



**CONTRACT FOR 'The Provision of EU Programmes Lifelong Learning - EURYDICE'**  
**PROJECT REFERENCE NO: EOR/SBU/2016/027**

This Contract is dated **11<sup>th</sup> July 2017**.

**Parties**

- 1) The Secretary of State for Education whose Head Office is at Sanctuary Buildings, Great Smith Street, LONDON, SW1P 3BT ("the Department"); and
- 2) **National Foundation for Education Research (NFER)** whose registered office is **The Mere, Upton Park, Slough, Berkshire SL1 2DQ** ("the Contractor").

**Recitals**

The Contractor has agreed to undertake the Project on the terms and conditions set out in this Contract. The Department's reference number for this Contract is **EOR/SBU/2016/027**

**Commencement and Continuation**

The Contractor shall commence the Project on the date the Contract was signed by the Department (as above) and, shall complete the Project on or before 31st December 2017. Subject to relevant Department approvals, the term of the contract may be extended to 31 December 2018 to enable provision of a subsequent phase of Project Delivery, notice of which will be provide by the Department by 30 November 2017. Continuation of the Contract is subject to the provisions set out in Schedule 3, Clause 10.

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# 1. Interpretation

## 1.1 In this Contract the following words shall mean:-

"the Project"	the project to be performed by the Contractor as described in Schedule One;
"the Project Manager"	David Charlton, Department for Education, Jubilee Conference Centre, Triumph Road, Nottingham, NG8 1DH, 01159 829376, <a href="mailto:david.charlton@education.gov.uk">david.charlton@education.gov.uk</a>
"the Contractor's Project Manager"	██████████, NFER, The Mere, Upton Park, Slough, Berkshire SL1 2DQ, 01753 ██████████
"the Act and the Regulations"	means the Copyright Designs and Patents Act 1988 and the Copyright and Rights in Databases Regulations 1997;
"Affiliate"	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;
"Commercially Sensitive Information"	information of a commercially sensitive nature relating to the Contractor, its IPR or its business or which the Contractor has indicated to the Department that, if disclosed by the Department, would cause the Contractor significant commercial disadvantage or material financial loss;
"Confidential Information"	means all 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 but not limited to information which relates to the business, affairs, properties, assets, trading practices, services, developments, trade secrets, Intellectual Property Rights, know-how, personnel, customers and suppliers of either party and commercially sensitive information which may be regarded as the confidential information of the disclosing party;
"Contracting Department"	any contracting authority as defined in Regulation 5(2) of the Public Contracts (Works, Services and Supply) (Amendment) Regulations 2000 other than the Department;
"Contractor Personnel"	all employees, agents, consultants and contractors of the Contractor and/or of any Sub-contractor;
"Contractor Software"	software which is proprietary to the Contractor, including software which is or will be used by the Contractor for the purposes of providing the Services;
"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"** shall be interpreted accordingly;

"Copyright"	means any and all copyright, design right (as defined by the Act) and all other rights of a like nature which may, during the course of this Contract, come into existence in or in relation to any Work (or any part thereof);
"Copyright Work"	means any Work in which any Copyright subsists;
"Crown Body"	any department, office or agency of the Crown;
"Data"	means all data, information, text, drawings, diagrams, images or sound embodied in any electronic or tangible medium, and which are supplied or in respect of which access is granted to the Contractor by the Department pursuant to this Contract, or which the Contractor is required to generate under this Contract;
"Data Controller"	shall have the same meaning as set out in the Data Protection Act 1998;
"Data Processor"	shall have the same meaning as set out in the Data Protection Act 1998;
"Data Protection Legislation"	the Data Protection Act 1998, the EU Data Protection Directive 95/46/EC, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all applicable laws and regulations relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner;
"Data Subject"	shall have the same meaning as set out in the Data Protection Act 1998;
"Department Confidential Information"	all Personal Data and any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel, and suppliers of the Department, including all IPRs, together with all information derived from any of the above, and any other information clearly designated as being confidential (whether or not it is marked "confidential") or which ought reasonably be considered to be confidential;
"Department Data"	(a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are:

	(i) supplied to the Contractor by or on behalf of the Department; or
	(ii) which the Contractor is required to generate, process, store or transmit pursuant to this Contract; or
	(b) any Personal Data for which the Department is the Data Controller;
"Effective Date"	the date on which this Contract is signed by both parties;
"Environmental Information Regulations"	the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issues by the Information Commissioner or relevant Government Department in relation to such regulations;
"FOIA"	the Freedom of Information Act 2000 and any subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government Department in relation to such legislation;
"ICT"	information and communications technology;
"ICT Environment"	the Department's System and the Contractor System;
"Information"	has the meaning given under section 84 of the Freedom of Information Act 2000;
"Intellectual Property Rights"	means patents, trade marks, service marks, design (rights whether registerable or otherwise), applications for any of the foregoing, know-how, rights protecting databases, trade or business names and other similar rights or obligations whether registerable or not in any country (including but not limited to the United Kingdom).
"Malicious Software"	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;
"Original Copyright Work"	means the first Copyright Work created in whatever form;
"Personal Data"	shall have the same meaning as set out in the Data Protection Act 1998;
"Regulatory Bodies"	those government departments and regulatory, statutory and other entities, committees 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 this Contract or any other affairs of the Department and <b>"Regulatory Body"</b> shall be construed accordingly;
"Request for Information"	a request for information or an apparent request under

- the Code of Practice on Access to Government Information, FOIA or the Environmental Information Regulations;
- "Staff Vetting Procedures" the Department's procedures and departmental policies for the vetting of personnel whose role will involve the handling of information of a sensitive or confidential nature or the handling of information which is subject to any relevant security measures, including, but not limited to, the provisions of the Official Secrets Act 1911 to 1989;
- "Sub-contractor" the third party with whom the Contractor enters into a Sub-contract or its servants or agents and any third party with whom that third party enters into a Sub-contract or its servants or agents;
- "Third Party Software" software which is proprietary to any third party [other than an Affiliate of the Contractor] which is or will be used by the Contractor for the purposes of providing the Services, and
- "Work" means any and all works including but not limited to literary, dramatic, musical or artistic works, sound recordings, films, broadcasts or cable programmes, typographical arrangements and designs (as the same are defined in the Act) which are created from time to time during the course of this Contract by the Contractor or by or together with others at the Contractor's request or on its behalf and where such works directly relate to or are created in respect of the performance of this;
- "Working Day" any day other than a Saturday, Sunday or public holiday in England and Wales.
- 1.2 References to "Contract" mean this contract (and include the Schedules). References to "Clauses" and "Schedules" mean clauses of and schedules to this Contract. The provisions of the Schedules shall be binding on the parties as if set out in full in this Contract.
- 1.3 Reference to the singular include the plural and vice versa and references to any gender include both genders. References to a person include any individual, firm, unincorporated association or body corporate.

**SCHEDULE ONE****1 BACKGROUND**

EURYDICE - the information network on education in Europe – supports and facilitates European co-operation in the field of lifelong learning by providing information and analyses of European education systems and policies and by producing studies on issues common to European education systems. It currently consists of 41 national units based in 37 countries<sup>1</sup> co-ordinated and managed by the EU Education, Audiovisual and Culture Executive Agency (EACEA) in Brussels, which drafts its studies and provides a range of online resources.

The mission of the [Eurydice Network](#) is to provide those responsible for education systems and policies in Europe with European-level analyses and information, which will assist them in their decision-making. The Eurydice network primarily focuses on the way education in Europe is structured and organised at all levels.

**2 AIM**

The Contractor shall use all reasonable endeavours to achieve the following aims:

- To gather, monitor, process, publicise and make available accurate and readily comparable information on Education systems and policies throughout Europe
- To boost co-operation between the member states by improving the understanding of systems and policies
- To provide a dedicated enquiry service

**3 OBJECTIVES**

The Contractor will provide the services of the Eurydice National Unit (NU) for England, Northern Ireland and Wales for the seven months to 31 December 2017.

The Contractor will be required to use all reasonable endeavours to deliver the services of the Eurydice National Unit and requirements of the Department for Education, Welsh Government and Northern Ireland Executive. The Contractor will be required to:

- facilitate knowledge sharing across EU countries and keep the EACEA informed on current education policy across England, Northern Ireland and Wales
- lead the submissions of data and information to the EACEA, adhering to specific requirements including manuals and timescales
- work in collaboration with the Department for Education, as well as the devolved administrations in Wales and Northern Ireland (as relevant) to ensure information about the education systems in each country is accurately presented
- share information in various formats with the EACEA, Department for Education and devolved administrations, including detailed descriptions and overviews of national education systems, comparative thematic reports and factual reports related to education

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<sup>1</sup> The EU28, Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Iceland, Liechtenstein, Montenegro, Norway, Serbia and Switzerland.

- Deliver the requirements of the Eurydice network's work programme for 2017/18 during the period June 2017 to the end of December 2017, including any required handover of forward planning activities

#### 4 METHODOLOGY

The European Commission maintains two-year Work Programmes for Eurydice, which are revised annually in the autumn after consultation with NUs. The National Unit's principal task is to deliver the Work Programme in England, Wales and Northern Ireland. The European Commission Work Programme for 2017-18 can be found [here](#).

Education Scotland is responsible for Eurydice Scotland, directly contributing to and coordinating information returns with input from policy and other analytic teams, as well as key external agencies and partners. The Scottish Government is funded by the European Commission to undertake this work which provides an important information source, and promotes knowledge about education in Scotland. See: <https://webgate.ec.europa.eu/fpfis/mwikis/eurydice/index.php/United-Kingdom-Scotland:Overview>

Most education policy has been devolved to the Governments in Wales and Northern Ireland. The Unit will be required to be familiar with and understand education policy in England, Wales and Northern Ireland and ensure they are reflected in their management of the programme. The contractor will be required to cooperate with Eurydice Scotland and the devolved administrations, as well as with the Department, to ensure the differences and similarities between education systems in different parts of the UK are represented accurately in all Eurydice products, and when producing any descriptions of the UK as a whole. The supplier will also work closely with counterparts, not only in the other member states of the EU and Scotland, but also with the other countries which participate in Eurydice. It will provide regular feedback to the Department, other relevant Government Departments and bodies and the devolved administrations on EACEA's proposals and developments relating to policy or the operation of the Eurydice programme, identifying any issues or conflicts with UK policies and approaches.

The Eurydice network primarily focuses on the way education in Europe is structured and organised at all levels. Its work is agreed through the EU comitology process, notably through the Eurydice Steering Group of Member State representatives and the European Commission Standing Group for Indicators and Benchmarks.

The standards and definitions used by the Eurydice units are in line with those used within wider international organisations (e.g. the UN and OECD) to ensure extended comparisons with a wider set of countries. Work on streamlining these products is ongoing. Work on special needs education and disadvantaged students is included in this work.

#### Management and reporting

- [REDACTED]s

## 5. TASKS

The contractor will be required to use all reasonable endeavours to complete the deliverables and tasks in **Table 1** below between the date the contract was signed by the Department (as above) and 31<sup>st</sup> December 2017:

**Table 1 – Tasks and Deliverables**

Deliverable description	Key products or outputs	Quality measures	Timing <sup>2</sup>
██████████	<ul style="list-style-type: none"> <li>• ██████████</li> </ul>	██████████	██████████
██████████	<ul style="list-style-type: none"> <li>• ██████████</li> </ul>	<ul style="list-style-type: none"> <li>• ██████████</li> </ul>	<ul style="list-style-type: none"> <li>• ██████████</li> </ul>

<sup>2</sup> All timings are based on the [2017/18 Eurydice Work Programme](#) and the State of Play of Eurydice Publications document published on 15 May 2017 (not publicly available but attached). If EACEA changes the timetable within the contract term (June to December 2017), where possible, we will accommodate such amendments.



[REDACTED]	[REDACTED]	• [REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	• [REDACTED]	• [REDACTED]
• [REDACTED]	• [REDACTED]	• [REDACTED]	• [REDACTED]

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• [REDACTED]	[REDACTED]	[REDACTED]	
[REDACTED]	• [REDACTED]	• [REDACTED]	• [REDACTED]
[REDACTED]	• [REDACTED]	• [REDACTED]	[REDACTED]

<sup>3</sup> Instruction Time in Full-time Compulsory Education in Europe 2016/17 (June 2017), Modernisation of Higher Education in Europe (3<sup>rd</sup> ed: Academic Staff) (June 2017), National Student Fee and Support Systems in Higher Education 2017/18 (October 2017), Structure of European Education System Diagrams (2017/18) (October 2017), Citizenship Education at School in Europe (November / December 2017), Thematic Report on Teachers (December 2017), and Education Systems Descriptions update. Note Structural Indicators 2017 will not be published. It is an internal Commission working document.

<div data-bbox="138 188 277 225"></div>	<div data-bbox="595 188 734 225"></div>	<div data-bbox="1249 204 1263 220">•</div> <div data-bbox="1290 193 1429 229"></div>	
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The Eurydice National Unit's provision of content and quality assurance for the following Eurydice publications will be complete by the end of May: Key Data Languages at School in Europe, Instruction Time in Full-time Compulsory Education in Europe 2016/17, and Modernisation of Higher Education in Europe Academic Staff. The Contractor will conduct dissemination activities for these outputs during June 2017.

## 6. STAFFING

The Contractor's staff, detailed below, will deliver the project.

### Contractor staff:

Name	Position	Role
████████	Project Director	Overall responsibility for steering the project
████████	Project Leader and Head of Unit	Responsible for overseeing the contribution for England, Wales and Northern Ireland, reporting to the Department and liaising with the European Commission
████████	Acting Project Leader (June)	Responsible for overseeing the contribution for England, Wales and Northern Ireland
████████	Information and Reviews Manager	Contribute to Eurydice comparative studies and to national reporting for England, Wales and Northern Ireland
████████	Project Team Member	Contribute content for England, Wales and Northern Ireland to Eurydice comparative publications and to the national education system descriptions
████████	████████	Responsible for updating articles for Eurypedia for England, Wales and Northern Ireland
████████	████████	Responsible for updating articles for Eurypedia for England, Wales and Northern Ireland and responding to network enquiries
████████	████████	Contribute to the comparative studies and the reporting of education policy and practice across England, Wales and Northern Ireland



## **7. ADVISORY GROUP**

The Project Manager shall set up an Advisory Group for the Project, consisting of representatives from the Department, the Contractor, and any other key organisations whom the project will have an impact on, to be agreed between the parties. The function of the Advisory group shall be to:

- review the scope and direction of the Project against its aims and objectives
- monitor progress and efficiency of the contract
- assess, manage and review expected impact and use of the findings from the Project against an agreed Project Communication Plan, through the standard Department Communication Plan Template.
- provide a view on the relevance of the Eurydice Network's proposed work programme to try to ensure it covers areas which are of interest nationally
- review the Contractor's contribution to the Eurydice Network work programme within Erasmus+
- review the work of the Contractor in providing information and support to stakeholders in England, Wales and Northern Ireland

- ensure that the Contractor's collaboration with the Eurydice Network is informed by an up-to-date understanding of the work of the other National Agencies for EU education and training programmes
- promote a better understanding of Eurydice's products and services among stakeholders in England, Wales and Northern Ireland.

The Group shall meet at times and dates agreed by the parties, or in the absence of agreement, specified by the Department. The Contractor's representatives on the Advisory Group shall report their views on the progress of the Project to the Advisory Group in writing if requested by the Department. The Contractor's representatives on the Advisory Group shall attend all meetings of the Advisory Group unless otherwise agreed by the Department.

## **8. RISK MANAGEMENT**

The Contractor will develop and maintain a register of risks upon project start-up which will be monitored and updated at least monthly during the period of the contract. The Contractor will be required to use all reasonable endeavours to minimise the level of risk and avoid transferring the risk to the Department.

At project start-up, an escalation plan will be agreed between the Contractor and the Department. The provisional outline of risks outlined by the Contractor in **Annex 2** will be expanded during the project start-up phase.

## **9. DATA COLLECTION**

The Department seeks to minimise the burdens on Schools, Children's Services and Local Authorities (LAs) taking part in surveys. When assessing the relative merits of data collection methods the following issues should be considered;

- only data essential to the project shall be collected;
- data should be collected electronically where appropriate/preferred;
- questionnaires should be pre-populated wherever possible and appropriate;
- schools must be given at least four working weeks to respond to the exercise from the date they receive the request; and
- LAs should receive at least two weeks, unless they need to approach schools in which case they too should receive 4 weeks to respond;

The Contractor shall clear any data collection tools with the Department before engaging in field work. The Contractor shall check with the Department whether any of the information that they are requesting can be provided centrally from information already held.

## **10. CONSENT ARRANGEMENTS**

The Department and the Contractor shall agree in advance of any survey activity taking place the consent arrangements that shall apply for each of the participant groups. All participants should be informed of the purpose of the research, that the Contractor is acting on behalf of the Department and that they have the option to refuse to participate (opt out). Contact details should be provided including a contact person at the Department. Children who are 16 or over will usually be able to give their own consent but even where this is so, the Contractor, in consultation with the Department, should consider whether it is also appropriate for parents, guardians or other appropriate gatekeepers (e.g. schools, Local Authorities) to be informed when a child has been invited to participate in research.

## **11. PROJECT COMMUNICATION PLAN**

The Contractor shall work with the Contract Manager and Advisory Group to agree the content of the Project Communication Plan on the standard Department Communication Plan Template at the start of the Project, and to review and update at agreed key points in the Project and at the close of the Project. The Communication Plan shall set out the key audiences for the Project, all outputs intended for publication from the Project, the likely impact of each output, and dissemination plans to facilitate effective use by the key audiences.

**End of Schedule One**



1.1 The Department shall reimburse the Contractor for expenditure incurred for the purpose of the Project, provided that:-

- Table 2 below shows the breakdown of costs. All costs are quoted exclusive of VAT which, where applicable, we will charge at the appropriate rate at the date of invoicing. We anticipate that VAT will be chargeable on the costs paid by DfE, but that VAT will not be payable on the grant funding received from the EU.

██████████

[illegible]

The Contractor will be financed by a combination of payments from the Department and the European Commission. Funds from the European Commission will be paid to the Contractor in Euro (€). The Contractor will assume all exchange rate risk for any payments received in Euro.

The Department will contribute additional financing to enable the National Unit to manage its work efficiently under the applicable European Union rules. This additional financing will be provided in pounds sterling (£).

For the 7 month period of this contract, the European Comission contribution will be €63,849. The Department’s contribution shall not exceed £161,776 exclusive of VAT.

**Table 3** below details the frequency and amount of payments to the Contractor by the Department.

**Table 3 – Department payment schedule**

[REDACTED]


- 2 The allocation of funds in the Table 2 and 3 may not be altered except with the prior written consent of the Department.
- 3 The Contractor shall maintain full and accurate accounts for the Project against the expenditure headings in Tables 2 and 3. Such accounts shall be retained for at least 6 years after the end of the financial year in which the last payment was made under this Contract. Input and output VAT shall be included as separate items in such accounts.
- 4 The Contractor shall permit duly authorised staff or agents of the Department or the National Audit Office to examine the accounts at any reasonable time and shall furnish oral or written explanations of the accounts if required. The Department reserves the right to have such staff or agents carry out examinations into the economy, efficiency and effectiveness with which the Contractor has used the Department's resources in the performance of this Contract.
- 5 Invoices shall be submitted on the invoice dates specified in Table 3, be detailed against the task headings set out in the Table and must quote the Department's Order Number. **The Purchase order reference number shall be provided by the department when both parties have signed the paperwork.** The Contractor or his or her nominated representative or accountant shall certify on the invoice that the amounts claimed were expended wholly and necessarily by the Contractor on the Projects in accordance with the Contract and that the invoice does not include any costs being claimed from any other body or individual or from the Department within the terms of another contract.
- 6 Invoices shall be sent to Department for Education, PO Box 407, SSCL, Phoenix House, Celtic Springs Business Park, Newport, NP10 8FZ. Or by email to: [APinvoices-DFE-U@sscl.gse.gov.uk](mailto:APinvoices-DFE-U@sscl.gse.gov.uk). The Department undertakes to pay correctly submitted invoices within 10 days of receipt. The Department is obliged to pay invoices within 30 days of receipt from the day of physical or electronic arrival at the nominated address of the Department. Any correctly submitted invoices that are not paid within 30 days may be subject to the provisions of the Late Payment of Commercial Debt (Interest) Act 1998. A correct invoice is one that: is delivered in timing in accordance with the contract; is for the correct sum; in respect of goods/services supplied or delivered to the required quality (or are expected to be at the required quality); includes the date, supplier name, contact details and bank details; quotes the relevant purchase order/contract reference and has been delivered to the nominated address. If any problems arise, contact the Department's Project Manager. The Department aims to reply to complaints within 10 working days. The Department shall not be responsible for any delay in payment caused by incomplete or illegible invoices.
- 7 The Contractor shall have regard to the need for economy in all expenditure. Where any expenditure in an invoice, in the Department's reasonable opinion, is excessive having due regard to the purpose for which it was incurred, the Department shall only be liable to reimburse so much (if any) of the expenditure disallowed as, in the Department's reasonable opinion after consultation with the Contractor, would reasonably have been required for that purpose.
- 8 If this Contract is terminated by the Department due to the Contractor's insolvency or default at any time before completion of the Projects, the Department shall only be liable under paragraph 1 to reimburse eligible payments made by, or due to, the Contractor before the date of termination.
- 9 On completion of the Project or on termination of this Contract, the Contractor shall promptly draw-up a final invoice, which shall cover all outstanding expenditure incurred

for the Project. The final invoice shall be submitted not later than 30 days after the date of completion of the Projects.

- 10 The Department shall not be obliged to pay the final invoice until the Contractor has carried out all the elements of the Projects specified as in Schedule 1.
- 11 It shall be the responsibility of the Contractor to ensure that the final invoice covers all outstanding expenditure for which reimbursement may be claimed. Provided that all previous invoices have been duly paid, on due payment of the final invoice by the Department all amounts due to be reimbursed under this Contract shall be deemed to have been paid and the Department shall have no further liability to make reimbursement of any kind.

**End of Schedule Two**

### **SCHEDULE THREE**

#### **1. Contractor's Obligations**

- 1.1. The Contractor shall promptly and efficiently complete the Project in accordance with the provisions set out in Schedule One.
- 1.2. The Contractor shall comply with the accounting and information provisions of Schedule Two.
- 1.3. The Contractor shall comply with all statutory provisions including all prior and subsequent enactments, amendments and substitutions relating to that provision and to any regulations made under it.
- 1.4. The Contractor shall inform the Department immediately if it is experiencing any difficulties in meeting its contractual obligations.

#### **2. Department's Obligations**

- 2.1. The Department will comply with the payment provisions of Schedule Two provided that the Department has received full and accurate information and documentation as required by Schedule Two to be submitted by the Contractor for work completed to the satisfaction of the Department.
- 2.2. The DfE shall, at its own expense, provide the Supplier with access to all relevant personnel, documents or other materials and data or other information in its possession which is necessary for the performance of the Project, in sufficient time to enable the Supplier to provide the Project in accordance with any timetable, Critical Step or other target for progress or completion agreed in writing between the parties.
- 2.3. The DfE shall use its reasonable endeavours to ensure the accuracy of all data or other information provided to the Supplier in the course of this Contract.

#### **3. Changes to the Department's Requirements**

- 3.1. The Department shall notify the Contractor of any material change to the Department's requirement under this Contract.
- 3.2. The Contractor shall use its best endeavours to accommodate any changes to the needs and requirements of the Department provided that it shall be entitled to payment for any additional costs it incurs as a result of any such changes. The amount of such additional costs to be agreed between the parties in writing.

#### **4. Management**

- 4.1. The Contractor shall promptly comply with all reasonable requests or

directions of the Project Manager in respect of the Services.

- 4.2. The Contractor shall address any enquiries about procedural or contractual matters in writing to the Project Manager. Any correspondence relating to this Contract shall quote the reference number set out in the Recitals to this Contract.

## 5. Contractor's Employees and Sub-Contractors

- 5.1. Where the Contractor enters into a sub-contract with a supplier or contractor for the purpose of performing its obligations under the Contract, it shall ensure that a provision is included in such a sub-contract which requires payment to be made of all sums due by the Contractor to the sub-contractor within a specified period not exceeding 30 days from the receipt of a valid invoice.
- 5.2. The Contractor shall take all reasonable steps to satisfy itself that its employees or any approved sub-contractors (or their employees) are suitable in all respects to perform the Project.
- 5.3. The Contractor shall immediately notify the Department if they have any concerns regarding the propriety of any of its sub-contractors in respect of work/services rendered in connection with this Contract.
- 5.4. The Contractor, its employees and sub-contractors (or their employees), whilst on Departmental premises, shall comply with such rules, regulations and requirements (including those relating to security arrangements) as may be in force from time to time.
- 5.5. The Contractor shall ensure the security of all the Property whilst in its possession, during the supply of the Project, in accordance with the Department's reasonable security requirements as required from time to time.
- 5.6. If the Department notifies the Contractor that it considers that an employee or sub-contractor is not appropriately qualified or trained to perform the Project or otherwise is not performing the Project in accordance with this Contract, then the Contractor shall, as soon as is reasonably practicable, take all such steps as the Department considers necessary to remedy the situation or, if so required by the Department, shall remove the said employee or sub-contractor from performing the Project and shall provide a suitable replacement (at no cost to the Department).
- 5.7. The Contractor shall take all reasonable steps to avoid changes of employees or sub-contractors assigned to and accepted to perform the Project under the Contract except whenever changes are unavoidable or of a temporary nature. The Contractor shall give at least four week's written notice to the Project Manager of proposals to change key employees or sub-contractors

## 6. Ownership of Intellectual Property Rights and Copyright

- 6.1. Ownership of Intellectual Property Rights including Copyright, in any guidance, specifications, instructions, toolkits, plans, data, drawings,

databases, patents, patterns, models ,designs or other materials prepared by or for the Contractor on behalf of the Department for use, or intended use, in relation to the performance by the Contractor of its obligations under the Contract shall belong to the Contractor

- 6.2. The Contractor hereby grants to the Department a non-exclusive license without payment of royalty or other sum by the Department in the Copyright to:
  - 6.2.1. do and authorise others to do any and all acts restricted by the Act as amended from time to time or replaced in whole or part by any statute or other legal means in respect of any Copyright Work in the United Kingdom and in all other territories in the world for the full period of time during which the Copyright subsists; and
  - 6.2.2. exercise all rights of a similar nature as those described in Clause 6.1 above which may be conferred in respect of any Copyright Work by the Jaws from time to time in all other parts of the world.
- 6.3. Each party will at the request and reasonable expense of the other execute all such documents and do all such acts as may be reasonably necessary in order to vest in the other the rights granted to the other under this Clause 6.
- 6.4. Background IPR used in the performance of this contract shall remain the property of the party introducing it.

## **7. Data Protection Act**

- 7.1. With respect to the parties' rights and obligations under this Contract, the parties agree that the Department is the Data Controller and that the Contractor is the Data Processor. For the purposes of this Clause 7, the terms "Data Controller", "Data Processor", "Data Subject", "Personal Data", "Process" and "Processing" shall have the meaning prescribed under the DPA.
- 7.2. The Contractor shall:
  - 7.2.1. Process the Personal Data only in accordance with instructions from the Department (which may be specific instructions or instructions of a general nature as set out in this Contract or as otherwise notified by the Department to the Contractor during the period of the Contract);
  - 7.2.2. Process the Personal Data only to the extent, and in such manner, as is necessary for the provision of the Services or as is required by Jaw or any Regulatory Body;
  - 7.2.3. Implement appropriate technical and organisational measures to protect the Personal Data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure. These measures shall be appropriate to the harm which might result from any unauthorised or unlawful Processing, accidental Loss, destruction or damage to the Personal Data and having regard to the nature of the Personal Data which is to be protected;
  - 7.2.4. Take reasonable steps to ensure the reliability of any Contractor Personnel who have access to the Personal Data;

- 7.2.5. Obtain prior written consent from the Department in order to transfer the Personal Data to any Sub-contractors or Affiliates for the provision of the Services;
- 7.2.6. Ensure that all Contractor Personnel required to access the Personal Data are informed of the confidential nature of the Personal Data and comply with the obligations set out in this Clause 7;
- 7.2.7. Ensure that none of Contractor Personnel publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Department;
- 7.2.8. Notify the Department within five Working Days if it receives:
  - 7.2.8.1. a request from a Data Subject to have access to that person's Personal Data; or
  - 7.2.8.2. a complaint or request relating to the Department's obligations under the Data Protection Legislation;
- 7.2.9. Provide the Department with full cooperation and assistance in relation to any complaint or request made, including by:
  - 7.2.9.1. providing the Department with full details of the complaint or request;
  - 7.2.9.2. complying with a data access request within the relevant timescales set out in the Data Protection Legislation and in accordance with the Department's instructions;
  - 7.2.9.3. providing the Department with any Personal Data it holds in relation to a Data Subject (within the timescales required by the Department); and
  - 7.2.9.4. providing the Department with any information requested by the Department;
- 7.2.10. Permit the Department or the Department's Representative (subject to reasonable and appropriate confidentiality undertakings), to inspect and audit the Contractor's data processing activities (and/or those of its agents, subsidiaries and Sub-contractors) and comply with all reasonable requests or directions by the Department to enable the Department to verify and/or procure that the Contractor is in full compliance with its obligations under this Contract;
- 7.2.11. Provide a written description of the technical and organisational methods employed by the Contractor for processing Personal Data (within the timescales required by the Department); details of which shall not breach copyright, confidentiality or IPR; and
- 7.2.12. Not Process or otherwise transfer any Personal Data outside the European Economic Area. If, after the Commencement Date, the



Contractor (or any Sub-contractor) wishes to Process and/or transfer any Personal Data outside the European Economic Area, the following provisions shall apply:

- 7.2.12.1. the Contractor shall submit a request for change to the Department which shall be dealt with in accordance with any Change Control Procedure
- 7.2.12.2. the Contractor shall set out in its request for change details of the following:
  - a) the Personal Data which will be Processed and/or transferred outside the European Economic Area;
  - b) the country or countries in which the Personal Data will be Processed and/or to which the Personal Data will be transferred outside the European Economic Area;
  - c) any Sub-contractors or other third parties who will be Processing and/or transferring Personal Data outside the European Economic Area; and
  - d) how the Contractor will ensure an adequate level of protection and adequate safeguards (in accordance with the Data Protection Legislation and in particular so as to ensure the Department's compliance with the Data Protection Legislation) in respect of the Personal Data that will be Processed and/or transferred outside the European Economic Area;
- 7.2.12.3. in providing and evaluating the request for change, the parties shall ensure that they have regard to and comply with then-current Department, Government and Information Commissioner Office policies, procedures, guidance and codes of practice on, and any approvals processes in connection with, the Processing and/or transfers of Personal Data outside the European Economic Area and/or overseas generally; and
- 7.2.12.4. the Contractor shall comply with such other instructions and shall carry out such other actions as the Department may notify in writing, including:
  - a) incorporating standard and/or model clauses (which are approved by the European Commission as offering adequate safeguards under the Data Protection Legislation) in this Contract or a separate data processing agreement between the parties; and
  - b) procuring that any Sub-contractor or other third party who will be Processing and/or transferring the Personal Data outside the European Economic Area

enters into a direct data processing agreement with the Authority on such terms as may be required by the Department, which the Contractor acknowledges may include the incorporation of standard and/or model clauses (which are approved by the European Commission as offering adequate safeguards under the Data Protection Legislation).

- 7.3. The Contractor shall comply at all times with the Data Protection Legislation and shall not perform its obligations under this Contract in such a way as to cause the Department to breach any of its applicable obligations under the Data Protection Legislation.

## **8. Department's Data**

- 8.1. The Contractor shall employ appropriate organisational, operational and technological processes and procedures to keep the Department's Data safe from unauthorised use or access, loss, destruction, theft or disclosure. The organisational, operational and technological processes and procedures adopted are required to comply with the requirements of ISO/IEC 27001 as appropriate to the services being provided to the Department.
- 8.2. The Contractor shall not delete or remove any proprietary notices contained within or relating to the Department's Data.
- 8.3. The Contractor shall not store, copy, disclose, or use the Department's Data except as necessary for the performance by the Contractor of its obligations under this Contract or as otherwise expressly authorised in writing by the Department.
- 8.4. To the extent that the Department's Data is held and/or processed by the Contractor, the Contractor shall supply that the Department's Data to the Department as requested by the Department in the format specified by the Department as agreed with the Consultant.
- 8.5. The Contractor shall take responsibility for preserving the integrity of the Department's Data and preventing the corruption or loss of the Department's Data.
- 8.6. The Contractor shall ensure that any files containing the Department's Data are stored on the Contractor's secure servers and/or secured IT equipment. The Contractor shall ensure that the Department's Data relating to the project is segregated from other data on their IT systems.
- 8.7. The Contractor shall not keep the Department's Data on any laptop or other removable drive or device unless that laptop, other removable drive or device is protected by being fully encrypted and password protected, and the use of the device or laptop is necessary for the provision of the services set out in the Contract. Laptops should have full disk encryption using either a CESSG (Communications Electronic Security Group) CAPS approved product or alternatively a product that complies with the FIPS 140-2 Standard. USB devices used for transferring the Department's Data should be encrypted to the FIPS 140-2 Standard.
- 8.8. The Contractor shall keep an audit trail of where the Department's Data is held, including hardware, laptops, drives and devices.

- 8.9. The Contractor shall ensure that the Department's Data is stored in locked cabinets.
  - 8.10. The Contractor shall ensure that the Department's Data is securely removed from their systems and any printed copies securely destroyed at the end of this work, or on termination of the contract. In complying with this clause, electronic copies of the Department's Data shall be securely destroyed by either physical destruction of the storage media or secure deletion using appropriate electronic shredding software, using a minimum setting of US DOD overwriting standard (7 passes). Any hard copy shall be destroyed by cross-cut shredding and secure re-cycling of the resulting paper waste.
  - 8.11. The Contractor shall perform secure back-ups of all the Department's Data and shall ensure that up-to-date back-ups are stored off-site. The Contractor shall ensure that such back-ups are available to the Department at all times upon request.
  - 8.12. The Contractor shall ensure that any of the Department's Data to be sent between the Contractor's offices/staff, and/or the sub-contractors, and/or any other third party are sent by CD or DVD and are fully encrypted and password protected. The Contractor shall ensure that the password for files is sent separately from the data to the named recipient of the data. The Department's Data shall be transferred by a secure courier or registered postal service (special delivery) and not by e-mail or on USB pens.
  - 8.13. If the Department's Data is corrupted, lost or sufficiently degraded as a result of the Contractor's Default so as to be unusable, the Department may:
    - 8.13.1. require the Contractor (at the Contractor's expense) to restore or procure the restoration of the Department's Data shall do so as soon as practicable and/or
    - 8.13.2. itself restore or procure the restoration of the Department Data, and shall be repaid by the Contractor any reasonable expenses incurred in doing so.
  - 8.14. If at any time the Contractor suspects or has reason to believe that the Department's Data has or may become corrupted, lost or sufficiently degraded in any way for any reason, then the Contractor shall notify the Department immediately and inform the Department of the remedial action the Contractor proposes to take.
9. Warranty and Indemnity
- 9.1. The Contractor warrants to the Department that the obligations of the Contractor under this Contract will be performed by appropriately qualified and trained personnel with reasonable skill, care and diligence and to such high standards of quality as it is reasonable for the Department to expect in all the circumstances. The Department will be relying upon the Contractor's skill, expertise and experience in the performance of the Project and also upon the accuracy of all representations or statements made and the advice given by the Contractor in connection with the performance of the Project and the accuracy of any documents conceived, originated, made or developed by

the Contractor as part of this Contract. The Contractor warrants that any goods supplied by the Contractor forming part of the Services will be of satisfactory quality and fit for their purpose and will be free from defects in design, material and workmanship.

- 9.2. Without prejudice to any other remedy, if any part of the Project is not performed in accordance with this Contract then the Department shall be entitled, where appropriate to:
  - 9.2.1. require the Contractor promptly to re-perform or replace the relevant part of the Project without additional charge to the Department; or
  - 9.2.2. assess the cost of remedying the failure ("the assessed cost") and to deduct from any sums due to the Contractor the Assessed Cost for the period that such failure continues.
- 9.3. The Contractor shall be liable for and shall indemnify the Department in full against any expense, liability, loss, claim or proceedings arising under statute or at common law in respect of personal injury to or death of any person whomsoever or loss of or damage to property whether belonging to the Department or otherwise arising out of or in the course of or caused by the performance of the Project.
- 9.4. Without prejudice to any other exclusion or limitation of liability in this Contract, the liability of the Contractor for any claim or claims under this Contract shall be limited to such sums as it would be just and equitable for the Contractor to pay having regard to the extent of his responsibility for the loss or damage giving rise to such claim or claims etc. and in all cases shall be up to a maximum value of the amount payable under this contract (or £1 million) except for those liabilities which cannot be limited by law.
- 9.5. All property of the Contractor whilst on the Department's premises shall be there at the risk of the Contractor and the Department shall accept no liability for any loss or damage howsoever occurring to it.
- 9.6. The Contractor shall ensure that it has adequate insurance cover with an insurer of good repute to cover claims under this Contract or any other claims or demands which may be brought or made against it by any person suffering any injury damage or loss in connection with this Contract. The Contractor shall upon request produce to the Department, its policy or policies of insurance, together with the receipt for the payment of the last premium in respect of each policy or produce documentary evidence that the policy or policies are properly maintained.

## 10. Termination

- 10.1. This Contract may be terminated by either party giving to the other party at least 30 days' notice in writing.
- 10.2. In the event of any breach of this Contract by either party, the other party may serve a notice on the party in breach requiring the breach to be remedied within a period specified in the notice which shall be reasonable in all the circumstances. If the breach has not been remedied by the expiry of the specified period, the party not in breach may terminate this Contract with

immediate effect by notice in writing.

- 10.3. In the event of a material breach of this Contract by either party, the other party may terminate this Contract with immediate effect by notice in writing.
- 10.4. This Contract may be terminated by the Department with immediate effect by notice in writing if at any time:-
- 10.4.1. the Contractor passes a resolution that it be wound-up or that an application be made for an administration order or the Contractor applies to enter into a voluntary arrangement with its creditors; or
  - 10.4.2. a receiver, liquidator, administrator, supervisor or administrative receiver be appointed in respect of the Contractor's property, assets or any part thereof; or
  - 10.4.3. the court orders that the Contractor be wound-up or a receiver of all or any part of the Contractor's assets be appointed; or
  - 10.4.4. the Contractor is unable to pay its debts in accordance with Section 123 of the Insolvency Act 1986; or
  - 10.4.5. there is a change in the legal or beneficial ownership of 50% or more of the Contractor's share capital issued at the date of this Contract or there is a change in the control of the Contractor, unless the Contractor has previously notified the Department in writing. For the purpose of this Sub-Clause 10.4.5 "control" means the power of a person to secure that the affairs of the Contractor are conducted in accordance with the wishes of that person by means of the holding of shares or the possession of voting power; or
  - 10.4.6. the Contractor is convicted (or being a company, any officers or representatives of the Contractor are convicted) of a criminal offence related to the business or professional conduct; or
  - 10.4.7. the Contractor commits (or being a company, any officers or representatives of the Contractor commit) an act of grave misconduct in the course of the business; or
  - 10.4.8. the Contractor fails (or being a company, any officers or representatives of the Contractor fail) to fulfil his/their obligations relating to the payment of Social Security contributions; or
  - 10.4.9. the Contractor fails (or being a company, any officers or representatives of the Contractor fail) to fulfil his/their obligations relating to payment of taxes; or
  - 10.4.10. the Contractor fails (or being a company, any officers or representatives of the Contractor fail) to disclose any serious misrepresentation in supplying information required by the Department in or pursuant to this Contract.

- 10.5. Nothing in this Clause 10 shall affect the coming into, or continuance in force of any provision of this Contract which is expressly or by implication intended to come into force or continue in force upon termination of this Contract.

11. Status of Contractor

- 11.1. In carrying out its obligations under this Contract the Contractor agrees that it will be acting as principal and not as the agent of the Department.
- 11.2. The Contractor shall not say or do anything that may lead any other person to believe that the Contractor is acting as the agent of the Department.

12. Freedom of information

- 12.1. The Contractor acknowledges that the Department is subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and cooperate with the Department to enable the Department to comply with its information disclosure obligations.
- 12.2. The Contractor shall and shall procure that its Sub-contractors shall:
- 12.2.1. transfer to the Department all Requests for Information that it receives as soon as practicable and in any event within two Working Days of receiving a Request for Information;
  - 12.2.2. provide the Department with a copy of all Information in its possession, or power in the form that the Department requires within five Working Days (or such other period as the Department may specify) of the Department's request; and
  - 12.2.3. provide all necessary assistance as reasonably requested by the Department to enable the Department to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations.
- 12.3. The Department shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Contract or any other agreement whether any Information is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations.
- 12.4. In no event shall the Contractor respond directly to a Request for Information unless expressly authorised to do so by the Department.
- 12.5. The Contractor acknowledges that (notwithstanding the provisions of Clause 13) the Department may, acting in accordance with the Ministry of Justice's Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of Information Act 2000 ("the Code"), be obliged under the FOIA, or the Environmental Information Regulations to disclose information concerning the Contractor or the Project:
- 12.5.1. in certain circumstances without consulting the Contractor; or
  - 12.5.2. following consultation with the Contractor and having taken their views

into account;

12.5.3. provided always that where 12.5.1 applies the Department shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Contractor advanced notice, or failing that, to draw the disclosure to the Contractor's attention after any such disclosure.

12.6. The Contractor shall ensure that all Information is retained for disclosure and shall permit the Department to inspect such records as requested from time to time.

### 13. CONFIDENTIALITY

13.1. Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in this Contract, each party shall:

13.1.1. treat the other party's Confidential Information as confidential and safeguard it accordingly; and

13.1.2. not disclose the other party's Confidential Information to any other person without the owner's prior written consent.

13.2. Clause 13 shall not apply to the extent that:

13.2.1. such disclosure is a requirement of Law placed upon the party making the disclosure, including any requirements for disclosure under the FOIA, Code of Practice on Access to Government Information or the Environmental Information Regulations pursuant to clause 12 (Freedom of Information);

13.2.2. such information was in the possession of the party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;

13.2.3. such information was obtained from a third party without obligation of confidentiality;

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

13.2.5. it is independently developed without access to the other party's Confidential Information.

13.3. The Contractor may only disclose the Department's Confidential Information to the Contractor Personnel who are directly involved in the provision of the Services and who need to know the information, and shall ensure that such Contractor Personnel are aware of and shall comply with these obligations as to confidentiality.

13.4. The Contractor shall not, and shall procure that the Contractor Personnel do not, use any of the Department's Confidential Information received otherwise



than for the purposes of this Contract.

- 13.5. At the written request of the Department, the Contractor shall procure that those members of the Contractor Personnel identified in the Department's notice signs a confidentiality undertaking prior to commencing any work in accordance with this Contract.
- 13.6. Nothing in this Contract shall prevent the Department from disclosing the Contractor's Confidential Information:
  - 13.6.1. to any Crown Body or any other Contracting Department. All Crown Bodies or Contracting Authorities receiving such Confidential Information shall be entitled to further disclose the Confidential Information to other Crown Bodies 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 Crown Body or any Contracting Department;
  - 13.6.2. to any consultant, contractor or other person engaged by the Department or any person conducting an Office of Government Commerce gateway review;
  - 13.6.3. for the purpose of the examination and certification of the Department's accounts; or
  - 13.6.4. for any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Department has used its resources.
- 13.7. The Department shall use all reasonable endeavours to ensure that any government department, Contracting Department, employee, third party or Sub-contractor to whom the Contractor's Confidential Information is disclosed pursuant to clause 13 is made aware of the Department's obligations of confidentiality.
- 13.8. Nothing in this clause 13 shall prevent either party from using any techniques, ideas or know-how gained during the performance of the Contract in the course of its normal business to the extent that this use does not result in a disclosure of the other party's Confidential Information or an infringement of IPR.
- 13.9. The parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Contract is not Confidential Information. The Department shall be responsible for determining in its absolute discretion whether any of the content of the Contract is exempt from disclosure in accordance with the provisions of the FOIA.
- 13.10. Subject to Clause 13.9, the Contractor hereby gives his consent for the Department to publish the Contract in its entirety, including from time to time agreed changes to the Contract, to the general public.



13.11. The Department may consult with the Contractor to inform its decision regarding any redactions but the Department shall have the final decision in its absolute discretion.

13.12. The Contractor shall assist and cooperate with the Department to enable the Department to publish this Contract.

14. Access and Information

14.1. The Contractor shall provide access at all reasonable times to the Department's internal auditors or other duly authorised staff or agents to inspect such documents as the Department considers necessary in connection with this Contract and where appropriate speak to the Contractors employees.

15. Transfer of Responsibility on Expiry or Termination

15.1. The Contractor shall, at no cost to the Department, promptly provide such assistance and comply with such timetable as the Department may reasonably require for the purpose of ensuring an orderly transfer of responsibility upon the expiry or other termination of this Contract. The Department shall be entitled to require the provision of such assistance both prior to and, for a reasonable period of time after the expiry or other termination of this Contract.

15.2. Such assistance may include (without limitation) the delivery of documents and data in the possession or control of the Contractor which relate to this Contract, including the documents and data, if any, referred to in the Schedule.

15.3. The Contractor undertakes that it shall not knowingly do or omit to do anything that may adversely affect the ability of the Department to ensure an orderly transfer of responsibility.

16. Amendment and variation

16.1. No amendment or variation to this Contract shall be effective unless it is in writing and signed by or on behalf of each of the parties hereto. The Contractor shall comply with any formal procedures for amending or varying contracts that the Department may have in place from time to time.

17. Assignment and Sub-contracting

17.1. The benefit and burden of this Contract may not be assigned or sub-contracted in whole or in part by the Contractor without the prior written consent of the Department. Such consent may be given subject to any conditions which the Department considers necessary. The Department may withdraw its consent to any sub-contractor where it no longer has reasonable grounds to approve of the sub-contractor or the sub-contracting arrangement and where these grounds have been presented in writing to the Contractor.

18. The Contract (Rights of Third Parties) Act 1999

18.1. This Contract is not intended to create any benefit, claim or rights of any kind

whatsoever enforceable by any person not a party to the Contract.

19. Waiver

- 19.1. No delay by or omission by either Party in exercising any right, power, privilege or remedy under this Contract shall operate to impair such right, power, privilege or remedy or be construed as a waiver thereof. Any single or partial exercise of any such right, power, privilege or remedy shall not preclude any other or further exercise thereof or the exercise of any other right, power, privilege or remedy.

20. Notices

- 20.1. Any notices to be given under this Contract shall be delivered personally or sent by registered post or by facsimile transmission to the Project Manager (in the case of the Department) or to the address set out in this Contract (in the case of the Contractor). Any such notice shall be deemed to be served, if delivered personally, at the time of delivery, if sent by post, forty-eight hours after posting or, if sent by facsimile transmission, twelve hours after proper transmission.

21. Dispute resolution

- 21.1. The Parties shall use all reasonable endeavours to negotiate in good faith and settle amicably any dispute that arises during the continuance of this Contract.
- 21.2. Any dispute not capable of resolution by the parties in accordance with the terms of Clause 21 shall be settled as far as possible by mediation in accordance with the Centre for Dispute Resolution (CEDR) Model Mediation Procedure.
- 21.3. No party may commence any court proceedings/arbitration in relation to any dispute arising out of this Contract until they have attempted to settle it by mediation, but any such mediation may be terminated by either party at any time of such party wishing to commence court proceedings/arbitration.

22. Law and Jurisdiction

- 22.1. This Contract shall be governed by and interpreted in accordance with English Law and the parties submit to the jurisdiction of the English courts.

23. Recycled Paper

- 23.1. The Contractor shall ensure that wherever possible all paper used in the production of reports, documents and other materials arising out of the performance by the Contractor of their duties under this Contract consists of a minimum of sixty per-cent recycled content of which seventy-five per cent is post-consumer waste.

24. Discrimination

- 24.1. The Contractor shall not unlawfully discriminate within the meaning and scope of any law, enactment, order, or regulation relating to discrimination

(whether in race, gender, religion, disability, sexual orientation or otherwise) in employment.

- 24.2. The Contractor shall take all reasonable steps to secure the observance of Clause 24.1 by all servants, employees or agents of the Contractor and all suppliers and sub-contractors employed in the execution of the Contract.
25. Safeguarding children who participate in research
    - 25.1. The Contractor will put in place safeguards to protect children from a risk of significant harm which could arise from them taking part in the Project. The Contractor will agree these safeguards with the Department before commencing work on the Project.
    - 25.2. In addition, the Contractor will carry out checks with the Disclosure and Barring Service (DBS checks) on all staff employed on the Project in a Regulated Activity. Contractors must have a DBS check done every three years for each relevant member of staff for as long as this contract applies. The DBS check must be completed before any of the Contractor's employees work with children in Regulated Activity. Please see <https://www.gov.uk/crb-criminal-records-bureau-check> for further guidance.
  26. Project outputs
    - 26.1. Unless otherwise agreed between the Contractor and the Project Manager, all outputs from the Project shall be published by the Department on the Department's research website.
    - 26.2. The Contractor shall ensure that all outputs for publication by the Department adhere to the Department's Style Guide and MS Word Template, available to download from: <https://www.gov.uk/government/publications/research-reports-guide-and-template>
    - 26.3. Unless otherwise agreed between the Contractor and Project Manager, the Contractor shall supply the Project Manager with a draft for comment at least eight weeks before the intended publication date, if applicable as detailed in work schedule, for interim reports, and eight weeks before the contracted end date, for final reports.
    - 26.4. The Contractor shall consider revisions to the drafts with the Project Manager in the light of the Department's comments. The Contractor shall provide final, signed off interim reports and other outputs planned within the lifetime of the Project to the Department by no later than four weeks before the intended publication date, if applicable as detailed in work schedule, and final, signed off reports and other outputs at the end of the Project to the Department by no later than the contracted end date for the Project.
    - 26.5. Until the date of publication, findings from all Project outputs shall be treated as confidential, as set out in the Clause 13 above. The Contractor shall not release findings to the press or disseminate them in any way or at any time prior to publication without approval of the Department.
    - 26.6. Where the Contractor wishes to issue a Press Notice or other publicity material containing findings from the Project, notification of plans, including timing and drafts of planned releases shall be submitted by the Contractor to

the Project Manager at least three weeks before the intended date of release and before any agreement is made with press or other external audiences, to allow the Department time to comment. All Press Notices released by the Department or the Contractor shall state the full title of the research report, and include a hyperlink to the Department's research web pages, and any other web pages as relevant, to access the publication/s. This clause applies at all times prior to publication of the final report.

26.7. Where the Contractor wishes to present findings from the Project in the public domain, for example at conferences, seminars, or in journal articles, the Contractor shall notify the Project Manager before any agreement is made with external audiences, to allow the Department time to consider the request. The Contractor shall only present findings that will already be in the public domain at the time of presentation, unless otherwise agreed with the Department. This clause applies at all times prior to publication of the final report.

## 27. Transfer of Undertakings

27.1 The Parties recognise that the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) may apply in respect of the award of the Contract by way of re-tender or in-sourcing following expiry or termination of this Contract.

27.2 During the period of six months preceding the expiry of the Contract or after the Department has given notice to terminate the Contract or the Contractor stops trading, and within 20 working days of being so requested by the Department, the Contractor shall fully and accurately disclose to the Department for the purposes of TUPE all information relating to its employees engaged in providing Services under the Contract, in particular, but not necessarily restricted to, the following:

27.2.1 the total number of staff whose employment with the Contractor is liable to be terminated at the expiry of this Contract but for any operation of law; and

27.2.2 for each person, age and gender, details of their salary, and pay settlements covering that person which relate to future dates but which have already been agreed and their redundancy entitlements (the names of individual members of employed staff do not have to be given); and

27.2.3 full information about the other terms and conditions on which the affected staff are employed (including but not limited to their working arrangements), or about where that information can be found; and

27.2.4 details of pensions entitlements, if any; and

27.2.5 job titles of the members of staff affected and the qualifications required for each position.

27.3 The Contractor shall permit the Department to use the information for the purposes of TUPE and of re-tendering. The Contractor will co-operate with the re-tendering of the Contract by allowing the Transferee to communicate with and meet the affected employees and/or their representatives.

27.4 The Contractor agrees to indemnify the Department fully and to hold it harmless at all times from and against all actions, proceedings, claims, expenses, awards, costs

and all other liabilities whatsoever in any way connected with or arising from or relating to the provision of information under Clause 27.2.

27.5 The Contractor agrees to indemnify the Department from and against all actions, proceedings, claims, expenses, awards, costs and all other liabilities (including legal fees) in connection with or as a result of any claim or demand by any employee or other employee or person claiming to be an employee of the Contractor on any date upon which the Contract is terminated and/or transferred to any third party ("Relevant Transfer Date") arising out of their employment with the Contractor or its termination by the Contractor whether such claim or claims arise before or after the Relevant Transfer Date.

27.6 In the event that the information provided by the Contractor in accordance with Clause 27.2 above becomes inaccurate, whether due to changes to the employment and personnel details of the affected employees made subsequent to the original provision of such information or by reason of the Contractor becoming aware that the information originally given was inaccurate, the Contractor shall notify the Department of the inaccuracies and provide the amended information.

27.7 The provisions of this Condition shall apply during the continuance of this Contract and indefinitely after its termination.

**End of Schedule Three**

<p>Authorised to sign for and on behalf of the Secretary of State for Education</p>	<p>Authorised to sign for and on behalf of the Contractor</p>
<p>Signature</p>	<p>Signature</p>
<p>Name in CAPITALS</p>	<p>Name in CAPITALS</p>
<p>Position and Address</p>	<p>Position and Address</p>
	<p>NFER The Mere. Upton Park Slough Berkshire. SL1 2DQ</p>
<p>Date</p>	<p>Date</p>

## **ANNEX 1 – Contractor Staff CVs**





















ANNEX 2 – Provisional Risk Log



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<sup>4</sup> L = likelihood; I = impact