authority.

## **F2 Remedies**

- F2.1 If the Authority reasonably believes the Supplier has committed a Material Breach it may, without prejudice to its rights under clause H2 (Termination on Default), do any of the following:
- (a) without terminating the Contract, procure the supply of all or part of the Goods until such time as the Supplier has demonstrated to the Authority's reasonable satisfaction that the Supplier can supply the Goods in accordance with the Specification;
  - (b) without terminating the whole of the Contract, terminate the Contract in respect of some of the Goods only (whereupon a corresponding reduction in the Price shall be made) and thereafter procure a third party to supply those Goods;
  - (c) withhold or reduce payments to the Supplier in such amount as the Authority reasonably deems appropriate in each particular case; and/or
  - (d) terminate the Contract in accordance with clause H2.
- F2.2 Without prejudice to its right under clause C2 (Recovery of Sums Due), the Authority may charge the Supplier for any costs reasonably incurred and any reasonable administration costs in respect of the supply of any part of the Goods by a third party to the extent that such costs exceed the payment which would otherwise have been payable to the Supplier for those Goods.
- F2.3 If the Authority reasonably believes the Supplier has failed to supply all or some of the Goods in accordance with the Contract, professional or Good Industry Practice which could reasonably be expected of a competent and suitably qualified person, or any legislative or regulatory requirement, the Authority may give the Supplier notice specifying the way in which its performance falls short of the requirements of the Contract or is otherwise unsatisfactory.
- F2.4 If the Supplier has been notified of a failure in accordance with clause F2.3 the Authority may:
- (a) direct the Supplier to identify and remedy the failure within such time as may be specified by the Authority and to apply all such additional resources as are necessary to remedy that failure at no additional charge to the Authority within the specified timescale; and/or
  - (b) withhold or reduce payments to the Supplier in such amount as the Authority deems appropriate in each particular case until such failure has been remedied to the satisfaction of the Authority.
- F2.5 If the Supplier has been notified of a failure in accordance with clause F2.3, it shall:
- (a) use all reasonable endeavours to immediately minimise the impact of such failure to the Authority and to prevent such failure from recurring; and

- (b) immediately give the Authority such information as the Authority may request regarding what measures are being taken to comply with the obligations in clause F2.5 and the progress of those measures until resolved to the satisfaction of the Authority.

F2.6 If, having been notified of any failure, the Supplier does not remedy it in accordance with clause F2.5 in the time specified by the Authority, the Authority may treat the continuing failure as a Material Breach and may terminate the Contract immediately on notice to the Supplier.

### **F3 Transfer and Sub-Contracting**

F3.1 Except where both clauses F3.9 and F3.10 apply, the Supplier shall not transfer, charge, assign, sub-contract or in any other way dispose of the Contract or any part of it without Approval. All such actions shall be evidenced in writing and shown to the Authority on request. Sub-contracting any part of the Contract does not relieve the Supplier of any of its obligations or duties under the Contract.

F3.2 The Supplier is responsible for the acts and/or omissions of its Sub-Contractors as though they are its own. If it is appropriate, the Supplier shall provide each Sub-Contractor with a copy of the Contract and obtain written confirmation from them that they will provide the Goods fully in accordance with the Contract.

F3.3 The Supplier shall ensure that Sub-Contractors retain all records relating to the Goods for at least 6 years from the date of their creation and make them available to the Authority on request in accordance with clause F5 (Audit). If any Sub-Contractor does not allow the Authority access to the records, then the Authority shall have no obligation to pay any claim or invoice made by the Supplier on the basis of such documents or work carried out by the Sub-Contractor.

F3.4 If the Authority has consented to the award of a Sub-Contract, the Supplier shall ensure that:

- (a) the Sub-Contract contains a right for the Supplier to terminate if the Sub-Contractor does not comply with its legal obligations in environmental, social or labour law;
- (b) the Sub-Contractor includes a provision having the same effect as set out in clause F3.4 (a) in any Sub-Contract which it awards; and
- (c) copies of each Sub-Contract are sent to the Authority immediately after their execution.

F3.5 If the Authority believes there are:

- (a) compulsory grounds for excluding a Sub-Contractor pursuant to regulation 57 of the Regulations, the Supplier shall replace or not appoint the Sub-Contractor; or
- (b) non-compulsory grounds for excluding a Sub-Contractor pursuant to regulation 57 of the Regulations, the Authority may require the Supplier to replace or not appoint the Sub-Contractor and the Supplier shall comply with such requirement.

F3.6 Unless Approved otherwise, if the total value of the Contract over the Term is, or is likely to be, in excess of £5,000,000, the Supplier shall, in respect of Sub-Contract opportunities arising during the Term from or in connection with the provision of the Goods:

- (a) advertise on Contracts Finder those that have a value in excess of £25,000;

- (b) within 90 days of awarding a Sub-Contract, update the notice on Contracts Finder with details of the Sub-Contractor;
- (c) monitor the number, type and value of the Sub-Contract opportunities placed on Contracts Finder and awarded during the Term;
- (d) provide reports on the information in clause F3.6 (c) to the Authority in the format and frequency reasonably specified by the Authority;
- (e) promote Contracts Finder to its suppliers and encourage them to register on Contracts Finder; and
- (f) ensure that each advertisement placed pursuant to F3.6 (a) includes a full and detailed description of the Sub-Contract opportunity with each of the mandatory fields being completed on Contracts Finder.

F3.7 The Supplier shall, at its own cost, supply to the Authority by the end of April each year for the previous Financial Year:

- (a) the total revenue received from the Authority pursuant to the Contract;
- (b) the total value of all its Sub-Contracts;
- (c) the total value of its Sub-Contracts with SMEs; and
- (d) the total value of its Sub-Contracts with VCSEs.

F3.8 The Authority may from time to time change the format and the content of the information required under clause F3.7

F3.9 Notwithstanding clause F3.1, the Supplier may assign to a third party (the “**Assignee**”) the right to receive payment of the Price or any part thereof due to the Supplier (including any interest which the Authority incurs under clause C2 (Payment and VAT)). Any assignment under clause F3.6 is subject to:

- (a) reduction of any sums in respect of which the Authority exercises its right of recovery under clause C3 (Recovery of Sums Due);
- (b) all related rights of the Authority under the Contract in relation to the recovery of sums due but unpaid; and
- (c) the Authority receiving notification under both clauses F3.7 and F3.8.

F3.10 If the Supplier assigns the right to receive the Price under clause F3.9, the Supplier or the Assignee shall notify the Authority in writing of the assignment and the date upon which the assignment becomes effective.

F3.11 The Supplier shall ensure that the Assignee notifies the Authority of the Assignee’s contact information and bank account details to which the Authority can make payment.

F3.12 Clause C2 continues to apply in all other respects after the assignment and shall not be amended without Approval.

F3.13 Subject to clause F3.14, the Authority may assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof to:

- (a) any Contracting Authority;
- (b) any other body established or authorised by the Crown or under statute in order substantially to perform any of the functions that had previously been performed by the Authority; or
- (c) any private sector body which substantially performs the functions of the Authority

provided that any such assignment, novation or other disposal shall not increase the burden of the Supplier's obligations under the Contract.

F3.14 Any change in the legal status of the Authority such that it ceases to be a Contracting Authority shall not, subject to clause F3.15, affect the validity of the Contract and the Contract shall bind and inure to the benefit of any successor body to the Authority.

F3.15 If the rights and obligations under the Contract are assigned, novated or otherwise disposed of pursuant to clause F3.13 to a body which is not a Contracting Authority or if there is a change in the legal status of the Authority such that it ceases to be a Contracting Authority (in the remainder of this clause both such bodies being referred to as the "**Transferee**"):

- (a) the rights of termination of the Authority in clauses H1 and H2 are available to the Supplier in respect of the Transferee; and
- (b) the Transferee shall only be able to assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof with the prior consent in writing of the Supplier.

F3.16 The Authority 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 Authority 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.

F3.17 Each Party shall at its own cost and expense carry out, or use all reasonable endeavours to ensure the carrying out of, 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 Contract.

## **F4 Change**

F4.1 After the Commencement Date, either Party may request a Change subject to the terms of this clause F4.

F4.2 Either Party may request a Change by notifying the other Party in writing of the Change by completing the Change Request Form set out in Schedule 3. The Party requesting the Change shall give the other Party sufficient information and time to assess the extent and effect of the requested Change. If the receiving Party accepts the Change it shall confirm it in writing to the other Party.

F4.3 If the Supplier is unable to accept a Change requested by the Authority or if the Parties are unable to agree a change to the Price, the Authority may:

- (a) allow the Supplier to fulfil its obligations under the Contract without the Change; or
- (b) terminate the Contract immediately except where the Supplier has already delivered all or part of the Goods or where the Supplier can show evidence of substantial work being carried out to fulfil the requirements of the Specification; and in such case the Parties shall attempt to agree upon a resolution to the matter. If a resolution cannot be reached, the matter shall be dealt with under the Dispute Resolution procedure detailed in clause I2 (Dispute Resolution).

F4.4 A Change takes effect only when it is recorded in a CCN validly executed by both Parties.

F4.5 The Supplier is deemed to warrant and represent that the CCN has been executed by a duly authorised representative of the Supplier in addition to the warranties and representations set out in clause G2.

F4.6 Clauses F4.4 and F4.5 may be varied in an emergency if it is not practicable to obtain the Authorised Representative's approval within the time necessary to make the Change in order to address the emergency. In an emergency, Changes may be approved by a different representative of the Authority. However, the Authorised Representative may review such a Change and require a CCN to be entered into on a retrospective basis which may itself vary the emergency Change.

## **F5 Audit**

F5.1 The Supplier shall:

- (a) keep and maintain until 6 years after the end of the Term, or as long a period as may be agreed between the Parties, full and accurate records of the Contract including the Goods supplied under it, all expenditure reimbursed by the Authority, and all payments made by the Authority;
- (b) on request afford the Authority or the Authority's representatives such access to those records and processes as may be requested by the Authority in connection with the Contract;
- (c) make available to the Authority, free of charge, whenever requested, copies of audit reports obtained by the Supplier in relation to the Goods;
- (d) allow authorised representatives of the Authority and/or the National Audit Office to examine the Supplier's records and documents relating to the Contract and provide such copies and oral or written explanations as may reasonably be required; and
- (e) allow the Comptroller and Auditor General (and his appointed representatives) access free of charge during normal business hours on reasonable notice to all such documents (including computerised documents and data) and other information as the Comptroller and Auditor General may reasonably require for the purposes of his financial audit of the Authority and for carrying out examinations into the economy, efficiency and effectiveness with which the Authority has used its resources. The Supplier shall provide such explanations as are reasonably required for these purposes.

## **G. LIABILITIES**

### **G1 Liability, Indemnity and Insurance**

G1.1 Neither Party limits its liability for:

- (a) death or personal injury caused by its negligence;
- (b) fraud or fraudulent misrepresentation;
- (c) any breach of any obligations implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982;
- (d) any breach of clauses D1 or D3 or Schedules 6 or 8; or
- (e) any liability to the extent it cannot be limited or excluded by Law.

G1.2 Subject to clauses G1.3 and G1.5, the Supplier indemnifies the Authority fully against all claims, proceedings, demands, charges, actions, damages, costs, breach of statutory duty, expenses and any other liabilities which may arise out of the supply, or the late or purported supply, of the Goods or the performance or non-performance by the Supplier of its obligations under the Contract or the presence of the Supplier or any Staff on the Premises, including in respect of any death or personal injury, loss of or damage to property, financial loss arising from any advice given or omitted to be given by the Supplier, or any other loss which is caused directly by any act or omission of the Supplier.

G1.3 Subject to clause G1.1 the Supplier's aggregate liability in respect of the Contract does not exceed £[REDACTED].

G1.4 Subject to clause G1.1 the Authority's aggregate liability in respect of the Contract does not exceed the Price payable in the previous calendar year of the Contract.

G1.5 The Supplier is not responsible for any injury, loss, damage, cost or expense if and to the extent that it is caused by the negligence or wilful misconduct of the Authority or by breach by the Authority of its obligations under the Contract.

G1.6 The Authority may recover from the Supplier the following losses incurred by the Authority to the extent they arise as a result of a Default by the Supplier:

- (a) any additional operational and/or administrative costs and expenses incurred by the Authority, including costs relating to time spent by or on behalf of the Authority in dealing with the consequences of the Default;
- (b) any wasted expenditure or charges;
- (c) the additional costs of procuring a Replacement Supplier for the remainder of the Term and or replacement deliverables which shall include any incremental costs associated with the Replacement Supplier and/or replacement deliverables above those which would have been payable under the Contract;
- (d) any compensation or interest paid to a third party by the Authority; and
- (e) any fine or penalty incurred by the Authority pursuant to Law and any costs incurred by the Authority in defending any proceedings which result in such fine or penalty.

- G1.7 Subject to clauses G1.1 and G1.6, neither Party is liable to the other for any:
- (a) loss of profits, turnover, business opportunities or damage to goodwill; or
  - (b) indirect, special or consequential loss.
- G1.8 Unless otherwise specified by the Authority, the Supplier shall, with effect from the Commencement Date for such period as necessary to enable the Supplier to comply with its obligations herein, take out and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover in respect of all risks which may be incurred by the Supplier, arising out of the Supplier's performance of its obligations under the Contract including:
- (a) if required by the Authority, appropriate, professional indemnity insurance in the sum of not less than £[REDACTED] for any advice given by the Supplier to the Authority;
  - (b) cover for death or personal injury, loss of or damage to property or any other loss; and
  - (c) employer's liability insurance in respect of Staff.
- Such insurance policies shall be maintained for the duration of the Term and for a minimum of 6 years following the end of the Term.
- G1.9 The Supplier shall give the Authority, on request, copies of all insurance policies referred to in this clause or a broker's verification of insurance to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.
- G1.10 If the Supplier does not have and maintain the insurances required by the Contract, the Authority may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Supplier.
- G1.11 The provisions of any insurance or the amount of cover shall not relieve the Supplier of any liabilities under the Contract.
- G1.12 The Supplier shall not take any action or fail to take any reasonable action, or (to the extent that it is reasonably within its power) permit anything to occur in relation to the Supplier, which would entitle any insurer to refuse to pay any claim under any insurance policy in which the Supplier is an insured, a co-insured or additional insured person.

## **G2 Warranties and Representations**

- G2.1 The Supplier warrants and represents on the Commencement Date and for the Term that:
- (a) it has full capacity and authority and all necessary consents to enter into and perform the Contract and that the Contract is executed by a duly authorised representative of the Supplier;
  - (b) in entering the Contract it has not committed any fraud;
  - (c) as at the Commencement Date, all information contained in the Tender or other offer made by the Supplier to the Authority remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Authority prior to execution of the Contract and in addition, that it will advise the Authority of any fact, matter or

circumstance of which it may become aware which would render such information to be false or misleading;

- (d) no claim is being asserted and no litigation, arbitration or administrative proceeding is in progress or, to the best of its knowledge and belief, pending or threatened against it or any of its assets which will or might have an adverse effect on its ability to perform its obligations under the Contract;
- (e) it is not subject to any contractual obligation, compliance with which is likely to have a material adverse effect on its ability to perform its obligations under the Contract;
- (f) no proceedings or other steps have been taken and not discharged (or, to the best of its knowledge, are threatened) for the winding up of the Supplier or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Supplier's assets or revenue;
- (g) it owns, or has obtained or is able to obtain valid licences for, all Intellectual Property Rights that are necessary for the performance of its obligations under the Contract;
- (h) any person engaged by the Supplier shall be engaged on terms which do not entitle them to any Intellectual Property Right in any IP Materials;
- (i) in the 3 years (or period of existence if the Supplier has not been in existence for 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 ongoing business concern or its ability to fulfil its obligations under the Contract;
- (j) it has and will continue to hold all necessary (if any) regulatory approvals from the Regulatory Bodies necessary to perform its obligations under the Contract; and
- (k) it has notified the Authority in writing of any Occasions of Tax Non-Compliance and any litigation in which it is involved that is in connection with any Occasion of Tax Non-Compliance.

G2.2 The Supplier confirms that in entering into the Contract it is not relying on any statements, warranties or representations given or made (whether negligently or innocently or whether express or implied), or any acts or omissions by or on behalf of the Authority in connection with the subject matter of the Contract except those expressly set out in the Contract and the Supplier hereby waives and releases the Authority in respect thereof absolutely.

### **G3 Tax Compliance**

G3.1 If, during the Term, an Occasion of Tax Non-Compliance occurs, the Supplier shall:

- (a) notify the Authority in writing of such fact within 5 Working Days of its occurrence; and



- (b) promptly give the Authority:
  - i) details of the steps it is taking to address the Occasion of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors it considers relevant; and
  - ii) such other information in relation to the Occasion of Tax Non-Compliance as the Authority may reasonably require.

G3.2 If the Supplier or any Staff are liable to be taxed in the UK or to pay NICs in respect of consideration received under the Contract, the Supplier shall:

- (a) at all times comply with ITEPA and all other statutes and regulations relating to income tax, and SSCBA and all other statutes and regulations relating to NICs, in respect of that consideration; and
- (b) indemnify the Authority against any income tax, NICs and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made in connection with the provision of the Goods by the Supplier or any Staff.

## **H. DEFAULT, DISRUPTION AND TERMINATION**

### **H1 Insolvency and Change of Control**

H1.1 The Authority may terminate the Contract with immediate effect by notice and without compensation to the Supplier if the Supplier is a company and in respect of the Supplier:

- (a) a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignment for the benefit of, its creditors;
- (b) a shareholders' meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding-up is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation);
- (c) a petition is presented for its winding up (which is not dismissed within 14 days of its service) or an application is made for the appointment of a provisional liquidator;
- (d) a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets;
- (e) an application order is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given;
- (f) it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986;
- (g) any event similar to those listed in clause H1.1 (a)-(f) occurs under the law of any other jurisdiction.

H1.2 The Authority may terminate the Contract with immediate effect by notice and without compensation to the Supplier if the Supplier is an individual and:

- (a) 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;
- (b) a petition is presented and not dismissed within 14 days or order made for the Supplier's bankruptcy;
- (c) a receiver, or similar officer is appointed over the whole or any part of the Supplier's assets or a person becomes entitled to appoint a receiver, or similar officer over the whole or any part of his assets;
- (d) he is unable to pay his debts or has no reasonable prospect of doing so, in either case within the meaning of section 268 of the Insolvency Act 1986;
- (e) a creditor or encumbrancer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the Supplier's assets and such attachment or process is not discharged within 14 days;
- (f) he dies or is adjudged incapable of managing his affairs within the meaning of section 2 of the Mental Capacity Act 2005;
- (g) he suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of his business; or
- (h) any event similar to those listed in clause H1.2 (a)-(g) occurs under the law of any other jurisdiction.

H1.3 The Supplier shall notify the Authority immediately following a merger, take-over, change of control, change of name or status including where the Supplier undergoes a change of control within the meaning of section 1124 of the Corporation Tax Act 2010 ("**Change of Control**"). The Authority may terminate the Contract with immediate effect by notice and without compensation to the Supplier within 6 Months of:

- (a) being notified that a Change of Control has occurred; or
- (b) where no notification has been made, the date that the Authority becomes aware of the Change of Control

but is not permitted to terminate where Approval was granted prior to the Change of Control.

H1.4 The Authority may terminate the Contract with immediate effect by notice and without compensation to the Supplier if the Supplier is a partnership and:

- (a) a proposal is made for a voluntary arrangement within Article 4 of the Insolvent Partnerships Order 1994 or a proposal is made for any other composition, scheme or arrangement with, or assignment for the benefit of, its creditors; or
- (b) a petition is presented for its winding up or for the making of any administration order, or an application is made for the appointment of a provisional liquidator; or
- (c) a receiver, or similar officer is appointed over the whole or any part of its assets; or

- (d) the partnership is deemed unable to pay its debts within the meaning of section 222 or 223 of the Insolvency Act 1986 as applied and modified by the Insolvent Partnerships Order 1994; or
- (e) any of the following occurs in relation to any of its partners:
  - (i) 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, his creditors;
  - (ii) a petition is presented for his bankruptcy; or
  - (iii) a receiver, or similar officer is appointed over the whole or any part of his assets;
- (f) any event similar to those listed in clause H1.4 (a)-(e) occurs under the law of any other jurisdiction.

H1.5 The Authority may terminate the Contract with immediate effect by notice and without compensation to the Supplier if the Supplier is a limited liability partnership and:

- (a) a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or a proposal is made for any other composition, scheme or arrangement with, or assignment for the benefit of, its creditors;
- (b) an application is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given within Part II of the Insolvency Act 1986;
- (c) any step is taken with a view to it being determined that it be wound up (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation) within Part IV of the Insolvency Act 1986;
- (d) a petition is presented for its winding up (which is not dismissed within 14 days of its service) or an application is made for the appointment of a provisional liquidator within Part IV of the Insolvency Act 1986;
- (e) a receiver, or similar officer is appointed over the whole or any part of its assets; or
- (f) it is or becomes unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
- (g) any event similar to those listed in clause H1.5 (a)-(f) occurs under the law of any other jurisdiction.

H1.6 References to the Insolvency Act 1986 in clause H1.5 (a) are references to that Act as applied under the Limited Liability Partnerships Act 2000 subordinate legislation.

## **H2 Default**

H2.1 The Authority may terminate the Contract with immediate effect by notice if the Supplier commits a Default and:

- (a) the Supplier has not remedied the Default to the satisfaction of the Authority within 20 Working Days or such other period as may be specified by the Authority, after issue of a notice specifying the Default and requesting it to be remedied;

- (b) the Default is not, in the opinion of the Authority, capable of remedy; or
- (c) the Default is a Material Breach.

H2.2 If, through any Default of the Supplier, data transmitted or processed in connection with the Contract is either lost or sufficiently degraded as to be unusable, the Supplier is liable for the cost of reconstitution of that data and shall reimburse the Authority in respect of any charge levied for its transmission and any other costs charged in connection with such Default.

H2.3 If the Authority fails to pay the Supplier undisputed sums of money when due, the Supplier shall give notice to the Authority of its failure to pay. If the Authority fails to pay such undisputed sums within 90 Working Days of the date of such notice, the Supplier may terminate the Contract with immediate effect, save that such right of termination shall not apply where the failure to pay is due to the Authority exercising its rights under clause C2.1 or to a Force Majeure Event.

### **H3 Termination on Notice**

H3.1 The Authority may terminate the Contract at any time by giving 90 days' notice to the Supplier.

### **H4 Other Grounds**

H4.1 The Authority may terminate the Contract if:

- (a) the Contract has been subject to a substantial modification which requires a new procurement procedure pursuant to regulation 72(9) of the Regulations;
- (b) the Supplier was, at the time the Contract was awarded, in one of the situations specified in regulation 57(1) of the Regulations, including as a result of the application of regulation 57(2), and should therefore have been excluded from the procurement procedure which resulted in its award of the Contract; or
- (c) the Supplier has not, in supplying the Goods, complied with its legal obligations in respect of environmental, social or labour law.

### **H5 Consequences of Expiry or Termination**

H5.1 If the Authority terminates the Contract under clause H2 and makes other arrangements for the supply of the Goods the Authority may recover from the Supplier the cost reasonably incurred of making those other arrangements and any additional expenditure incurred by the Authority throughout the remainder of the Term.

H5.2 If the Contract is terminated under clause H2 the Authority shall make no further payments to the Supplier (for Goods supplied by the Supplier prior to termination and in accordance with the Contract but where the payment has yet to be made by the Authority), until the Authority has established the final cost of making the other arrangements envisaged under this clause H5.

H5.3 If the Authority terminates the Contract under clauses H3 or H4 the Authority shall make no further payments to the Supplier except for Goods supplied by the Supplier prior to termination and in accordance with the Contract but where the payment has yet to be made by the Authority.

H5.4 Save as otherwise expressly provided in the Contract:

- (a) termination or expiry of the Contract shall be without prejudice to any rights, remedies or obligations accrued under the Contract prior to termination or expiration and nothing in the Contract prejudices the right of either Party to recover any amount outstanding at such termination or expiry; and
- (b) termination of the Contract does not affect the continuing rights, remedies or obligations of the Authority or the Supplier under clauses C2 (Payment and VAT), C3 (Recovery of Sums Due), D1 (Prevention of Fraud and Bribery), E2 (Official Secrets Acts and Finance Act), E3 (Confidential Information), D4 (Freedom of Information), E7 (Intellectual Property Rights), E8 (Audit), G1 (Liability, Indemnity and Insurance), H5 (Consequences of Expiry or Termination), H7 (Recovery), H8 (Retendering and Handover), H9 (Exit Management), H10 (Knowledge Retention), I6 (Remedies Cumulative), and I12 (Governing Law and Jurisdiction).

## **H6 Disruption**

- H6.1 The Supplier shall take reasonable care to ensure that in the performance of its obligations under the Contract it does not disrupt the operations of the Authority, its employees or any other contractor employed by the Authority.
- H6.2 The Supplier shall immediately inform the Authority of any actual or potential industrial action, whether such action be by its own employees or others, which affects or might affect its ability at any time to perform its obligations under the Contract.
- H6.3 If there is industrial action by Staff, the Supplier shall seek Approval for its proposals to continue to perform its obligations under the Contract.
- H6.4 If the Supplier's proposals referred to in clause H6.3 are considered insufficient or unacceptable by the Authority acting reasonably, the Contract may be terminated with immediate effect by the Authority.
- H6.5 If the Supplier is unable to supply the Goods owing to disruption of the Authority's normal business, the Supplier may request a reasonable allowance of time, and, in addition, the Authority will reimburse any additional expense reasonably incurred by the Supplier as a direct result of such disruption.

## **H7 Recovery**

- H7.1 On termination of the Contract for any reason, the Supplier shall at its cost:
  - (a) immediately return to the Authority all Confidential Information and IP Materials in its possession or in the possession or under the control of any permitted suppliers or Sub-Contractors, which was obtained or produced in the course of providing the Goods;
  - (b) immediately deliver to the Authority all Property (including materials, documents, information and access keys) provided to the Supplier in good working order;
  - (c) immediately vacate any Authority Premises occupied by the Supplier;
  - (d) assist and co-operate with the Authority to ensure an orderly transition of the provision of the Goods to the Replacement Supplier; and

- (e) promptly provide all information concerning the supply of the Goods reasonably requested by the Authority for the purposes of adequately understanding the manner in which the Goods have been provided and/or for the purpose of allowing the Authority and/or the Replacement Supplier to conduct due diligence.

H7.2 If the Supplier does not comply with clause H7.1 (a) and (b), the Authority may recover possession thereof and the Supplier grants a licence to the Authority or its appointed agents to enter (for the purposes of such recovery) any premises of the Supplier or its suppliers or Sub-Contractors where any such items may be held.

## **H8 Retendering and Handover**

H8.1 Within 21 days of being requested by the Authority, the Supplier shall provide, and thereafter keep updated, in a fully indexed and catalogued format, all the information necessary to enable the Authority to issue tender documents for the future supply of the Goods.

H8.2 The Authority shall take all necessary precautions to ensure that the information referred to in clause H8.1 is given only to potential providers who have qualified to tender for the future supply of the Goods.

H8.3 The Authority shall require that all potential providers treat the information in confidence; that they do not communicate it except to such persons within their organisation and to such extent as may be necessary for the purpose of preparing a response to an invitation to tender issued by the Authority; and that they shall not use it for any other purpose.

H8.4 The Supplier indemnifies the Authority against any claim made against the Authority at any time by any person in respect of any liability incurred by the Authority arising from any deficiency or inaccuracy in information which the Supplier is required to provide under clause H8.1.

H8.5 The Supplier shall allow access to the Premises in the presence of an authorised representative, to any person representing any potential provider whom the Authority has selected to tender for the future supply of the Goods.

H8.6 If access is required to the Supplier's Premises for the purposes of clause H8.5, the Authority shall give the Supplier 7 days' notice of a proposed visit and a list of all persons who will be visiting. Their attendance is subject to compliance with the Supplier's security procedures, subject to such compliance not being in conflict with the objectives of the visit.

H8.7 The Supplier shall co-operate fully with the Authority during any handover at the end of the Contract including allowing full access to, and providing copies of, all documents, reports, summaries and any other information necessary in order to achieve an effective transition without disruption to routine operational requirements.

H8.8 Within 10 Working Days of being requested by the Authority, the Supplier shall transfer to the Authority, or any person designated by the Authority, free of charge, all computerised filing, recording, documentation, planning and drawing held on software and utilised in the supply of the Goods. The transfer shall be made in a fully indexed and catalogued disk format, to operate on a proprietary software package identical to that used by the Authority.

## **H9 Exit Management**

H9.1 On termination of the Contract the Supplier shall render reasonable assistance to the Authority to the extent necessary to effect an orderly assumption by a Replacement Supplier in accordance with the procedure set out in clauses H9.2 to H9.5.

- H9.2 If the Authority requires a continuation of supply of the Goods on expiry or termination of the Contract, by engaging a third party to supply them, the Supplier shall co-operate fully with the Authority and any such third party and shall take all reasonable steps to ensure the timely and effective transfer of supply without disruption to routine operational requirements.
- H9.3 The following commercial approach shall apply to the transfer of the supply of Goods if the Supplier:
- (a) does not have to use resources in addition to those normally used to deliver the Goods prior to termination or expiry, there shall be no change to the Price; or
  - (b) reasonably incurs additional costs, the Parties shall agree a Change to the Price based on the Supplier's rates either set out in Schedule 2 or forming the basis for the Price.
- H9.4 When requested to do so by the Authority, the Supplier shall deliver to the Authority details of all licences for software used in supplying the Goods including the software licence agreements.
- H9.5 Within one Month of receiving the software licence information described in clause H9.4, the Authority shall notify the Supplier of the licences it wishes to be transferred and the Supplier shall provide for the approval of the Authority a plan for licence transfer.

## **H10 Knowledge Retention**

The Supplier shall co-operate fully with the Authority in order to enable an efficient and detailed knowledge transfer from the Supplier to the Authority on the completion or earlier termination of the Contract and in addition, to minimise any disruption to routine operational requirements. To facilitate this transfer, the Supplier shall provide the Authority free of charge with full access to its Staff, and in addition, copies of all documents, reports, summaries and any other information requested by the Authority. The Supplier shall comply with the Authority's request for information no later than 15 Working Days from the date that that request was made.

## **I. GENERAL**

### **I1 Dispute Resolution**

- I1.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Contract within 20 Working Days of either Party notifying the other of the dispute and such efforts shall involve the escalation of the dispute to the finance director of the Supplier and the commercial director of the Authority.
- I1.2 Nothing in this dispute resolution procedure prevents the Parties seeking from any court of competent jurisdiction an interim order restraining the other Party from doing any act or compelling the other Party to do any act.
- I1.3 If the dispute cannot be resolved by the Parties pursuant to clause I1.1 either Party may refer it to mediation pursuant to the procedure set out in clause I1.5.
- I1.4 The obligations of the Parties under the Contract shall not cease, or be suspended or delayed by the reference of a dispute to mediation (or arbitration) and the Supplier and Staff shall comply fully with the requirements of the Contract at all times.

11.5 The procedure for mediation and consequential provisions relating to mediation are as follows:

- (a) a neutral adviser or mediator (the “**Mediator**”) shall be chosen by agreement of the Parties or, if they are unable to agree upon a Mediator within 10 Working Days after a request by one Party to the other or if the Mediator agreed upon is unable or unwilling to act, either Party shall within 10 Working Days from the date of the proposal to appoint a Mediator or within 10 Working Days of notice to either Party that he is unable or unwilling to act, apply to the Centre for Effective Dispute Resolution to appoint a Mediator;
- (b) the Parties shall within 10 Working Days of the appointment of the Mediator meet him in order to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiations. If appropriate, the Parties may at any stage seek assistance from the Centre for Effective Dispute Resolution to provide guidance on a suitable procedure;
- (c) unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings;
- (d) if the Parties reach agreement on the resolution of the dispute, the agreement shall be recorded in writing and shall be binding on the Parties once it is signed by their duly authorised representatives;
- (e) failing agreement, either of the Parties may invite the Mediator to provide a non-binding but informative written opinion. Such an opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the Contract without the prior written consent of both Parties; and
- (f) if the Parties fail to reach agreement within 60 Working Days of the Mediator being appointed, or such longer period as may be agreed by the Parties, then any dispute or difference between them may be referred to the Courts unless the dispute is referred to arbitration pursuant to the procedures set out in clause 11.6.

11.6 Subject to clause 11.2, the Parties shall not start court proceedings until the procedures set out in clauses 11.1 and 11.3 have been completed save that:

- (a) the Authority may at any time before court proceedings are commenced, serve a notice on the Supplier requiring the dispute to be referred to and resolved by arbitration in accordance with clause 11.7;
- (b) if the Supplier intends to commence court proceedings, it shall serve notice on the Authority of its intentions and the Authority has 21 days following receipt of such notice to serve a reply on the Supplier requiring the dispute to be referred to and resolved by arbitration in accordance with clause 11.7; and
- (c) the Supplier may request by notice to the Authority that any dispute be referred and resolved by arbitration in accordance with clause 11.7, to which the Authority may consent as it sees fit.

11.7 If any arbitration proceedings are commenced pursuant to clause 11.6:

- (a) the arbitration is governed by the Arbitration Act 1996 and the Authority shall give a notice of arbitration to the Supplier (the “**Arbitration Notice**”) stating:



- (i) that the dispute is referred to arbitration; and
- (ii) providing details of the issues to be resolved;
- (b) the London Court of International Arbitration (“**LCIA**”) procedural rules in force at the date that the dispute was referred to arbitration shall be applied and are deemed to be incorporated by reference to the Contract and the decision of the arbitrator is binding on the Parties in the absence of any material failure to comply with such rules;
- (c) the tribunal shall consist of a sole arbitrator to be agreed by the Parties;
- (d) if the Parties fail to agree the appointment of the arbitrator within 10 days of the Arbitration Notice being issued by the Authority under clause I1.7 (a) or if the person appointed is unable or unwilling to act, the arbitrator shall be appointed by the LCIA;
- (e) the arbitration proceedings shall take place in London and in the English language; and
- (f) the arbitration proceedings shall be governed by, and interpreted in accordance with, English Law.

## **I2 Force Majeure**

- I2.1 Subject to this clause I2, a Party may claim relief under this clause I2 from liability for failure to meet its obligations under the Contract for as long as and only to the extent that the performance of those obligations is directly affected by a Force Majeure Event. Any failure or delay by the Supplier in performing its obligations under the Contract which results from a failure or delay by an agent, Sub-Contractor or supplier shall be regarded as due to a Force Majeure Event only if that agent, Sub-Contractor or supplier is itself impeded by a Force Majeure Event from complying with an obligation to the Supplier.
- I2.2 The Affected Party shall as soon as reasonably practicable issue a Force Majeure Notice, which shall include details of the Force Majeure Event, its effect on the obligations of the Affected Party and any action the Affected Party proposes to take to mitigate its effect.
- I2.3 If the Supplier is the Affected Party, it is not entitled to claim relief under this clause I2 to the extent that consequences of the relevant Force Majeure Event:
  - (a) are capable of being mitigated but the Supplier has failed to do so; and/or
  - (b) should have been foreseen and prevented or avoided by a prudent provider of goods similar to the Goods, operating to the standards required by the Contract.
- I2.4 Subject to clause I2.5, as soon as practicable after the Affected Party issues the Force Majeure Notice and at regular intervals thereafter, the Parties shall consult in good faith and use reasonable endeavours to agree any steps to be taken and an appropriate timetable in which those steps should be taken, to enable continued supply of the Goods affected by the Force Majeure Event.
- I2.5 The Parties shall at all times following the occurrence of a Force Majeure Event and during its subsistence use their respective reasonable endeavours to prevent and mitigate the effects of the Force Majeure Event. Where the Supplier is the Affected Party, it shall take all steps in accordance with Good Industry Practice to overcome or minimise the consequences of the Force Majeure Event.

- 12.6 If, as a result of a Force Majeure Event:
- (a) an Affected Party fails to perform its obligations in accordance with the Contract, then during the continuance of the Force Majeure Event:
    - i) the other Party is not entitled to exercise its rights to terminate the Contract in whole or in part as a result of such failure pursuant to clause H2.1 or H2.3; and
    - ii) neither Party is liable for any Default arising as a result of such failure;
  - (b) the Supplier fails to perform its obligations in accordance with the Contract it shall be entitled to receive payment of the Price (or a proportional payment of it) only to the extent that the Goods (or some of the Goods) continue to be supplied in accordance with the terms of the Contract during the occurrence of the Force Majeure Event.
- 12.7 The Affected Party shall notify the other Party as soon as practicable after the Force Majeure Event ceases or no longer causes the Affected Party to be unable to comply with its obligations under the Contract.
- 12.8 Relief from liability for the Affected Party under this clause 12 ends as soon as the Force Majeure Event no longer causes the Affected Party to be unable to comply with its obligations under the Contract and is not dependent on the serving of a notice under clause 12.7.

### **I3 Notices and Communications**

- 13.1 Subject to clause 13.3, where the Contract states that a notice or communication between the Parties must be “written” or “in writing” it is not valid unless it is made by letter (sent by hand, first class post, recorded delivery or special delivery) or by email or by communication via Bravo.
- 13.2 If it is not returned as undelivered a notice served in:
- (a) a letter is deemed to have been received 2 Working Days after the day it was sent; and
  - (b) an email is deemed to have been received 4 hours after the time it was sent provided it was sent on a Working Day
- or when the other Party acknowledges receipt, whichever is the earlier.
- 13.3 Notices pursuant to clauses 12 (Force Majeure), 11 (Dispute Resolution) or 17 (Waiver) or to terminate the Contract or any part of the supply of Goods are valid only if served in a letter by hand, recorded delivery or special delivery.
- 13.4 Notices shall be sent to the addresses set out below or at such other address as the relevant Party may give notice to the other Party for the purpose of service of notices under the Contract:
- (a) For the Authority:
- Contact Name: [REDACTED]
- Address: 1<sup>st</sup> Floor, 5 Wellington Place, Leeds, LS1 4AP; and
- Email: [REDACTED]

(b) For the Supplier:

Contact Name: [REDACTED]

Address: Unit 6, Hardwick Grange, Warrington, WA1 4RF; and

Email: [REDACTED]

#### **I4 Conflicts of Interest**

- I4.1 The Supplier shall take appropriate steps to ensure that neither the Supplier nor any Staff is placed in a position where, in the reasonable opinion of the Authority, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Supplier and the duties owed to the Authority under the Contract. The Supplier will notify the Authority immediately giving full particulars of any such conflict of interest which may arise.
- I4.2 The Authority may terminate the Contract immediately by notice and/or take or require the Supplier to take such other steps it deems necessary if, in the Authority's reasonable opinion, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Supplier and the duties owed to the Authority under the Contract. The actions of the Authority pursuant to this clause I4 shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Authority.

#### **I5 Rights of Third Parties**

- I5.1 Clause E7.3 confers benefits on persons named in it ("**Third Party Provisions**" and each person a "**Third Party Beneficiary**") other than the Parties which are intended to be enforceable by Third Party Beneficiaries by virtue of the Contracts (Rights of Third Parties) Act 1999 ("**CRTPA**").
- I5.2 Subject to clause I5.1, a person who is not a Party has no right under the CRTPA to enforce the Contract but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to the CRTPA and does not apply to the Crown.
- I5.3 No Third Party Beneficiary may enforce or take steps to enforce any Third Party Provision without Approval.
- I5.4 Any amendments to the Contract may be made by the Parties without the consent of any Third Party Beneficiary.

#### **I6 Remedies Cumulative**

Except as expressly provided in the Contract all remedies available to either Party for breach of the Contract are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy are not an election of such remedy to the exclusion of other remedies.

#### **I7 Waiver**

- I7.1 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 do not constitute a waiver of that right or remedy and do not cause a diminution of the obligations established by the Contract.

- 17.2 No waiver is effective unless it is expressly stated to be a waiver and communicated to the other Party in writing in accordance with clause I3 (Notices and Communications).
- 17.3 A waiver of any right or remedy arising from a breach of the Contract does not constitute a waiver of any right or remedy arising from any other or subsequent breach of the Contract.

## **I8 Severability**

If any part of the Contract which is not of a fundamental nature is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such part shall be severed and the remainder of the Contract shall continue in full effect as if the Contract had been executed with the invalid, illegal or unenforceable part eliminated.

## **I9 Entire Agreement**

The Contract constitutes the entire agreement between the Parties in respect of the matters dealt with therein and supersedes all prior negotiations between the Parties and all representations and undertakings made by one Party to the other, whether written or oral, except that this clause shall not exclude liability in respect of any fraudulent misrepresentation.

## **I10 Change in Law**

- I10.1 The Supplier is neither relieved of its obligations to supply the Goods in accordance with the terms and conditions of the Contract nor entitled to an increase in the Price as the 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 Goods is reasonably foreseeable at the Commencement Date.
- I10.2 If a Specific Change in Law occurs or will occur during the Term (other than as referred to in clause I10.1(b)), the Supplier shall:
- (a) notify the Authority as soon as reasonably practicable of the likely effects of that change, including whether any:
    - (i) change is required to the Goods, the Price or the Contract; and
    - (ii) relief from compliance with the Supplier's obligations is required; and
  - (b) provide the Authority 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 Sub-Contractors; and
    - (ii) as to how the Specific Change in Law has affected the cost of providing the Goods.
- I10.3 Any variation in the Price or relief from the Supplier's obligations resulting from a Specific Change in Law (other than as referred to in clause I10.1(b)) shall be implemented in accordance with clause F4.

## **I11 Counterparts**

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

## **I12 Governing Law and Jurisdiction**

Subject to clause I1 (Dispute Resolution) the Contract, including any matters arising out of or in connection with it, are governed by and interpreted in accordance with English Law and are subject to the jurisdiction of the Courts of England and Wales. The submission to such jurisdiction does not limit the right of the Authority to take proceedings against the Supplier in any other court of competent jurisdiction, and the taking of proceedings in any other court of competent jurisdiction does not preclude the taking of proceedings in any other jurisdiction whether concurrently or not.

## SCHEDULE 1 – SPECIFICATION



Ministry of  
**JUSTICE**

### MINISTRY OF JUSTICE SPECIFICATION DOCUMENT The Supply of Textiles Raw Materials (Fabric)

#### SUMMARY

This document describes the requirement for the Supply of Textiles Raw Materials (Fabric), for use by the Ministry of Justice Public Sector covering all requirements of Prisons in England and Wales.

	Name	Signature	Date
Author	[REDACTED] (CCMD)		
Author	[REDACTED] (PI)		
Reviewer	[REDACTED] (CCMD)		
Reviewer			

#### Version Change Register

Version	Reason for Version Update	Author	Date of Issue
V1.0	First Draft	[REDACTED]	
V1.1	Updates following Market Engagement	[REDACTED]	
V1.2	Response to SG Critical Friend Review	[REDACTED]	

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## SECTION 1 INTRODUCTION

### 1.1 Introduction

- 1.1.1 This Specification document details the requirements for the supply of textiles raw materials to Prison Industries and provides information to enable bidders to submit proposals to the Ministry of Justice (the “Authority”) in compliance with the tender instructions.
- 1.1.2 This document should be read carefully alongside all the other tender documentation attached to the event on the Ministry of Justice eSourcing portal, and potential suppliers should make best use of their expertise, experience and market knowledge to submit proposals that provide the Authority with the best value solution.
- 1.1.3 Any contracts awarded as a result of this tender exercise will be for a term of 4 years.

### 1.2 Background

- 1.2.1 The Ministry of Justice (MoJ) and our Executive Agencies, which includes His Majesty’s Prison and Probation Service (HMPPS) organisation and Prison Industries (PI), referred to as the Authority, have the responsibility to provide essential employment places for prisoners and opportunities for them to gain skills, qualifications and work experience to improve their employment prospects upon release with the overall aim of reducing re-offending.
- 1.2.2 PI manage industries in 95 public sector prisons in England and Wales, and in some of the private sector prisons, and currently operate 465 workshops employing circa 1060 staff and around 15000 prisoners and detainees. Our main industries include:
- **73 Textile workshops**, employing approximately 2000 prisoners on a daily basis producing clothing and textile products for the prison population
  - **Land Based Activities**. We currently have 118 establishments where some form of **Horticultural Activity** takes place. 44 establishments have a commercial Horticultural unit, employing over 1050 offenders growing produce for use within prison kitchens
  - **25 Engineering and Windows** workshops employing over 850 prisoners, manufacturing products for the internal market, MOD and commercial companies, disciplines include: welding and fabrication, sheet metal works, CNC machining and powder coating
  - **5 plastics** workshops employing a total of 78 prisoners in 5 workshops. Each of these establishments has injection moulding facilities, operating a total of 27 machines across the workshops ranging from 40 tonnes to 850 tonnes producing a range of CES products for internal use and work for commercial customers
  - **20 print production workshops** employing approximately 362 prisoners, producing printed documents for HMPPS, The MOJ, HMCTS and other Government departments
  - **24 woodwork** workshops employing approximately 500 prisoners. We produce work for the internal market, other government departments and commercial customers; including cell furniture, packaging crates and numerous bespoke items
  - **13 Food Packing Services** workshops producing daily breakfast and beverage packs for 55,000 prisoners
  - **33 Industrial laundries** employing approximately 800 prisoners. A number of the larger sites also undertake work for the commercial sector
  - Prison Industries continue to support **other Government Departments** by using offender labour to manufacture over £3million pounds worth of goods annually.
- 1.2.3 The industrial workshops provide products for the internal market and contribute to the prison estate’s quality of care to the prison population and their families. Prison Service workshops



supply around £45m of products per annum. PI Textiles Sector currently has a turnover of around £10 per annum.

- 1.2.4 This Specification relates to the supply and delivery of Textiles Raw Materials being provided via a contract, between the Supplier(s) and the Ministry of Justice for a period of 4 years. The information contained within this document forms the basis of the criteria against which Supplier performance will be measured.

### **1.3 Overview of Requirements**

- 1.3.1 Wherever any British Standard is referred to in this document, equivalent or International Standards may be submitted.

- 1.3.2 The requirement will be delivered through award of 3 contracts, one for each of the following Lots:

#### **Lot 1 – Woven Fabric**

This covers the supply of a variety of woven fabrics used to manufacture clothing, bedding and various bags. Examples include sheets, trousers, laundry bags and curtains, with an estimated annual requirement of 1,600,000 metres.

#### **Lot 2 – Knitted Fabric**

This covers the supply of knitted fabric used to manufacture clothing such as t-shirts and sweatshirts, with an estimated annual requirement of 800,000 metres.

#### **Lot 3 – Hessian, Twine and Polypropylene**

This covers the supply of materials used to manufacture sandbags, with an estimated annual requirement of 800,000 metres of hessian, 15,000 kg twine and 60,000 metres of polypropylene.

- 1.3.3 Each Lot is described further in Section 2 and Appendix B of this Specification, providing composition, construction, performance standards and product sizes.
- 1.3.4 Suppliers must be able to supply all products for the Lot(s) they are awarded, in compliance with the technical specifications as outlined in section 2 of this Specification document.
- 1.3.5 The Supplier(s) will be required to source, stock and deliver, as requested across the prison estate, a range of raw materials as outlined in this document (refer to Section 2 for details). A list of current and planned locations for textile workshops is provided at Appendix A.
- 1.3.6 To ensure the Authority can meet its obligations, the Supplier(s) will be required to provide a flexible approach to the addition/removal of products stated within this document and any items added shall be priced in accordance with those in the original range. The Authority will where possible use reasonable endeavours to provide sufficient notice to advise supplier(s) of any product changes.
- 1.3.7 The sourcing of requirements not covered by the core list of items in the Pricing Schedules will be completed via the contracted Supplier of the relevant Lot using a Change Notice.
- 1.3.8 The Supplier(s) shall be required at all times to fulfil orders placed by the Authority within the agreed lead times contained within this document, which will form part of the Supplier's KPIs. Orders placed near the end of the term will continue until they are completed in full, even if this exceeds the contract duration.

- 1.3.9 The Supplier(s) are obligated to ensure that contingency arrangements are in place for alternative supply should the Supplier(s) find they are unable to meet the requirements of the Contract within the relevant lead times. Where a sub-contractor is used, the Supplier(s) are obliged to ensure the products meet the Authority's requirements as detailed in this document.
- 1.3.10 The Authority will provide prior notice when a product is required that isn't one of the standard products described within this document, with lead times and pricing being agreed between both parties. In the event that the Supplier is unable to supply, the Authority reserves the right to purchase goods from an alternative Supplier.
- 1.3.11 The Supplier(s) shall utilise their specialist knowledge of developments and innovation in the market to help the Authority to identify areas for cashable cost savings and offer improvements or alternative products which may enhance performance, improve delivery or offer other financial savings.
- 1.3.12 The Supplier(s) shall provide a telephone and email customer contact point during office hours (between 8.30am and 5.00pm, Monday to Friday excluding bank holidays) to allow the Authority to access general enquiries and product information, expedite orders, report discrepancies, arrange collections and raise complaints. This service will form part of the contract and will be provided at no extra cost to the Authority.
- 1.3.13 The MoJ and PI workshops operate in an environment of continuous improvement. To this end, the Supplier(s) should also:
- Work strategically and collaboratively with all stakeholders and their supply chain to assist in achieving an ongoing increase in performance and targets; and
  - Work innovatively in collaboration with all stakeholders and their supply chain in order to identify areas for improvement in the supply of raw textile materials outlined in this specification.

## 1.4 Value and Volumes

- 1.4.1 Historical spend on like for like material and services is provided below. This is an indication of the potential spend; however, the Authority provides no guarantee of volumes, monetary commitment, or future requirements whatsoever. All quantities provided within this document are based on historical usage figures over the last four years and are provided for illustration purposes only. Volume and therefore spend are affected by demand for the goods that are required operationally for the various stakeholders. The Authority will work with the winning Supplier(s) to try to produce forecasts of workshops and estimate future material requirements as and when this information is available.

	2018/19	2019/20	2020/21	2021/22	2022/23
Lot 1 – Woven Fabric	£4,472,652	£3,489,280	£1,162,608	£3,239,681	£1,802,714
Lot 2 – Knitted Fabric	£1,379,968	£1,182,560	£774,680	£2,771,043	£1,347,314
Lot 3 – Hessian, Twine & Polypropylene	£99,660	£125,221	£66,400	£51,984	£405,330
Total Spend	£5,952,280	£4,797,061	£2,003,688	£6,062,708	£3,555,358

## SECTION 2 DETAILED REQUIREMENTS – LOT SPECIFIC INFORMATION

This requirement relates to the supply of Raw Textile Materials to the HM Prison workshops against each of the following Lots:

### 2.3 Lot 3: Hessian and Twine

The Supplier shall provide materials in a variety of compositions, constructions, sizes and quantities to be delivered to all textile workshops across the prison estate. Products supplied must conform to the following standards or equivalent (additional detailed specifications for each item are included in Appendix B):

- Hessian and Twine: (EU)1007/2011, ~~BS2087-2 or ICP-MS~~
- Hessian: BS ISO 7211-5, BS 2862, BS EN ISO 13934-1
- Hessian and Polypropylene: ISO 7211-1 / BS 2861, BS EN 12127, BS EN 1773 or BS ISO 22198, BS EN ISO 13015
- Polypropylene: BS 1049-2

Item	DESCRIPTION	Colour	Weight	Width
T35601010R	Rot-proof treated jute-hessian	Natural	245g/m <sup>2</sup>	86cm
T356011100	Rot-proof treated jute hessian twine	Natural		Pre-cut at 175cm
T25601000	Polypropylene woven, tubular	Olive Drab	70g/m <sup>2</sup>	36cm (+/- 1cm)

## SECTION 3 CONTRACT SPECIFIC REQUIREMENTS

### 3.1 Product samples and testing

- 3.1.1 Potential Suppliers are asked to supply, as part of their tender submission, one 5m sample of each product from the Lot(s) they are bidding for. Full instructions for submitting samples are detailed in the Instructions for Bidders document.
- 3.1.2 Where a product specification is governed by the Personal Protective Equipment (PPE) Directive (89/686/EEC), the successful Supplier(s) shall provide to the Authority all the official documentation and technical file(s) required for UKCA mark certification.
- 3.1.3 Most of the items in Lots 1 and 2 are subject to industrial washing and drying processes. The wash temperature will be 70°C and the tumble-drying temperature in excess of 100°C.
- 3.1.4 During contract mobilisation, the Supplier(s) shall work with Prison Industries to improve on any test failures to ensure products achieve the required standard prior to production. All products will be expected to meet all specified standards (including colour fastness) by the contract commencement date of 5<sup>th</sup> November 2024.
- 3.1.5 Part of contract mobilisation shall include PI's approval of the final sealed sample of each product prior to production. At this stage samples must be provided to the correct colour shade. The sealed sample will become the 'Contract Seal'.
- 3.1.6 The Contract Seal shall include the following information:
- Technical specifications for each product stating the construction specification, performance standards, testing and packaging details.
  - Sealed sample conforming to the standards agreed in the technical specification. The sealed sample shall be in A3 size with a header on the short side. The header shall include the following details:

Fabric Specification
Product Number
General Description
Finish
Composition %
Construction per inch BS/EN 13934-1:2013 (warp)
Construction per inch BS/EN 13934-1:2013 (weft)
Yarn Count BS ISO 7211/5:1984
Fabric Weight (grams per square metre)
Fabric Width

- 3.1.7 The Authority will require three sets of the Contract Seal. One set will be signed and approved by PI and sent back to the successful Supplier(s). One set will be held by PI and one set will be held at the Authority's National Distribution Centre (NDC) at Branston, Burton-on-Trent, Staffordshire.
- 3.1.8 All tests highlighted in the technical specifications shall be undertaken by a certified independent laboratory, nominated by the Authority, evidencing that the sealed sample conforms to the standards agreed in the technical specification.
- 3.1.9 In accordance with the contract terms, all attributes of the Contract Seal shall be vested in the Authority. For the avoidance of doubt, the successful Supplier(s) shall not offer any technical specifications, sealed sample or test reports to any other party without the prior written consent of the Authority (which shall not be unreasonably withheld).
- 3.1.10 For any change to the Contract Seal, the updated information in 3.1.6 must be provided and the sample approved by the Authority. All changes are to be approved by the Authority and Supplier through a Change Notice.

## **3.2 Ordering, Shipping and Storage**

- 3.2.1 The Authority currently places bulk orders for textile fabrics monthly, which are then shipped to the Supplier's warehouse for storage. The Authority requires the Supplier(s) to store around 5 months' worth of stock, although this may vary by individual product and with any fluctuations in lead-time. Based on current demand forecasts, the required storage is:

Lot 1 – Woven Fabric	600 Pillar Pallets
Lot 2 – Knitted Fabric	500 Pillar Pallets
Lot 3 – Hessian, Twine & Polypropylene	600 Pillar Pallets

- 3.2.2 Purchase Orders will be placed centrally by the Prison Industries team and sent to the Supplier electronically to the e-mail address specified by the Supplier. Suppliers are requested to confirm receipt of the order to the named contact on the PO within 48hrs. The delivery lead-time for these orders is 19 weeks from receipt of order.
- 3.2.3 The Supplier shall provide the Authority with shipping documents and delivery schedules for each delivery to be made into the Supplier's warehouse.

The delivery schedule shall contain as appropriate:

- Master Bill of Landing Number
- House Bill of Landing Number
- Container Number
- Vessel Name
- FCL Size
- Number of boxes/rolls/bales
- Purchase Order Numbers
- Estimated Date of Departure
- Estimated Date of Arrival in to UK
- Point of Delivery (port)
- Customs Cleared Date
- Delivery Date into Supplier's warehouse
- Amount of VAT paid

3.2.4 The shipping documents required (if applicable) are:

- Copy of the master bill of lading
- Packing List
- Certificates of Compliance

3.2.5 The packing list should contain the following information:

- Provider name
- ~~C/S number~~
- Item description
- Authority's item reference ("T number")
- Purchase order number
- Roll/Pack number
- Indication that there are joins in the roll
- Quantity in kilograms, metres or pairs – ordered and actual
- Roll weight
- Cubic metres

3.2.6 The shipping documents and packing list must be sent to the Authority's named contacts within a week of the shipment leaving its country of origin.

3.2.7 Individual prison establishments will then place call-off orders for direct delivery to establishments through the use of the Supplier's established online ordering portal. The delivery lead-time for these orders is 5 working days from receipt of order. Further details of delivery sites and gate restrictions are provided in Appendix C.

3.2.8 The price per metre of each item, as detailed in the pricing schedule, will be inclusive of shipping, storage and delivery charges. No additional costs will be paid by the Authority for delivery or handling.

3.2.9 The Supplier(s) will be required to provide, at no additional cost to the Authority, an online ordering portal to enable prison establishments to place call-off orders from the Authority's goods stored in the Supplier's warehouse. As part of the contract mobilisation, the Supplier(s) will need to work with the Authority to enable access through the Authority's IT system.

3.2.10 Each item listed on the portal will require a photograph, description, cost and roll quantity per pillar pallet. The cost is for information only for the prison establishments – there will be no financial transactions as a result of orders placed through the portal as the fabric has already been purchased by the Authority.

3.2.11 Each prison will require a maximum of 2 people to be able to access the portal. Authorisation for any changes, including adding or removing users will be provided by Prison Industries.

3.2.12 User access will need to be restricted so that users can only view and order the fabrics required for the particular items they are manufacturing. Details of what fabrics each user may order will be provided to the Supplier(s) by Prison Industries.

3.1.13 Users placing orders through the portal will receive a unique order number by email once the order is placed.

### **3.3 Packaging**

- 3.3.1 All rolls of fabric must be a standard length and each roll must not exceed 22 kilos in weight. To ensure a consistent roll length the Authority will accept rolls with up to 2 'joins'. The pieces shall be loose, not sewn together, and must be rolled with the face in the same direction as the main piece. The labels must be clearly marked to identify that the roll contains joins.
- 3.3.2 All rolls of fabric must be delivered in the roll/weight length stated in the technical specifications or as agreed by the Authority. All products have an agreed tolerance level identified within the technical specification so long as the total order quantity is met in all cases.
- 3.3.3 Each material roll shall be suitably packaged with an adhesive batch code label at either end. The packaging must be clear and of suitable strength to protect the fabric.
- 3.3.4 The cardboard tube should be of a robust construction to maintain roll integrity during handling and of minimum internal diameter 3cm to fit onto laying equipment.
- 3.3.5 The batch code label should be clearly typed and referenced. The information to be included on the batch code label is:
- Contract reference number (product family)
  - Contract reference number (SKU)
  - Product description
  - Date of manufacture (completion)
  - Supply Chain Entity Disclosure (refer D1) reference number(s) of the entities involved in the manufacture of the product delivered
  - Roll/pack number (of batch, e.g. 1 of 100) where applicable
  - Roll/pack quantity where applicable
  - Gross weight (G.W kg)
- 3.3.6 Tubular interlock material shall be folded (lapped) and packed into a pack of 14Kg (+/- 1Kg). The pack must be securely covered in clear packaging and packed tightly enough to prevent movement during transportation. The adhesive batch code label shall be affixed to the top of the pack.
- 3.3.7 There shall be no metal or plastic strapping used in the packing process. The discovery of any metal, plastic strapping or prohibited items will result in the entire consignment being returned at the Supplier's expense and will be viewed as a breach of contract. Prohibited items are listed in Appendix E – Prohibited items. This list is subject to change.

### **3.4 Delivery to Prison Establishments**

- 3.4.1 All delivery costs are to be met by the Supplier and should be reflected in their pricing proposal. No separate delivery charges will be paid. Historic delivery volumes for illustrative purposes can be found in Appendix F.
- 3.4.2 All fabric is required to be delivered using the Authority's pillar pallets, which will be supplied by the Authority. Goods are delivered into prison on these pallets and finished goods are delivered out to the Authority's National Distribution Centre in Branston, Burton-on-Trent. Empty pillar pallets must be collected from NDC Branston.
- 3.4.3 All pillar pallets are barcoded and the Supplier(s) will be expected to use this system to ensure the Authority is able to track pallet locations.

- 3.4.4 Pillar pallet dimensions in mm are 1418(w) x 1027(d) x 1244(h). They can be collapsed and stacked, with typically the two short sides collapsed to account for the width of fabric rolls. All parts of the pallets must be provided when delivering goods into prison establishments.
- 3.4.5 Due to the nature of the environment in which the Authority operates the Supplier will need to be prepared to arrange delivery around operational constraints. These include but are not limited to:
- Security checks on vehicles and personnel coming in and out of all sites
  - Physical size of gates (Appendix C provides indicative information, although this should not be relied upon)
  - Staff constraints on time slots for delivery and limited access to all sites
- 3.4.6 Delivery arrangements should be agreed with individual establishments prior to delivery of an order.
- 3.4.7 Suppliers should be aware that due to the strict operational restrictions involved in the prison environment, it is imperative that all deliveries are made within the timeslots that have been agreed. Deliveries shall not, except by prior arrangement, be accepted by the Authority outside of these timeslots. If the Authority rejects any deliveries, or where urgent operational circumstances require non-acceptance of deliveries, the Supplier shall be informed by the Authority of a suitable time for the goods to be delivered.
- 3.4.8 The Supplier shall contact the delivery site at least 24 hours prior to the day of delivery to confirm the estimated time of arrival of the delivery vehicle. No additional charges shall be applied for re-delivery where the original delivery was made outside of the agreed timeslot.
- 3.4.9 The Authority expects the Supplier to be aware of and to comply with any reasonable requests made by the Authority and to comply with any aspects of the conditions of contract that mention security procedures – for further details please refer to the Driver's Handbook in Appendix E.
- 3.4.10 The Supplier will ensure that all personnel entering any of the Authority's sites will carry official photographic forms of identification as detailed in the Driver's Handbook (Appendix E).
- 3.4.11 The Supplier shall comply with the requirements relating to the restriction of items allowed to be brought into a site. Appendix F provides details of the full list of restricted items.
- 3.4.12 The Authority shall state on any Purchase Order when the delivery is required; however, the Supplier guarantees that goods can be delivered within the lead-times identified within this document.
- 3.4.13 The Authority may add delivery locations as required throughout the life of this contract, e.g. other establishments in England and Wales. There may be a requirement to provide Goods to such locations and where this is a requirement, these shall be delivered within the term of this contract. Notification of any such sites shall be communicated to the Supplier. There will be no additional delivery costs to these establishments.
- 3.4.14 Each delivery consignment shall contain a delivery note and shall be attached to the order. This shall contain relevant information to identify and audit the relevant delivery. As a minimum, the delivery note shall include:
- The purchasing organisation's official purchase order number
  - Delivery address
  - Account number



- Item description
- Authority's item reference ('T number')
- Roll/pack number
- Indication that there are joins in the roll
- Quantity in kilograms, metres or pairs – ordered and actual
- Roll weight
- Cubic metres
- Electronic POD's to be sent to the prison establishment and Prison Industries

### **3.5 Delivery Discrepancies**

- 3.5.1 In the event of the Authority experiencing a delivery discrepancy (i.e. full order not fulfilled), this shall be communicated from the establishment to Prison Industries, via a Feedback Form and Prison Industries will communicate the issue to the Supplier. The Supplier shall investigate the matter and re-supply the goods. The Supplier shall be liable for the cost of collection and re-delivery for discrepancies.
- 3.5.2 The Authority does accept that due to the nature of the product, there may be slight differences in the lengths ordered and the lengths delivered. There is a defined tolerance of 2 metres and orders within this tolerance level will be deemed complete.
- 3.5.3 Where the Supplier claims that delivery has taken place, the Authority shall require a legible proof of delivery to ascertain a delivery has been made in the event of a dispute.
- 3.5.4 Where the Supplier and Authority are in dispute, this shall be escalated to the Authority category manager for discussion with the Supplier's contract manager.

### **3.6 Substitute Items**

- 3.6.1 Substitute items shall not be despatched without the expressed permission of the Prison Industries Textiles Team placing the order via written authorised concession.
- 3.6.2 In the event of a concession being authorised and the product code, line description or price is different, the Supplier shall advise the local business unit to cancel the order and re-submit the purchase order under the correct description, code and price to facilitate electronic invoice matching.
- 3.6.3 Any concessional items must, without exception, comply with the minimum item specification or standards set out in this document.

### **3.7 Sub-contracting**

- 3.7.1 The use of any sub-contractor for the provision of materials and services (including transport) must be approved in writing by the Authority before the Supplier(s) make any formal agreement or arrangement to use that sub-contractor or invite any sub-contractor's personnel to the site.
- 3.7.2 The Authority must not be disadvantaged by any changes; however, approval shall not be unreasonably withheld by the Authority. The Supplier should have a clear process for the changes in their supply chain or sub-contractors.
- 3.7.3 Where the use of a sub-contractor has been approved by the Authority, the Supplier(s) shall remain wholly responsible for the conduct and performance of that sub-contractor whilst he is involved in the provision of services on the Supplier's behalf. This includes ensuring the sub-

contractor complies with the specification and has all appropriate certificates, qualifications, accreditations and expertise to fulfil orders to the Authority.

- 3.7.4 The Supplier(s) shall remain responsible for ensuring that any sub-contractor is aware of, and understands, the security restrictions as detailed in this document.

### **3.8 Quality**

- 3.8.1 The Contract Seal, as specified in Section 3.1, shall be administered by the Authority to control the consistency of products supplied against the agreed specification. Regardless of the approved entity used, to ensure that each batch of production is manufactured according to the Contract Seal, the successful Supplier(s) shall provide a Certificate of Conformity (COC) for each batch of that product.

- 3.8.2 The Supplier shall provide a COC for each dye batch for each product supplied, where applicable, in an electronic format, prior to dispatch. The COC shall contain the following information:

- COC unique number;
- Contract reference number (SKU);
- Purchase order number;
- Date of manufacture;
- Supply Chain Entities Disclosure reference number(s) of the entities involved in the manufacture of the product delivered;
- Volume of the dye batch;
- A statement confirming the batch's compliance with the Contract Seal;
- Final QA reports appended by relevant lab testing reports.
- Packing list to include length and width of each roll.

- 3.8.3 An electronic COC is to be sent for each order and dye batch to include order quantity, weight, width, delta readings (if required), and any identified faults within the fabric. A5 sized samples are to be approved and held by the Supplier for each dye batch. Any identified variations from the sealed sample are to be approved by the Authority and the Contract Seal will be updated.

- 3.8.4 Notification of any change to the specification must be made pre-production and approved by PI prior to bulk production. If approval is granted by PI the contract will be varied accordingly. The COC for the subsequent production batch shall therefore comply with the updated version of the Contract Seal.

- 3.8.5 It is the responsibility of the successful Supplier(s) to control the consistency of product supplied against the Contract Seal.

- 3.8.6 For all materials, together with the first shipment of each production batch from the final point of consolidation to the Authority, the Supplier(s) shall provide, as part of the Certificate of Conformity, an inspection report according to the Supplier's sampling procedures for inspection by attributes compliant to:

- ASTM D5430 4-point system or equivalent for raw material or product included in all Lots.
- BS6001/ISO2859 or equivalent (for example MIL-STD-105E) for all materials. Successful Provider(s) shall apply the General Inspection (Level II) and the following acceptable quality Levels:
  - Critical 1.0 (e.g. Metal detection. For parameters, refer 'Contract Seal');
  - Major 4.0 (For parameters refer 'Contract Seal');
  - Minor 6.5 (For parameters refer 'Contract Seal').

- 3.8.7 For Lots 1 & 2 where there are minor product faults found on any roll/pack these faults are to be clearly marked with a red tab affixed to the selvedge. The area affected by the minor fault shall be replaced and added to the end of that roll/pack. The exceptions to this rule are products that are woven and must be supplied according to the product's fixed length. A minor fault on any fixed length shall require replacement of a whole fixed length added to the end of that roll.
- 3.8.8 The Certificate of Conformity submitted by the Supplier(s) shall provide the relevant Supply Chain Entity Disclosure reference number(s) of the entities involved in the manufacture for each product. The successful Supplier(s) will carry out their own audits into the quality assurance (QA) procedures applied by each entity to ensure that there is transparency of QA procedures applied throughout the supply chain. Details of the QA procedure followed by each entity, and the status of the previous QA procedure audit (by the successful Supplier(s)) shall be logged on the Supply Chain Entity Disclosure Form (refer to section 10). All QA audit reports shall be made available to the Authority within two working days from request.
- 3.8.9 The Authority will perform random inspections against the agreed specifications upon receipt of all goods into establishments and will submit samples to a UK test house for independent testing. Tests for fire retardancy will be conducted twice a year for all fire-retardant products. For all other products, samples will be selected at random for testing to ensure compliance with the Specification.
- 3.8.10 Additional pre-production inspections of all textiles will be undertaken at each of the PI Textile workshops. At any point prior to use, if any deviation to the agreed specification is found, the Authority reserves the right to rely on the Supplier to bear the cost of remedy. Any costs incurred by the Supplier in complying with the quality standards required by the Authority shall be borne by the Supplier.
- 3.8.11 Where certification is required (e.g. fire-retardant material), this certification shall be accurate and reliable. The Supplier will be required to supply compliant test reports to the Authority for all fire-retardant fabrics twice per year.
- 3.8.12 Potential Suppliers should have the in-depth knowledge and expertise in the Lot(s) that they are bidding for to offer the Authority technical help, support and advice on materials/products and their suitability.

### **3.9 Quality Management**

- 3.9.1 The Supplier shall maintain a full quality management system which shall conform to BS EN ISO 9001 and its families or equivalent. As and when reasonably required, the Authority shall be entitled to request batch samples for independent testing, and to conduct independent audits of the management system.
- 3.9.2 Quality systems shall be managed by a suitably qualified person who shall ensure the execution of approved procedures including full compliance with relevant industry standards. The Supplier shall exercise due diligence in the appointment, and subsequent management of their Suppliers, ensuring at all times that the quality and integrity of products are consistent with the Authority's requirements and performance standards, as set out in the Contract.
- 3.9.3 As part of the quality control systems, the Supplier shall ensure comprehensive product quality inspection regimes are in place throughout the product supply chain, including final inspection within its premises prior to delivery to the Authority.

- 3.9.4 The Supplier shall establish and maintain systems, procedures, and processes within its supply chain to provide full product traceability, and in the event of product failure or defect, the Supplier shall ensure there is a comprehensive product recall procedure. Details of these shall be submitted to the Authority.
- 3.9.5 The Supplier shall continually validate and improve the effectiveness of its quality assurance and management systems in line with the best industry practice.
- 3.9.6 The Authority will require access to the Supplier's warehouse to carry out Quality Audits of the Authority's stored goods.
- 3.9.7 The Supplier may be requested to visit a prison workshop should a quality issue arise.

### **3.10 Feedback and Complaints**

- 3.10.1 The Authority uses an internal feedback form process. All feedback forms will be processed through Prison Industries and require a response from the Supplier and agreed resolution within 10 working days of the Supplier receiving the feedback form.
- 3.10.2 Suppliers are required to have a documented complaints procedure in place for the duration of the Contract. This must include escalation points where it is not possible to resolve complaints within an initial period. As a minimum, all complaints should be acknowledged within 24hrs of receipt (excluding bank holidays and weekends).

### **3.11 Supply chain**

- 3.11.1 Potential Suppliers should have the ability to source globally and/or find alternative sources where necessary in order to obtain the best value for money at any given time.
- 3.11.2 The Supply Chain Entities Disclosure (SCED) form is a live document updated periodically throughout the life of the contract and as such the successful provider must review the document and submit an up-to-date version to the Authority at 12 monthly intervals. Any new supply chain entities involved in the performance of this contract must be updated on the Supply Chain Entities Disclosure form.
- 3.11.3 The purpose of the SCED form is to provide transparency throughout the life of the contract. It is therefore essential that the Supplier does not remove any entities from their supply chain. If an entity no longer features in the supply chain then the Supplier should stipulate 'INACTIVE' along with the date that they became inactive in the category field of the form.
- 3.11.4 All entities on the Supply Chain Entity Disclosure form will be assigned a number as soon as they are added to the form, this number will remain consistent throughout the life of the contract.

It is important that this number is not changed as the number assigned on the Supply Chain Entities Disclosure will form part of the batch reference number and referred to in each production batch certificate of conformity (COC).

- 3.11.5 In addition to the 12 monthly updates, any ad hoc changes to the supply chain made between the bi-annual review periods must be recorded on the SCED form as soon as the Authority has approved the change. Once updated the document shall be submitted to the Authority. For avoidance of doubt, no change can be made to the SCED form without prior approval by the Authority.

3.11.6 The process for managing changes to the supply chain is set out below. The process will ensure transparency of the supply chain and include steps to manage the risk of changing the entity. The Authority must not be disadvantaged by any changes.

- The Supplier will notify the Authority of the desire to change/add an entity to the supply chain
- The Supplier will provide reasons for making the change (e.g. audit failure, capacity management, cost, quality)
- The Supplier will give details of the proposed entity, outline the benefits of the change and evidence that the proposed entity complies with the requirements of the contract
- If there is a financial implication resulting from the change, the provider shall use the agreed pricing mechanism to provide a revised breakdown of the cost.
- If the change is approved by the Authority, the Supplier shall update the SCED form and submit it to the Authority, provide copies of the audit reports and certification as stipulated in sections 11 and 12, and provide an updated Contract Seal.

### **3.12 Compliant Invoice Submission**

3.12.1 Suppliers shall submit all invoices to the address stated on the Purchase Order.

3.12.2 All invoices are subject to a three-way matching process (Purchase Order, Receipt and Invoice) prior to payment being made to the contractor. The MoJ operates a 'no PO no pay' policy. The Supplier shall not accept telephone orders from the Authority without a valid PO. The Supplier shall ensure that there is no discrepancy between the invoice lines, quantity and price from the original purchase order. Failure to submit a compliant invoice will result in the payment going on hold and payment may be delayed.

3.12.3 Invoices must be compliant with the following:

- Must be received at the correct billing address
- Must quote a valid Purchase Order Number (clearly printed on the PO)
- Must be to a total agreed sum
- Shall not be sent to the delivery address or with delivery note
- Must list product lines broken down by product code
- Must give quantity purchased, and individual prices in addition to a line total Back Order Notification.

## SECTION 4 KEY PERFORMANCE INDICATORS

- 4.1 The Supplier shall seek to achieve 100% compliance with the Authority's required KPIs.
- 4.2 Performance against the KPI's shall be monitored on a quarterly basis following full implementation of the Contract. This shall form part of the overall monitoring and management of the Contract.
- 4.3 The Supplier shall submit a quarterly report to the Authority. The report shall detail performance against each of the KPIs and include for other management information as identified in paragraph 4.6.
- 4.4 Where a Supplier fails to meet the KPI targets for two consecutive reporting periods, the Authority shall have the right to implement a Performance Improvement Plan. Where the Supplier performance fails to improve, the Authority shall have the right to seek termination of the contract as described in the Termination Clauses in the Terms of Conditions of the Contract.
- 4.5 KPIs – each Lot is measured independently against the following KPIs

	Indicator	Measurement	Reporting Frequency	Target
1	Product Quality	Number of items delivered free of damage/quality issues divided by total number of items delivered	Quarterly	98%
2	Order Fill Rate	Number of orders delivered in full divided by total number of orders	Quarterly	95%
3	On Time Delivery	Number of orders delivered to warehouse within agreed lead times and/or acknowledged delivery date divided by total number of orders.	Quarterly	95%
4	Call-off Order Fulfilment	Number of call-off orders to establishments delivered in full and within 5-working day lead time	Quarterly	98%
5	Management of Complaints	Number of complaints acknowledged within 24 hours and a resolution agreed within 10 working days divided by total number of complaints	Quarterly	100%
6	Social Value – Fighting Climate Change	Annual change in emissions of greenhouse gases arising from the performance of this contract, measured in metric tonnes carbon dioxide equivalent (MTCDE)	Annually	<0 MTCDE

### 4.6 Management Information

Suppliers are required to provide management information on a quarterly basis to support the reporting of KPIs. Suppliers must be capable of providing a breakdown of all orders including but not limited to:

- cost centre
- contact name
- delivery location

- item description
- cost
- order date
- delivery date
- purchase order number
- invoice number
- payment date

The report should also include as a minimum, but not be limited to:

- spend to date together with volume per product line
- details of any returns or product recalls
- details of complaints
- product non-availability and any substitute items
- any outstanding invoices

The Supplier shall on a quarterly basis submit details of the relevant trade indices, tracking prices for the preceding quarter along with a tracker for the whole contract period.

The format, method of supply and submission deadlines will be agreed between the Authority and Supplier during the mobilisation period.

In addition, Suppliers will be required to provide the following information to PI:

<b>Report</b>	<b>Frequency</b>
Order status report containing item number, description, order quantity, PO number, date order received, contract delivery date, status, container number, ETA for delivery, date delivered	Weekly (Monday)
Stock report containing item number, description, current stock, stock out and stock in	Weekly (Monday)
Outstanding delivery report (portal orders) containing order number, item number, description, order quantity, prison establishment and due date	Weekly (Monday)
Portal report (in Excel) containing item number, description, number of rolls delivered, price including VAT, order number, delivered to and dispatch date	Monthly (by 26 <sup>th</sup> )

## **SECTION 5            CONTRACT MANAGEMENT**

- 5.1     The Authority will appoint a contract manager and deputy to be the main contact for the Supplier and responsible for managing the overall contract performance.
- 5.2     The Supplier shall nominate a contract manager and deputy who shall be a single point of contact and take overall responsibility for the contract. Suppliers shall provide a telephone and e-mail address for both contract manager and their deputy as contact point during office hours (8.30am-5.00pm, Monday – Friday excluding bank holidays).
- 5.3     In the event the Supplier's contract manager or deputy needs to be changed, a written explanation providing reasons and the replacement's contact details shall be submitted to the Authority.
- 5.4     The Supplier's contract manager, and, or deputy shall meet with the Authority contract manager over the term of the Contract. Meeting Schedules and locations will be agreed at the mobilisation meeting, however, anticipated to be on a quarterly basis as a minimum and face to face wherever possible. No additional charges or costs for attendance of these meetings will be passed onto the Authority or any Stakeholders.
- 5.5     Meetings may be required more regularly if any issues or failures occur during the contract.
- 5.6     If for whatever reason, the Supplier's contract manager identifies any potential problem in meeting the requirements of the contract, this should be brought to the Authority's attention without delay.
- 5.7     Agendas for meetings will be defined in greater detail throughout the life of the contract but as a minimum will consist of the following:
- Review of previous period's performance
  - Detailed review against KPIs
  - Risks, issues and actions
  - Specific delivery and/or quality issues if relevant
  - Forward plan
  - Continuous Improvement
  - Quality management, internal audit and sub-contractor audits
  - Annual business review (Annually)
- 5.8     A mobilisation meeting with the Supplier's contract manager, Prison Industries, the Authority's contract manager and CCMD will be required prior to the commencement of the contract. This should take place within 2 weeks of contract award, and as a minimum the agenda will consist of the following:
- Introductions
  - Roles & Responsibilities
  - Working with the MoJ
  - Sustained Supply & Contingency Plans
  - Risk and Issues
  - Ongoing Contract Management including provision of Management Information
- 5.9     In addition to the quarterly contract review meetings, PI will meet monthly with the Supplier to manage BAU processes, including demand forecasting and order tracking.



## 5.10 Payment Model

5.10.1 The Supplier will be paid according to the pricing schedule provided. Prices must not exceed those provided as part of their tender but may reflect volume discounts etc.

5.10.2 All prices must include any shipping, storage and delivery costs. These costs will not be paid separately. Suppliers are asked to provide a breakdown of prices in the pricing schedule provided. This should as a minimum include:

- Raw Material Costs
- Manufacturing Costs
- Shipping Costs
- Storage Costs
- Distribution/Delivery Costs (to be a flat rate, irrespective of delivery distance)
- Margin

5.10.3 Following the award of contract, prices will be firm for the first six (6) months following the contract commencement date after which either the Supplier or Authority may request a price review.

5.10.4 In the event of an unforeseen shipping crisis causing a temporary increase in shipping prices, this can be managed by way of an additional temporary shipping surcharge rather than a complete price review of all products.

5.10.5 Either the Supplier or Authority may request a price review once every six (6) months to take account of any changes in market conditions. Any changes shall be considered through the change control process outlined in the terms and conditions. No changes shall be applied until a contract variation form is signed by both parties and received by the Authority.

5.10.6 Any change in the Contract Price will be subject to the Supplier providing documented evidence of unavoidable changes in costs in the supply chain, and in consideration of relevant trade indices. This evidence shall include a detailed breakdown of costings in line with the price breakdown provided in the pricing schedule.

For example:

	Current price breakdown	Current Price		New Price	New price breakdown
Manufacturing/Raw Materials Cost	85%	£85	10% increase in manufacturing costs (£8.50)	£93.50	85.4%
Distribution/Delivery Cost	5%	£5		£5	4.6%
Margin	10%	£10		£10.94	10%
Total Price	100%	£100		£109.44	100%
Overall price change from £100 to £109.44 = 9.44% increase (accepted as it's 5%+)					

	Current price breakdown	Current Price		New Price	New price breakdown
Manufacturing/Raw Materials Cost	85%	£85	5% increase in Delivery Cost (£0.25)	£85	84.77%
Distribution/Delivery Cost	5%	£5		£5.25	5.23%

Margin	10%	£10		£10.03	10%
Total Price	100%	£100		£100.28	100%
Overall price change from £100 to £100.28 = 0.28% increase (rejected as less than 5%)					

5.10.7 At each review point, where prices have fluctuated by less than 5% from the current contract prices, they will remain unchanged until the next six-monthly review.

5.10.8 Where prices have fluctuated by 5% or more above or below the current contract prices, this must have been sustained for a continuous period of at least 30 days before any change to the contracted prices will be considered by the Authority.

## **SECTION 6            GENERAL REQUIREMENTS**

### **6.1        Social and Environmental Requirements**

- 6.1.1    The government's 25 Year Environment Plan sets out goals for improving the environment within a generation and details how it will work with communities and businesses to do this. The Authority is obliged to deliver social value through commercial activity and endeavours to achieve wider, positive, environmental benefits through the delivery of this contract.
- 6.1.2    The Authority is obliged to ensure that goods and services purchased are manufactured, delivered, used and managed at the end of life in an environmentally and socially responsible manner. Suppliers will be expected to help enable the Authority to meet this obligation by considering how additional environmental benefits can be delivered in the performance of the contract, including the reduction of waste, water and working towards net zero greenhouse gas emissions.
- 6.1.3    The supplier must consider the impact of transport on the environment throughout the delivery of this contract and endeavour to reduce this impact. Examples of this include but are not limited to; UK manufacturing, avoiding unnecessary journeys, adopting zero or ultra-low emission modes of transport and having the capability to monitor and report on fuel/energy used, mileage and resulting emissions.
- 6.1.4    All goods supplied must be packaged securely to prevent damage in transit and must conform to the Packaging Directive (EU) 94/62 EC; however, packaging should be kept to a minimum and where possible, any cardboard packaging shall consist of ≥80% recycled material.
- 6.1.5    Due to the nature of commodities and raw materials, supply chains are becoming increasingly more global. It is therefore necessary to ensure transparency in supply chains to assess the risks of infringements relating to basic employment and human rights of people employed in them. When procuring raw materials, it is also necessary to ensure there is minimal impact on the environment from the extraction, processing and manufacture of these products, and to assess the security of supply and scarcity of the raw materials.
- 6.1.6    Suppliers must provide an annual report to the Authority detailing the Supplier's reduction in emissions of greenhouse gases arising from the performance of the contract, measured in metric tonnes carbon dioxide equivalents (MTCDE).
- 6.1.7    In order to support the rehabilitation of offenders and reduce the likelihood of reoffending, the government wishes to see more prisoners working, where work can be recognised as productive and is delivered in an 'employment like' atmosphere. This gives prisoners the opportunity to learn new skills and prepare for employment on release. Suppliers are encouraged to consider offering employment and training opportunities to ex-offenders where possible. Further information about how New Futures Network can help with this can be found at Home - New Futures Network.

### **6.2        Contingency Planning & Disaster Recovery**

- 6.2.1    Following the start of the Contract, each party shall comply with its obligations for the timely provision of orders and delivery of raw metal materials. If, for any reason, the Supplier is unable to comply with its obligations, the Supplier shall contact the Authority's Contract Manager to discuss and agree such action as required.
- 6.2.2    The Supplier shall have a fully detailed contingency plan and disaster recovery plan that is capable of full implementation from the Contract start date. The plan must ensure continuity

of supply to the Authority. The Supplier's contingency plan for all products and assurance of supply shall cover but not be limited to;

- Supply chain and, or sub-contractor failure or disruption
- Failure of distribution network
- Loss of key staff
- IT failure
- Fire or Flood; Loss of operational estate
- Pandemic

6.2.3 The Supplier will have documented details of the process and personnel responsible for the monitoring and implementing contingency arrangements and how the implementation of the arrangements will be communicated to the Authority.

6.2.4 On an annual basis the Supplier is required to re-submit their Contingency and Disaster Recovery plan. Suppliers are to advise the Authority of any changes made to the Contingency and Disaster Recovery plan.

### **6.3 Flexibility, Innovation and Continuous Improvement**

6.3.1 Flexibility is required from the Supplier throughout the Contract, with an ability to respond to changing requirements. The Supplier shall work strategically with the Authority to meet the objectives of the contract and assist in achieving ongoing increased performance against any set targets.

6.3.2 The Supplier will be required to develop and continuously improve goods, supply, processes and procedures, working proactively to reduce costs through their supply chain and manufacturing process throughout the duration of the Contract. This may include piloting of new ideas and initiatives, proposing and implementing advances in technology, and streamlining processes.

6.3.3 Proposals are to be presented with clear identified benefits and risks. Those involving a cost element are to be fully costed, with payback timescales identified, and any reductions to the fees detailed. These will be evaluated accordingly and by agreement the contract amended by means of a variation.

6.3.4 As part of the Supplier's day-to-day operations, feedback obtained from any customer surveys and quality reviews should be part of the basis for ongoing continuous improvement of the requirement.

## **APPENDIX A – FULL DETAILS OF TEXTILE WORKSHOPS**

[REDACTED]

This is not an exhaustive list; establishments may be removed or added to the PI Textiles list and other prisons may wish to order items covered in the Contract.

**End of Appendix A**

## APPENDIX B – FULL DETAILS OF PRODUCT SPECIFICATIONS

### Lot 3 Hessian, Twine & Polypropylene



HM Prison &  
Probation Service

#### DATA SHEET Hessian

Table 1: Description	
MOJ Product #	T35601010R
Construction	Rot-proof treated Jute hessian
Finish	Treated with Copper Sulphate & Ammonium Hydroxide, copper minimum 1%
Colour	Natural (green following treatment)
Product used to manufacture	Sandbags

Table 2: Construction		
Parameter	Test method	Requirement
Fibre composition	(EU)1007/2011	100% Jute
Weave	ISO 7211-1	Plain
Yarn	BS ISO 7211-5	1.9s x 2s
Threads per 10cm	BS 2862	Warp: 41      Weft: 38
Weight	BS EN 12127	245g/m <sup>2</sup>
Width	BS EN 1773 or BS ISO 22198	86cm (84cm-87cm acceptable)
Roll length	NA	100m
Skew	BS EN ISO 13015	3% max at any point across width

Table 3: Physical tests		
Parameter	Test method	Requirement
Tensile strength	BS EN ISO 13934-1	Warp: 525N min Weft 350 N min

Table 4 :		
Parameter	Test method	Requirement
Rot-proof	BS2087-2 or ICP-MS	Normal



DATA SHEET  
**Jute twine**

**Table 1: Description**

MOJ Product #	T356011100
Construction	Rot-proof treated Jute hessian
Finish	Treated with Copper Sulphate & Ammonium Hydroxide, copper minimum 1%
Size	Pre-cut at 175cm – bundles of 100 packed in bales
Colour	Natural (green following treatment)
Product used to manufacture	Sandbags ties

**Table 2: Construction**

Parameter	Test method	Requirement
Fibre composition	(EU)1007/2011	100% Jute

**Table 4 :**

Parameter	Test method	Requirement
Rot-proof	BS2087-2 or ICP-MS	Normal

Additional information

Each bale to be wrapped and weigh no more than 25kg, clearly labelled with item no. description, quantity, weight, supplier details and our PO.

Data sheets to be supplied detailing hazards associated with handling this product.



DATA SHEET  
**Polypropylene**

Table 1: Description	
MOJ Product #	T25601000
Construction	Polypropylene woven
Finish	Tubular, packed in bales – max weight 22kg
Colour	Olive Drab
Product used to manufacture	Polypropylene bags

Table 2: Construction		
Parameter	Test method	Requirement
Fibre composition		Polypropylene
Weave	ISO 7211-1	Plain
Threads per inch	BS EN 1049-2	Warp:11      Weft: 11
Weight	BS EN 12127	70 g/m <sup>2</sup>
Width	BS EN 1773 or BS ISO 22198	Tubular 36cm      +/- 1cm tolerance
Roll length		400m
Skew	BS EN ISO 13015	3% max at any point across width

**End of Appendix B**



## **APPENDIX C - HMPPS GATE RESTRICTIONS**

Suppliers will ensure that their delivery vehicles are appropriate and comply with the dimensions and restrictions detailed below. During the Contract period where sites, dimensions or restrictions change the Authority will provide updates.

The table below provides indicative information although this should not be relied upon. Delivery arrangements should be agreed with individual establishments prior to delivery of an order.

[REDACTED]

**End of Appendix C**

## **APPENDIX D – POSSESSION OF PROHIBITED ITEMS & OTHER RELATED OFFENCES**

### **1 Prohibited items**

1.1 Prohibited items are now graded according to their seriousness and perceived threat to security and safety within a prison, and are classified as List A, List B or List C items, as set out below:

- List A items – drugs, explosives, firearms or ammunition and any other offensive weapon
- List B items - are alcohol, mobile telephones, cameras, sound recording devices (or constituent part of the latter three items)
- List C items - any tobacco, money, clothing, food, drink, letters, paper, books, tools, information technology equipment\*.

\*Note that IT equipment is also subject to the provisions introduced by the Crime and Security Act and its possession within prison without appropriate authorisation is now a criminal offence.

### **2 List A and B Offences and Penalties**

2.1 A person (e.g. prisoners, staff, social and professional visitors) commits an offence if he/she carries out any of the following listed activities without obtaining prior authorisation:

- Brings throws or otherwise conveys list A or B items in or out of a prison by whatever means;
- Causes another person to do so;
- Leaves a list A or B item in any place (in or out of the prison) intending it to come into the possession of a prisoner;
- Knowing a person to be a prisoner, gives a list A or B item to him/her.

2.2 The maximum penalty on conviction for committing offences in respect of list A items is 10 years imprisonment and/or an unlimited fine.

2.3 The maximum penalty on conviction for committing offences in respect of list B items is 2 years imprisonment and/or an unlimited fine. All such offences attract a criminal record on conviction.

2.4. All such offences carry a criminal record on conviction.

### **3 List C Offences**

3.1 A person (e.g. prisoners, staff, social and professional visitors) commits an offence if he/she carries out any of the following listed activities without obtaining prior authorisation:

- brings, throws or otherwise conveys a List C item into a prison intending it to come into the possession of a prisoner;
- causes another person to bring, throw or otherwise convey a List C item into a prison intending it to come into the possession of a prisoner;
- brings, throws or otherwise conveys a List C item out of a prison on behalf of a prisoner;
- causes another person to bring, throw or otherwise convey a List C item out of a prison on behalf of a prisoner;

- leaves a List C item in any place (whether inside or outside a prison) intending it to come into the possession of a prisoner, or;
- while inside a prison, gives a List C item to a prisoner.

3.2 Offences relating to list C items are subject to a maximum penalty of a level 3 fine (currently £1000). All such offences carry a criminal record on conviction.

3.3. All such offences carry a criminal record on conviction.

## **4 Main Offences**

4.1. Section 40D of the Prison Act provides offences of - without authorisation:

- Taking a photograph or making a sound recording within a prison;
- Transmitting any image or sound or information electronically from within a prison for simultaneous reception outside a prison;
- Conveying a “restricted document” (see definition below) out of a prison.

4.2. Restricted documents are defined in the Prison Act as including:

- Photographs or sound recordings taken/made inside the prison;
- Personal records of prisoner (serving or past);
- Information relating to an identified or identifiable individual (including families of prisoners or staff) if the disclosure of that information might prejudicially affect the interests of that individual;
- Information relating to any matter connected with the prison if the disclosure of that information might prejudicially affect the security or operation of the prison.

## **5 Possession of Prohibited Items**

5.1 The Crime and Security Act 2010 amends the Prison Act to make the following an offence to possess within a prison without authorisation:

- A device capable of transmitting or receiving images, sounds or information by electronic communications (including a mobile telephone);
- A component part of such a device;
- An article designed or adapted for use with such a device (including any disk, film, or other separate article on which images, sounds or information may be recorded).

**End of Appendix D**

## APPENDIX E – CALL-OFF ORDERS TO PRISON ESTABLISHMENTS

### Lot 3 Hessian, Twine & Polypropylene

This table provides information on estimated volumes of hessian to be delivered to prison establishments and delivery frequencies for illustrative purposes only. Workshop locations are subject to change during the life of the contract. The Authority makes no guarantee of order frequencies and volumes; however, where possible orders will be consolidated in order to minimise the number of deliveries required.

Establishment	Container on site	Rolls on Pallet	Rolls required per month	Deliveries required per month
Belmarsh	No	12	60	1
Berwyn	No	12	100	2
Frankland	No	12	90	1
Lindholme Workshop 1	Yes	12	90	1
Lindholme Workshop 2	Yes	12	30	1
Ranby	Yes	12	80	1
Risley	No	12	50	1
Winchester	No	12	50	1
Whatton	Yes	12	60	1
Wealstun	Yes	12	80	1
Whatton (Polypropylene)	Yes	10	14	1

**End of Appendix E**

## **APPENDIX F – TRANSPORT MANAGERS AND DRIVERS' HANDBOOK**

[REDACTED]

**End of Appendix F**

## Prisons map



## Public Sector Prisons North

### Cumbria & Lancashire

NFN Employment Broker:

Prison Group Director:

HMP Haverigg  
HMP Kirkham  
HMP Lancaster Farms  
HMP & YOI Preston  
HMP & YOI Wymott

### East Midlands

NFN Employment Broker:

Prison Group Director:

HMP Leicester  
HMP/YOI Lincoln  
HMP North Sea Camp  
HMP Onley  
HMP Whatton

### Yorkshire

NFN Employment Broker:

Prison Group Director:

HMP/YOI Hatfield  
HMP/YOI Hull  
HMP Humber  
HMP Leeds  
HMP Lindholme  
HMP/YOI Moorland  
HMP Weastun

### Greater Manchester, Merseyside & Cheshire

NFN Employment Broker:

Prison Group Director:

HMP Buckley Hall  
HMP/YOI Hindley  
HMP Liverpool  
HMP Risley  
HMP/YOI Thorn Cross

### West Midlands

NFN Employment Broker:

Prison Group Director:

HMP Birmingham  
HMP/YOI Brinsford  
HMP Featherstone  
HMP Hewell  
HMP Stafford  
HMP/YOI Stoke Heath  
HMP/YOI Swinfen Hall

### Tees & Wear

NFN Employment Broker:

Prison Group Director:

HMP/YOI Deerbolt  
HMP Durham  
HMP Holme House  
HMP Kirklevington Grange

### North Midlands

NFN Employment Broker:

Prison Group Director:

HMP/YOI Nottingham  
HMP Ranby  
HMP Stocken  
HMP & YOI Sudbury

### Women

NFN Employment Broker:

Prison Group Director:

HMP/YOI Drake Hall  
HMP/YOI Downview &  
HMP/YOI East Sutton Park  
HMP/YOI Eastwood Park  
HMP/YOI Foston Hall  
HMP/YOI Low Newton  
HMP/YOI Send  
HMP/YOI Styall  
HMP/YOI New Hall &  
HMP/YOI Askham Grange

### Wales

NFN Employment Broker:

Executive Director:

### South Wales

Prison Group Director:

HMP/YOI Cardiff  
HMP/YOI Swansea  
HMP Usk &  
HMP/YOI Prescoed

### North Wales

HMP Berwyn Governor:

### Contracted:

HMP/YOI Parc (YP)

### London

NFN Employment Broker:

Prison Group Director:

HMP Brixton  
HMP & YOI High Down  
HMP/YOI Isis  
HMP/YOI Pentonville  
HMP Wandsworth  
HMP/YOI Wormwood Scrubs

### Kent, Surrey & Sussex

NFN Employment Broker:

Prison Group Director:

HMP Coldingley  
HMP/YOI Elmley  
HMP Ford  
HMP Lewes  
HMP/YOI Rochester  
HMP Standford Hill

### Contracted

Head of Custodial

Contracts:

HMP/YOI Altcourse  
HMP Ashfield  
HMP/YOI Bronzefield (F)  
HMP/YOI Doncaster  
HMP Dovegate  
HMP/YOI Forest Bank  
HMP Lowdham Grange  
HMP Northumberland  
HMP Oakwood  
HMP/YOI Peterborough (M/F)  
HMP Rye Hill  
HMP Thameside

### Long Term/ High Security

NFN Employment Broker:

Prison Group Director:

HMP/YOI Aylesbury  
HMP/YOI Belmarsh  
HMP Frankland  
HMP Full Sutton  
HMP Garth  
HMP Gartree  
HMP Isle of Wight  
HMP Long Lartin  
HMP/YOI Manchester  
HMP Swaleside  
HMP Wakefield  
HMP Whitmoor  
HMP/YOI Woodhill

## Public Sector Prisons South

### Avon & South Dorset

NFN Employment Broker:

Prison Group Director:

HMP Bristol  
HMP Leyhill  
HMP/YOI Portland  
HMP The Verne

### Bedfordshire, Cambridgeshire & Norfolk

NFN Employment Broker:

Prison Group Director:

HMP & YOI Bedford  
HMP Bure  
HMP Huntercombe  
HMP Littlehey  
HMP & YOI Norwich  
HMP Wayland

### Devon & North Dorset

NFN Employment Broker:

Prison Group Director:

HMP Channings Wood  
HMP Dartmoor  
HMP/YOI Exeter  
HMP Guys Marsh

### South Central

NFN Employment Broker:

Prison Group Director:

HMP/YOI Bullingdon  
HMP Erlestoke  
HMP Grendon/Springhill  
HMP Winchester

### Hertfordshire, Essex & Suffolk Group

NFN Employment Broker:

Prison Group Director:

HMP Chelmsford  
HMP Highpoint  
HMP & YOI Hollesley Bay  
HMP The Mount  
HMP & YOI Warren Hill

## **SCHEDULE 2 – PRICES and INVOICING**

### **Part 1**

#### **Charges**

- 1.1 The Contract Price shall remain fixed for the first six months from (and including) the Commencement Date, following which it will then be subject to 6-monthly price reviews. Where prices have fluctuated by less than 5% from the current contract prices, they will remain unchanged until the next 6-monthly review.
- 1.2 Any change in the Contract Price will be subject to the Supplier providing documented evidence of price movement and where applicable, evidence of any commodity movements.
- 1.3 Where a price change has been agreed it will remain fixed for the next 6 months. Any price increase will come into effect 30 days after both party's agreement.
- 1.4 The Authority reserves the right to benchmark against comparable competitors/ markets and request reasonable price adjustments at any time should the Contract be deemed as not offering best value for money.
- 1.5 These arrangements shall apply throughout the term of the contract.



## Supplier's Pricing

[REDACTED]

## SCHEDULE 3 - CHANGE CONTROL

### Change Request Form

(For completion by the Party requesting the Change)

<b>Contract Title:</b>	<b>Party requesting Change:</b>
<b>Name of Supplier:</b>	
<b>Change Request Number:</b>	<b>Proposed Change implementation date:</b>
<b>Full description of requested Change (including proposed changes to wording of the Contract where possible):</b>	
<b>Reasons for requested Change:</b>	
<b>Effect of requested Change</b>	
<b>Assumptions, dependencies, risks and mitigation (if any):</b>	
<b>Change Request Form prepared by (name):</b>	
<b>Signature:</b>	
<b>Date of Change Request:</b>	

## Contract Change Notice (“CCN”)

(For completion by the Authority once the Change has been agreed in principle by both Parties. Changes do not become effective until this form has been signed by both Parties.)

<b>Contract Title:</b>		<b>Change requested by:</b>	
<b>Name of Supplier:</b>			
<b>Change Number:</b>			
<b>Date on which Change takes effect:</b>			
<b>Contract between:</b>  The [Secretary of State for Justice]/[The Lord Chancellor] <b>[delete as applicable]</b>  and  <b>[insert name of Supplier]</b>			
<b>It is agreed that the Contract is amended, in accordance with Regulation 72 of the Public Contracts Regulations 2015, as follows:</b>  <b>[Insert details of the variation (including any change to the Price and deliverables/obligations) based on the information provided in the Change Request Form and any subsequent discussions/negotiations, cross referencing the wording of the original Contract, as previously changed (if applicable), where possible]</b>  <b>Where significant changes have been made to the Contract, information previously published on Contracts Finder will be updated.</b>			
Words and expressions in this CCN shall have the meanings given to them in the Contract. The Contract, including any previous CCNs, shall remain effective and unaltered except as amended by this CCN			
<b>Signed for and on behalf of [the Secretary of State for Justice]/[the Lord Chancellor]</b>		<b>Signed for and on behalf of [insert name of Supplier]</b>	
<b>Signature</b>		<b>Signature</b>	
<b>Name</b>		<b>Name</b>	
<b>Title</b>		<b>Title</b>	
<b>Date</b>		<b>Date</b>	

## SCHEDULE 4 - COMMERCIALLY SENSITIVE INFORMATION

- 1 Without prejudice to the Authority's general obligation of confidentiality, the Parties acknowledge that the Authority may have to disclose Information in or relating to the Contract following a Request for Information pursuant to clause D4 (Freedom of Information).
- 2 In this Schedule 4 the Parties have sought to identify the Supplier's Confidential Information that is genuinely commercially sensitive and the disclosure of which would be contrary to the public interest.
- 3 Where possible the Parties have sought to identify when any relevant Information will cease to fall into the category of Information to which this Schedule 4 applies.
- 4 Without prejudice to the Authority's obligation to disclose Information in accordance with the FOIA and the EIR, the Authority will, acting reasonably but in its sole discretion, seek to apply the commercial interests exemption set out in s.43 of the FOIA to the Information listed below.

SUPPLIER'S COMMERCIALLY SENSITIVE INFORMATION	DATE	DURATION OF CONFIDENTIALITY

## SCHEDULE 5 - SUPPLIER AND THIRD PARTY SOFTWARE

**Supplier Software comprises the following:**

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

**Third Party Software comprises the following:**

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

## **SCHEDULE 6 – INFORMATION SECURITY & ASSURANCE (NOT USED)**

1.1 This Schedule 6 sets out:

- (a) the arrangements the Supplier must implement before, and comply with when, providing the Services and performing its other obligations under the Contract to ensure the security of the Authority Data and the Information Management System;
- (b) the Certification Requirements applicable to the Supplier and each of those Sub-contractors which Processes Authority Data;
- (c) the security requirements in annex 1, with which the Supplier must comply;
- (d) the tests which the Supplier shall conduct on the Information Management System during the Term; and
- (e) the Supplier's obligations to:
  - (i) return or destroy Authority Data on the expiry or earlier termination of the Contract; and
  - (ii) prevent the introduction of Malicious Software into the Supplier System and to scan for, contain the spread of, and minimise the impact of Malicious Software which is introduced into the Supplier System in paragraph 9; and
  - (iii) report Breaches of Security to the Authority.

## **2 Principles of Security**

2.1 The Supplier acknowledges that the Authority places great emphasis on the confidentiality, integrity and availability of the Authority Data and, consequently on the security of:

- (a) the Premises;
- (b) the ICT Environment;
- (c) the Information Management System; and
- (d) the Services.

2.2 Notwithstanding the involvement of the Authority in assessing the arrangements which the Supplier implements to ensure the security of the Authority Data and the Information Management System, the Supplier is and remains responsible for:

- (a) the security, confidentiality, integrity and availability of the Authority Data whilst that Authority Data is under the control of the Supplier or any of its Sub-Contractors; and

- (b) the security of the Information Management System.

2.3 The Supplier shall:

- (a) comply with the security requirements in annex 1; and
- (b) ensure that each Sub-Contractor that Processes Authority Data complies with the Sub-Contractor Security Requirements.

2.4 The Supplier shall provide the Authority with access to Staff responsible for information assurance to facilitate the Authority's assessment of the Supplier's compliance with its obligations set out in this Schedule 6 at reasonable times on reasonable notice.

**3 Information Security Approval Statement**

3.1 The Supplier shall ensure that its Implementation Plan sets out in sufficient detail how it will ensure compliance with the requirements of this Schedule 6, including any requirements imposed on Sub-Contractors by annex 2, from the Commencement Date.

3.2 The Supplier may not use the Information Management System to Process Authority Data unless and until:

- (a) the Supplier has procured the conduct of an IT Health Check of the Supplier System by a CHECK Service Provider or a CREST Service Provider in accordance with paragraph 7.1; and
- (b) the Authority has issued the Supplier with an Information Security Approval Statement in accordance with the process set out in this paragraph 3.

3.3 The Supplier shall document in the Security Management Plan how the Supplier and its Sub-Contractors shall comply with the requirements set out in this Schedule and the Contract in order to ensure the security of the Authority Data and the Information Management System.

3.4 The Supplier shall prepare and submit to the Authority within 20 Working Days of the Commencement Date, the Security Management Plan, which comprises:

- (a) an Information Assurance Assessment;
- (b) the Required Changes Register; and
- (c) the Incident Management Process.

3.5 The Authority shall review the Supplier's proposed Security Management Plan as soon as possible and, in any event within 20 Working Days of receipt and shall either issue the Supplier with:

- (a) an Information Security Approval Statement, which shall confirm that the Supplier may use the Information Management System to Process Authority Data; or
  - (b) a rejection notice, which shall set out the Authority's reasons for rejecting the Security Management Plan.
- 3.6 If the Authority rejects the Supplier's proposed Security Management Plan, the Supplier shall take the Authority's reasons into account in the preparation of a revised Security Management Plan, which the Supplier shall submit to the Authority for review within 10 Working Days or such other timescale as agreed with the Authority.
- 3.7 The Authority may require, and the Supplier shall provide the Authority and its authorised representatives with:
  - (a) access to the Staff;
  - (b) access to the Information Management System to audit the Supplier and its Sub-contractors' compliance with the Contract; and
  - (c) such other information and/or documentation that the Authority or its authorised representatives may reasonably require,

to assist the Authority to establish whether the arrangements which the Supplier and its Sub-Contractors have implemented in order to ensure the security of the Authority Data and the Information Management System are consistent with the representations in the Security Management Plan. The Supplier shall provide the access required by the Authority in accordance with this paragraph 3 within 10 Working Days of receipt of such request, except in the case of a Breach of Security in which case the Supplier shall provide the Authority with the access that it requires within 24 hours of receipt of such request.

#### **4 Compliance Reviews**

- 4.1 The Supplier shall regularly review and update the Security Management Plan, and provide such to the Authority, at least once each year and as required by this paragraph 4.
- 4.2 The Supplier shall notify the Authority within 2 Working Days after becoming aware of:
  - (a) a significant change to the components or architecture of the Information Management System;
  - (b) a new risk to the components or architecture of the Information Management System;
  - (c) a vulnerability to the components or architecture of the Service which is classified 'Medium', 'High', 'Critical' or 'Important' in accordance with the classification methodology set out in paragraph The severity of vulnerabilities for COTS Software shall be categorised by the Supplier as 'Critical', 'Important' and 'Other' by aligning these categories to the



vulnerability scoring according to the agreed method in the Security Management Plan and using the appropriate vulnerability scoring systems including: of annex 1 to this Schedule 6;

- (d) a change in the threat profile;
- (e) a significant change to any risk component;
- (f) a significant change in the quantity of Personal Data held within the Service;
- (g) a proposal to change any of the Premises; and/or
- (h) an ISO/IEC 27001 (at least ISO/IEC 27001:2013) audit report produced in connection with the Certification Requirements indicates significant concerns.

4.3 Within 10 Working Days of notifying the Authority or such other timescale as may be agreed with the Authority, the Supplier shall make the necessary changes to the Required Changes Register and submit the updated Required Changes Register the Authority for review and approval.

4.4 Where the Supplier is required to implement a change, including any change to the Information Management System, the Supplier shall effect such change at its own cost.

## **5 Certification Requirements**

5.1 The Supplier shall be certified compliant with:

- (a) the prevailing version of ISO/IEC 27001 by a UK Accreditation Service-approved certification body or is included within the scope of an existing certification of compliance with ISO/IEC 27001 (at least ISO/IEC 27001:2013); and
- (b) Cyber Essentials PLUS

and shall provide the Authority with a copy of each such certificate of compliance before the Supplier is permitted to receive, store or Process Authority Data.

5.2 The Supplier shall ensure that each Higher Risk Sub-contractor is certified compliant with either:

- (a) the prevailing version of ISO/IEC 27001 by a UK Accreditation Service-approved certification body or is included within the scope of an existing certification of compliance with ISO/IEC 27001 (at least ISO/IEC 27001:2013); or
- (b) Cyber Essentials PLUS

and must provide the Authority with a copy of each such certificate of compliance before the Higher-Risk Sub-contractor is permitted to receive, store or Process Authority Data.

- 5.3 The Supplier shall ensure that each Medium Risk Sub-contractor is certified compliant with Cyber Essentials.
- 5.4 The Supplier shall ensure that the Supplier and each Sub-Contractor who is responsible for the secure destruction of Authority Data:
- (a) securely destroys Authority Data only at Premises which are included within the scope of an existing certification of compliance with the prevailing published ISO/IEC 27001;
  - (b) satisfies the Authority that their data destruction/deletion practices comply with UK GDPR and follows all relevant NCSC guidance; and
  - (c) maintains an asset register of all Authority supplied information, data and equipment to ensure Authority assets are returned and/or deleted.
- 5.5 The Supplier shall provide the Authority with evidence of its and Sub-Contractors' compliance with the requirements set out in this paragraph 6 before the Supplier or the relevant Sub-Contractor (as applicable) may carry out the secure destruction of any Authority Data.
- 5.6 The Supplier shall notify the Authority as soon as reasonably practicable and, in any event within 2 Working Days, if the Supplier or any Sub-Contractor ceases to be compliant with the Certification Requirements and, on request from the Authority, shall or shall procure that the relevant Sub-Contractor shall:
- (a) immediately cease using the Authority Data; and
  - (b) procure that the relevant Sub-Contractor promptly returns, destroys and/or erases the Authority Data in accordance with the requirements set out in this paragraph 5.
- 5.7 The Authority may exempt, in whole or part, the Supplier or any Sub-Contractor from the requirements of this paragraph 5. Any exemption must be in writing to be effective. The Supplier shall include the exemption in the Security Management Plan.

## **6 Security Testing**

- 6.1 The Supplier shall, at its own cost procure and conduct:
- (a) testing of the Information Management System by a CHECK Service Provider or a CREST Service Provider ("**IT Health Check**") and
  - (b) such other security tests as may be required by the Authority.
- 6.2 The Supplier shall:
- (a) complete all of the above security tests before:

- (i) the Supplier submits the Security Management Plan to the Authority for review in accordance with paragraph 3; and
  - (ii) before the Supplier is given permission by the Authority to Process or manage any Authority Data
- (b) repeat the IT Health Check not less than once every 12 Months during the Term and submit the results of each such test to the Authority for review in accordance with this paragraph 6.

6.3 In relation to each IT Health Check, the Supplier shall:

- (a) agree with the Authority the aim and scope of the IT Health Check;
- (b) promptly, and no later than 10 Working Days, following the receipt of each IT Health Check report, provide the Authority with a copy of the full report;
- (c) if the IT Health Check report identifies any vulnerabilities, the Supplier shall:
  - (i) prepare a remedial plan for approval by the Authority (each a "**Remediation Plan**") which sets out in respect of each vulnerability identified in the IT Health Check report:
    - (A) how the vulnerability will be remedied;
    - (B) unless otherwise agreed in writing between the Parties, the date by which the vulnerability will be remedied, which must be:
      - (1) within 3 Months of the date the Supplier received the IT Health Check report in the case of any vulnerability categorised with a severity of "medium";
      - (2) within one Month of the date the Supplier received the IT Health Check report in the case of any vulnerability categorised with a severity of "high"; and
      - (3) within 7 Working Days of the date the Supplier received the IT Health Check report in the case of any vulnerability categorised with a severity of "critical";
    - (C) the tests which the Supplier shall perform or procure to be performed (which may, at the discretion of the Authority, include a further IT Health Check) to confirm that the vulnerability has been remedied;
  - (ii) comply with the Remediation Plan; and

- (iii) conduct such further tests on the Service as are required by the Remediation Plan to confirm that the Remediation Plan has been complied with.

6.4 The Supplier shall ensure that any testing which could adversely affect the Supplier System shall be designed and implemented by the Supplier so as to minimise the impact on the delivery of the Services and the date, timing, content and conduct of such tests shall be agreed in advance with the Authority.

6.5 If any testing conducted by or on behalf of the Supplier identifies a new risk, new threat, vulnerability or exploitation technique that has the potential to affect the security of the Information Management System, the Supplier shall, within 2 Working Days of becoming aware of such risk, threat, vulnerability or exploitation technique, provide the Authority with a copy of the test report and:

- (a) propose interim mitigation measures to vulnerabilities in the Information Management System known to be exploitable where a security patch is not immediately available; and
- (b) where and to the extent applicable, remove or disable any extraneous interfaces, services or capabilities that are not needed for the provision of the Services (in order to reduce the attack surface of the Supplier System) within the timescales set out in the test report or such other timescales as may be agreed with the Authority.

6.6 The Supplier shall conduct such further tests of the Supplier System as may be required by the Authority from time to time to demonstrate compliance with its obligations set out this Schedule 6 and the Contract.

6.7 The Supplier shall notify the Authority immediately if it fails to, or believes that it will not, mitigate the vulnerability within the timescales set out in paragraph 6.3.

## **7 Security Monitoring and Reporting**

7.1 The Supplier shall:

- (a) monitor the delivery of assurance activities;
- (b) maintain and update the Security Management Plan in accordance with paragraph 4;
- (c) agree a document which presents the residual security risks to inform the Authority's decision to Approve the Supplier to Process and transit the Authority Data;
- (d) monitor security risk impacting upon the operation of the Service;
- (e) report Breaches of Security in accordance with the approved Incident Management Process; and

- (f) agree with the Authority the frequency and nature of the security reports to be prepared and submitted by the Supplier to the Authority within 20 Working Days of the Commencement Date.

## **8 Malicious Software**

- 8.1 The Supplier shall install and maintain Anti-Malicious Software or procure that Anti-Malicious Software is installed and maintained on any part of the Information Management System which may Process Authority Data and ensure that such Anti-Malicious Software is configured to perform automatic software and definition updates as well as regular scans of the Information Management System to check for, prevent the introduction of Malicious Software or where Malicious Software has been introduced into the Information Management System, to identify, contain the spread of, and minimise the impact of Malicious Software.
- 8.2 If Malicious Software is found, the Parties shall cooperate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of Authority Data, assist each other to mitigate any Losses and to restore the Services to their desired operating efficiency.
- 8.3 Any cost arising out of the actions of the Parties taken in compliance with paragraph 8.2 shall be borne by the Parties as follows:
  - (a) by the Supplier where the Malicious Software originates from:
    - (i) the Supplier Software;
    - (ii) the Third Party Software supplied by the Supplier; or
    - (iii) the Authority Data whilst the Authority Data is or was under the control of the Supplier
  - (i) unless, in the case of the Authority Data only, the Supplier can demonstrate that such Malicious Software was present in the Authority Data and not quarantined or otherwise identified by the Authority when the Authority provided the Authority Data to the Supplier; and
  - (b) by the Authority, in any other circumstance.

## **9 Breach of Security**

- 9.1 If either Party becomes aware of a Breach of Security it must notify the other in accordance with the Incident Management Process.
- 9.2 The Incident Management Process must, as a minimum, require the Supplier to do the following when it becomes aware of a Breach of Security or attempted Breach of Security:
  - (a) immediately take all reasonable steps necessary to:

- (i) minimise the extent of actual or potential harm caused by such Breach of Security;
  - (ii) remedy such Breach of Security to the extent possible;
  - (iii) apply a tested mitigation against any such Breach of Security; and
  - (iv) prevent a further Breach of Security in the future which exploits the same root cause failure;
- (b) as soon as reasonably practicable and, in any event, within 2 Working Days, following the Breach of Security or attempted Breach of Security, provide to the Authority full details of the Breach of Security or attempted Breach of Security, including a root cause analysis where required by the Authority.

If any action is taken in response to a Breach of Security or attempted Breach of Security as a result of non-compliance by the Supplier, its Sub-contractors and/or all or any part of the Information Management System with the Contract, then such remedial action must be completed at no additional cost to the Authority.

## ANNEX 1: SECURITY REQUIREMENTS

### 1 Security Classification of Information

- 1.1 If the provision of the Services requires the Supplier to Process Authority Data which is classified as:
- (a) OFFICIAL-SENSITIVE, the Supplier shall implement such additional measures as agreed with the Authority from time to time in order to ensure that such information is safeguarded in accordance with the applicable Standards; and/or
  - (b) SECRET or TOP SECRET, the Supplier shall only do so where it has notified the Authority prior to receipt of such Authority Data and the Supplier shall implement additional measures as agreed with the Authority from time to time in order to ensure that such information is safeguarded in accordance with the applicable Standards.

### 2 End User Devices

- 2.1 The Supplier shall manage, and shall ensure that all Sub-Contractors manage, all end-user devices used by the Supplier on which Authority Data is Processed in accordance the following requirements:
- (a) the operating system and any applications that Process or have access to Authority Data must be in current support by the vendor, or the relevant community in the case of Open Source operating systems or applications;
  - (b) users must authenticate before gaining access;
  - (c) all Authority Data is encrypted using an encryption tool agreed by the Authority;
  - (d) the end-user device must lock and require any user to re-authenticate after a period of time that is proportionate to the risk environment, during which the end-user device is inactive;
  - (e) the end-user device must be managed in a way that allows for the application of technical policies and controls over applications that have access to Authority Data;
  - (f) the Supplier or Sub-Contractor, as applicable, can, without physical access to the end-user device, remove or make inaccessible all Authority Data on the device and prevent any user or group of users from accessing the device;

- (g) all end-user devices are within in the scope of any current Cyber Essentials Plus certificate held by the Supplier, or any prevailing ISO/IEC 27001 certification issued by a UKAS-approved certification body, where the scope of that certification includes the Services.
- 2.2 The Supplier shall comply, and ensure that all Sub-Contractors comply, with the recommendations in NCSC Device Guidance and prevailing Authority Technical Security Guidance, as updated, amended or replaced from time to time, as if those recommendations were incorporated as specific obligations under the Contract.
- 2.3 Where there any conflict between the requirements of this **Error! Reference source not found.** and the requirements of the NCSC Device Guidance and/or the Authority's Technical Security Guidance, the requirements of this Schedule 6 takes precedence.

### 3 Encryption

- 3.1 The Supplier shall ensure, and shall ensure that all Sub-contractors ensure, that Authority Data is encrypted:
  - (a) when stored at any time when no operation is being performed on it; and
  - (b) when transmitted.
- 3.2 Where the Supplier, or a Sub-Contractor, cannot encrypt Authority Data the Supplier shall:
  - (a) immediately inform the Authority of the subset or subsets of Authority Data it cannot encrypt and the circumstances in which and the reasons why it cannot do so;
  - (b) provide details of the protective measures the Supplier or Sub-Contractor (as applicable) proposes to take to provide equivalent protection to the Authority as encryption; and
  - (c) provide the Authority with such information relating to the Authority Data concerned, the reasons why that Authority Data cannot be encrypted and the proposed protective measures as the Authority may require.
- 3.3 The Authority, the Supplier and, where the Authority requires, any relevant Sub-Contractor shall meet to agree appropriate protective measures for the unencrypted Authority Data.
- 3.4 Where the Authority and Supplier reach agreement, the Supplier must update the Security Management Plan to include:
  - (a) the subset or subsets of Authority Data not encrypted and the circumstances in which that will occur; and
  - (b) the protective measure that the Supplier and/or Sub-contractor will put in place in respect of the unencrypted Authority Data.



- 3.5 Where the Authority and Supplier do not reach agreement within 40 Working Days of the date on which the Supplier first notified the Authority that it could not encrypt certain Authority Data, either Party may refer the matter to be determined in accordance with the dispute resolution procedure set out in clause I1.

#### **4 Personnel Security**

- 4.1 All Staff are subject to a pre-employment check before they may participate in the provision and or management of the Services which must include all pre-employment checks which are required by the BPSS including: verification of the individual's identity; verification of the individual's nationality and immigration status; verification of the individual's employment history; and verification of the individual's criminal record.
- 4.2 The Parties shall review the roles and responsibilities of the Staff who will be involved in the management and/or provision of the Services in order to enable the Authority to determine which roles require additional vetting and a specific national security vetting clearance (for example a Counter Terrorist Check). Roles which are likely to require additional vetting and a specific national security vetting clearance include system administrators whose role would provide those individuals with privileged access to systems which Process Authority Data or data which, if it were Authority Data, would be classified as OFFICIAL-SENSITIVE.
- 4.3 The Supplier shall not allow Staff who fail the security checks required by paragraphs 4.1 and 4.2 to be involved in the management and/or provision of the Services except where the Authority has expressly agreed in writing to the involvement of the named individual in the management and/or provision of the Services. The Supplier shall provide an up to date list of all Staff and their associated security clearance checks each month, including all Sub-contractor personnel and the personnel of any sub-contractor of a Sub-contractor who in each case are involved in the management and/or provision of the Services.
- 4.4 The Supplier shall ensure that Staff are granted such access to Authority Data only as is necessary to enable the Staff to perform their role and to fulfil their responsibilities.
- 4.5 The Supplier shall ensure that Staff who no longer require access to the Authority Data (for example, they cease to be employed by the Supplier or any of its Sub-contractors), have their rights to access the Authority Data revoked within one Working Day.
- 4.6 The Supplier shall ensure that Staff who have access to the Premises, the ICT Environment or the Authority Data receive regular training on security awareness that reflects the degree of access those individuals have to the Premises, the ICT Environment or the Authority Data.
- 4.7 The Supplier shall ensure that the training provided to Staff under paragraph 4.6 includes training on the identification and reporting fraudulent communications intended to induce individuals to disclose Personal Data or any other information that could be used, including in combination with other Personal Data or information, or with other techniques, to facilitate unauthorised access to the Premises, the ICT Environment or the Authority Data ("phishing").

#### **5 Identity, Authentication and Access Control**

- 5.1 The Supplier shall operate an access control regime to ensure:
- (a) all users and administrators of the Supplier System are uniquely identified and authenticated when accessing or administering the Services; and
  - (b) all persons who access the Premises are identified and authenticated before they are allowed access to the Premises.
- 5.2 The Supplier shall apply the 'principle of least privilege' when allowing persons access to the Supplier System and Premises so that such persons are allowed access only to those parts of the Premises and the Supplier System they require.
- 5.3 The Supplier shall retain records of access to the Premises and to the Supplier System and shall make such record available to the Authority on request.

## **6 Data Destruction or Deletion**

- 6.1 The Supplier shall:
- (a) prior to securely sanitising any Authority Data or when requested the Supplier shall provide the Authority with all Authority Data in an agreed open format;
  - (b) have documented processes to ensure the availability of Authority Data if the Supplier ceases trading;
  - (c) securely erase in a manner agreed with the Authority any or all Authority Data held by the Supplier when requested to do so by the Authority;
  - (d) securely destroy in a manner agreed with the Authority all media that has held Authority Data at the end of life of that media in accordance with any specific requirements in the Contract and, in the absence of any such requirements, as agreed by the Authority; and
  - (e) implement processes which address the NCSC guidance on secure sanitisation.

## **7 Audit and Protective Monitoring**

- 7.1 The Supplier shall collect audit records which relate to security events in the Information Management System or that would support the analysis of potential and actual compromises. In order to facilitate effective monitoring and forensic readiness such Supplier audit records should (as a minimum) include regular reports and alerts setting out details of access by users of the Information Management System, to enable the identification of (without limitation) changing access trends, any unusual patterns of usage and/or accounts accessing higher than average amounts of Authority Data.
- 7.2 The Parties shall work together to establish any additional audit and monitoring requirements for the Information Management System.

- 7.3 The Supplier shall discuss with the Authority the retention periods for audit records and event logs which, when agreed with the Authority, shall be documented in the Security Management Plan.

## **8 Location of Authority Data**

- 8.1 The Supplier shall not and shall procure that none of its Sub-Contractors Process Authority Data outside the UK without Approval.

## **9 Vulnerabilities and Corrective Action**

- 9.1 The Parties acknowledge that from time to time vulnerabilities in the Information Management System may be discovered which, unless mitigated, will present an unacceptable risk to the Authority Data.
- 9.2 The severity of vulnerabilities for COTS Software shall be categorised by the Supplier as 'Critical', 'Important' and 'Other' by aligning these categories to the vulnerability scoring according to the agreed method in the Security Management Plan and using the appropriate vulnerability scoring systems including:
- (a) the 'National Vulnerability Database' 'Vulnerability Severity Ratings': 'High', 'Medium' and 'Low' respectively (these in turn are aligned to CVSS scores as set out by NIST at <http://nvd.nist.gov/cvss.cfm>); and
  - (b) Microsoft's 'Security Bulletin Severity Rating System' ratings 'Critical', 'Important', and the two remaining levels ('Moderate' and 'Low') respectively.
- 9.3 Subject to paragraph 9.4, the Supplier shall procure the application of security patches to vulnerabilities in the Information Management System within:
- (a) 7 days after the public release of patches for those vulnerabilities categorised as 'Critical';
  - (b) 30 days after the public release of patches for those vulnerabilities categorised as 'Important'; and
  - (c) 30 days after the public release of patches for those vulnerabilities categorised as 'Other'.
- 9.4 The timescales for applying patches to vulnerabilities in the Information Management System set out in paragraph 9.3 shall be extended where:
- (a) the Supplier can demonstrate that a vulnerability in the Information Management System is not exploitable within the context of the Services (for example, because it resides in a Software component which is not involved in running in the Services) provided such vulnerabilities shall be remedied by the Supplier within the timescales set out in paragraph 9.3 if the vulnerability becomes exploitable within the context of the Services;

- (b) the application of a 'Critical' or 'Important' security patch adversely affects the Supplier's ability to deliver the Services in which case the Supplier shall be granted an extension to such timescales of 5 days, provided the Supplier had followed and continues to follow the security patch test plan agreed with the Authority; or
- (c) the Authority agrees a different maximum period after a case-by-case consultation with the Supplier under the processes defined in the Security Management Plan.

9.5 The Security Management Plan shall include provisions for major version upgrades of all COTS Software to be kept up to date such that all COTS Software are always in mainstream support throughout the Term unless otherwise agreed by the Authority in writing. All COTS Software should be no more than N-1 versions behind the latest software release.

## **10 Secure Architecture**

10.1 The Supplier shall design the Information Management System in accordance with:

- (a) the NCSC "Security Design Principles for Digital Services", a copy of which can be found at: <https://www.ncsc.gov.uk/guidance/security-design-principles-digital-services-main>;
- (b) the NCSC "Bulk Data Principles", a copy of which can be found at <https://www.ncsc.gov.uk/guidance/protecting-bulk-personal-data-main>; and
- (c) the NSCS "Cloud Security Principles", a copy of which can be found at: <https://www.ncsc.gov.uk/guidance/implementing-cloud-security-principles> and which are summarised below:
  - (i) "Cloud Security Principle 1: data in transit protection" which, amongst other matters, requires that user data transiting networks should be adequately protected against tampering and eavesdropping;
  - (ii) "Cloud Security Principle 2: asset protection and resilience" which, amongst other matters, requires that user data, and the assets storing or processing it, should be protected against physical tampering, loss, damage or seizure;
  - (iii) "Cloud Security Principle 3: separation between users" which, amongst other matters, requires that a malicious or compromised user of the service should not be able to affect the service or data of another;
  - (iv) "Cloud Security Principle 4: governance framework" which, amongst other matters, requires that the Supplier should have a security governance framework which coordinates and directs its management of the Services and information within it;

- (v) "Cloud Security Principle 5: operational security" which, amongst other matters, requires that the Services need to be operated and managed securely in order to impede, detect or prevent a Breach of Security;
- (vi) "Cloud Security Principle 6: personnel security" which, amongst other matters, requires that where Supplier Personnel have access to Authority Data and/or the Authority System that those personnel be subject to appropriate security screening and regular security training;
- (vii) "Cloud Security Principle 7: secure development" which, amongst other matters, requires that the Services be designed and developed to identify and mitigate threats to their security;
- (viii) "Cloud Security Principle 8: supply chain security" which, amongst other matters, requires the Supplier to ensure that appropriate security controls are in place with its Sub-contractors and other suppliers;
- (ix) "Cloud Security Principle 9: secure user management" which, amongst other matters, requires the Supplier to make the tools available for the Authority to securely manage the Authority's use of the Service;
- (x) "Cloud Security Principle 10: identity and authentication" which, amongst other matters, requires the Supplier to implement appropriate controls in order to ensure that access to Service interfaces is constrained to authenticated and authorised individuals;
- (xi) "Cloud Security Principle 11: external interface protection" which, amongst other matters, requires that all external or less trusted interfaces with the Services should be identified and appropriately defended;
- (xii) "Cloud Security Principle 12: secure service administration" which, amongst other matters, requires that any ICT system which is used for administration of a cloud service will have highly privileged access to that service;
- (xiii) "Cloud Security Principle 13: audit information for users" which, amongst other matters, requires the Supplier to be able to provide the Authority with the audit records it needs to monitor access to the Service and the Authority Data held by the Supplier and/or its Sub-contractors; and
- (xiv) "Cloud Security Principle 14: secure use of the service" which, amongst other matters, requires the Supplier to educate Supplier Personnel on the safe and secure use of the Information Management System.

(d) the Authority's Technical Security Guidance

## **ANNEX 2: SECURITY REQUIREMENTS FOR SUB-CONTRACTORS**

### **1 Application of Annex**

- 1.1 This annex 2 applies to all Sub-Contractors which Process Authority Data.
- 1.2 The Supplier shall:
  - (a) ensure that those Sub-Contractors comply with the provisions of this annex 2; and
  - (b) keep sufficient records to demonstrate that compliance to the Authority.

### **2 Designing and managing secure solutions**

- 2.1 The Sub-Contractor shall implement its solution to mitigate the security risks in accordance with the NCSC's Cyber Security Design Principles <https://www.ncsc.gov.uk/collection/cyber-security-design-principles>.
- 2.2 The Sub-Contractor shall assess its systems against the NCSC Cloud Security Principles:

*<https://www.ncsc.gov.uk/collection/cloud-security?curPage=/collection/cloud-security/implementing-the-cloud-security-principles>*

at its own cost to demonstrate that the people, process, technical and physical controls have been delivered in an effective way. The Sub-Contractor shall document that assessment and make that documentation available to the Authority on the Authority's request.

### **3 Data Processing, Storage, Management and Destruction**

- 3.1 The Sub-Contractor shall not Process any Authority Data outside the UK. The Authority may allow the Sub-Contractor to Process Authority Data outside the UK and may impose conditions on that permission, with which the Sub-Contractor shall comply. Any permission must be in writing to be effective.
- 3.2 The Sub-Contractor shall, when requested to do so by the Authority:
  - (a) securely destroy Authority Data only on Premises which are included within the scope of an existing certification of compliance with ISO/IEC 27001 or later (at least ISO/IEC 27001:2013);
  - (b) satisfy the Authority that its data destruction/deletion practices comply with UK GDPR requirements and follows all relevant NCSC guidance; and
  - (c) maintain an asset register of all Authority supplied information, data and equipment to ensure Authority assets are returned and/or deleted.

## **4 Personnel Security**

- 4.1 The Sub-Contractor shall perform appropriate checks on their staff before they may participate in the provision and or management of the Services. Those checks must include all pre-employment checks required by the BPSS including: verification of the individual's identity; verification of the individual's nationality and immigration status; verification of the individual's employment history; and verification of the individual's criminal record.
- 4.2 The Sub-Contractor shall, if the Authority requires, at any time, ensure that one or more of the Sub-Contractor's staff obtains Security Check clearance in order to Process Authority Data containing Personal Data above certain volumes specified by the Authority, or containing Special Category Personal Data.
- 4.3 Any Sub-Contractor staff who will, when performing the Services, have access to a person under the age of 18 years must undergo Disclosure and Barring Service checks.

## **5 End User Devices**

- 5.1 The Supplier shall manage, and shall ensure that all Sub-contractors manage, all end-user devices used by the Supplier on which Authority Data is Processed in accordance with the following requirements:
  - (a) the operating system and any applications that Process or have access to Authority Data must be in current support by the vendor, or the relevant community in the case of Open Source operating systems or applications;
  - (b) users must authenticate before gaining access;
  - (c) all Authority Data must be encrypted using an encryption tool agreed to by the Authority;
  - (d) the end-user device must lock and require any user to re-authenticate after a period of time that is proportionate to the risk environment, during which the end-user device is inactive;
  - (e) the end-user device must be managed in a way that allows for the application of technical policies and controls over applications that have access to Authority Data;
  - (f) the Supplier or Sub-contractor, as applicable, can, without physical access to the end-user device, remove or make inaccessible all Authority Data on the device and prevent any user or group of users from accessing the device;
  - (g) all end-user devices are within in the scope of any current Cyber Essentials Plus certificate held by the Supplier, or any ISO/IEC 27001 or later (at least ISO/IEC 27001:2013) certification issued by a UKAS-approved certification body, where the scope of that certification includes the Services.
- 5.2 The Supplier shall comply, and ensure that all Sub-contractors comply, with the recommendations in NCSC Device Guidance and Authority Technical Security



Guidance, as updated, amended or replaced from time to time, as if those recommendations were incorporated as specific obligations under this Agreement.

- 5.3 Where there any conflict between the requirements of this **Error! Reference source not found.** and the requirements of the NCSC Device Guidance, the requirements of this Schedule 6 takes precedence.

## **6 Encryption**

- 6.1 The Supplier shall ensure, and shall ensure that all Sub-contractors ensure, that Authority Data is encrypted:

- (a) when stored at any time when no operation is being performed on it; and
- (b) when transmitted.

- 6.2 Where the Supplier or a Sub-Contractor cannot encrypt Authority Data the Supplier shall:

- (a) immediately inform the Authority of the subset or subsets of Authority Data it cannot encrypt and the circumstances in which and the reasons why it cannot do so;
- (b) provide details of the protective measures the Supplier or Sub-Contractor (as applicable) proposes to take to provide equivalent protection to the Authority as encryption; and
- (c) provide the Authority with such information relating to the Authority Data concerned, the reasons why that Authority Data cannot be encrypted and the proposed protective measures as the Authority may require.

- 6.3 The Authority, the Supplier and, where the Authority requires, any relevant Sub-Contractor shall meet to agree appropriate protective measures for the unencrypted Authority Data.

- 6.4 Where the Authority and Supplier reach agreement, the Supplier shall update the Security Management Plan to include:

- (a) the subset or subsets of Authority Data not encrypted and the circumstances in which that will occur; and
- (b) the protective measure that the Supplier and/or Sub-Contractor will put in place in respect of the unencrypted Authority Data.

- 6.5 Where the Authority and Supplier do not reach agreement within 40 Working Days of the date on which the Supplier first notified the Authority that it could not encrypt certain Authority Data, either Party may refer the matter to be determined in accordance with the dispute resolution procedure set out in clause 11.

## **7 Patching and Vulnerability Scanning**

- 7.1 The Sub-Contractor shall proactively monitor supplier vulnerability websites and ensure all necessary patches and upgrades are applied to maintain security, integrity and availability in accordance with the NCSC Cloud Security Principles.

## **8 Third Party Sub-contractors**

- 8.1 The Sub-Contractor shall not transmit or disseminate the Authority Data to any other person unless Approved.
- 8.2 The Sub-Contractor shall not, when performing any part of the Services, use any software to Process the Authority Data where the licence of that software purports to grant the licensor rights to Process the Authority Data greater than those rights strictly necessary for the use of the software.

## ANNEX 3: SECURITY MANAGEMENT PLAN TEMPLATE

### Security Management Plan Template

**[Project/Service and Supplier Name]**

#### 1 Executive Summary

*<This section should contain a brief summary of the business context of the system, any key IA controls, the assurance work done, any off-shoring considerations and any significant residual risks that need acceptance.>*

#### 2 System Description

##### 2.1 Background

*< A short description of the project/product/system. Describe its purpose, functionality, aim and scope.>*

##### 2.2 Organisational Ownership/Structure

*<Who owns the system and operates the system and the organisational governance structure. This should include how any ongoing security management is integrated into the project governance e.g. how a Security Working Group reports to the project board.>*

##### 2.3 Information assets and flows

*<The information assets processed by the system which should include a simple high level diagram on one page. Data flow diagram. Include a list of the type and volumes of data that will be processed, managed and stored within the supplier system. If personal data, please include the fields used such as name, address, department DOB, NI number etc.>*

##### 2.4 System Architecture

*<A description of the physical system architecture, to include the system management. A diagram will be needed here>*

##### 2.5 Users

*<A brief description of the system users, to include HMG users as well as any service provider users and system managers. If relevant, security clearance level requirements should be included.>*

##### 2.6 Locations

*<Where the data assets are stored and managed from. If any locations hold independent security certifications (e.g. ISO27001 (at least ISO/IEC 27001:2013) these should be noted. Any off-shoring considerations should be detailed.>*

## 2.7 Test and Development Systems

*<Include information about any test and development systems, their locations and whether they contain live system data.>*

## 2.8 Key roles and responsibilities

*<A brief description of the lead security roles such as that of the SIRO, IAO, Security manager, Accreditor >*

# 3 Risk Assessment

## 3.1 Assurance Scope

*<This section describes the scope of the Assurance for the system. The scope of the assurance assessment should be clearly indicated, with components of the architecture upon which reliance is placed but assurance will not be done clearly shown e.g. a cloud hosting service. A logical diagram should be used along with a brief description of the components.>*

## 3.2 Risk appetite

*<A risk appetite should be agreed with the SRO and included here.>*

## 3.3 Business impact assessment

*< A description of the information assets and the impact of their loss or corruption (e.g. large amounts of Official Sensitive personal data the loss of which would be severely damaging to individuals, embarrassing to HMG, and make HMG liable to ICO investigations) in business terms should be included. This section should cover the impact on loss of confidentiality, integrity and availability of the assets. The format of this assessment may be dependent on the risk assessment method chosen.>*

## 3.4 Risk assessment

*<The content of this section will depend on the risk assessment methodology chosen and for **Error! Reference source not found.** should contain the output of the formal information risk assessment in a prioritised list using business language. Experts on the system and business process should have been involved in the risk assessment to ensure the formal risk methodology used has not missed out any risks. The example table below should be used as the format to identify the risks and document the controls used to mitigate those risks. >*

Risk ID	Inherent risk	Inherent risk level	Vulnerability	Controls	Residual risk level
R1	Internet attackers could hack the system.	Medium	The service systems are exposed to the internet via the web portal.	C1: Internet-facing firewalls C2: Internet-facing IP whitelist	Very low

Risk ID	Inherent risk	Inherent risk level	Vulnerability	Controls	Residual risk level
				C3: System hardening C4: Protective monitoring C5: Application access control C16: Anti-virus for incoming files C54: Files deleted when processed C59: Removal of departmental identifier	
R2	Remote attackers could intercept or disrupt information crossing the internet.	Medium	File sharing with organisations across the internet.	C9: TLS communications C10: PGP file-sharing	Very low
R3	Internal users could maliciously or accidentally alter bank details.	Medium-High	Users bank details can be altered as part of the normal business function.	C12. System administrators hold SC clearance. C13. All changes to user information are logged and audited. C14. Letters are automatically sent to users' home addresses when bank details are altered.	Low

Risk ID	Inherent risk	Inherent risk level	Vulnerability	Controls	Residual risk level
				C15. Staff awareness training	

### 3.5 Controls

*<The controls listed above to mitigate the risks identified should be detailed. There should be a description of each control, further information and configuration details where relevant, and an assessment of the implementation status of, and assurance in, the control. A sample layout is included below.>*

ID	Control title	Control description	Further information and assurance status
C1	Internet-facing firewalls	Internet-facing firewalls are in place between the internet and the system', which restrict access from the internet to the required ports only.	Assured via ITHC firewall rule check
C2	Internet-facing IP whitelist	An IP whitelist is in place for all access from the internet.	Assured via ITHC
C15	Staff awareness training	All staff must undertake annual security awareness training and this process is audited and monitored by line managers.	Assured as part of ISO/IEC 27001 (at least ISO/IEC 27001:2013) certification

### 3.6 Residual risks and actions

*<A summary of the residual risks which are likely to be above the risk appetite stated after all controls have been applied and verified should be listed with actions and timescales included.>*

## 4 In-service controls

*< This section should describe the controls relating to the information lifecycle, including development, testing, in-service, termination and on-going risk management and accreditation assurance. Details of any formal assurance requirements specified in the contract such as security CHECK testing or maintained ISO/IEC 27001 (at least ISO/IEC 27001:2013) certification should be included. This section should include at least:*

- (a) *information risk management and timescales and triggers for a review;*

- (b) contractual patching requirements and timescales for the different priorities of patch;
- (c) protective monitoring arrangements to include how anomalous behaviour is identified and acted upon as well as how logging and auditing of user activity is done;
- (d) configuration and change management;
- (e) incident management;
- (f) vulnerability management;
- (g) user access management; and
- (h) data sanitisation and disposal.>

## 5 Security Operating Procedures (SyOPs)

< If needed any SyOps requirements should be included and referenced here.>

## 6 Major Hardware and Software and end of support dates

< This should be a table which lists the end of support dates for hardware and software products and components. An example table is shown below.>

Name	Version	End of mainstream Support/Extended Support	Notes/RAG Status
Server Host	HP XXXX	Feb 2020/ March 2022	

## 7 Incident Management Process

<The suppliers' process, as agreed with the Authority/Customer, should be included here. It must as a minimum include the protocol for how and when incidents will be reported to the Authority/customer and the process that will be undertaken to mitigate the incidents and investigate the root cause.>

## 8 Security Requirements for User Organisations

<Any security requirements for connecting organisations or departments should be included or referenced here.>

## 9 Required Changes Register

<The table below shows the headings for the Required Changes Register which should be maintained and used to update the contents of this document at least annually.>

Ref	Section	Change	Agreed With	Date agreed	Documentation update	Status
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1	6.4	A new Third Authority Party supplier name XXXX will be performing the print capability.	11/11/2018	Jul-2019	Open
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**10 Sub-Contractors**

*<This should include a table which shows for each Sub-contractor their name, the function that they are performing, the data and data volume being processed, the location, and their certification status>*

**11 Annex A. ISO/IEC 27001 or later (at least ISO/IEC 27001:2013) and/or Cyber Essential Plus certificates**

*<Any certifications relied upon should have their certificates included>*

**12 Annex B. Cloud Security Principles assessment**

*<A spreadsheet may be attached>*

**13 Annex C. Protecting Bulk Data assessment if required by the Authority/Customer**

*<A spreadsheet may be attached>*

**14 Annex D. Latest ITHC report and Remediation Plan**





## SCHEDULE 7 - PRISONS

### ACCESS TO PRISONS

- 1 If Staff are required to have a pass for admission to an Authority Premises which is a prison, (a “**Prison**”) the Authority shall, subject to satisfactory completion of approval procedures, arrange for passes to be issued. Any member of the Staff who cannot produce a proper pass when required to do so by any member of the Authority’s personnel, or who contravenes any conditions on the basis of which a pass was issued, may be refused admission to a Prison or be required to leave a Prison if already there.
- 2 Staff shall promptly return any pass if at any time the Authority so requires or if the person to whom the pass was issued ceases to be involved in the supply of the Goods. The Supplier shall promptly return all passes on expiry or termination of the Contract.
- 3 Staff attending a Prison may be subject to search at any time. Strip searches shall be carried out only on the specific authority of the Authority under the same rules and conditions applying to the Authority’s personnel. The Supplier is referred to Rule 71 of Part IV of the Prison Rules 1999 as amended by the Prison (Amendment) Rules 2005 and Rule 75 of Part IV of the Young Offender Institution Rules 2000 as amended by the Young Offender Institution (Amendment) Rules 2005.
- 4 Searches shall be conducted only on the specific authority of the Authority under the same rules and conditions applying to the Authority’s personnel and/or visitors. The Supplier is referred to Section 8 of the Prison Act 1952, Rule 64 of the Prison Rules 1999 and PSI 67/2011.

### SECURITY

- 5 Whilst at Prisons Staff shall comply with all security measures implemented by the Authority in respect of staff and other persons attending Prisons. The Authority shall provide copies of its written security procedures to Staff on request. The Supplier and all Staff are prohibited from taking any photographs at Prisons unless they have Approval and the Authority’s representative is present so as to have full control over the subject matter of each photograph to be taken. No such photograph shall be published or otherwise circulated without Approval.
- 6 The Authority may search vehicles used by the Supplier or Staff at Prisons.
- 7 The Supplier and Staff shall co-operate with any investigation relating to security which is carried out by the Authority or by any person who is responsible for security matters on the Authority’s behalf, and when required by the Authority shall:
  - 7.1 take all reasonable measures to make available for interview by the Authority any Staff identified by the Authority, or a person who is responsible for security matters, for the purposes of the investigation. Staff may be accompanied by and be advised by another person whose attendance at the interview is acceptable to the Authority; and
  - 7.2 subject to any legal restriction on their disclosure, provide all documents, records or other material of any kind and in any form reasonably required by the Authority, or by a person who is responsible for security matters on the Authority’s behalf, for the purposes of investigation as long as the provision of that material does not prevent the Supplier from supplying the Goods.

The Authority may retain any such material for use in connection with the investigation and, as far as possible, may provide the Supplier with a copy of any material retained.

## **OFFENCES AND AUTHORISATION**

- 8 In supplying the Goods the Supplier shall comply with PSI 10/2012 (Conveyance and Possession of Prohibited Items and Other Related Offences) and other applicable provisions relating to security as published by the Authority from time to time.
- 9 Nothing in the Contract is deemed to provide any “authorisation” to the Supplier in respect of any provision of the Prison Act 1952, Offender Management Act 2007, Crime and Security Act 2010, Serious Crime Act 2015 or other relevant legislation.

## SCHEDULE 8 – STATUTORY OBLIGATIONS AND CORPORATE SOCIAL RESPONSIBILITY

### 1 What the Authority expects from the Supplier

- 1.1 Her Majesty's Government's Supplier Code of Conduct (the "**Code**") sets out the standards and behaviours expected of suppliers who work with government. The Code can be found online at:

[Supplier Code of Conduct - v2 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

- 1.1 The Supplier shall, and shall procure that its Sub-Contractors shall:

- 1.1.1 comply with its legal obligations, in particular those in Part 1 of this Schedule 8, and meet the standards set out in the Code as a minimum; and
- 1.1.2 use reasonable endeavours to comply with the standards in Part 2 of this Schedule 8.

h

### PART 1 Statutory Obligations

### 2 Equality and Accessibility

- 2.1 The Supplier shall:

- (a) perform its obligations under the Contract in accordance with:
  - i) all applicable equality Law (whether in relation to race, sex, gender reassignment, age, disability, sexual orientation, religion or belief, pregnancy maternity or otherwise);
  - ii) the Authority's equality, diversity and inclusion policy as given to the Supplier from time to time;
  - iii) any other requirements and instructions which the Authority reasonably imposes regarding any equality obligations imposed on the Authority at any time under applicable equality law; and
- (b) take all necessary steps and inform the Authority of the steps taken to prevent unlawful discrimination designated as such by any court or tribunal, or the Equality and Human Rights Commission (or any successor organisation).

### 3 Modern Slavery

- 3.1 The Supplier shall:

- (a) not use, or allow Sub-Contractors to use, forced, bonded or involuntary prison labour;
- (b) not require any Staff to lodge deposits or identity papers with their employer;

- (c) allow, and ensure that any Sub-Contractors allow, Staff to leave their employer after reasonable notice;
- (d) make reasonable enquiries to ensure that its Staff and Sub-Contractors have not been convicted of slavery or human trafficking offences anywhere in the world;
- (e) have and maintain throughout the Term its own policies and procedures to ensure its compliance with the MSA and include in its Sub-Contracts anti-slavery and human trafficking provisions;
- (f) not use, or allow its Staff to use physical abuse or discipline, the threat of physical abuse, sexual or other harassment and verbal abuse or other forms of intimidation of its Staff and Sub-Contractors;
- (g) not use or allow to be used child or slave labour to be used by its Sub-Contractors;
- (h) if either Party identifies any occurrence of modern slavery in connection with the Contract, comply with the rectification process set out in clauses F2.4 to F2.6;
- (i) prepare and deliver to the Authority each year, an annual slavery and trafficking report setting out the steps it has taken to ensure that slavery and trafficking is not taking place in any of its supply chains or in any part of its business;
- (j) maintain a complete set of records to trace the supply chain of all goods and services provided to the Authority in connection with the Contract;
- (k) report the discovery or suspicion of any slavery or trafficking by it or its Sub-Contractors to the Authority and to the Modern Slavery Helpline and other relevant national or local law enforcement agencies; and
- (l) implement a system of training for its employees to ensure compliance with the MSA.

3.2 The Supplier represents, warrants and undertakes throughout the Term that:

- (a) it has not been convicted of any slavery or human trafficking offences anywhere in the world; and
- (b) to the best of its knowledge it is not currently under investigation, inquiry or enforcement proceedings in relation to any allegation of slavery or human trafficking offences anywhere in the world.

3.3 If the Supplier notifies the Authority pursuant to paragraph 3.1(i) of this Schedule 8, it shall respond promptly to the Authority's enquiries, co-operate with any investigation, and allow the Authority to audit any books, records and/or any other relevant documentation in accordance with the Contract.

3.4 If the Supplier is in Default under paragraphs 3.1 or 3.2 of this Schedule 8 the Authority may by notice:

- (a) require the Supplier to remove from performance of the Contract any Sub-Contractor, Staff or other persons associated with it whose acts or omissions have caused the Default; or
- (b) immediately terminate the Contract.

## **4 Income Security**

### **4.1 The Supplier shall:**

- (a) ensure that all pay and benefits paid for a standard working week meet, at least, national legal standards in the country of employment;
- (b) provide all Staff with written and readily understandable information about their employment conditions in respect of pay before they enter employment and about their pay for the pay period concerned each time that they are paid;
- (c) not make deductions from pay:
  - (i) as a disciplinary measure;
  - (ii) except where permitted by Law and the terms of the employment contract; and
  - (iii) without express permission of the person concerned; and
- (d) record all disciplinary measures taken against Staff.

## **5 Working Hours**

### **5.1 The Supplier shall ensure that:**

- (a) the working hours of Staff comply with the Law, and any collective agreements;
- (b) the working hours of Staff, excluding overtime, is defined by contract, do not exceed 48 hours per week unless the individual has agreed in writing, and that any such agreement is in accordance with the Law;
- (c) overtime is used responsibly, considering:
  - (i) the extent;
  - (ii) frequency; and
  - (iii) hours worked;
- (d) the total hours worked in any seven-day period shall not exceed 60 hours, except where covered by paragraph 5.1 (e);
- (e) working hours do not exceed 60 hours in any seven-day period unless:
  - (i) it is allowed by Law;

- (ii) it is allowed by a collective agreement freely negotiated with a worker's organisation representing a significant portion of the workforce;
  - (iii) appropriate safeguards are taken to protect the workers' health and safety; and
  - (iv) the Supplier can demonstrate that exceptional circumstances apply such as during unexpected production peaks, accidents or emergencies;
- (f) all Supplier Staff are provided with at least:
- (i) 1 day off in every 7-day period; or
  - (ii) where allowed by Law, 2 days off in every 14-day period.

## **6 Right to Work**

### **6.1 The Supplier shall:**

- (a) ensure that all Staff, are employed on the condition that they are permitted to work in the UK, and;
- (b) notify the authority immediately if an employee is not permitted to work in the UK.

## **7 Health and Safety**

### **7.1 The Supplier shall perform its obligations under the Contract in accordance with:**

- (a) all applicable Law regarding health and safety; and
- (b) the Authority's Health and Safety Policy while at the Authority's Premises.

### **7.2 Each Party shall notify the other as soon as practicable of any health and safety incidents or material health and safety hazards at the Authority's Premises of which it becomes aware and which relate to or arise in connection with the performance of the Contract. The Supplier shall instruct Staff to adopt any necessary safety measures in order to manage the risk.**

## **8. Welsh Language Requirements**

### **8.1 The Supplier shall comply with the Welsh Language Act 1993 and the Welsh Language Scheme as if it were the Authority to the extent that the same relate to the provision of the Goods.**

## **9 Fraud and Bribery**

### **9.1 The Supplier represents and warrants that neither it, nor to the best of its knowledge any Staff, have at any time prior to the Commencement Date:**

- (a) committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act; and/or
- (b) been listed by any Government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in Government procurement programmes or contracts on the grounds of a Prohibited Act.

9.2 The Supplier shall not during the Term:

- (a) commit a Prohibited Act; and/or
- (b) do or suffer anything to be done which would cause the Authority or any of its employees, consultants, contractors, sub-contractors or agents to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements.

9.3 The Supplier shall, during the Term:

- (a) establish, maintain and enforce, and require that its Sub-Contractors establish, maintain and enforce, policies and procedures which are adequate to ensure compliance with the Relevant Requirements and prevent the occurrence of a Prohibited Act;
- (b) have in place reasonable prevention measures (as defined in section 45(3) and 46(4) of the Criminal Finance Act 2017) to ensure that Associated Persons of the Supplier do not commit tax evasion facilitation offences as defined under that Act;
- (c) keep appropriate records of its compliance with its obligations under paragraphs 9.3(a) and 9.3(b) and make such records available to the Authority on request; and
- (d) take account of any guidance about preventing facilitation of tax evasion offences which may be published and updated in accordance with section 47 of the Criminal Finances Act 2017.

9.4 The Supplier shall immediately notify the Authority in writing if it becomes aware of any breach of paragraphs 9.1 and/or 9.2, or has reason to believe that it has or any of the Staff have:

- (a) been subject to an investigation or prosecution which relates to an alleged Prohibited Act;
- (b) been listed by any Government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in Government procurement programmes or contracts on the grounds of a Prohibited Act; and/or
- (c) received a request or demand for any undue financial or other advantage of any kind in connection with the performance of the Contract or otherwise suspects that any person directly or indirectly connected with the Contract has committed or attempted to commit a Prohibited Act.

9.5 If the Supplier notifies the Authority pursuant to paragraph 9.4, the Supplier shall respond promptly to the Authority's enquiries, co-operate with any investigation, and allow the Authority to Audit any books, records and/or any other relevant documentation.

9.6 If the Supplier is in Default under paragraphs 9.1 and/or 9.2, the Authority may by notice:

- (a) require the Supplier to remove from performance of the Contract any Staff whose acts or omissions have caused the Default; or

(b) immediately terminate the Contract.

9.7 Any notice served by the Authority under paragraph 9.6 shall specify the nature of the Prohibited Act, the identity of the party who the Authority believes has committed the Prohibited Act and the action that the Authority has taken (including, where relevant, the date on which the Contract terminates).

## **PART 2 Corporate Social Responsibility**

### **10 Zero Hours Contracts**

10.1 Any reference to zero hours contracts, for the purposes of this Contract, means as they relate to employees or workers and not those who are genuinely self-employed and undertaking work on a zero hours arrangement.

10.2 When offering zero hours contracts, the Supplier shall consider and be clear in its communications with its employees and workers about:

- (a) whether an individual is an employee or worker and what statutory and other rights they have;
- (b) the process by which work will be offered and assurance that they are not obliged to accept work on every occasion; and
- (c) how the individual's contract will terminate, for example, at the end of each work task or with notice given by either party.

### **11 Sustainability**

11.1 The Supplier shall:

- (a) comply with the applicable Government Buying Standards;
- (b) provide, from time to time, in a format reasonably required by the Authority, reports on the environmental effects of providing the Goods;
- (c) maintain ISO 14001 or BS 8555 or an equivalent standard intended to manage its environmental responsibilities; and
- (b) perform its obligations under the Contract in a way that:
  - (i) supports the Authority's achievement of the Greening Government Commitments;
  - (ii) conserves energy, water, wood, paper and other resources;
  - (iii) reduces waste and avoids the use of ozone depleting substances; and
  - (iv) minimises the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment.



**IN WITNESS** of which the Contract is duly executed by the Parties on the date which appears at the head of page 1.

**SIGNED** for and on behalf of the Secretary  
of State for Justice

Signature:

Name (block capitals):

Position:

Date:

**SIGNED** for and on behalf of Stuart  
Canvas Ltd

Signature:

Name (block capitals):

Position:

Date: