



Department
for Environment
Food & Rural Affairs

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House 17 Smith
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helpline@defra.gov.uk
www.gov.uk/defra

The Marine Biological Association
The Laboratory
Citadel Hill
Plymouth
PL1 2PB

Our ref: C16141

Date: 17 May 2023

Dear [REDACTED]

Supply and delivery of mNCEA Pelagic Monitoring (NC34) C16141

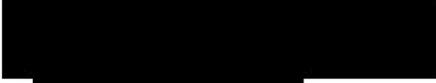
Following your proposal for the supply of mNCEA Pelagic Monitoring (NC34) C16141, we are pleased confirm our intention to award this contract to you.

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

Acceptance of the award of this Contract will be made by electronic signature carried out in accordance with the 1999 EU Directive 99/93 (Community framework for electronic signatures) and the UK Electronic Communications Act 2000. Acceptance of the offer comprised in this Agreement must be made within seven 7 days from the date of this Award Letter and the Agreement is formed on the date on which the Contractor communicates acceptance on the Customer's electronic contract management system ("Atamis"). No other form of acknowledgement will be accepted. Please remember to quote the reference number above in any future communications relating to this contract.

We thank you for your co-operation to date and look forward to forging a successful working relationship resulting in a smooth and successful supply of the Services.

Yours sincerely,



Defra Group Commercial


Award Form

mNCEA Pelagic Monitoring (NC34)

Contract Ref: C16141

This Award Form creates the Contract. It summarises the main features of the procurement and includes the Buyer and the Supplier's contact details.

1.	Buyer	<p>Department for Environment, Food and Rural Affairs (DEFRA) (the Buyer).</p> <ul style="list-style-type: none"> • Its offices are on: Nobel House 17 Smith Square, London SW1P 3JR
2.	Supplier	<p>Name: The Marine Biological Association (MBA)</p> <p>Address: The laboratory, Citadel Hill Plymouth PL1 2PB</p> <p>Registration RC000865 number:</p>
3.	Contract	<p>This Contract between the Buyer and the Supplier is for the supply of Deliverables.</p>
4.	Contract reference	<p>Contract C16141</p>
5.	Deliverables	<p>See Schedule 2 & 4 for further details.</p>
6.	Start Date	<p>22 May 2023</p>
7.	Expiry Date	<p>31st March 2024</p>
8.	Extension Period	<p>The Authority may extend the term of the Contract until 31 March 2026 ("Extension"). The terms of the Contract will apply throughout the period of any Extension.</p>
9.	Ending the Contract without a reason	<p>The Buyer shall be able to terminate the Contract in accordance with Clause 14.3.</p>

<p>10.</p>	<p>Incorporated Terms (together these documents form the "the Contract")</p>	<p>The following documents are incorporated into the Contract. Where numbers are missing we are not using these Schedules. If the documents conflict, the following order of precedence applies:</p> <ul style="list-style-type: none"> a) This Award Form b) Any Special Terms (see Section 14 (Special Terms) in this Award Form) c) Core Terms d) Schedule 36 (Intellectual Property Rights) e) Schedule 1 (Definitions) f) Schedule 6 (Transparency Reports) g) Schedule 20 (Processing Data) h) The following Schedules (in equal order of precedence): <ul style="list-style-type: none"> a. Schedule 2 (Specification) b. Schedule 3 (Charges) c. Schedule 13 (Contract Management) d. Schedule 14 (Business Continuity and Disaster Recovery) e. Schedule 15 (Minimum Standards of Reliability) f. Schedule 16 ((Security) g. Schedule 21 (Variation Form) h. Schedule 22 (Insurance Requirements) i. Schedule 25 (Rectification Plan) j. Schedule 26 (Sustainability) i) Schedule 4 (Tender), unless any part of the Tender offers a better commercial position for the Buyer (as decided by the Buyer, in its absolute discretion), in which case that aspect of the Tender will take precedence over the documents above.
<p>11.</p>	<p>Sustainability</p>	<p>The Supplier agrees, in providing the Deliverables and performing its obligations under the Contract, that it will comply with Schedule 26 (Sustainability).</p>
<p>12.</p>	<p>Buyer's Environmental Policy</p>	<p>The supplier shall ensure that any Goods or Services are designed, sourced and delivered in a manner which is environmentally responsible. In performing its obligations under the Contract, the Supplier shall to the reasonable satisfaction of the Authority ensure the reduction of whole life cycle sustainability impacts including: resilience to climate change;</p>

		eliminating and/or reducing embodied carbon; minimising resource consumption and ensuring resources are used efficiently; avoidance and reduction of waste following the waste management hierarchy as set out in Law and working towards a circular economy; reduction of single use consumable items (including packaging), and avoidance of single use plastic in line with Government commitments; environmental protection (including pollution prevention, biosecurity and reducing or eliminating hazardous substances; and compliance with Government Buying Standards Government Buying Standards applicable to Deliverables and using reasonable endeavours to support the Authority in meeting applicable Greening Government Commitments
13.	Social Value Commitment	The Supplier agrees, in providing the Deliverables and performing its obligations under the Contract, to deliver the Social Value outcomes in Schedule 4 (Tender) and provide the Social Value Reports as set out in Schedule 26 (Sustainability)
14.	Buyer's Security Policy	Please refer to Schedule 16 (Security)
15.	Commercially Sensitive Information	Not applicable
16.	Charges	Details in Schedule 3 (Charges)
17.	Reimbursable expenses	None.
18.	Payment method	The Authority's preference is for all invoices to be sent electronically, quoting a valid Purchase Order Number (PO Number), to: APinvoices-DEF-U@gov.sscl.com Alternatively, you may post to: Shared Services Connected Ltd DEF Procure to Pay PO Box 790 Newport Gwent NP10 8FZ

		<p>Within 10 Working Days of receipt of your countersigned copy of this Order Form, we will send you a unique PO Number. You must be in receipt of a valid PO Number before submitting an invoice.</p> <p>To avoid delay in payment it is important that the invoice is compliant with Annex 3 Non-compliant invoices will be sent back to you, which may lead to a delay in payment.</p> <p>If you have a query regarding an outstanding payment, please contact the Authority's Authorised Representative(s).</p>
19.	Insurance	Details in Annex of Schedule 22 (Insurance Requirements).
20.	Liability	<p>[In accordance with Clause 15.1 each Party's total aggregate liability in each Contract Year under the Contract (whether in tort, contract or otherwise) is no more than £5 million.</p> <p>In accordance with Clause 15.5, the Supplier's total aggregate liability in each Contract Year under Clause 18.8.5 is no more than the Data Protection Liability, being £10 million.</p>
21.	Cyber Essentials Certification	Not required
22.	Progress Meetings and Progress Reports	<ul style="list-style-type: none"> • The Supplier shall attend Progress Meetings with the Buyer not less than every month during the Implementation/Mobilisation phase, and not less than quarterly thereafter. • The Supplier shall provide the Buyer with Progress Reports not less than monthly during the Implementation/Mobilisation phase, and not less than quarterly thereafter.
23.	Guarantee	Not applicable
24.	Virtual Library	N/A
25.	Supplier Contract Manager	

26.	Supplier Authorised Representative	[REDACTED]
27.	Supplier Compliance Officer	[REDACTED]
28.	Supplier Data Protection Officer	[REDACTED] [REDACTED] [REDACTED] [REDACTED]
29.	Supplier Marketing Contact	N/A
30.	Key Subcontractors	N/A
31.	Buyer Authorised Representative	[REDACTED]

For and on behalf of the Supplier:	For and on behalf of the Buyer:
Supplier_Signature:	Contracting_Authority_Signature:
Name:	Name:
Role:	Role:
Date:	Date:

Schedule 1 (Definitions)

1. DEFINITIONS

- 1.1 In the Contract, unless the context otherwise requires, capitalised expressions shall have the meanings set out in this Schedule 1 (Definitions) or the relevant Schedule in which that capitalised expression appears.
- 1.2 If a capitalised expression does not have an interpretation in this Schedule or any other Schedule, it shall, in the first instance, be interpreted in accordance with the common interpretation within the relevant market sector/industry where appropriate. Otherwise, it shall be interpreted in accordance with the dictionary meaning.
- 1.3 In the Contract, unless the context otherwise requires:
 - 1.3.1 the singular includes the plural and vice versa;
 - 1.3.2 reference to a gender includes the other gender and the neuter;
 - 1.3.3 references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or Crown Body;
 - 1.3.4 a reference to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time;
 - 1.3.5 the words "**including**", "**other**", "**in particular**", "**for example**" 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**";
 - 1.3.6 references to "**writing**" include typing, printing, lithography, photography, display on a screen, electronic and facsimile transmission and other modes of representing or reproducing words in a visible form, and expressions referring to writing shall be construed accordingly;
 - 1.3.7 references to "**representations**" shall be construed as references to present facts, to "**warranties**" as references to present and future facts and to "**undertakings**" as references to obligations under the Contract;
 - 1.3.8 references to "**Clauses**" and "**Schedules**" are, unless otherwise provided, references to the clauses and schedules of the Core Terms and references in any Schedule to parts, paragraphs, annexes and tables are, unless otherwise provided, references to the parts, paragraphs, annexes and tables of the Schedule in which these references appear;
 - 1.3.9 references to "**Paragraphs**" are, unless otherwise provided, references to the paragraph of the appropriate Schedules unless otherwise provided; and

- 1.3.10 references to a series of Clauses or Paragraphs shall be inclusive of the clause numbers specified.
- 1.3.11 the headings in the Contract are for ease of reference only and shall not affect the interpretation or construction of the Contract; and
- 1.3.12 where the Buyer is a Crown Body it shall be treated as contracting with the Crown as a whole.
- 1.3.13 Any reference in this Contract which immediately before IP Completion Day (or such later date when relevant EU law ceases to have effect pursuant to Section 1A of the European Union (Withdrawal) Act 2018) is a reference to (as it has effect from time to time):
- (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 European Union (Withdrawal) Act 2018 and which shall be read on and after IP Completion Day as a reference to the EU References as they form part of domestic law by virtue of Section 3 of the European Union (Withdrawal) Act 2018 as modified by domestic law from time to time; and
 - (ii) any EU institution or EU authority or other such EU body shall be read on and after IP Completion Day as a reference to the UK institution, authority or body to which its functions were transferred.

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

"Achieve"	in respect of a Test, to successfully pass such Test without any Test Issues and in respect of a Milestone, the issue of a Satisfaction Certificate in respect of that Milestone and " Achieved ", " Achieving " and " Achievement " shall be construed accordingly;
"Additional FDE Group Member"	means any entity (if any) specified as an Additional FDE Group Member in Part A of Annex 3 of Schedule 24 (Financial Difficulties);
"Affected Party"	the party seeking to claim relief in respect of a Force Majeure Event;
"Affiliates"	in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control of that body corporate from time to time;
"Allowable Assumptions"	means the assumptions (if any) set out in Annex 2 of Schedule 3 (Charges);

"Annex"	extra information which supports a Schedule;
"Approval"	the prior written consent of the Buyer and "Approve" and "Approved" shall be construed accordingly;
"Associates"	means, in relation to an entity, an undertaking in which the entity owns, directly or indirectly, between 20% and 50% of the voting rights and exercises a degree of control sufficient for the undertaking to be treated as an associate under generally accepted accounting principles;
"Audit"	<p>the Buyer's right to:</p> <ul style="list-style-type: none"> (a) verify the integrity and content of any Financial Report; (b) verify the accuracy of the Charges and any other amounts payable by the Buyer under a Contract (including proposed or actual variations to them in accordance with the Contract); (c) verify the costs of the Supplier (including the costs of all Subcontractors and any third party suppliers) in connection with the provision of the Services; (d) verify the Open Book Data; (e) verify the Supplier's and each Subcontractor's compliance with the applicable Law; (f) identify or investigate actual or suspected breach of Clauses 3 to 37 and/or Schedule 26 (Sustainability), impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances the Buyer shall have no obligation to inform the Supplier of the purpose or objective of its investigations; (g) identify or investigate any circumstances which may impact upon the financial stability of the Supplier, any Guarantor, and/or any Subcontractors or their ability to provide the Deliverables; (h) obtain such information as is necessary to fulfil the Buyer's obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General; (i) review any books of account and the internal contract management accounts kept by the Supplier in connection with the Contract; (j) carry out the Buyer's internal and statutory audits and to prepare, examine and/or certify the Buyer's annual and interim reports and accounts; (k) enable the National Audit Office to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the

	economy, efficiency and effectiveness with which the Buyer has used its resources;
"Auditor"	<ul style="list-style-type: none"> (a) the Buyer's internal and external auditors; (b) the Buyer's statutory or regulatory auditors; (c) the Comptroller and Auditor General, their staff and/or any appointed representatives of the National Audit Office; (d) HM Treasury or the Cabinet Office; (e) any party formally appointed by the Buyer to carry out audit or similar review functions; and (f) successors or assigns of any of the above;
"Award Form"	the document outlining the Incorporated Terms and crucial information required for the Contract, to be executed by the Supplier and the Buyer;
"Beneficiary"	a Party having (or claiming to have) the benefit of an indemnity under this Contract;
"Buyer"	the public sector purchaser identified as such in the Order Form;
"Buyer Assets"	the Buyer's infrastructure, data, software, materials, assets, equipment or other property owned by and/or licensed or leased to the Buyer and which is or may be used in connection with the provision of the Deliverables which remain the property of the Buyer throughout the term of the Contract;
"Buyer Authorised Representative"	the representative appointed by the Buyer from time to time in relation to the Contract initially identified in the Award Form;
"Buyer Cause"	has the meaning given to it in the Award Form;
"Buyer Data"	<p>means the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, including any Buyer's or End User's Confidential Information, and which:</p> <ul style="list-style-type: none"> (a) are supplied to the Supplier by or on behalf of the Buyer, or End User; or (b) the Supplier is required to generate, process, store or transmit pursuant to this Contract; or (c) any Personal Data for which the Buyer or End User is the Controller;

"Buyer Existing IPR"	means any and all IPR that are owned by or licensed to the Buyer, and where the Buyer is a Central Government Body, any Crown IPR, and which are or have been developed independently of the Contract (whether prior to the Start Date or otherwise)
"Buyer Premises"	premises owned, controlled or occupied by the Buyer which are made available for use by the Supplier or its Subcontractors for the provision of the Deliverables (or any of them);
"Buyer Third Party"	means any supplier to the Buyer (other than the Supplier), which is notified to the Supplier from time to time;
"Buyer's Confidential Information"	<p>(a) all Personal Data and any information, however it is conveyed, that relates to the business, affairs, developments, property rights, trade secrets, Know-How and IPR of the Buyer (including all Buyer Existing IPR and New IPR);</p> <p>(b) any other information clearly designated as being confidential (whether or not it is marked "confidential") or which ought reasonably be considered confidential which comes (or has come) to the Buyer's attention or into the Buyer's possession in connection with the Contract; and</p> <p>information derived from any of the above;</p>
"Central Government Body"	<p>a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics:</p> <p>(a) Government Department;</p> <p>(b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);</p> <p>(c) Non-Ministerial Department; or</p> <p>(d) Executive Agency;</p>
"Change in Law"	any change in Law which impacts on the supply of the Deliverables and performance of the Contract which comes into force after the Start Date;
"Change of Control"	a change of control within the meaning of Section 450 of the Corporation Tax Act 2010;
"Charges"	the prices (exclusive of any applicable VAT), payable to the Supplier by the Buyer under the Contract, as set out in the Award Form, for the full and proper performance by the Supplier of its obligations under the Contract less any Deductions;

"Claim"	any claim which it appears that a Beneficiary is, or may become, entitled to indemnification under this Contract;
"Commercially Sensitive Information"	the Confidential Information listed in the Award Form (if any) comprising of commercially sensitive information relating to the Supplier, its IPR or its business or which the Supplier has indicated to the Buyer that, if disclosed by the Buyer, would cause the Supplier significant commercial disadvantage or material financial loss;
"Comparable Supply"	the supply of Deliverables to another Buyer of the Supplier that are the same or similar to the Deliverables;
"Compliance Officer"	the person(s) appointed by the Supplier who is responsible for ensuring that the Supplier complies with its legal obligations;
"Confidential Information"	means any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, Know-How, personnel and suppliers of the Buyer or the Supplier, including IPRs, together with information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as " confidential ") or which ought reasonably to be considered to be confidential;
"Conflict of Interest"	a conflict between the financial or personal duties of the Supplier or the Supplier Staff and the duties owed to the Buyer under the Contract, in the reasonable opinion of the Buyer;
"Contract"	the contract between the Buyer and the Supplier, which consists of the terms set out and referred to in the Award Form;
"Contract Period"	the term of the Contract from the earlier of the: (a) Start Date; or (b) the Effective Date (c) until the End Date;
"Contract Value"	the higher of the actual or expected total Charges paid or payable under the Contract where all obligations are met by the Supplier;
"Contract Year"	a consecutive period of twelve (12) Months commencing on the Start Date or each anniversary thereof;
"Control"	control in either of the senses defined in sections 450 and 1124 of the Corporation Tax Act 2010 and " Controlled " shall be construed accordingly;
"Controller"	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;

"Core Terms"	the Buyer's terms and conditions which apply to and comprise one part of the Contract set out in the document called "Core Terms";
"Costs"	<p>the following costs (without double recovery) to the extent that they are reasonably and properly incurred by the Supplier in providing the Deliverables:</p> <ul style="list-style-type: none"> (a) the cost to the Supplier or the Key Subcontractor (as the context requires), calculated per Work Day, of engaging the Supplier Staff, including: <ul style="list-style-type: none"> (i) base salary paid to the Supplier Staff; (ii) employer's National Insurance contributions; (iii) pension contributions; (iv) car allowances; (v) any other contractual employment benefits; (vi) staff training; (vii) work place accommodation; (viii) work place IT equipment and tools reasonably necessary to provide the Deliverables (but not including items included within limb (b) below); and (ix) reasonable recruitment costs, as agreed with the Buyer; (b) costs incurred in respect of Supplier Assets which would be treated as capital costs according to generally accepted accounting principles within the UK, which shall include the cost to be charged in respect of Supplier Assets by the Supplier to the Buyer or (to the extent that risk and title in any Supplier Asset is not held by the Supplier) any cost actually incurred by the Supplier in respect of those Supplier Assets; (c) operational costs which are not included within (a) or (b) above, to the extent that such costs are necessary and properly incurred by the Supplier in the provision of the Deliverables; and (d) Reimbursable Expenses to the extent these have been specified as allowable in the Award Form and are incurred in delivering any Deliverables; <p>but excluding:</p> <ul style="list-style-type: none"> (e) Overhead; (f) financing or similar costs; (g) maintenance and support costs to the extent that these relate to maintenance and/or support Deliverables provided beyond

	<p>the Contract Period whether in relation to Supplier Assets or otherwise;</p> <p>(h) taxation;</p> <p>(i) fines and penalties;</p> <p>(j) amounts payable under Schedule 12 (Benchmarking) where such Schedule is used; and</p> <p>(k) non-cash items (including depreciation, amortisation, impairments and movements in provisions);</p>
"Critical Service Level Failure"	has the meaning given to it in the Award Form;
"Crown Body"	the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the National Assembly for Wales), including government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;
"Crown IPR"	means any IPR which is owned by or licensed to the Crown, and which are or have been developed independently of the Contract (whether prior to the Start Date or otherwise);
"CRTPA"	the Contract Rights of Third Parties Act 1999;
"Data Protection Impact Assessment"	an assessment by the Controller of the impact of the envisaged Processing on the protection of Personal Data;
"Data Protection Legislation"	(i) the UK GDPR, (ii) the DPA 2018 to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy; and (iv) (to the extent that it applies) the EU GDPR;
"Data Protection Liability Cap"	has the meaning given to it in the Award Form;
"Data Protection Officer"	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
"Data Subject"	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;

"Data Subject Access Request"	a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data;
"Deductions"	all Service Credits, Delay Payments (if applicable), or any other deduction which the Buyer is paid or is payable to the Buyer under the Contract;
"Default"	any breach of the obligations of the Supplier (including abandonment of the Contract in breach of its terms) or any other default (including material default), act, omission, negligence or statement of the Supplier, of its Subcontractors or any Supplier Staff howsoever arising in connection with or in relation to the subject-matter of the Contract and in respect of which the Supplier is liable to the Buyer;
"Delay Payments"	the amounts (if any) payable by the Supplier to the Buyer in respect of a delay in respect of a Milestone as specified in the Implementation Plan;
"Deliverables"	Goods and/or Services that may be ordered under the Contract including the Documentation;
"Delivery"	delivery of the relevant Deliverable or Milestone in accordance with the terms of the Contract as confirmed and accepted by the Buyer by the either (a) confirmation in writing to the Supplier; or (b) where Schedule 8 (Implementation Plan and Testing) is used issue by the Buyer of a Satisfaction Certificate. "Deliver" and "Delivered" shall be construed accordingly;
"Dependent Parent Undertaking"	means any Parent Undertaking which provides any of its Subsidiary Undertakings and/or Associates, whether directly or indirectly, with any financial, trading, managerial or other assistance of whatever nature, without which the Supplier would be unable to continue the day to day conduct and operation of its business in the same manner as carried on at the time of entering into this Contract, including for the avoidance of doubt the provision of the Services in accordance with the terms of this Contract;
"Disaster"	the occurrence of one or more events which, either separately or cumulatively, mean that the Deliverables, or a material part thereof will be unavailable (or could reasonably be anticipated to be unavailable) for the period specified in the Award Form (for the purposes of this definition the "Disaster Period");
"Disclosing Party"	the Party directly or indirectly providing Confidential Information to the other Party in accordance with Clause 19 (What you must keep confidential);

"Dispute"	any claim, dispute or difference (whether contractual or non-contractual) arising out of or in connection with the Contract or in connection with the negotiation, existence, legal validity, enforceability or termination of the Contract, whether the alleged liability shall arise under English law or under the law of some other country and regardless of whether a particular cause of action may successfully be brought in the English courts;
"Dispute Resolution Procedure"	the dispute resolution procedure set out in Clause 39 (Resolving disputes);
"Documentation"	<p>descriptions of the Services and Service Levels, technical specifications, user manuals, training manuals, operating manuals, process definitions and procedures, system environment descriptions and all such other documentation (whether in hardcopy or electronic form) is required to be supplied by the Supplier to the Buyer under the Contract as:</p> <p>(a) would reasonably be required by a competent third party capable of Good Industry Practice contracted by the Buyer to develop, configure, build, deploy, run, maintain, upgrade and test the individual systems that provide the Deliverables</p> <p>(b) is required by the Supplier in order to provide the Deliverables; and/or</p> <p>(c) has been or shall be generated for the purpose of providing the Deliverables;</p>
"DOTAS"	the Disclosure of Tax Avoidance Schemes rules which require a promoter of tax schemes to tell HMRC of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Part 7 of the Finance Act 2004 and as extended to National Insurance Contributions;
"DPA 2018"	The Data Protection Act 2018
"Due Diligence Information"	any information supplied to the Supplier by or on behalf of the Buyer prior to the Start Date;
"Effective Date"	the date on which the final Party has signed the Contract;
"EIR"	the Environmental Information Regulations 2004;
"Employment Regulations"	the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced;

"End Date"	the earlier of: (a) the Expiry Date as extended by the Buyer under Clause 14.2; or (b) if the Contract is terminated before the date specified in (a) above, the date of termination of the Contract;
"End User"	means a party that is accessing the Deliverables provided pursuant to this Contract (including the Buyer where it is accessing services on its own account as a user);
"Environmental Policy"	to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment, including any written environmental policy of the Buyer;
"Equality and Human Rights Commission"	the UK Government body named as such as may be renamed or replaced by an equivalent body from time to time;
"Escalation Meeting"	means a meeting between the Supplier Authorised Representative and the Buyer Authorised Representative to address issues that have arisen during the Rectification Plan Process;
"Estimated Year 1 Charges"	the anticipated total Charges payable by the Buyer in the first Contract Year specified in the Award Form;
"Estimated Yearly Charges"	means for the purposes of calculating each Party's annual liability under Clause 15.1: (a) in the first Contract Year, the Estimated Year 1 Charges; or (b) in any subsequent Contract Years, the Charges paid or payable in the previous Contract Year; or (c) after the end of the Contract, the Charges paid or payable in the last Contract Year during the Contract Period;
"EU"	European Union
"EU GDPR"	Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) as it has effect in EU law;
"Existing IPR"	any and all IPR that are owned by or licensed to either Party and which are or have been developed independently of the Contract (whether prior to the Start Date or otherwise);

"Exit Plan"	has the meaning given to it in Paragraph 4.1 of Schedule 30 (Exit Plan);
"Expiry Date"	the date of the end of the Contract as stated in the Award Form;
"Extension Period"	such period or periods beyond which the Initial Period may be extended, specified in the Award Form;
"FDE Group"	the Supplier and any Additional FDE Group Member;
"Financial Distress Event"	<p>The occurrence of one or more the following events:</p> <ul style="list-style-type: none"> (a) the credit rating of any FDE Group entity drops below the applicable Credit Rating Threshold of the relevant Rating Agency; (b) any FDE Group entity issues a profits warning to a stock exchange or makes any other public announcement, in each case about a material deterioration in its financial position or prospects; (c) there being a public investigation into improper financial accounting and reporting, suspected fraud or any other impropriety of any FDE Group entity; (d) any FDE Group entity commits a material breach of covenant to its lenders; (e) a Key Subcontractor notifies the Buyer that the Supplier has not paid any material sums properly due under a specified invoice and not subject to a genuine dispute; (f) any FDE Group entity extends the filing period for filing its accounts with the Registrar of Companies so that the filing period ends more than 9 months after its accounting reference date without an explanation to the Buyer which the Buyer (acting reasonably) considers to be adequate; (g) any FDE Group entity is late to file its annual accounts without a public notification or an explanation to the Buyer which the Buyer (acting reasonably) considers to be adequate; (h) the directors and/or external auditors of any FDE Group entity conclude that a material uncertainty exists in relation to that FDE Group entity's going concern in the annual report including in a reasonable but plausible downside scenario. This includes, but is not limited to, commentary about liquidity and trading prospects in the reports from directors or external auditors; (i) any of the following:

	<ul style="list-style-type: none"> (i) any FDE Group entity makes a public announcement which contains commentary with regards to that FDE Group entity's liquidity and trading and trading prospects, such as but not limited to, a profit warning or ability to trade as a going concern; (ii) commencement of any litigation against any FDE Group entity with respect to financial indebtedness greater than £5m or obligations under a service contract with a total contract value greater than £5m; (iii) non-payment by any FDE Group entity of any financial indebtedness; (iv) any financial indebtedness of any FDE Group entity becoming due as a result of an event of default; (v) the cancellation or suspension of any financial indebtedness in respect of any FDE Group entity; or (vi) an external auditor of any FDE Group entity expressing a qualified opinion on, or including an emphasis of matter in, its opinion on the statutory accounts of that FDE Group entity, in each case which the Buyer reasonably believes (or would be likely reasonably to believe) could directly impact on the continued provision of the Deliverables in accordance with the Contract; or <p>(j) any one of the Financial Indicators set out in Part C of Annex 2 of Schedule 24 for any of the FDE Group entities failing to meet the required Financial Target Threshold.</p>
<p>"Financial Report"</p>	<p>a report provided by the Supplier to the Buyer that:</p> <ul style="list-style-type: none"> (a) to the extent permitted by Law, provides a true and fair reflection of the Costs and Supplier Profit Margin forecast by the Supplier; (b) to the extent permitted by Law, provides detail a true and fair reflection of the costs and expenses to be incurred by Key Subcontractors (as requested by the Buyer); (c) is in the same software package (Microsoft Excel or Microsoft Word), layout and format as the blank templates which have been issued by the Buyer to the Supplier on or before the Start Date for the purposes of this Contract; and

	(d) is certified by the Supplier's Chief Financial Officer or Director of Finance;
"Financial Transparency Objectives"	<p>means:</p> <ul style="list-style-type: none"> (a) the Buyer having a clear analysis of the Costs, Overhead recoveries (where relevant), time spent by Supplier Staff in providing the Services and the Supplier Profit Margin so that it can understand any payment sought by the Supplier; (b) the Parties being able to understand Cost forecasts and to have confidence that these are based on justifiable numbers and appropriate forecasting techniques; (c) the Parties being able to understand the quantitative impact of any Variations that affect ongoing Costs and identifying how these could be mitigated and/or reflected in the Charges; (d) the Parties being able to review, address issues with and re-forecast progress in relation to the provision of the Services; (e) the Parties challenging each other with ideas for efficiency and improvements; and (f) enabling the Buyer to demonstrate that it is achieving value for money for the tax payer relative to current market prices;
"FOIA"	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 or relevant Government department in relation to such legislation;
"Force Majeure Event"	<p>any event, circumstance, matter or cause affecting the performance by either the Buyer or the Supplier of its obligations arising from:</p> <ul style="list-style-type: none"> (a) acts, events, omissions, happenings or non-happenings beyond the reasonable control of the Affected Party which prevent or materially delay the Affected Party from performing its obligations under a Contract; (b) riots, civil commotion, war or armed conflict, acts of terrorism, nuclear, biological or chemical warfare; (c) acts of a Crown Body, local government or regulatory bodies; (d) fire, flood or any disaster; or (e) an industrial dispute affecting a third party for which a substitute third party is not reasonably available but excluding: <ul style="list-style-type: none"> (i) any industrial dispute relating to the Supplier, the Supplier Staff (including any subsets of them) or any

	<p>other failure in the Supplier or the Subcontractor's supply chain;</p> <p>(ii) any event, occurrence, circumstance, matter or cause which is attributable to the wilful act, neglect or failure to take reasonable precautions against it by the Party concerned; and</p> <p>(iii) any failure of delay caused by a lack of funds, and which is not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party;</p>
"Force Majeure Notice"	a written notice served by the Affected Party on the other Party stating that the Affected Party believes that there is a Force Majeure Event;
"General Anti-Abuse Rule"	<p>(a) the legislation in Part 5 of the Finance Act 2013 and; and</p> <p>(b) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid National Insurance contributions;</p>
"General Change in Law"	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;
"Goods"	goods made available by the Supplier as specified in Schedule 2 (Specification) and in relation to a Contract as specified in the Award Form;
"Good Industry Practice"	standards, practices, methods and procedures conforming to the Law and the exercise of the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged within the relevant industry or business sector;
"Government"	the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the National Assembly for Wales), including government ministers and government departments and other bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;
"Government Data"	<p>the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, including any of the Buyer's Confidential Information, and which:</p> <p>(a) are supplied to the Supplier by or on behalf of the Buyer; or</p>

	(b) the Supplier is required to generate, process, store or transmit pursuant to the Contract;
"Government Procurement Card"	the Government's preferred method of purchasing and payment for low value goods or services https://www.gov.uk/government/publications/government-procurement-card--2 ;
"Guarantor"	the person (if any) who has entered into a guarantee in the form set out in Schedule 23 (Guarantee) in relation to this Contract;
"Halifax Abuse Principle"	the principle explained in the CJEU Case C-255/02 Halifax and others;
"HMRC"	Her Majesty's Revenue and Customs;
"ICT Policy"	the Buyer's policy in respect of information and communications technology, referred to in the Award Form, which is in force as at the Start Date (a copy of which has been supplied to the Supplier), as updated from time to time in accordance with the Variation Procedure;
"Impact Assessment"	an assessment of the impact of a Variation request by the Buyer completed in good faith, including: <ul style="list-style-type: none"> (a) details of the impact of the proposed Variation on the Deliverables and the Supplier's ability to meet its other obligations under the Contract; (b) details of the cost of implementing the proposed Variation; (c) details of the ongoing costs required by the proposed Variation when implemented, including any increase or decrease in the Charges (as applicable), any alteration in the resources and/or expenditure required by either Party and any alteration to the working practices of either Party; (d) a timetable for the implementation, together with any proposals for the testing of the Variation; and (e) such other information as the Buyer may reasonably request in (or in response to) the Variation request;
"Implementation Plan"	the plan for provision of the Deliverables set out in Schedule 8 (Implementation Plan and Testing) where that Schedule is used or otherwise as agreed between the Supplier and the Buyer;
"Incorporated Terms"	the contractual terms applicable to the Contract specified in the Award Form;
"Indemnifier"	a Party from whom an indemnity is sought under this Contract;

"Independent Controller"	a party which is Controller of the same Personal Data as the other Party and there is no element of joint control with regards to that Personal Data;
"Indexation"	the adjustment of an amount or sum in accordance with the Award Form;
"Information"	has the meaning given under section 84 of the Freedom of Information Act 2000;
"Information Commissioner"	the UK's independent authority which deals with ensuring information relating to rights in the public interest and data privacy for individuals is met, whilst promoting openness by public bodies;
"Initial Period"	the initial term of the Contract specified in the Award Form;
"Insolvency Event"	<p>with respect to any person, means:</p> <ul style="list-style-type: none"> (a) that person suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or: <ul style="list-style-type: none"> (i) (being a company or an LLP) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (ii) (being a partnership) is deemed unable to pay its debts within the meaning of section 222 of the Insolvency Act 1986; (b) that person commences negotiations with one or more of its creditors (using a voluntary arrangement, scheme of arrangement or otherwise) with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with one or more of its creditors or takes any step to obtain a moratorium pursuant to Section 1A and Schedule A1 of the Insolvency Act 1986 other than (in the case of a company, an LLP or a partnership) for the sole purpose of a scheme for a solvent amalgamation of that person with one or more other companies or the solvent reconstruction of that person; (c) another person becomes entitled to appoint a receiver over the assets of that person or a receiver is appointed over the assets of that person; (d) a creditor or encumbrancer of that person attaches or takes possession of, or a distress, execution or other such process is levied or enforced on or sued against, the whole or any

	<p>part of that person’s assets and such attachment or process is not discharged within fourteen (14) days;</p> <p>(e) that person suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;</p> <p>(f) where that person is a company, an LLP or a partnership:</p> <p>(i) a petition is presented (which is not dismissed within fourteen (14) days of its service), a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that person other than for the sole purpose of a scheme for a solvent amalgamation of that person with one or more other companies or the solvent reconstruction of that person;</p> <p>(ii) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is filed at Court or given or if an administrator is appointed, over that person;</p> <p>(iii) (being a company or an LLP) the holder of a qualifying floating charge over the assets of that person has become entitled to appoint or has appointed an administrative receiver; or</p> <p>(iv) (being a partnership) the holder of an agricultural floating charge over the assets of that person has become entitled to appoint or has appointed an agricultural receiver; or</p> <p>(a) any event occurs, or proceeding is taken, with respect to that person in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned above;</p>
<p>"Installation Works"</p>	<p>all works which the Supplier is to carry out at the beginning of the Contract Period to install the Goods in accordance with the Contract;</p>
<p>"Intellectual Property Rights" or "IPR"</p>	<p>(a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in internet domain names and website addresses and other rights in trade or business names, goodwill, designs, Know-How, trade secrets and other rights in Confidential Information;</p>

	<p>(b) applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and</p> <p>(c) all other rights having equivalent or similar effect in any country or jurisdiction;</p>
"Invoicing Address"	the address to which the Supplier shall Invoice the Buyer as specified in the Award Form;
"IP Completion Day"	has the meaning given to it in the European Union (Withdrawal Agreement) Act 2020;
"IPR Claim"	any claim of infringement or alleged infringement (including the defence of such infringement or alleged infringement) of any IPR, used to provide the Deliverables or otherwise provided and/or licensed by the Supplier (or to which the Supplier has provided access) to the Buyer in the fulfilment of its obligations under the Contract;
"IR35"	the off-payroll rules requiring individuals who work through their company pay the same tax and National Insurance contributions as an employee which can be found online at: https://www.gov.uk/guidance/ir35-find-out-if-it-applies ;
"Joint Controller Agreement"	the agreement (if any) entered into between the Buyer and the Supplier substantially in the form set out in Annex 2 of Schedule 20 (Processing Data);
"Joint Control"	where two or more Controllers jointly determine the purposes and means of Processing;
"Joint Controllers"	where two or more Controllers jointly determine the purposes and means of Processing;
"Key Staff"	the persons who the Supplier shall appoint to fill key roles in connection with the Services as listed in Annex 1 of Schedule 29 (Key Supplier Staff);
"Key Sub-Contract"	each Sub-Contract with a Key Subcontractor;
"Key Subcontractor"	any Subcontractor: (a) which is relied upon to deliver any work package within the Deliverables in their entirety; and/or

	<p>(b) which, in the opinion of the Buyer performs (or would perform if appointed) a critical role in the provision of all or any part of the Deliverables; and/or</p> <p>(c) with a Sub-Contract with the Contract value which at the time of appointment exceeds (or would exceed if appointed) 10% of the aggregate Charges forecast to be payable under the Contract,</p> <p>and the Supplier shall list all such Key Subcontractors in section 29 of the Award Form;</p>
"Know-How"	all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know-how relating to the Deliverables but excluding know-how already in the other Party's possession before the Start Date;
"Law"	any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, right within the meaning of the European Union (Withdrawal) Act 2018 as amended by European Union (Withdrawal Agreement) Act 2020, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the Supplier is bound to comply;
"Law Enforcement Processing"	processing under Part 3 of the DPA 2018;
"Losses"	all losses, liabilities, damages, costs, expenses (including legal fees), disbursements, costs of investigation, litigation, settlement, judgment, interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise and "Loss" shall be interpreted accordingly;
"Marketing Contact"	shall be the person identified in the Award Form;
"Milestone"	an event or task described in the Implementation Plan;
"Milestone Date"	the target date set out against the relevant Milestone in the Implementation Plan by which the Milestone must be Achieved;
"Month"	a calendar month and "Monthly" shall be interpreted accordingly;

"National Insurance"	contributions required by the Social Security Contributions and Benefits Act 1992 and made in accordance with the Social Security (Contributions) Regulations 2001 (SI 2001/1004);
"New IPR"	<p>(a) IPR in items created by the Supplier (or by a third party on behalf of the Supplier) specifically for the purposes of the Contract and updates and amendments of these items including database schema; and/or</p> <p>(b) IPR in or arising as a result of the performance of the Supplier's obligations under the Contract and all updates and amendments to the same;</p> <p>but shall not include the Supplier's Existing IPR. Unless otherwise agreed in writing, any New IPR should be recorded in Schedule 36 and updated regularly;</p>
"New IPR Item"	means a deliverable, document, product or other item within which New IPR subsists;
"Notifiable Default"	<p>means:</p> <p>(a) the Supplier commits a material Default; and/or</p> <p>(b) the performance of the Supplier is likely to cause or causes a Critical Service Level Failure;</p>
"Occasion of Tax Non – Compliance"	<p>where:</p> <p>(a) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which is found on or after 1 April 2013 to be incorrect as a result of:</p> <ul style="list-style-type: none"> (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 in any jurisdiction that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle; (ii) the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime in any jurisdiction; and/or <p>(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 Start Date or to a civil penalty for fraud or evasion;</p>

<p>"Open Book Data"</p>	<p>complete and accurate financial and non-financial information which is sufficient to enable the Buyer to verify the Charges already paid or payable and Charges forecast to be paid during the remainder of the Contract, including details and all assumptions relating to:</p> <ul style="list-style-type: none"> (a) the Supplier's Costs broken down against each Good and/or Service and/or Deliverable, including actual capital expenditure (including capital replacement costs) and the unit cost and total actual costs of all Deliverables; (b) operating expenditure relating to the provision of the Deliverables including an analysis showing: <ul style="list-style-type: none"> (i) the unit costs and quantity of Goods and any other consumables and bought-in Deliverables; (ii) manpower resources broken down into the number and grade/role of all Supplier Staff (free of any contingency) together with a list of agreed rates against each manpower grade; (iii) a list of Costs underpinning those rates for each manpower grade, being the agreed rate less the Supplier Profit Margin; and (iv) Reimbursable Expenses, if allowed under the Award Form; (c) Overheads; (d) all interest, expenses and any other third party financing costs incurred in relation to the provision of the Deliverables; (e) the Supplier Profit achieved over the Contract Period and on an annual basis; (f) confirmation that all methods of Cost apportionment and Overhead allocation are consistent with and not more onerous than such methods applied generally by the Supplier; (g) an explanation of the type and value of risk and contingencies associated with the provision of the Deliverables, including the amount of money attributed to each risk and/or contingency; and (h) the actual Costs profile for each Service Period;
<p>"Open Licence"</p>	<p>means any material that is published for use, with rights to access and modify, by any person for free, under a generally recognised open licence including Open Government Licence as set out at http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/ and the Open Standards Principles documented at https://www.gov.uk/government/publications/open-standards-principles/open-standards-principles;</p>

"Open Licence Publication Material"	means items created pursuant to the Contract which the Buyer may wish to publish as Open Licence which are supplied in a format suitable for publication under Open Licence;
"Overhead"	those amounts which are intended to recover a proportion of the Supplier's or the Key Subcontractor's (as the context requires) indirect corporate costs (including financing, marketing, advertising, research and development and insurance costs and any fines or penalties) but excluding allowable indirect costs apportioned to facilities and administration in the provision of Supplier Staff and accordingly included within limb (a) of the definition of "Costs";
"Parent Undertaking"	has the meaning set out in section 1162 of the Companies Act 2006;
"Parliament"	takes its natural meaning as interpreted by Law;
"Party"	the Buyer or the Supplier and "Parties" shall mean both of them where the context permits;
"Personal Data"	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
"Personal Data Breach"	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
"Prescribed Person"	a legal adviser, an MP or an appropriate body which a whistle-blower may make a disclosure to as detailed in 'Whistleblowing: list of prescribed people and bodies', 24 November 2016, available online at: https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies ;
"Processing"	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
"Processor"	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
"Processor Personnel"	all directors, officers, employees, agents, consultants and suppliers of the Processor and/or of any Subprocessor engaged in the performance of its obligations under the Contract;
"Progress Meeting"	a meeting between the Buyer Authorised Representative and the Supplier Authorised Representative;
"Progress Report"	a report provided by the Supplier indicating the steps taken to achieve Milestones or delivery dates;

<p>"Prohibited Acts"</p>	<ul style="list-style-type: none"> (a) to directly or indirectly offer, promise or give any person working for or engaged by the Buyer or any other public body a financial or other advantage to: <ul style="list-style-type: none"> (i) induce that person to perform improperly a relevant function or activity; or (ii) reward that person for improper performance of a relevant function or activity; (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; or (c) committing any offence: <ul style="list-style-type: none"> (i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act); or (ii) under legislation or common law concerning fraudulent acts; or (iii) defrauding, attempting to defraud or conspiring to defraud the Buyer or other public body; or (d) any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct had been carried out in the UK;
<p>"Protective Measures"</p>	<p>technical and organisational measures which must take account of:</p> <ul style="list-style-type: none"> (a) the nature of the data to be protected (b) harm that might result from Data Loss Event; (c) state of technological development (d) the cost of implementing any measures <p>including pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it;</p>
<p>"Public Sector Body "</p>	<p>means a formally established organisation that is (at least in part) publicly funded to deliver a public or government service;</p>
<p>"Recall"</p>	<p>a request by the Supplier to return Goods to the Supplier or the manufacturer after the discovery of safety issues or defects</p>

	(including defects in the IPR rights) that might endanger health or hinder performance;
"Recipient Party"	the Party which receives or obtains directly or indirectly Confidential Information;
"Rectification Plan"	the Supplier's plan (or revised plan) to rectify its breach using the template in Schedule 25 (Rectification Plan) which shall include: <ul style="list-style-type: none"> (a) full details of the Notifiable Default that has occurred, including a root cause analysis; (b) the actual or anticipated effect of the Notifiable Default; and (c) the steps which the Supplier proposes to take to rectify the Notifiable Default (if applicable) and to prevent such Notifiable Default from recurring, including timescales for such steps and for the rectification of the Notifiable Default (where applicable);
"Rectification Plan Process"	the process set out in Clause 11;
"Regulations"	the Public Contracts Regulations 2015 and/or the Public Contracts (Scotland) Regulations 2015 (as the context requires);
"Reimbursable Expenses"	the reasonable out of pocket travel and subsistence (for example, hotel and food) expenses, properly and necessarily incurred in the performance of the Services, calculated at the rates and in accordance with the Buyer's expenses policy current from time to time, but not including: <ul style="list-style-type: none"> (a) travel expenses incurred as a result of Supplier Staff travelling to and from their usual place of work, or to and from the premises at which the Services are principally to be performed, unless the Buyer otherwise agrees in advance in writing; and (b) subsistence expenses incurred by Supplier Staff whilst performing the Services at their usual place of work, or to and from the premises at which the Services are principally to be performed;
"Relevant Requirements"	all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State pursuant to section 9 of the Bribery Act 2010;
"Relevant Tax Authority"	HMRC, or, if applicable, the tax authority in the jurisdiction in which the Supplier is established;

"Reminder Notice"	a notice sent in accordance with Clause 14.6.1 given by the Supplier to the Buyer providing notification that payment has not been received on time;
"Replacement Deliverables"	any deliverables which are substantially similar to any of the Deliverables and which the Buyer receives in substitution for any of the Deliverables, whether those goods are provided by the Buyer internally and/or by any third party;
"Replacement Supplier"	any third party provider of Replacement Deliverables appointed by or at the direction of the Buyer from time to time or where the Buyer is providing Replacement Deliverables for its own account, shall also include the Buyer;
"Request For Information"	a request for information or an apparent request relating to the Contract for the provision of the Deliverables or an apparent request for such information under the FOIA or the EIRs;
"Required Action"	means the action the Buyer will take and what Deliverables it will control during the Step-In Process;
"Required Insurances"	the insurances required by Schedule 22 (Insurance Requirements);
"Satisfaction Certificate"	the certificate (materially in the form of the document contained in Annex 2 of Part B of Schedule 8 (Implementation Plan and Testing) or as agreed by the Parties where Schedule 8 is not used in this Contract) granted by the Buyer when the Supplier has Achieved a Milestone or a Test;
"Schedules"	any attachment to the Contract which contains important information specific to each aspect of buying and selling;
"Security Management Plan"	the Supplier's security management plan prepared pursuant to Schedule 16 (Security) (if applicable);
"Security Policy"	the Buyer's security policy, referred to in the Award Form, in force as at the Start Date (a copy of which has been supplied to the Supplier), as updated from time to time and notified to the Supplier;
"Serious Fraud Office"	the UK Government body named as such as may be renamed or replaced by an equivalent body from time to time;
"Service Credits"	any service credits specified in the Annex to Part A of Schedule 10 (Service Levels) being payable by the Supplier to the Buyer in respect of any failure by the Supplier to meet one or more Service Levels;

"Service Levels"	any service levels applicable to the provision of the Deliverables under the Contract (which, where Schedule 10 (Service Levels) is used in this Contract, are specified in the Annex to Part A of such Schedule);
"Service Period"	has the meaning given to it in the Award Form;
"Services"	services made available by the Supplier as specified in Schedule 2 (Specification) and in relation to a Contract as specified in the Award Form;
"Sites"	any premises (including the Buyer Premises, the Supplier's premises or third party premises) from, to or at which: <ul style="list-style-type: none"> (a) the Deliverables are (or are to be) provided; or (b) the Supplier manages, organises or otherwise directs the provision or the use of the Deliverables; (c) those premises at which any Supplier Equipment or any part of the Supplier System is located (where ICT Services are being provided)
"SME"	an enterprise falling within the category of micro, small and medium sized enterprises defined by the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium enterprises;
"Social Value"	the additional social benefits that can be achieved in the delivery of the Contract set out in Schedule 2 (Specification) and either (i) Schedule 10 (Service Levels) (where used) or (ii) Part C of Schedule 26 (Sustainability) (where Schedule 10 (Service Levels) is not used)
"Social Value KPIs"	the Social Value priorities set out in Schedule 2 (Specification) and either (i) Schedule 10 (Service Levels) (where used) or (ii) Part C of Schedule 26 (Sustainability) (where Schedule 10 (Service Levels) is not used)
"Social Value Report"	the report the Supplier is required to provide to the Buyer pursuant to Paragraph 1 of Part C of Schedule 26 (Sustainability) where Schedule 10 (Service Levels) is not used
"Special Terms"	any additional terms and conditions set out in the Award Form incorporated into the Contract;
"Special IPR Terms"	any additional terms and conditions relating to IPR set out in the Award Form incorporated into the Contract;

"Specific Change in Law"	a Change in Law that relates specifically to the business of the Buyer and which would not affect a Comparable Supply where the effect of that Specific Change in Law on the Deliverables is not reasonably foreseeable at the Start Date;
"Specification"	the specification set out in Schedule 2 (Specification), as may, in relation to the Contract, be supplemented by the Award Form;
"Standards"	<p>any:</p> <ul style="list-style-type: none"> (a) standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardisation or other reputable or equivalent bodies (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Supplier would reasonably and ordinarily be expected to comply with; (b) standards detailed in the specification in Schedule 2 (Specification); (c) standards detailed by the Buyer in the Award Form or agreed between the Parties from time to time; (d) relevant Government codes of practice and guidance applicable from time to time;
"Start Date"	the date specified on the Award Form;
"Step-In Process"	the process set out in Clause 13;
"Step-In Trigger Event"	<p>means:</p> <ul style="list-style-type: none"> (a) the Supplier's level of performance constituting a Critical Service Level Failure; (b) the Supplier committing a material Default which is irremediable; (c) where a right of termination is expressly reserved in this Contract; (d) an Insolvency Event occurring in respect of the Supplier or any Guarantor required under the Award Form; (e) a Default by the Supplier that is materially preventing or materially delaying the provision of the Deliverables or any material part of them; (f) the Buyer considers that the circumstances constitute an emergency despite the Supplier not being in breach of its obligations under this agreement;

	<p>(g) the Buyer being advised by a regulatory body that the exercise by the Buyer of its rights under Clause 13 is necessary;</p> <p>(h) the existence of a serious risk to the health or safety of persons, property or the environment in connection with the Deliverables; and/or</p> <p>(i) a need by the Buyer to take action to discharge a statutory duty;</p>
"Step-Out Plan"	means the Supplier's plan that sets out how the Supplier will resume the provision of the Deliverables and perform all its obligations under the Contract following the completion of the Step-In Process;
"Storage Media"	the part of any device that is capable of storing and retrieving data;
"Sub-Contract"	<p>any contract or agreement (or proposed contract or agreement), other than the Contract, pursuant to which a third party:</p> <p>(a) provides the Deliverables (or any part of them);</p> <p>(b) provides facilities or services necessary for the provision of the Deliverables (or any part of them); and/or</p> <p>(c) is responsible for the management, direction or control of the provision of the Deliverables (or any part of them);</p>
"Subcontractor"	any person other than the Supplier, who is a party to a Sub-Contract and the servants or agents of that person;
"Subprocessor"	any third Party appointed to process Personal Data on behalf of the Supplier related to the Contract;
"Subsidiary Undertaking"	has the meaning set out in section 1162 of the Companies Act 2006;
"Supplier"	the person, firm or company identified in the Award Form;
"Supplier Assets"	all assets and rights used by the Supplier to provide the Deliverables in accordance with the Contract but excluding the Buyer Assets;
"Supplier Authorised Representative"	the representative appointed by the Supplier named in the Award Form, or later defined in a Contract;
"Supplier Equipment"	the Supplier's hardware, computer and telecoms devices, equipment, plant, materials and such other items supplied and used by the Supplier (but not hired, leased or loaned from the Buyer) in the performance of its obligations under this Contract;

"Supplier Existing IPR"	any and all IPR that are owned by or licensed to the Supplier and which are or have been developed independently of the Contract (whether prior to the Start Date or otherwise)
"Supplier Existing IPR Licence"	means a licence to be offered by the Supplier to the Supplier Existing IPR as set out in Para 1.3 of Schedule 36.
"Supplier Group"	means the Supplier, its Dependent Parent Undertakings and all Subsidiary Undertakings and Associates of such Dependent Parent Undertakings;
"Supplier Non-Performance"	where the Supplier has failed to: <ul style="list-style-type: none"> (a) Achieve a Milestone by its Milestone Date; (b) provide the Goods and/or Services in accordance with the Service Levels ; and/or (c) comply with an obligation under the Contract;
"Supplier Profit"	in relation to a period, the difference between the total Charges (in nominal cash flow terms but excluding any Deductions and total Costs (in nominal cash flow terms) in respect of the Contract for the relevant period;
"Supplier Profit Margin"	in relation to a period or a Milestone (as the context requires), the Supplier Profit for the relevant period or in relation to the relevant Milestone divided by the total Charges over the same period or in relation to the relevant Milestone and expressed as a percentage;
"Supplier Staff"	all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Subcontractor engaged in the performance of the Supplier's obligations under the Contract;
"Supplier's Confidential Information"	<ul style="list-style-type: none"> (a) any information, however it is conveyed, that relates to the business, affairs, developments, IPR of the Supplier (including the Supplier Existing IPR) trade secrets, Know-How, and/or personnel of the Supplier; (b) any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential and which comes (or has come) to the Supplier's attention or into the Supplier's possession in connection with the Contract; <p>Information derived from any of (a) and (b) above;</p>
"Supplier's Contract Manager"	the person identified in the Award Form appointed by the Supplier to oversee the operation of the Contract and any alternative

	person whom the Supplier intends to appoint to the role, provided that the Supplier informs the Buyer prior to the appointment;
"Supply Chain Information Report Template"	the document at Annex 1 of Schedule 18 (Supply Chain Visibility);
"Supporting Documentation"	sufficient information in writing to enable the Buyer to reasonably assess whether the Charges, Reimbursable Expenses and other sums due from the Buyer under the Contract detailed in the information are properly payable;
"Tender Response"	the tender submitted by the Supplier to the Buyer and annexed to or referred to in Schedule 4 (Tender);
"Termination Assistance"	the activities to be performed by the Supplier pursuant to the Exit Plan, and other assistance required by the Buyer pursuant to the Termination Assistance Notice;
"Termination Assistance Notice"	has the meaning given to it in Paragraph 5.1 of Schedule 30 (Exit Management);
"Termination Notice"	a written notice of termination given by one Party to the other, notifying the Party receiving the notice of the intention of the Party giving the notice to terminate the Contract on a specified date and setting out the grounds for termination;
"Test Issue"	any variance or non-conformity of the Deliverables or Deliverables from their requirements as set out in the Contract;
"Test Plan"	a plan: (a) for the Testing of the Deliverables; and (b) setting out other agreed criteria related to the achievement of Milestones;
"Tests and Testing"	any tests required to be carried out pursuant to the Contract as set out in the Test Plan or elsewhere in the Contract and "Tested" shall be construed accordingly;
"Third Party IPR"	Intellectual Property Rights owned by a third party which is or will be used by the Supplier for the purpose of providing the Deliverables;
"Third Party IPR Licence"	means a licence to the Third Party IPR as set out in Paragraph 1.6 of Schedule 36
"Transparency Information"	the Transparency Reports

	<p>and the content of the Contract, including any changes to this Contract agreed from time to time, except for –</p> <p>(a) any information which is exempt from disclosure in accordance with the provisions of the FOIA, which shall be determined by the Buyer; and</p> <p>(b) Commercially Sensitive Information;</p>
"Transparency Reports"	the information relating to the Deliverables and performance pursuant to the Contract which the Supplier is required to provide to the Buyer in accordance with the reporting requirements in Schedule 6 (Transparency Reports);
"UK GDPR"	Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (United Kingdom General Data Protection Regulation), as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018, together with the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019
"Variation"	means a variation to the Contract;
"Variation Form"	the form set out in Schedule 21 (Variation Form);
"Variation Procedure"	the procedure set out in Clause 28 (Changing the contract);
"VAT"	value added tax in accordance with the provisions of the Value Added Tax Act 1994;
"VCSE"	a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives;
"Verification Period"	has the meaning given to it in the table in Annex 2 of Schedule 3 (Charges);
"Work Day"	7.5 Work Hours, whether or not such hours are worked consecutively and whether or not they are worked on the same day;
"Work Hours"	the hours spent by the Supplier Staff properly working on the provision of the Deliverables including time spent travelling (other than to and from the Supplier's offices, or to and from the Sites) but excluding lunch breaks;

"Worker"	any one of the Supplier Staff which the Buyer, in its reasonable opinion, considers is an individual to which Procurement Policy Note 08/15 (Tax Arrangements of Public Appointees) (https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees) applies in respect of the Deliverables; and
"Working Day"	any day other than a Saturday or Sunday or public holiday in England and Wales unless specified otherwise by the Parties in the Award Form.

Schedule 2 (Specification)

Section 1 – Overview

- 1.1. **Defra project code:** NC34
- 1.2. **Defra project title:** Pelagic programme; plankton monitoring, evidence optimisation and an investigation of the link between our plankton and fisheries natural capital (EA)
- 1.3. **Proposers full name and title:** [REDACTED]
Telephone: [REDACTED]
- 1.4. **Name and address of organisation:**
The Marine Biological Society,
The Laboratory,
Citadel Hill,
Plymouth,
PL1 2PB
- 1.5. **Proposed start date:** 22/05/2023
- 1.6. **Proposed end date:** 31/03/2024
- 1.7. **Proposed duration:** initially 1 year with a further 1-year extension.
- 1.8. **Summary of costs:**
[REDACTED]

**subject to contract extension.

1.9. **Summary of project:**

Plankton form the very base of the marine foodweb, and as such are a vital component to the marine ecosystem – all marine life depends on them. They act as significantly important primary producers (producing 50% of the world's oxygen), and many are of vital importance as food for higher trophic organisms, such as fish, marine mammals and seabirds. Many commercially important marine organisms spend part of their life in the plankton. Established in 1931, the CPR Survey is the longest running, most geographically extensive marine biological survey in the world.

The monitoring programme consists of a network of transects towed by the merchant navy (Ships of Opportunity) each month across the Atlantic and European shelf seas (including extensive spatial monitoring in the UK EEZ) building up a picture of the taxonomic composition, abundance, and distribution of over 500 species of plankton over the last 90 years. The CPR Survey monitors across multiple trophic levels, from viruses to microbes to phytoplankton, zooplankton, and fish larvae, enabling detection and understanding of changes in pelagic food webs. In addition to these biological components, the CPR also records both micro- and macro-plastic data. The

long temporal and wide spatial scale of the CPR Survey are globally unique among biological monitoring programs, and allow assessment of ecosystem changes at local, national, and regional scales. This spatio-temporal representivity is crucial for detecting and interpreting change in pelagic habits caused by global drivers such as climate warming and ocean acidification, as well as direct and more localised anthropogenic pressures, such as nutrient loading, both of which occur against a background of natural variability. The CPR Survey therefore complements the rest of the UK's pelagic habitats monitoring program, which is comprised of local near-shore coastal fixed-point stations, few of which monitor both phytoplankton and zooplankton.

The CPR Survey delivers highly important, policy-relevant, strategic research. Research outputs are currently used to monitor changes in marine biodiversity and food webs and have enabled the development of indicators which assess the ecological health of UK regional seas under the UK Marine Strategy (UKMS), the 25 Year Environment Plan, and OSPAR biodiversity commitments. The data are used to interpret marine ecological changes and patterns, and to distinguish between direct anthropogenic pressures (nutrients, fishing, pollution), climate change (including ocean acidification), and natural plankton variability across UK and Northeast Atlantic waters. This type of analysis is only possible with multi-decadal time-series which sample at a regional scale. Understanding plankton responses and their drivers of change is essential for informing management measures as part of these policy drivers.

For this proposal, the MBA seeks additional funding from Defra to continue its work in running 3 newly reinstated CPR routes in UK EEZ waters, operating the routes from the base in Plymouth, returning the CPRs and samples, and producing the QA/QCd dataset. It should be noted that whilst this proposal seeks funding for 3 routes in UK waters, the larger dataset covering the North Atlantic, will also be made available. Also funding for analysis of inshore zooplankton net samples collected by the Environment Agency. In addition, the CPR data collected under this project, as well as the newly funded NCEAP work, will be shared across projects as they are fully compatible.

Section 2 – Evidence

2.1. Background:

The CPR Survey delivers highly important, policy-relevant, strategic research. Research outputs are currently used to monitor changes in marine biodiversity and food webs and have enabled the development of indicators which assess the ecological health of UK regional seas under the UK Marine Strategy (UKMS), the 25 Year Environment Plan, and OSPAR biodiversity commitments. The data are used to interpret marine ecological changes and patterns, and to distinguish between direct anthropogenic pressures (nutrients, fishing, pollution), climate change (including ocean acidification), and natural plankton variability across UK and Northeast Atlantic waters. This type of analysis is only possible with multi-decadal time-series which sample at a

regional scale. Understanding plankton responses and their drivers of change is essential for informing management measures as part of these policy drivers.

The CPR Survey's data, research, and expertise are therefore core to the UK and OSPAR COBAM pelagic habitats expert groups which carry out UKMS and OSPAR biodiversity assessments (Bedford et al., 2020a; Bedford et al., 2020b; McQuatters Gollop et al., 2019). Plankton are the base of the marine food web and changes in the plankton resonate to higher trophic levels (Thompson et al., 2020), and may thus influence the wider food web, including commercial fish stocks, marine mammals, and seabirds (Lindegren et al., 2020; McClellan et al., 2014; Reiertsen et al., 2014). CPR is core to the recently funded pelagic NCEAP, and as such we anticipate sharing data and research across both projects. CPR data therefore support food web assessments through the UKMS and OSPAR, as well as fish stock assessment through the UK Fisheries Act and internationally through ICES. In addition to informing biodiversity indicators, the CPR also collects pressure data. The CPR can track the introduction and establishment of non-indigenous species (reported for UK MS and EU MSFD) as well as the occurrence of marine plastics, both of which fall under UKMS and OSPAR commitments, and are of international interest under the UK Sustainable Development Goals and Aichi Targets.

The global nature of the CPR Survey supports the UK's international profile as leaders in marine science and conservation. The UK CPR Survey is the core of the Global Alliance of CPR Surveys which hosts sister programs in the North Pacific, Southern Ocean, South Atlantic, Mediterranean, New Zealand and Australia and which therefore have established links with governance and advice bodies such as PICES (North Pacific Marine Science Organisation) and CCAMLR (Commission for the Conservation of Antarctic Marine Living Resources) (Batten et al., 2019). The UK CPR Survey has experience working in data-poor Overseas Territories such as the Falkland Islands. Additionally, CPR data and research can track progress towards international biodiversity objectives, such as the UN Sustainable Development Goals and the Convention on Biological Diversity's Aichi Targets, as well as the upcoming post-2020 Biodiversity framework. The CPR is also set to play an important role in global monitoring as part of the UN Decade of Ocean Science for Sustainable Development through a new Programme entitled: Biomolecular Ocean Observing Network (BOON) which will focus on the use of eDNA monitoring in the ocean. Finally, the CPR Survey is a partner in international research and monitoring efforts such as the Global Ocean Observing System (GOOS), Ships of Opportunity Implementation Panel (SOOPS-IP), OBIS, EMODnet and ICES.

CPR staff contribute to a number of national and international evidence, steering and working groups. These include the Healthy and Biologically Diverse Seas Evidence Group, Marine Climate Change Impact Partnership, ICES WG Zooplankton Ecology, ICES WG Phytoplankton and Microbial Ecology, UK Integrated Marine Observing Network and RPSB State of Nature Partnership. In addition, at a national level, a number of the CPR team are involved with the HBDSEG Pelagic sub-group, and have worked with the UK plankton community to develop indicators and make best use of all data resources.

The CPR Survey's highly relevant policy outputs are critical in this time of accelerated environmental change, and continuing the funding programme within will help to provide long-term stability enabling the CPR Survey to continue to contribute to UK, regional, and global policy and research objectives. During the next 10 years, the CPR Survey will continue to innovate, developing and implementing new biodiversity monitoring techniques to provide additional layers of information to the platform (specifically molecular and optical sensing tools), adding value to the existing Survey. CPR monitoring has historically evolved as science and policy questions change and will continue to do so. CPR data will continue to be interrogated using novel statistical techniques, but as all CPR samples are preserved and stored, they are available for future taxonomic and molecular analysis as science questions and techniques evolve. The next decade will focus on forecasting through the new iCPR programme (using artificial intelligence and machine learning) and expanding the on-board instrumentation to offer new perspectives and further understanding of human health issues such as Harmful Algal Blooms and even of detection of new virus (or other pathogen) pandemics. These will involve continued development of in situ automated optical image analysis and molecular tools which will become 'standard' monitoring tools by the end of the UN Decade of the Ocean. Continued secure funding will enable this ambitious expansion in addition to the traditional sampling critical for supporting current policy objectives.

2.2. Objectives:

Objective 1 – New CPR routes:

- (i) Continue to support the 3 reinstated CPR routes to run alongside the existing 9 to complete the spatial coverage of CPR monitoring across English waters and increase the ability of the CPR dataset to give an understanding of our marine ecosystem (66% of spend). This is the same work as delivered in the current CPR contract (expanded to new areas). This involves sourcing of vessels, deployment of new equipment, maintenance of routes, monthly collection, and analysis of samples.
- (ii) In addition, MBA will interpret the analysis to derive evidence of the value of zooplankton as a natural capital asset. The equipment required for this work was purchased via a variation of ecm_35434 at the end of 21/22.

Objective 2 – Carry our additional work specific to the Marine NCEA programme:

- (i) Lab analysis and QA/QC of zooplankton samples collected by Environment Agency (18% of spend). This applies exactly the same methods as analysis of samples collected by MBA (in 1 above).
- (ii) Data extraction, sharing and interpretation of MBA and EA sample analysis to derive evidence of the value of zooplankton as a natural capital asset (10% of spend).

- (iii) Archiving and maintenance of data involving the DASSH data system (6% of spend).

2.3. Approach and Methodology:

This proposal of work will build on the previous almost 90 years of operations of the CPR Survey, by continuing to run 3 long-term routes in UK EEZ waters on a monthly basis, collecting plankton samples, returning them to the lab and subsequent analysis. These samples and the associated data will increase the ability of the CPR dataset to give an understanding of our marine ecosystem, enabling and will form the basis of a number of policy relevant pieces of work.

Objective 1 - Monthly tows are successfully carried out on UK EEZ routes. CPRs and internals delivered to ships for towing, and returned to MBA Plymouth for processing.

Objective 2 - 12 months of CPR and Environment Agency samples to be analysed, data QA/QCd. Subsequent dataset added to long term data holdings, and made available.

Objective 3 - data from above will be used in policy relevant science (such as UK Marine Strategy), and used to form the basis for the development of a natural capital ecosystem approach (developed in conjunction with the marine Natural Capital Ecosystem Assessment Programme's Pelagic Project).

2.4. Project Outputs and Deliverables:

The main project output from this work will be successful monthly tows for each of the identified routes, and the subsequent new CPR sample data, from UK waters (samples obtained from additional routes running in the wider Atlantic will also be made available). In addition, Environment Agency zooplankton will be made available and uploaded to MEDIN. These data will be added to the historical time series, and an annual update provided to the wider community, and will support the development of natural capital ecosystem assessment approaches.

2.5. Risks to delivery and contingency plans:

The CPR Survey in the North Atlantic is supported by an international consortium of funders and projects, of which Defra currently contributes to ~ 25 % of total projected contract income. Herein lies the greatest risk to the project objectives as maintaining activities at the current level into the future is dependent on achieving a balance of support from the other countries and successful projects contributing to the funding consortium. At the present time funding is not guaranteed from some countries beyond one year and the Foundation has to service a large number of separate contracts to maintain the total funding envelope to deliver its objectives. The vulnerability of the Survey in the longer term has been highlighted in JNCCs Monitoring Options work.

As an institution, the MBA takes risk management seriously and there is a comprehensive risk register that monitors finance, legal, logistics, management, administrative, research, safety, and strategic institutional risks and applies controls to mitigate risks with constant (quarterly) reviews to assess

all action points that help reduce the risks. This is monitored by the MBA Senior Management team and Board of Trustees

2.6. Quality Assurance:

Whilst there are no specific QA specified, the CPR Survey has a well-established and robust QA/QC methodology, to ensure consistency in all aspects of sample analysis and data creation. All analysis work is carried out by fully trained staff, following established SOPs, and undergo constant training and evaluation. Samples are checked by a senior member of the team, and all data entries are checked by two staff at point of entry, and by two separate staff at later dates, before final submission. In addition, members of the team take part in the NMBAQC phytoplankton component, known as International Phytoplankton Intercalibration (IPI) exercise. The CPR Survey also runs the zooplankton component of NMBAQC, with all analyst staff carrying out the exercise. NMBAQC promotes best practice in marine biological monitoring, and the recommended scheme to follow for any UK marine biological monitoring. The CPR Survey follows the guidelines proposed in 'Quality Assurance in Marine Biological Monitoring', a paper on best practice by [REDACTED] committee

2.7. Ethical Considerations and Health and Safety:

There are no ethical considerations. Health and safety is taken seriously within the MBA, with an active working group with representatives across all teams, actively promoting a health and safety culture. The MBA employ an external Health and Safety consultant, who advises on such aspects as dangerous goods transportation. As the CPR Survey works with external groups, mainly commercial shipping and port staff, Health and Safety is of paramount importance. The team fully brief all external assistants and provide guidance and training. Our reputation is our success, and as such we need to ensure Health and Safety is actively promoted across all levels of the organisation.

Section 3 – Resources and other requirements:

3.1. Project Management and team:

The project will be managed internally by [REDACTED] [REDACTED] will be responsible for day to day contact with the Environment Agency & Defra, attendance at Pelagic Project steering group meetings, and act as the single point of contact with the client.

[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] will be responsible for operations such as CPR set up, deployment and retrieval, and the operations team. [REDACTED] will manage the analysis team, sample analysis and data delivery, as well as attendance at Pelagic Project working group meetings. Research and relevant work will be carried out by the CPR research team.

3.2. Insurance:

The Marine Biological Association hold current Employers and Public & Products Liability Insurance through Aviva Insurance. The policy number is 23732392CCI.

Schedule 3 (Charges)

1. DEFINITIONS

Not used

2. HOW CHARGES ARE CALCULATED

2.1 The Charges:

2.1.1 shall be calculated in accordance with the terms of this Schedule;

2.1.2 cannot be increased except as specifically permitted by this Schedule and in particular shall only be subject to Indexation where specifically stated in the Award Form; and

2.2 Any variation to the Charges payable under a Contract must be agreed between the Supplier and the Buyer and implemented using the procedure set out in this Schedule.

3. THE PRICING MECHANISMS

3.1 The pricing mechanisms and prices set out in Annex 1 shall be available for use in calculation of Charges in the Contract.

4. ARE COSTS AND EXPENSES INCLUDED IN THE CHARGES

4.1 Except as expressly set out in Paragraph 5 below, or otherwise stated in the Award Form] the Charges shall include all costs and expenses relating to the provision of Deliverables. No further amounts shall be payable in respect of matters such as:

4.1.1 incidental expenses such as travel, subsistence and lodging, document or report reproduction, shipping, desktop or office equipment costs, network or data interchange costs or other telecommunications charges; or

4.1.2 costs incurred prior to the commencement of the Contract.

5. WHEN THE SUPPLIER CAN ASK TO CHANGE THE CHARGES

5.1 The Charges will be fixed for the first year following the Start Date (the date of expiry of such period is a "**Review Date**"). After this Charges can only be adjusted on each following yearly anniversary (the date of each such anniversary is also a "**Review Date**").

5.2 The Supplier shall give the Buyer at least three (3) Months' notice in writing prior to a Review Date where it wants to request an increase. If the Supplier does not give notice in time then it will only be able to request an increase prior to the next Review Date.

- 5.3 Any notice requesting an increase shall include:
- 5.3.1 a list of the Charges to be reviewed;
 - 5.3.2 for each of the Charges under review, written evidence of the justification for the requested increase including:
 - a) a breakdown of the profit and cost components that comprise the relevant part of the Charges;
 - b) details of the movement in the different identified cost components of the relevant Charge;
 - c) reasons for the movement in the different identified cost components of the relevant Charge;
 - d) evidence that the Supplier has attempted to mitigate against the increase in the relevant cost components; and
 - e) evidence that the Supplier's profit component of the relevant Charge is no greater than that applying to Charges using the same pricing mechanism as at the Start Date.
- 5.4 The Buyer shall consider each request for a price increase. The Buyer may grant Approval to an increase at its sole discretion.
- 5.5 Any Approval granted by the Buyer pursuant to Paragraph 5.4 shall be on the condition that the change to the Charges will not result in the Supplier Profit Margin exceeding the Maximum Permitted Profit Margin.
- 5.6 Where the Buyer approves an increase then it will be implemented from the first (1st) Working Day following the relevant Review Date or such later date as the Buyer may determine at its sole discretion and Annex 1 shall be updated accordingly.

6. OTHER EVENTS THAT ALLOW THE SUPPLIER TO CHANGE THE CHARGES

- 6.1 The Charges can also be varied (and Annex 1 will be updated accordingly) due to:
- 6.1.1 a Specific Change in Law in accordance with Clauses 28.6 to 28.8;
 - 6.1.2 a request from the Supplier, which it can make at any time, to decrease the Charges;

Annex 1: Rates and Prices

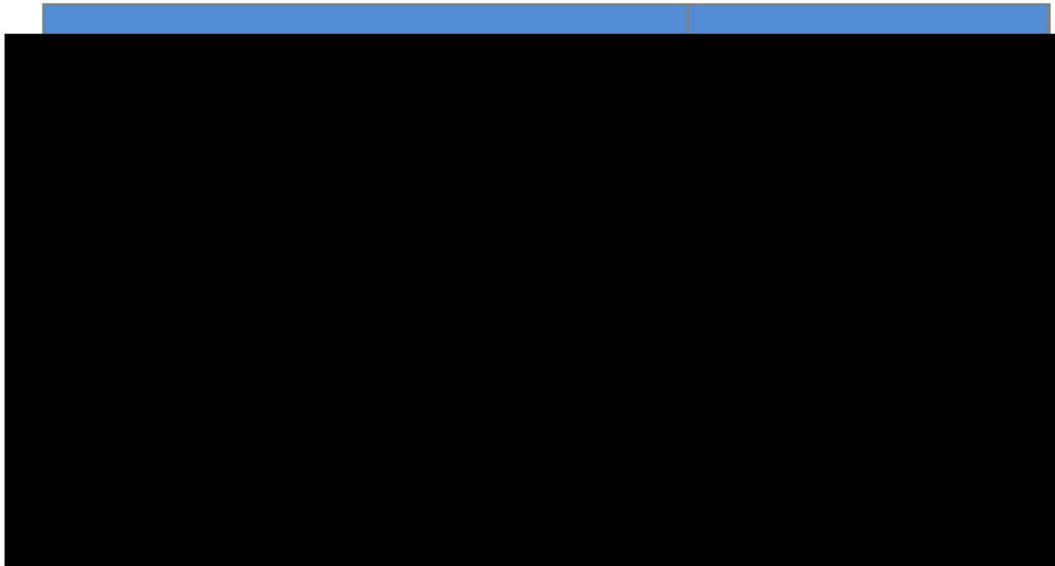
The rates below shall **not** be subject to variation by way of Indexation

The Authority will pay the Contractor no more than the fixed sum of:

£363,781.24 excluding VAT

The total of the payments (exclusive of VAT) to be made in accordance with the agreement for each financial year.

The total of the payment (exclusive of VAT) to be made to the Contractor in accordance with the Agreement, for each financial year, will be in accordance with the above table (the "Pricing Schedule")



Schedule 4 (Tender)

[REDACTED]

[REDACTED]

- [REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]	[REDACTED]
[REDACTED] [REDACTED]	[REDACTED]

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Schedule 6 (Transparency Reports)

- 1.1 The Supplier recognises that the Buyer is subject to PPN 01/17 (Updates to transparency principles v1.1 (<https://www.gov.uk/government/publications/procurement-policy-note-0117-update-to-transparency-principles>)). The Supplier shall comply with the provisions of this Schedule in order to assist the Buyer with its compliance with its obligations under that PPN.
- 1.2 Without prejudice to the Supplier's reporting requirements set out in the Contract, within three (3) Months of the Start Date the Supplier shall submit to the Buyer for Approval (such Approval not to be unreasonably withheld or delayed) draft Transparency Reports consistent with the content requirements and format set out in the Annex of this Schedule.
- 1.3 If the Buyer rejects any proposed Transparency Report submitted by the Supplier, the Supplier shall submit a revised version of the relevant report for further Approval within five (5) days of receipt of any notice of rejection, taking account of any recommendations for revision and improvement to the report provided by the Buyer. If the Parties fail to agree on a draft Transparency Report the Buyer shall determine what should be included. Any other disagreement in connection with Transparency Reports shall be treated as a Dispute.
- 1.4 The Supplier shall provide accurate and up-to-date versions of each Transparency Report to the Buyer at the frequency referred to in the Annex of this Schedule.

Annex A: List of Transparency Reports

Title	Content	Format	Frequency
Performance	Performance against KPIs.	Word / PDF	Quarterly
Charges	Invoice for charges relating to the contract. Evidence of work completed.	Word / PDF	Quarterly
Social Value	Performance against relevant social value KPIs.	Word / PDF	Annually
Performance management	Monthly meetings with EA representatives to discuss progress of work	Verbal	6-weekly

Schedule 13 (Contract Management)

1. DEFINITIONS

In this Schedule, the following words shall have the following meanings and they shall supplement Schedule 1 (Definitions):

"Operational Board"	the board established in accordance with Paragraph 4.1 of this Schedule;
"Project Manager"	the manager appointed in accordance with Paragraph 2.1 of this Schedule;

2. PROJECT MANAGEMENT

- 2.1 The Supplier and the Buyer shall each appoint a Project Manager for the purposes of this Contract through whom the provision of the Services and the Deliverables shall be managed day-to-day.
- 2.2 The Parties shall ensure that appropriate resource is made available on a regular basis such that the aims, objectives and specific provisions of this Contract can be fully realised.
- 2.3 Without prejudice to Paragraph 4 below, the Parties agree to operate the boards specified as set out in the Annex to this Schedule.

3. ROLE OF THE SUPPLIER PROJECT MANAGER

- 3.1 The Supplier Project Manager shall be:
 - 3.1.1 the primary point of contact to receive communication from the Buyer and will also be the person primarily responsible for providing information to the Buyer;
 - 3.1.2 able to delegate his position to another person at the Supplier but must inform the Buyer before proceeding with the delegation and it will be delegated person's responsibility to fulfil the Project Manager's responsibilities and obligations;
 - 3.1.3 able to cancel any delegation and recommence the position himself; and
 - 3.1.4 replaced only after the Buyer has received notification of the proposed change.
- 3.2 The Buyer may provide revised instructions to the Supplier's Project Manager in regards to the Contract and it will be the Supplier Project Manager's responsibility to ensure the information is provided to the Supplier and the actions implemented.
- 3.3 Receipt of communication from the Supplier Project Manager by the Buyer does not absolve the Supplier from its responsibilities, obligations or liabilities under the Contract.

4. ROLE OF THE OPERATIONAL BOARD

- 4.1 The Operational Board shall be established by the Buyer for the purposes of this Contract on which the Supplier and the Buyer shall be represented.
- 4.2 The Operational Board members, frequency and location of board meetings and planned start date by which the board shall be established are set out in Annex A to the Schedule.
- 4.3 In the event that either Party wishes to replace any of its appointed board members, that Party shall notify the other in writing for approval by the other Party (such approval not to be unreasonably withheld or delayed). Each Buyer board member shall have at all times a counterpart Supplier board member of equivalent seniority and expertise.
- 4.4 Each Party shall ensure that its board members shall make all reasonable efforts to attend board meetings at which that board member's attendance is required. If any board member is not able to attend a board meeting, that person shall use all reasonable endeavours to ensure that a delegate attends the Operational Board meeting in his/her place (wherever possible) and that the delegate is properly briefed and prepared and that he/she is debriefed by such delegate after the board meeting.
- 4.5 The purpose of the Operational Board meetings will be to review the Supplier's performance under this Contract. The agenda for each meeting shall be set by the Buyer and communicated to the Supplier in advance of that meeting.

5. CONTRACT RISK MANAGEMENT

- 5.1 Both Parties shall pro-actively manage risks attributed to them under the terms of this Contract.
- 5.2 The Supplier shall develop, operate, maintain and amend, as agreed with the Buyer, processes for:
 - 5.2.1 the identification and management of risks;
 - 5.2.2 the identification and management of issues; and
 - 5.2.3 monitoring and controlling project plans.
- 5.3 The Supplier allows the Buyer to inspect at any time within working hours the accounts and records which the Supplier is required to keep.
- 5.4 The Supplier will maintain a risk register of the risks relating to the Contract which the Buyer and the Supplier have identified.

Schedule 14 (Business Continuity and Disaster Recovery)

1. DEFINITIONS

1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Schedule 1 (Definitions):

"BCDR Plan"	has the meaning given to it in Paragraph 2.1 of this Schedule;
"Business Continuity Plan"	has the meaning given to it in Paragraph 2.2.2 of this Schedule;
"Disaster Recovery Plan"	has the meaning given to it in Paragraph 2.2.3 of this Schedule;
"Related Supplier"	any person who provides Deliverables to the Buyer which are related to the Deliverables from time to time;
"Review Report"	has the meaning given to it in Paragraph 6.3 of this Schedule; and
"Supplier's Proposals"	has the meaning given to it in Paragraph 6.3 of this Schedule;

2. BCDR PLAN

2.1 At least ninety (90) Working Days prior to the Start Date the Supplier shall prepare and deliver to the Buyer for the Buyer's written approval a plan (a "**BCDR Plan**"), which shall detail the processes and arrangements that the Supplier shall follow to:

2.1.1 ensure continuity of the business processes and operations supported by the Services following any failure or disruption of any element of the Deliverables; and

2.1.2 the recovery of the Deliverables in the event of a Disaster

2.2 The BCDR Plan shall be divided into three sections:

2.2.1 Section 1 which shall set out general principles applicable to the BCDR Plan;

2.2.2 Section 2 which shall relate to business continuity (the "**Business Continuity Plan**"); and

2.2.3 Section 3 which shall relate to disaster recovery (the "**Disaster Recovery Plan**").

2.3 Following receipt of the draft BCDR Plan from the Supplier, the Parties shall use reasonable endeavours to agree the contents of the BCDR Plan. If the Parties are unable to agree the contents of the BCDR Plan within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

3. GENERAL PRINCIPLES OF THE BCDR PLAN (SECTION 1)

3.1 Section 1 of the BCDR Plan shall:

- 3.1.1 set out how the business continuity and disaster recovery elements of the BCDR Plan link to each other;
- 3.1.2 provide details of how the invocation of any element of the BCDR Plan may impact upon the provision of the Deliverables and any goods and/or services provided to the Buyer by a Related Supplier;
- 3.1.3 contain an obligation upon the Supplier to liaise with the Buyer and any Related Suppliers with respect to business continuity and disaster recovery;
- 3.1.4 detail how the BCDR Plan interoperates with any overarching disaster recovery or business continuity plan of the Buyer and any of its other Related Supplier in each case as notified to the Supplier by the Buyer from time to time;
- 3.1.5 contain a communication strategy including details of an incident and problem management service and advice and help desk facility which can be accessed via multiple channels;
- 3.1.6 contain a risk analysis, including:
 - a) failure or disruption scenarios and assessments of likely frequency of occurrence;
 - b) identification of any single points of failure within the provision of Deliverables and processes for managing those risks;
 - c) identification of risks arising from an Insolvency Event of the Supplier, any Key Subcontractors and/or Supplier Group member;
 - d) identification of risks arising from the interaction of the provision of Deliverables with the goods and/or services provided by a Related Supplier; and
 - e) a business impact analysis of different anticipated failures or disruptions;
- 3.1.7 provide for documentation of processes, including business processes, and procedures;
- 3.1.8 set out key contact details for the Supplier (and any Subcontractors) and for the Buyer;
- 3.1.9 identify the procedures for reverting to "normal service";
- 3.1.10 set out method(s) of recovering or updating data collected (or which ought to have been collected) during a failure or disruption to minimise data loss;
- 3.1.11 identify the responsibilities (if any) that the Buyer has agreed it will assume in the event of the invocation of the BCDR Plan; and

- 3.1.12 provide for the provision of technical assistance to key contacts at the Buyer as required by the Buyer to inform decisions in support of the Buyer's business continuity plans.
- 3.2 The BCDR Plan shall be designed so as to ensure that:
 - 3.2.1 the Deliverables are provided in accordance with this Contract at all times during and after the invocation of the BCDR Plan;
 - 3.2.2 the adverse impact of any Disaster is minimised as far as reasonably possible;
 - 3.2.3 it complies with the relevant provisions of ISO/IEC 27002; ISO22301/ISO22313 and all other industry standards from time to time in force; and
 - 3.2.4 it details a process for the management of disaster recovery testing.
- 3.3 The BCDR Plan shall be upgradeable and sufficiently flexible to support any changes to the Deliverables and the business operations supported by the provision of Deliverables.
- 3.4 The Supplier shall not be entitled to any relief from its obligations under the Service Levels, or to any increase in the Charges to the extent that a Disaster occurs as a consequence of any breach by the Supplier of this Contract.

4. BUSINESS CONTINUITY (SECTION 2)

- 4.1 The Business Continuity Plan shall set out the arrangements that are to be invoked to ensure that the business processes facilitated by the provision of Deliverables remain supported and to ensure continuity of the business operations supported by the Services including:
 - 4.1.1 the alternative processes, options and responsibilities that may be adopted in the event of a failure in or disruption to the provision of Deliverables; and
 - 4.1.2 the steps to be taken by the Supplier upon resumption of the provision of Deliverables in order to address the effect of the failure or disruption.
- 4.2 The Business Continuity Plan shall:
 - 4.2.1 address the various possible levels of failures of or disruptions to the provision of Deliverables;
 - 4.2.2 set out the goods and/or services to be provided and the steps to be taken to remedy the different levels of failures of and disruption to the Deliverables;
 - 4.2.3 specify any applicable Service Levels with respect to the provision of the Business Continuity Services and details of any agreed relaxation to the Service Levels in respect of the provision of other Deliverables during any period of invocation of the Business Continuity Plan; and
 - 4.2.4 set out the circumstances in which the Business Continuity Plan is invoked.

5. DISASTER RECOVERY (SECTION 3)

- 5.1 The Disaster Recovery Plan (which shall be invoked only upon the occurrence of a Disaster) shall be designed to ensure that upon the occurrence of a Disaster the Supplier ensures continuity of the business operations of the Buyer supported by the Services following any Disaster or during any period of service failure or disruption with, as far as reasonably possible, minimal adverse impact.
- 5.2 The Supplier's BCDR Plan shall include an approach to business continuity and disaster recovery that addresses the following:
 - 5.2.1 loss of access to the Buyer Premises;
 - 5.2.2 loss of utilities to the Buyer Premises;
 - 5.2.3 loss of the Supplier's helpdesk or CAFM system;
 - 5.2.4 loss of a Subcontractor;
 - 5.2.5 emergency notification and escalation process;
 - 5.2.6 contact lists;
 - 5.2.7 staff training and awareness;
 - 5.2.8 BCDR Plan testing;
 - 5.2.9 post implementation review process;
 - 5.2.10 any applicable Service Levels with respect to the provision of the disaster recovery services and details of any agreed relaxation to the Service Levels in respect of the provision of other Deliverables during any period of invocation of the Disaster Recovery Plan;
 - 5.2.11 details of how the Supplier shall ensure compliance with security standards ensuring that compliance is maintained for any period during which the Disaster Recovery Plan is invoked;
 - 5.2.12 access controls to any disaster recovery sites used by the Supplier in relation to its obligations pursuant to this Schedule; and
 - 5.2.13 testing and management arrangements.

6. REVIEW AND CHANGING THE BCDR PLAN

- 6.1 The Supplier shall review the BCDR Plan:
 - 6.1.1 on a regular basis and as a minimum once every six (6) Months;
 - 6.1.2 within three (3) calendar Months of the BCDR Plan (or any part) having been invoked pursuant to Paragraph 7; and
 - 6.1.3 where the Buyer requests in writing any additional reviews (over and above those provided for in Paragraphs 6.1.1 and 6.1.2 of this Schedule) whereupon the Supplier shall conduct such reviews in accordance with the Buyer's written requirements. Prior to starting its review, the Supplier shall provide an accurate written estimate of the

total costs payable by the Buyer for the Buyer's approval. The costs of both Parties of any such additional reviews shall be met by the Buyer except that the Supplier shall not be entitled to charge the Buyer for any costs that it may incur above any estimate without the Buyer's prior written approval.

- 6.2 Each review of the BCDR Plan pursuant to Paragraph 6.1 shall assess its suitability having regard to any change to the Deliverables or any underlying business processes and operations facilitated by or supported by the Services which have taken place since the later of the original approval of the BCDR Plan or the last review of the BCDR Plan, and shall also have regard to any occurrence of any event since that date (or the likelihood of any such event taking place in the foreseeable future) which may increase the likelihood of the need to invoke the BCDR Plan. The review shall be completed by the Supplier within such period as the Buyer shall reasonably require.
- 6.3 The Supplier shall, within twenty (20) Working Days of the conclusion of each such review of the BCDR Plan, provide to the Buyer a report (a "**Review Report**") setting out the Supplier's proposals (the "**Supplier's Proposals**") for addressing any changes in the risk profile and its proposals for amendments to the BCDR Plan.
- 6.4 Following receipt of the Review Report and the Supplier's Proposals, the Parties shall use reasonable endeavours to agree the Review Report and the Supplier's Proposals. If the Parties are unable to agree Review Report and the Supplier's Proposals within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
- 6.5 The Supplier shall as soon as is reasonably practicable after receiving the approval of the Supplier's Proposals effect any change in its practices or procedures necessary so as to give effect to the Supplier's Proposals. Any such change shall be at the Supplier's expense unless it can be reasonably shown that the changes are required because of a material change to the risk profile of the Deliverables.

7. TESTING THE BCDR PLAN

- 7.1 The Supplier shall test the BCDR Plan:
 - 7.1.1 regularly and in any event not less than once in every Contract Year;
 - 7.1.2 in the event of any major reconfiguration of the Deliverables
 - 7.1.3 at any time where the Buyer considers it necessary (acting in its sole discretion).
- 7.2 If the Buyer requires an additional test of the BCDR Plan, it shall give the Supplier written notice and the Supplier shall conduct the test in accordance with the Buyer's requirements and the relevant provisions of the BCDR Plan. The Supplier's costs of the additional test shall be borne by the Buyer unless the BCDR Plan fails the additional test in which case the Supplier's costs of that failed test shall be borne by the Supplier.

- 7.3 The Supplier shall undertake and manage testing of the BCDR Plan in full consultation with and under the supervision of the Buyer and shall liaise with the Buyer in respect of the planning, performance, and review, of each test, and shall comply with the reasonable requirements of the Buyer.
- 7.4 The Supplier shall ensure that any use by it or any Subcontractor of "live" data in such testing is first approved with the Buyer. Copies of live test data used in any such testing shall be (if so required by the Buyer) destroyed or returned to the Buyer on completion of the test.
- 7.5 The Supplier shall, within twenty (20) Working Days of the conclusion of each test, provide to the Buyer a report setting out:
 - 7.5.1 the outcome of the test;
 - 7.5.2 any failures in the BCDR Plan (including the BCDR Plan's procedures) revealed by the test; and
 - 7.5.3 the Supplier's proposals for remedying any such failures.
- 7.6 Following each test, the Supplier shall take all measures requested by the Buyer to remedy any failures in the BCDR Plan and such remedial activity and re-testing shall be completed by the Supplier, at its own cost, by the date reasonably required by the Buyer.

8. INVOKING THE BCDR PLAN

- 8.1 In the event of a complete loss of service or in the event of a Disaster, the Supplier shall immediately invoke the BCDR Plan (and shall inform the Buyer promptly of such invocation). In all other instances the Supplier shall invoke or test the BCDR Plan only with the prior consent of the Buyer.

9. CIRCUMSTANCES BEYOND YOUR CONTROL

- 9.1 The Supplier shall not be entitled to relief under Clause 24 (Circumstances beyond your control) if it would not have been impacted by the Force Majeure Event had it not failed to comply with its obligations under this Schedule.

Schedule 15 (Minimum Standards of Reliability)

1. STANDARDS

- 1.1 If this Contract has an anticipated contract value in excess of £20 million (excluding VAT) it shall not be awarded unless the Supplier can demonstrate that it meets the minimum standards of reliability as set out in the Find a Tender Service Notice (“**Minimum Standards of Reliability**”) at the time of the proposed award of the Contract.
- 1.2 The Buyer shall assess the Supplier’s compliance with the Minimum Standards of Reliability whenever it considers (in its absolute discretion) that it is appropriate to do so.
- 1.3 In the event that the Supplier does not demonstrate that it meets the Minimum Standards of Reliability in an assessment carried out pursuant to Paragraph 1.2, the Buyer shall so notify the Supplier and the Buyer reserves the right to terminate its Contract for material Default under Clause 14.4 (When the Buyer can end the contract).

Schedule 16 (Security)

Part A: Short Form Security Requirements

2. DEFINITIONS

2.1 In this Schedule, the following words shall have the following meanings and they shall supplement Schedule 1 (Definitions):

- "Breach of Security"** the occurrence of:
- a) any unauthorised access to or use of the Deliverables, the Sites and/or any Information and Communication Technology ("ICT"), information or data (including the Confidential Information and the Government Data) used by the Buyer and/or the Supplier in connection with this Contract; and/or
 - b) the loss and/or unauthorised disclosure of any information or data (including the Confidential Information and the Government Data), including any copies of such information or data, used by the Buyer and/or the Supplier in connection with this Contract,
- in either case as more particularly set out in the Security Policy where the Buyer has required compliance there with in accordance with Paragraph 3.1;
- "Security Management Plan"** the Supplier's security management plan prepared pursuant to this Schedule, a draft of which has been provided by the Supplier to the Buyer and as updated from time to time.

3. COMPLYING WITH SECURITY REQUIREMENTS AND UPDATES TO THEM

- 3.1 The Supplier shall comply with the requirements in this Schedule in respect of the Security Management Plan. Where specified by a Buyer it shall also comply with the Security Policy and shall ensure that the Security Management Plan produced by the Supplier fully complies with the Security Policy.
- 3.2 Where the Security Policy applies the Buyer shall notify the Supplier of any changes or proposed changes to the Security Policy.
- 3.3 If the Supplier believes that a change or proposed change to the Security Policy will have a material and unavoidable cost implication to the provision of the Deliverables it may propose a Variation to the Buyer. In doing so, the Supplier must support its request by providing evidence of the cause of any increased costs and the steps that it has taken to mitigate those costs. Any change to the Charges shall be subject to the Variation Procedure.

- 3.4 Until and/or unless a change to the Charges is agreed by the Buyer pursuant to the Variation Procedure the Supplier shall continue to provide the Deliverables in accordance with its existing obligations.

4. SECURITY STANDARDS

- 4.1 The Supplier acknowledges that the Buyer places great emphasis on the reliability of the performance of the Deliverables, confidentiality, integrity and availability of information and consequently on security.
- 4.2 The Supplier shall be responsible for the effective performance of its security obligations and shall at all times provide a level of security which:
- 4.2.1 is in accordance with the Law and this Contract;
 - 4.2.2 as a minimum demonstrates Good Industry Practice;
 - 4.2.3 meets any specific security threats of immediate relevance to the Deliverables and/or the Government Data; and
 - 4.2.4 where specified by the Buyer in accordance with Paragraph 3.1 complies with the Security Policy and the ICT Policy.
- 4.3 The references to standards, guidance and policies contained or set out in Paragraph 4.2 shall be deemed to be references to such items as developed and updated and to any successor to or replacement for such standards, guidance and policies, as notified to the Supplier from time to time.
- 4.4 In the event of any inconsistency in the provisions of the above standards, guidance and policies, the Supplier should notify the Buyer's Representative of such inconsistency immediately upon becoming aware of the same, and the Buyer's Representative shall, as soon as practicable, advise the Supplier which provision the Supplier shall be required to comply with.

5. SECURITY MANAGEMENT PLAN

5.1 Introduction

- 5.1.1 The Supplier shall develop and maintain a Security Management Plan in accordance with this Schedule. The Supplier shall thereafter comply with its obligations set out in the Security Management Plan.

5.2 Content of the Security Management Plan

- 5.2.1 The Security Management Plan shall:
- (a) comply with the principles of security set out in Paragraph 4 and any other provisions of this Contract relevant to security;
 - (b) identify the necessary delegated organisational roles for those responsible for ensuring it is complied with by the Supplier;
 - (c) detail the process for managing any security risks from Subcontractors and third parties authorised by the Buyer with access to the Deliverables, processes associated with the provision of the Deliverables, the Buyer Premises, the Sites and any ICT, Information and data (including the Buyer's

Confidential Information and the Government Data) and any system that could directly or indirectly have an impact on that Information, data and/or the Deliverables;

- (d) be developed to protect all aspects of the Deliverables and all processes associated with the provision of the Deliverables, including the Buyer Premises, the Sites, and any ICT, Information and data (including the Buyer's Confidential Information and the Government Data) to the extent used by the Buyer or the Supplier in connection with this Contract or in connection with any system that could directly or indirectly have an impact on that Information, data and/or the Deliverables;
- (e) set out the security measures to be implemented and maintained by the Supplier in relation to all aspects of the Deliverables and all processes associated with the provision of the Goods and/or Services and shall at all times comply with and specify security measures and procedures which are sufficient to ensure that the Deliverables comply with the provisions of this Contract;
- (f) set out the plans for transitioning all security arrangements and responsibilities for the Supplier to meet the full obligations of the security requirements set out in this Contract and, where necessary in accordance with the Security Policy as set out in Paragraph 3.1 ; and
- (g) be written in plain English in language which is readily comprehensible to the staff of the Supplier and the Buyer engaged in the provision of the Deliverables and shall only reference documents which are in the possession of the Parties or whose location is otherwise specified in this Schedule.

5.3 Development of the Security Management Plan

- 5.3.1 Within twenty (20) Working Days after the Start Date and in accordance with Paragraph 5.4, the Supplier shall prepare and deliver to the Buyer for Approval a fully complete and up to date Security Management Plan which will be based on the draft Security Management Plan.
- 5.3.2 If the Security Management Plan submitted to the Buyer in accordance with Paragraph 5.3.1, or any subsequent revision to it in accordance with Paragraph 5.4, is Approved it will be adopted immediately and will replace the previous version of the Security Management Plan and thereafter operated and maintained in accordance with this Schedule. If the Security Management Plan is not Approved, the Supplier shall amend it within ten (10) Working Days of a notice of non-approval from the Buyer and re-submit to the Buyer for Approval. The Parties will use all reasonable endeavours to ensure that the approval process takes as little time as possible and in any event no longer than fifteen (15) Working Days from the date of its first submission to the Buyer. If the

Buyer does not approve the Security Management Plan following its resubmission, the matter will be resolved in accordance with the Dispute Resolution Procedure.

- 5.3.3 The Buyer shall not unreasonably withhold or delay its decision to Approve or not the Security Management Plan pursuant to Paragraph 5.3.2. However, a refusal by the Buyer to Approve the Security Management Plan on the grounds that it does not comply with the requirements set out in Paragraph 5.2 shall be deemed to be reasonable.
- 5.3.4 Approval by the Buyer of the Security Management Plan pursuant to Paragraph 5.3.2 or of any change to the Security Management Plan in accordance with Paragraph 5.4 shall not relieve the Supplier of its obligations under this Schedule.

5.4 Amendment of the Security Management Plan

- 5.4.1 The Security Management Plan shall be fully reviewed and updated by the Supplier at least annually to reflect:
 - (a) emerging changes in Good Industry Practice;
 - (b) any change or proposed change to the Deliverables and/or associated processes;
 - (c) where necessary in accordance with Paragraph 3.2, any change to the Security Policy;
 - (d) any new perceived or changed security threats; and
 - (e) any reasonable change in requirements requested by the Buyer.
- 5.4.2 The Supplier shall provide the Buyer with the results of such reviews as soon as reasonably practicable after their completion and amendment of the Security Management Plan at no additional cost to the Buyer. The results of the review shall include:
 - (a) suggested improvements to the effectiveness of the Security Management Plan;
 - (b) updates to the risk assessments; and
 - (c) suggested improvements in measuring the effectiveness of controls.
- 5.4.3 Subject to Paragraph 5.4.4, any change or amendment which the Supplier proposes to make to the Security Management Plan (as a result of a review carried out in accordance with Paragraph 5.4.1, a request by the Buyer or otherwise) shall be subject to the Variation Procedure.
- 5.4.4 The Buyer may, acting reasonably, Approve and require changes or amendments to the Security Management Plan to be implemented on timescales faster than set out in the Variation Procedure but, without

prejudice to their effectiveness, all such changes and amendments shall thereafter be subject to the Variation Procedure for the purposes of formalising and documenting the relevant change or amendment.

6. SECURITY BREACH

- 6.1 Either Party shall notify the other in accordance with the agreed security incident management process (as detailed in the Security Management Plan) upon becoming aware of any Breach of Security or any potential or attempted Breach of Security.
- 6.2 Without prejudice to the security incident management process, upon becoming aware of any of the circumstances referred to in Paragraph 6.1, the Supplier shall:
- 6.2.1 immediately use all reasonable endeavours (which shall include any action or changes reasonably required by the Buyer) necessary to:
- (a) minimise the extent of actual or potential harm caused by any Breach of Security;
 - (b) remedy such Breach of Security to the extent possible and protect the integrity of the Buyer and the provision of the Goods and/or Services to the extent within its control against any such Breach of Security or attempted Breach of Security;
 - (c) prevent an equivalent breach in the future exploiting the same cause failure; and
 - (d) as soon as reasonably practicable provide to the Buyer, where the Buyer so requests, full details (using the reporting mechanism defined by the Security Management Plan) of the Breach of Security or attempted Breach of Security, including a cause analysis where required by the Buyer.
- 6.3 In the event that any action is taken in response to a Breach of Security or potential or attempted Breach of Security that demonstrates non-compliance of the Security Management Plan with the Security Policy (where relevant in accordance with Paragraph 3.1) or the requirements of this Schedule, then any required change to the Security Management Plan shall be at no cost to the Buyer.

Schedule 20 (Processing Data)

1. Status of the Controller

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

1.1.1 “Controller” in respect of the other Party who is “Processor”;

1.1.2 “Processor” in respect of the other Party who is “Controller”;

1.1.3 “Joint Controller” with the other Party;

1.1.4 “Independent Controller” of the Personal Data where the other Party is also “Controller”,

in respect of certain Personal Data under a Contract and shall specify in Annex 1 (*Processing Personal Data*) which scenario they think shall apply in each situation.

2. Where one Party is Controller and the other Party its Processor

2.1 Where a Party is a Processor, the only Processing that it is authorised to do is listed in Annex 1 (*Processing Personal Data*) by the Controller.

2.2 The Processor shall notify the Controller immediately if it considers that any of the Controller’s instructions infringe the Data Protection Legislation.

2.3 The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any Processing. Such assistance may, at the discretion of the Controller, include:

2.3.1 a systematic description of the envisaged Processing and the purpose of the Processing;

2.3.2 an assessment of the necessity and proportionality of the Processing in relation to the Services;

2.3.3 an assessment of the risks to the rights and freedoms of Data Subjects; and

2.3.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

2.4 The Processor shall, in relation to any Personal Data Processed in connection with its obligations under the Contract:

2.4.1 Process that Personal Data only in accordance with Annex 1 (*Processing Personal Data*), unless the Processor is required to do otherwise by Law. If it is so required the Processor shall notify the Controller before Processing the Personal Data unless prohibited by Law;

- 2.4.2 ensure that it has in place Protective Measures, including in the case of the Supplier the measures set out in Clause 18.4 of the Core Terms, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures) having taken account of the:
- a) nature of the data to be protected;
 - b) harm that might result from a Personal Data Breach;
 - c) state of technological development; and
 - d) cost of implementing any measures;
- 2.4.3 ensure that:
- a) the Processor Personnel do not Process Personal Data except in accordance with the Contract (and in particular Annex 1 (*Processing Personal Data*));
 - b) it uses all reasonable endeavours to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
 - (i) are aware of and comply with the Processor's duties under this Schedule 20, Clauses 18 (Data protection), 19 (What you must keep confidential) and 20 (When you can share information);
 - (ii) are subject to appropriate confidentiality undertakings with the Processor or any Subprocessor;
 - (iii) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Controller or as otherwise permitted by the Contract; and
 - (iv) have undergone adequate training in the use, care, protection and handling of Personal Data;
- 2.4.4 not transfer Personal Data outside of the UK unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
- a) the transfer is in accordance with Article 45 of the UK GDPR (or section 73 of DPA 2018); or
 - b) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with UK GDPR Article 46 or section 75 of the DPA 2018) as determined by the Controller which could include relevant parties entering into the International Data Transfer Agreement (the "**IDTA**"), or International Data Transfer Agreement Addendum to the European Commission's SCCs (the "**Addendum**"), as published by the Information Commissioner's

Office from time to time, as well as any additional measures determined by the Controller;

- c) the Data Subject has enforceable rights and effective legal remedies;
- d) the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and
- e) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the Processing of the Personal Data;

2.4.5 where the Personal Data is subject to EU GDPR, not transfer Personal Data outside of the EU unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:

- a) the transfer is in accordance with Article 45 of the EU GDPR; or
- b) the transferring Party has provided appropriate safeguards in relation to the transfer in accordance with Article 46 of the EU GDPR as determined by the non-transferring Party which could include relevant parties entering into Standard Contractual Clauses in the European Commission's decision 2021/914/EU or such updated version of such Standard Contractual Clauses as are published by the European Commission from time to time as well as any additional measures determined by the non-transferring Party;
- c) the Data Subject has enforceable rights and effective legal remedies;
- d) the transferring Party complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the non-transferring Party in meeting its obligations); and
- e) the transferring Party complies with any reasonable instructions notified to it in advance by the non-transferring Party with respect to the processing of the Personal Data; and

2.4.6 at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Contract unless the Processor is required by Law to retain the Personal Data.

2.5 Subject to Paragraph 2.6 of this Schedule 20, the Processor shall notify the Controller immediately if in relation to it Processing Personal Data under or in connection with the Contract it:

2.5.1 receives a Data Subject Access Request (or purported Data Subject Access Request);

2.5.2 receives a request to rectify, block or erase any Personal Data;

- 2.5.3 receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
 - 2.5.4 receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data Processed under the Contract;
 - 2.5.5 receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
 - 2.5.6 becomes aware of a Personal Data Breach.
- 2.6 The Processor's obligation to notify under Paragraph 2.5 of this Schedule 20 shall include the provision of further information to the Controller, as details become available.
- 2.7 Taking into account the nature of the Processing, the Processor shall provide the Controller with assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under Paragraph 2.5 of this Schedule 20 (and insofar as possible within the timescales reasonably required by the Controller) including by immediately providing:
- 2.7.1 the Controller with full details and copies of the complaint, communication or request;
 - 2.7.2 such assistance as is reasonably requested by the Controller to enable it to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
 - 2.7.3 the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
 - 2.7.4 assistance as requested by the Controller following any Personal Data Breach; and/or
 - 2.7.5 assistance as requested by the Controller with respect to any request from the Information Commissioner's Office or any other regulatory authority, or any consultation by the Controller with the Information Commissioner's Office or any other regulatory authority.
- 2.8 The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this Schedule 20. This requirement does not apply where the Processor employs fewer than 250 staff, unless:
- 2.8.1 the Controller determines that the Processing is not occasional;
 - 2.8.2 the Controller determines the Processing includes special categories of data as referred to in Article 9(1) of the UK GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the UK GDPR; or
 - 2.8.3 the Controller determines that the Processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 2.9 The Processor shall allow for audits of its Data Processing activity by the Controller or the Controller's designated auditor.

- 2.10 The Parties shall designate a Data Protection Officer if required by the Data Protection Legislation.
- 2.11 Before allowing any Subprocessor to Process any Personal Data related to the Contract, the Processor must:
- 2.11.1 notify the Controller in writing of the intended Subprocessor and Processing;
 - 2.11.2 obtain the written consent of the Controller;
 - 2.11.3 enter into a written agreement with the Subprocessor which give effect to the terms set out in this Schedule 20 such that they apply to the Subprocessor; and
 - 2.11.4 provide the Controller with such information regarding the Subprocessor as the Controller may reasonably require.
- 2.12 The Processor shall remain fully liable for all acts or omissions of any of its Subprocessors.
- 2.13 The Buyer may, at any time on not less than 30 Working Days' notice, revise this Schedule 20 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to the Contract).
- 2.14 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Buyer may on not less than 30 Working Days' notice to the Supplier amend the Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office.

3. Where the Parties are Joint Controllers of Personal Data

- 3.1 In the event that the Parties are Joint Controllers in respect of Personal Data under the Contract, the Parties shall implement Paragraphs that are necessary to comply with UK GDPR Article 26 based on the terms set out in Annex 2 to this Schedule 20 (*Processing Data*).

Independent Controllers of Personal Data

- 3.2 With respect to Personal Data provided by one Party to another Party for which each Party acts as Controller but which is not under the Joint Control of the Parties, each Party undertakes to comply with the applicable Data Protection Legislation in respect of their Processing of such Personal Data as Controller.
- 3.3 Each Party shall Process the Personal Data in compliance with its obligations under the Data Protection Legislation and not do anything to cause the other Party to be in breach of it.
- 3.4 Where a Party has provided Personal Data to the other Party in accordance with Paragraph 3.2 of this Schedule 20 above, the recipient of the Personal Data will provide all such relevant documents and information relating to its data protection policies and procedures as the other Party may reasonably require.

- 3.5 The Parties shall be responsible for their own compliance with Articles 13 and 14 UK GDPR in respect of the Processing of Personal Data for the purposes of the Contract.
- 3.6 The Parties shall only provide Personal Data to each other:
- 3.6.1 to the extent necessary to perform their respective obligations under the Contract;
 - 3.6.2 in compliance with the Data Protection Legislation (including by ensuring all required data privacy information has been given to affected Data Subjects to meet the requirements of Articles 13 and 14 of the UK GDPR); and
 - 3.6.3 where it has recorded it in Annex 1 (*Processing Personal Data*).
- 3.7 Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, each Party shall, with respect to its Processing of Personal Data as Independent Controller, implement and maintain appropriate technical and organisational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1)(a), (b), (c) and (d) of the UK GDPR, and the measures shall, at a minimum, comply with the requirements of the Data Protection Legislation, including Article 32 of the UK GDPR.
- 3.8 A Party Processing Personal Data for the purposes of the Contract shall maintain a record of its Processing activities in accordance with Article 30 UK GDPR and shall make the record available to the other Party upon reasonable request.
- 3.9 Where a Party receives a request by any Data Subject to exercise any of their rights under the Data Protection Legislation in relation to the Personal Data provided to it by the other Party pursuant to the Contract (**“Request Recipient”**):
- 3.9.1 the other Party shall provide any information and/or assistance as reasonably requested by the Request Recipient to help it respond to the request or correspondence, at the cost of the Request Recipient; or
 - 3.9.2 where the request or correspondence is directed to the other Party and/or relates to that other Party's Processing of the Personal Data, the Request Recipient will:
 - a) promptly, and in any event within five (5) Working Days of receipt of the request or correspondence, inform the other Party that it has received the same and shall forward such request or correspondence to the other Party; and
 - b) provide any information and/or assistance as reasonably requested by the other Party to help it respond to the request or correspondence in the timeframes specified by Data Protection Legislation.

- 3.10 Each Party shall promptly notify the other Party upon it becoming aware of any Personal Data Breach relating to Personal Data provided by the other Party pursuant to the Contract and shall:
- 3.10.1 do all such things as reasonably necessary to assist the other Party in mitigating the effects of the Personal Data Breach;
 - 3.10.2 implement any measures necessary to restore the security of any compromised Personal Data;
 - 3.10.3 work with the other Party to make any required notifications to the Information Commissioner's Office or any other regulatory authority and affected Data Subjects in accordance with the Data Protection Legislation (including the timeframes set out therein); and
 - 3.10.4 not do anything which may damage the reputation of the other Party or that Party's relationship with the relevant Data Subjects, save as required by Law.
- 3.11 Personal Data provided by one Party to the other Party may be used exclusively to exercise rights and obligations under the Contract as specified in Annex 1 (*Processing Personal Data*).
- 3.12 Personal Data shall not be retained or processed for longer than is necessary to perform each Party's respective obligations under the Contract which is specified in Annex 1 (*Processing Personal Data*).
- 3.13 Notwithstanding the general application of Paragraphs 2.1 to 2.14 of this Schedule 20 to Personal Data, where the Supplier is required to exercise its regulatory and/or legal obligations in respect of Personal Data, it shall act as an Independent Controller of Personal Data in accordance with Paragraphs 3.2 to 3.12 of this Schedule 20.

Annex 1 - Processing Personal Data

1. This Annex shall be completed by the Controller, who may take account of the view of the Processor, however the final decision as to the content of this Annex shall be with the Buyer at its absolute discretion.

1.1 The contact details of the Buyer's Data Protection Office are:

data.protection@defra.gov.uk

1.2 The contact details of the Supplier's Data Protection Officer are:

dble@mba.ac.uk

1.3 The Processor shall comply with any further written instructions with respect to Processing by the Controller.

1.4 Any such further instructions shall be incorporated into this Annex.

Description	Details
Identity of Controller for each Category of Personal Data	<p>The Buyer is Controller and the Supplier is Processor</p> <p>The Parties acknowledge that in accordance with Paragraph 2 and for the purposes of the Data Protection Legislation, the Buyer is the Controller and the Supplier is the Processor of the following Personal Data:</p> <p>No personal data processed</p>
Duration of the Processing	No personal data processed
Nature and purposes of the Processing	No personal data processed

Type of Personal Data	No personal data processed
Categories of Data Subject	No personal data processed
Plan for return and destruction of the data once the Processing is complete UNLESS requirement under law to preserve that type of data	No personal data processed
Locations at which the Supplier and/or its Sub-contractors process Personal Data under this Contract	No personal data processed
Protective Measures that the Supplier and, where applicable, its Sub-contractors have implemented to protect Personal Data processed under this Contract Agreement against a breach of security (insofar as that breach of security relates to data) or a Personal Data Breach	No personal data processed

Annex 2 - Joint Controller Agreement

1. Joint Controller Status and Allocation of Responsibilities

- 1.1 With respect to Personal Data under Joint Control of the Parties, the Parties envisage that they shall each be a Data Controller in respect of that Personal Data in accordance with the terms of this Annex 2 (Joint Controller Agreement) in replacement of Paragraph 2 of this Schedule 20 (Where one Party is Controller and the other Party is Processor) and Paragraphs 3.2 -3.12 of this Schedule 20 (Independent Controllers of Personal Data). Accordingly, the Parties each undertake to comply with the applicable Data Protection Legislation in respect of their Processing of such Personal Data as Data Controllers.
- 1.2 The Parties agree that the Buyer
 - 1.2.1 is the exclusive point of contact for Data Subjects and is responsible for using all reasonable endeavours to comply with the UK GDPR regarding the exercise by Data Subjects of their rights under the UK GDPR;
 - 1.2.2 shall direct Data Subjects to its Data Protection Officer or suitable alternative in connection with the exercise of their rights as Data Subjects and for any enquiries concerning their Personal Data or privacy;
 - 1.2.3 is solely responsible for the Parties' compliance with all duties to provide information to Data Subjects under Articles 13 and 14 of the UK GDPR;
 - 1.2.4 is responsible for obtaining the informed consent of Data Subjects, in accordance with the UK GDPR, for Processing in connection with the Services where consent is the relevant legal basis for that Processing; and
 - 1.2.5 shall make available to Data Subjects the essence of this Annex (and notify them of any changes to it) concerning the allocation of responsibilities as Joint Controller and its role as exclusive point of contact, the Parties having used their best endeavours to agree the terms of that essence. This must be outlined in the Buyer's privacy policy (which must be readily available by hyperlink or otherwise on all of its public facing services and marketing).
- 1.3 Notwithstanding the terms of Paragraph 1.2, the Parties acknowledge that a Data Subject has the right to exercise their legal rights under the Data Protection Legislation as against the relevant Party as Controller.

2. Undertakings of both Parties

2.1 The Supplier and the Buyer each undertake that they shall:

2.1.1 report to the other Party every 6 months on:

- a) the volume of Data Subject Access Request (or purported Data Subject Access Requests) from Data Subjects (or third parties on their behalf);
- b) the volume of requests from Data Subjects (or third parties on their behalf) to rectify, block or erase any Personal Data;
- c) any other requests, complaints or communications from Data Subjects (or third parties on their behalf) relating to the other Party's obligations under applicable Data Protection Legislation;
- d) any communications from the Information Commissioner or any other regulatory authority in connection with Personal Data; and
- e) any requests from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law,

that it has received in relation to the subject matter of the Contract during that period;

2.1.2 notify each other immediately if it receives any request, complaint or communication made as referred to in Paragraphs 2.1.1a) to e);

2.1.3 provide the other Party with full cooperation and assistance in relation to any request, complaint or communication made as referred to in Paragraphs 2.1.1c) to e) to enable the other Party to comply with the relevant timescales set out in the Data Protection Legislation;

2.1.4 not disclose or transfer the Personal Data to any third party unless necessary for the provision of the Services and, for any disclosure or transfer of Personal Data to any third party, (save where such disclosure or transfer is specifically authorised under the Contract or is required by Law) that disclosure or transfer of Personal Data is otherwise considered to be lawful processing of that Personal Data in accordance with Article 6 of the UK GDPR or EU GDPR (as the context requires). For the avoidance of doubt, the third party to which Personal Data is transferred must be subject to equivalent obligations which are no less onerous than those set out in this Annex;

2.1.5 request from the Data Subject only the minimum information necessary to provide the Services and treat such extracted information as Confidential Information;

2.1.6 ensure that at all times it has in place appropriate Protective Measures to guard against unauthorised or unlawful Processing of the Personal Data and/or accidental loss, destruction or damage to the Personal

Data and unauthorised or unlawful disclosure of or access to the Personal Data;

- 2.1.7 use all reasonable endeavours to ensure the reliability and integrity of any of its Personnel who have access to the Personal Data and ensure that its Personnel:
- a) are aware of and comply with their duties under this Annex 2 (Joint Controller Agreement) and those in respect of Confidential Information
 - b) are informed of the confidential nature of the Personal Data, are subject to appropriate obligations of confidentiality and do not publish, disclose or divulge any of the Personal Data to any third party where the that Party would not be permitted to do so;
 - c) have undergone adequate training in the use, care, protection and handling of personal data as required by the applicable Data Protection Legislation;
- 2.1.8 ensure that it has in place Protective Measures as appropriate to protect against a Personal Data Breach having taken account of the:
- a) nature of the data to be protected;
 - b) harm that might result from a Personal Data Breach;
 - c) state of technological development; and
 - d) cost of implementing any measures;
- 2.1.9 ensure that it has the capability (whether technological or otherwise), to the extent required by Data Protection Legislation, to provide or correct or delete at the request of a Data Subject all the Personal Data relating to that Data Subject that the Supplier holds; and
- 2.1.10 ensure that it notifies the other Party as soon as it becomes aware of a Personal Data Breach;
- 2.1.11 where the Personal Data is subject to UK GDPR, not transfer such Personal Data outside of the UK unless the prior written consent of the non-transferring Party has been obtained and the following conditions are fulfilled:
- a) the transfer is in accordance with Article 45 of the UK GDPR or DPA 2018 Section 73; or
 - b) the transferring Party has provided appropriate safeguards in relation to the transfer (whether in accordance with Article 46 of the UK GDPR or DPA 2018 Section 75) as agreed with the non-transferring Party which could include the International Data Transfer Agreement (the “**IDTA**”), or International Data Transfer Agreement Addendum to the European Commission’s SCCs (the “**Addendum**”), as published by the Information Commissioner’s Office from time to time, as well as any additional measures;

- c) the Data Subject has enforceable rights and effective legal remedies;
 - d) the transferring Party complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the non-transferring Party in meeting its obligations); and
 - e) the transferring Party complies with any reasonable instructions notified to it in advance by the non-transferring Party with respect to the processing of the Personal Data; and
- 2.1.12 where the Personal Data is subject to EU GDPR, not transfer such Personal Data outside of the EU unless the prior written consent of non-transferring Party has been obtained and the following conditions are fulfilled:
- a) the transfer is in accordance with Article 45 of the EU GDPR; or
 - b) the transferring Party has provided appropriate safeguards in relation to the transfer in accordance with Article 46 of the EU GDPR as determined by the non-transferring Party which could include relevant parties entering into Standard Contractual Clauses in the European Commission's decision 2021/914/EU as well as any additional measures;
 - c) the Data Subject has enforceable rights and effective legal remedies;
 - d) the transferring Party complies with its obligations under the EU GDPR by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the non-transferring Party in meeting its obligations); and
 - e) the transferring Party complies with any reasonable instructions notified to it in advance by the non-transferring Party with respect to the processing of the Personal Data.

2.2 Each Joint Controller shall use its reasonable endeavours to assist the other Controller to comply with any obligations under applicable Data Protection Legislation and shall not perform its obligations under this Annex in such a way as to cause the other Joint Controller to breach any of its obligations under applicable Data Protection Legislation to the extent it is aware, or ought reasonably to have been aware, that the same would be a breach of such obligations

3. Data Protection Breach

3.1 Without prejudice to Paragraph 3.2, each Party shall notify the other Party promptly and without undue delay, and in any event within 48 hours, upon becoming aware of any Personal Data Breach or circumstances that are likely

to give rise to a Personal Data Breach, providing the Buyer and its advisors with:

- 3.1.1 sufficient information and in a timescale which allows the other Party to meet any obligations to report a Personal Data Breach under the Data Protection Legislation;
- 3.1.2 all reasonable assistance, including:
 - a) co-operation with the other Party and the Information Commissioner investigating the Personal Data Breach and its cause, containing and recovering the compromised Personal Data and compliance with the applicable guidance;
 - b) co-operation with the other Party including using such reasonable endeavours as are directed by the Buyer to assist in the investigation, mitigation and remediation of a Personal Data Breach;
 - c) co-ordination with the other Party regarding the management of public relations and public statements relating to the Personal Data Breach; and/or
 - d) providing the other Party and to the extent instructed by the other Party to do so, and/or the Information Commissioner investigating the Personal Data Breach, with complete information relating to the Personal Data Breach, including, without limitation, the information set out in Paragraph 3.2.
- 3.2 Each Party shall use all reasonable endeavours to restore, re-constitute and/or reconstruct any Personal Data where it has lost, damaged, destroyed, altered or corrupted as a result of a Personal Data Breach as it was that Party's own data at its own cost with all possible speed and shall provide the other Party with all reasonable assistance in respect of any such Personal Data Breach, including providing the other Party, as soon as possible and within 48 hours of the Personal Data Breach relating to the Personal Data Breach, in particular:
 - 3.2.1 the nature of the Personal Data Breach;
 - 3.2.2 the nature of Personal Data affected;
 - 3.2.3 the categories and number of Data Subjects concerned;
 - 3.2.4 the name and contact details of the Supplier's Data Protection Officer or other relevant contact from whom more information may be obtained;
 - 3.2.5 measures taken or proposed to be taken to address the Personal Data Breach; and
 - 3.2.6 describe the likely consequences of the Personal Data Breach.

4. Audit

4.1 The Supplier shall permit:

4.1.1 the Buyer, or a third-party auditor acting under the Buyer's direction, to conduct, at the Buyer's cost, data privacy and security audits, assessments and inspections concerning the Supplier's data security and privacy procedures relating to Personal Data, its compliance with this Annex 2 and the Data Protection Legislation; and/or

4.1.2 the Buyer, or a third-party auditor acting under the Buyer's direction, access to premises at which the Personal Data is accessible or at which it is able to inspect any relevant records, including the record maintained under Article 30 UK GDPR by the Supplier so far as relevant to the Contract, and procedures, including premises under the control of any third party appointed by the Supplier to assist in the provision of the Services.

4.2 The Buyer may, in its sole discretion, require the Supplier to provide evidence of the Supplier's compliance with Paragraph 4.1 in lieu of conducting such an audit, assessment or inspection.

5. Impact Assessments

The Parties shall:

5.1 provide all reasonable assistance to each other to prepare any Data Protection Impact Assessment as may be required (including provision of detailed information and assessments in relation to Processing operations, risks and measures); and

5.2 maintain full and complete records of all Processing carried out in respect of the Personal Data in connection with the Contract, in accordance with the terms of Article 30 UK GDPR.

6. ICO Guidance

The Parties agree to take account of any guidance issued by the Information Commissioner and/or any relevant Central Government Body. The Buyer may on not less than thirty (30) Working Days' notice to the Supplier amend the Contract to ensure that it complies with any guidance issued by the Information Commissioner and/or any relevant Central Government Body.

7. Liabilities for Data Protection Breach

If financial penalties are imposed by the Information Commissioner on either the Buyer or the Supplier for a Personal Data Breach ("**Financial Penalties**") then the following shall occur:

7.1.1 if in the view of the Information Commissioner, the Buyer is responsible for the Personal Data Breach, in that it is caused as a result of the

actions or inaction of the Buyer, its employees, agents, contractors (other than the Supplier) or systems and procedures controlled by the Buyer, then the Buyer shall be responsible for the payment of such Financial Penalties. In this case, the Buyer will conduct an internal audit and engage at its reasonable cost when necessary, an independent third party to conduct an audit of any such Personal Data Breach. The Supplier shall provide to the Buyer and its third party investigators and auditors, on request and at the Supplier's reasonable cost, full cooperation and access to conduct a thorough audit of such Personal Data Breach;

- 7.1.2 if in the view of the Information Commissioner, the Supplier is responsible for the Personal Data Breach, in that it is not a Personal Data Breach that the Buyer is responsible for, then the Supplier shall be responsible for the payment of these Financial Penalties. The Supplier will provide to the Buyer and its auditors, on request and at the Supplier's sole cost, full cooperation and access to conduct a thorough audit of such Personal Data Breach; or
 - 7.1.3 if no view as to responsibility is expressed by the Information Commissioner, then the Buyer and the Supplier shall work together to investigate the relevant Personal Data Breach and allocate responsibility for any Financial Penalties as outlined above, or by agreement to split any financial penalties equally if no responsibility for the Personal Data Breach can be apportioned. In the event that the Parties do not agree such apportionment then such Dispute shall be referred to the Dispute Resolution Procedure set out in Clause 39 of the Core Terms (Resolving disputes).
- 7.2 If either the Buyer or the Supplier is the defendant in a legal claim brought before a court of competent jurisdiction ("Court") by a third party in respect of a Personal Data Breach, then unless the Parties otherwise agree, the Party that is determined by the final decision of the court to be responsible for the Personal Data Breach shall be liable for the losses arising from such Personal Data Breach. Where both Parties are liable, the liability will be apportioned between the Parties in accordance with the decision of the Court.
- 7.3 In respect of any losses, cost claims or expenses incurred by either Party as a result of a Personal Data Breach (the "Claim Losses"):
- 7.3.1 if the Buyer is responsible for the relevant Personal Data Breach, then the Buyer shall be responsible for the Claim Losses;
 - 7.3.2 if the Supplier is responsible for the relevant Personal Data Breach, then the Supplier shall be responsible for the Claim Losses: and
 - 7.3.3 if responsibility for the relevant Personal Data Breach is unclear, then the Buyer and the Supplier shall be responsible for the Claim Losses equally.
- 7.4 Nothing in either Paragraph 7.2 or Paragraph 7.3 shall preclude the Buyer and the Supplier reaching any other agreement, including by way of compromise with a third party complainant or claimant, as to the apportionment of financial responsibility for any Claim Losses as a result of a Personal Data Breach,

having regard to all the circumstances of the Personal Data Breach and the legal and financial obligations of the Buyer.

8. Termination

If the Supplier is in material Default under any of its obligations under this Annex 2 (*Joint Controller Agreement*), the Buyer shall be entitled to terminate the Contract by issuing a Termination Notice to the Supplier in accordance with Clause 14 of the Core Terms (Ending the contract).

9. Sub-Processing

In respect of any Processing of Personal Data performed by a third party on behalf of a Party, that Party shall:

- 9.1 carry out adequate due diligence on such third party to ensure that it is capable of providing the level of protection for the Personal Data as is required by the Contract, and provide evidence of such due diligence to the other Party where reasonably requested; and
- 9.2 ensure that a suitable agreement is in place with the third party as required under applicable Data Protection Legislation.

10. Data Retention

The Parties agree to erase Personal Data from any computers, storage devices and storage media that are to be retained as soon as practicable after it has ceased to be necessary for them to retain such Personal Data under applicable Data Protection Legislation and their privacy policy (save to the extent (and for the limited period) that such information needs to be retained by the Party for statutory compliance purposes or as otherwise required by the Contract), and taking all further actions as may be necessary to ensure its compliance with Data Protection Legislation and its privacy policy.

Schedule 21 (Variation Form)

This form is to be used in order to change a contract in accordance with Clause 28 of the Core Terms (Changing the Contract)

Contract Details	
This variation is between:	[Buyer] (“the Buyer”) And [insert name of Supplier] (“the Supplier”)
Contract name:	[insert name of contract to be changed] (“the Contract”)
Contract reference number:	[insert contract reference number]
Details of Proposed Variation	
Variation initiated by:	[delete as applicable: Buyer/Supplier]
Variation number:	[insert variation number]
Date variation is raised:	[insert date]
Proposed variation	
Reason for the variation:	[insert reason]
An Impact Assessment shall be provided within:	[insert number] days
Impact of Variation	
Likely impact of the proposed variation:	[Supplier to insert assessment of impact]
Outcome of Variation	
Contract variation:	This Contract detailed above is varied as follows: <ul style="list-style-type: none"> • [Buyer to insert original Clauses or Paragraphs to be varied and the changed clause]
Financial variation:	Original Contract Value: £ [insert amount]
	Additional cost due to variation: £ [insert amount]

	New Contract value:	£ [insert amount]
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1. This Variation must be agreed and signed by both Parties to the Contract and shall only be effective from the date it is signed by the Buyer
2. Words and expressions in this Variation shall have the meanings given to them in the Contract.
3. The Contract, including any previous Variations, shall remain effective and unaltered except as amended by this Variation.

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

Signature

Date

Name (in Capitals)

Address

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

Signature

Date

Name (in Capitals)

Address

Schedule 25 (Rectification Plan)

Request for [Revised] Rectification Plan		
Details of the Notifiable Default:	[Guidance: Explain the Notifiable Default, with clear schedule and clause references as appropriate]	
Deadline for receiving the [Revised] Rectification Plan:	[add date (minimum 10 days from request)]	
Signed by Buyer:		Date: <input type="text"/>
Supplier [Revised] Rectification Plan		
Cause of the Notifiable Default	[add cause]	
Anticipated impact assessment:	[add impact]	
Actual effect of Notifiable Default:	[add effect]	
Steps to be taken to rectification:	Steps	Timescale
	1.	[date]
	2.	[date]
	3.	[date]
	4.	[date]
	[...]	[date]
Timescale for complete Rectification of Notifiable Default	[X] Working Days	
Steps taken to prevent recurrence of Notifiable Default	Steps	Timescale
	1.	[date]
	2.	[date]
	3.	[date]
	4.	[date]

	[...]	[date]	
Signed by the Supplier:		Date:	
Review of Rectification Plan Buyer			
Outcome of review	[Plan Accepted] [Plan Rejected] [Revised Plan Requested]		
Reasons for rejection (if applicable)	[add reasons]		
Signed by Buyer		Date:	

Schedule 26 (Sustainability)

Definitions

“Modern Slavery Assessment Tool”	means the modern slavery risk identification and management tool which can be found online at: https://supplierregistration.cabinetoffice.gov.uk/msat]
“Supply Chain Map”	means details of (i) the Supplier, (ii) all Subcontractors and (iii) any other entity that the Supplier is aware is in its supply chain that is not a Subcontractor, setting out at least: (a) the name, registered office and company registration number of each entity in the supply chain; (b) the function of each entity in the supply chain; and (c) the location of any premises at which an entity in the supply chain carries out a function in the supply chain;]
“Waste Hierarchy”	means prioritisation of waste management in the following order of preference as set out in the Waste (England and Wales) Regulation 2011: (d) Prevention; (e) Preparing for re-use; (f) Recycling; (g) Other Recovery; and (h) Disposal.

Part A

1. Public Sector Equality Duty

1.1. In addition to legal obligations, where the Supplier is providing a Deliverable to which the Public Sector Equality duty applies, the Supplier shall support the Buyer in fulfilling its Public Sector Equality duty under S149 of the Equality Act 2010 by ensuring that it fulfils its obligations under the Contract in a way that seeks to:

1.1.1. eliminate discrimination, harassment or victimisation and any other conduct prohibited by the Equality Act 2010; and

1.1.2. advance:

1.1.2.1. equality of opportunity; and

1.1.2.2. good relations,

between those with a protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, and marriage and civil partnership) and those who do not share it.

2. Employment Law

2.1. The Supplier must perform its obligations meeting the requirements of all applicable Law regarding employment.

3. Modern Slavery

3.1. The Supplier:

3.1.1. shall not use, nor allow its Subcontractors to use forced, bonded or involuntary prison labour;

3.1.2. shall not require any Supplier Staff or Subcontractor Staff to lodge deposits or identity papers with the employer and shall be free to leave their employer after reasonable notice;

3.1.3. warrants and represents that it has not been convicted of any slavery or human trafficking offences anywhere around the world;

3.1.4. warrants that to the best of its knowledge it is not currently under investigation, inquiry or enforcement proceedings in relation to any allegation of slavery or human trafficking offences anywhere around the world;

3.1.5. shall make reasonable enquires to ensure that its officers, employees and Subcontractors have not been convicted of slavery or human trafficking offences anywhere around the world;

3.1.6. shall have and maintain throughout the Term its own policies and procedures to ensure its compliance with the Modern Slavery Act 2015 and include in its contracts with its Subcontractors anti-slavery and human trafficking provisions;

3.1.7. shall implement due diligence procedures to ensure that there is no slavery or human trafficking in any part of its supply chain performing obligations under the Contract;

3.1.8. shall prepare and deliver to the Buyer, an annual slavery and human trafficking report setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or in

any part of its business with its annual certification of compliance with this Paragraph 3;

- 3.1.9. shall not use, nor allow its employees or Subcontractors to use physical abuse or discipline, the threat of physical abuse, sexual or other harassment and verbal abuse or other forms of intimidation of its employees or Subcontractors;
- 3.1.10. shall not use or allow child or slave labour to be used by its Subcontractors; and
- 3.1.11. shall report the discovery or suspicion of any slavery or trafficking by it or its Subcontractors to the Buyer and Modern Slavery Helpline.

4. Environmental Requirements

- 4.1. The Supplier must perform its obligations meeting in all material respects the requirements of all applicable Laws regarding the environment.
- 4.2. In performing its obligations under the Contract, the Supplier shall, where applicable to the Contract, to the reasonable satisfaction of the Buyer:
 - 4.2.1. prioritise waste management in accordance with the Waste Hierarchy as set out in Law;
 - 4.2.2. be responsible for ensuring that any waste generated by the Supplier and sent for recycling, disposal or other recovery as a consequence of this Contract is taken by a licensed waste carrier to an authorised site for treatment or disposal and that the disposal or treatment of waste complies with the Law; and
 - 4.2.3. ensure that it and any third parties used to undertake recycling, disposal or other recovery as a consequence of this Contract do so in a legally compliant way, and can demonstrate that reasonable checks are undertaken to ensure this on a regular basis and provide relevant data and evidence of recycling, recovery and disposal.
- 4.3. In circumstances that a permit, licence or exemption to carry or send waste generated under this Contract is revoked, the Supplier shall cease to carry or send waste or allow waste to be carried by any Subcontractor until authorisation is obtained from the Environment Agency.
- 4.4. In performing its obligations under the Contract, the Supplier shall to the reasonable satisfaction of the Buyer (where the anticipated Charges in any Contract Year are above £5 million per annum (excluding VAT)), where related to and proportionate to the contract in accordance with PPN 06/21), publish and maintain a credible Carbon Reduction Plan in accordance with PPN 06/21.

4.5. The Supplier shall meet the applicable Government Buying Standards applicable to Deliverables which can be found online at:

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

5. Supplier Code of Conduct

5.1. In February 2019, HM Government published a Supplier Code of Conduct setting out the standards and behaviours expected of suppliers who work with government which can be found online at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779660/20190220-Supplier_Code_of_Conduct.pdf

The Buyer expects to meet, and expects its suppliers and subcontractors to meet, the standards set out in that Code.

6. Reporting

The Supplier shall comply with reasonable requests by the Buyer for information evidencing compliance with any of the requirements in Paragraphs 1-5 of this Part A above within fourteen 14 days of such request, provided that such requests are limited to two per requirement per Contract Year.

Part C

1. Social Value

1.1 The Supplier shall provide a Social Value Report to the Buyer as outlined in Table A.

Table A: Social Value Report

Required Detail	Frequency
A high-level summary of the Supplier's performance against the Social Value priorities over the relevant period	Quarterly
Performance by the Supplier against each of the Social Value KPIs set out at Table B over the relevant period	Quarterly

Table B: Social Value KPIs

No.	Social Value Title	Description of Deliverable	Target	Frequency of Measurement	Publishable Performance Information
Social Value KPI1	Create new businesses, new jobs and new skills	<p>Opportunities for PhD studentships (as has been done in the past) to work on the CPR, and apprenticeships.</p> <p>Training opportunities for workers on the ships to learn how to use the CPR.</p> <p>Education for those involved within this niche subject area.</p>	Increase in opportunities for PhD students / training opportunities for worker on ships.	Annually	No
Social Value KPI2	Fighting climate change	Develop indicators which assess the ecological health of UK regional seas under The UK Marine Strategy (UKMS), 25 Year Environment Plan and OSPAR biodiversity commitments.	Enhanced coverage and analysis of plankton samples.		No

Schedule 36 (Intellectual Property Rights)

Intellectual Property Rights

- 1.1. Each Party keeps ownership of its own Existing IPR. Neither Party has the right to use the other Party's IPR, including any use of the other Party's names, logos or trademarks, except as expressly granted elsewhere under the Contract or otherwise agreed in writing.
- 1.2. Except as expressly granted elsewhere under the Contract, neither Party acquires any right, title or interest in or to the IPR owned by the other Party or any third party.
- 1.3. **Licences granted by the Supplier: Supplier Existing IPR**
 - 1.3.1. Where the Buyer orders Deliverables which contain or rely upon Supplier Existing IPR, the Supplier hereby grants the Buyer a Supplier Existing IPR Licence on the terms set out in Paragraph 1.3.2.
 - 1.3.2. The Supplier Existing IPR Licence granted by the Supplier to the Buyer is a non-exclusive, perpetual, royalty-free, irrevocable, transferable, worldwide licence to use, change and sub-license any Supplier Existing IPR which is reasonably required by the Buyer to enable it:
 - 1.3.2.1. or any End User to use and receive the Deliverables; or
 - 1.3.2.2. to use, sub-license or commercially exploit (including by publication under Open Licence) the New IPR and New IPR Items,

for any purpose relating to the exercise of the Buyer's (or, if the Buyer is a Public Sector Body, any other Public Sector Body's) business or function.
- 1.4. **Licences granted by the Buyer and New IPR**
 - 1.4.1. Any New IPR created under the Contract is owned by the Buyer. The Buyer gives the Supplier a licence to use any Buyer Existing IPR and New IPR for the purpose of fulfilling its obligations during the Contract Period.
 - 1.4.2. Where a Party acquires ownership of IPR incorrectly under this Contract it must do everything reasonably necessary to complete a transfer assigning them in writing to the other Party on request and at its own cost.
 - 1.4.3. Unless otherwise agreed in writing, the Supplier and the Buyer will record any New IPR in the table at Annex 1 to this Schedule 36 and keep this updated throughout the Contract Period.

1.5. Open Licence Publication

- 1.5.1. Subject to Paragraph 1.5.4, the Supplier agrees that the Buyer may at its sole discretion publish under Open Licence all or part of the New IPR Items.
- 1.5.2. Subject to Paragraph 1.5.4, the Supplier hereby warrants that the New IPR Items are suitable for release under Open Licence.
- 1.5.3. The Supplier will supply any or all New IPR Items in a format suitable for publication under Open Licence (“the Open Licence Publication Material”) within 30 days of written request from the Buyer (“Buyer Open Licence Request”).
- 1.5.4. The Supplier may within 15 days of a Buyer Open Licence Request under Paragraph 1.5.3 request in writing that the Buyer excludes all or part of:
 - 1.5.4.1. the New IPR; or
 - 1.5.4.2. Supplier Existing IPR or Third Party IPR that would otherwise be included in the Open Licence Publication Material supplied to the Buyer pursuant to Paragraph 1.5.3 from Open Licence publication.
- 1.5.5. Any decision to Approve any such request from the Supplier pursuant to Paragraph 1.5.4 shall be at the Buyer’s sole discretion, not to be unreasonably withheld, delayed or conditioned.
- 1.5.6. Subject to Clause **Error! Reference source not found.** of the Core Terms, the Buyer will not be liable in the event that any Supplier Existing IPR or Third Party IPR is included in the Open Licence Publication Material published by the Buyer.

1.6. Third Party IPR

- 1.6.1. The Supplier shall not use in the delivery of the Deliverables any Third Party IPR unless Approval is granted by the Buyer and it has procured that the owner or an authorised licensor of the relevant Third Party IPR has granted a Third Party IPR Licence on the terms set out in Paragraph 1.6.3. If the Supplier cannot obtain for the Buyer a licence on the terms set out in Paragraph 1.6.3 in respect of any Third Party IPR the Supplier shall:
 - 1.6.1.1. notify the Buyer in writing; and
 - 1.6.1.2. use the relevant Third Party IPR only if the Buyer has provided authorisation in writing, with reference to the acts authorised and the specific IPR involved.

- 1.6.2. In spite of any other provisions of the Contract and for the avoidance of doubt, award of this Contract by the Buyer and the ordering of any Deliverable under it does not constitute an authorisation by the Crown under Sections 55 and 56 of the Patents Act 1977 Section 12 of the Registered Designs Act 1949 or Sections 240 – 243 of the Copyright, Designs and Patents Act 1988.
- 1.6.3. The Third Party IPR Licence granted to the Buyer shall be a non-exclusive, perpetual, royalty-free, irrevocable, transferable, worldwide licence to use, change and sub-licence any Third Party IPR which is reasonably required by the Buyer to enable it or any End User to receive and use the Deliverables and make use of the deliverables provided by a Replacement Supplier.

1.7. Termination of licences

- 1.7.1. The Supplier Existing IPR Licence granted pursuant to Paragraph 1.3 and the Third Party IPR Licence granted pursuant to Paragraph 1.6 shall survive the Expiry Date and termination of this Contract.
- 1.7.2. The Supplier shall, if requested by the Buyer in accordance with Schedule 30 (Exit Management) and to the extent reasonably necessary to ensure continuity of service during exit and transition to any Replacement Supplier, grant (or procure the grant) to the Replacement Supplier a licence to use any Supplier Existing IPR or Third Party IPR on terms equivalent to the Supplier Existing IPR Licence or Third Party IPR Licence (as applicable) subject to the Replacement Supplier entering into reasonable confidentiality undertakings with the Supplier.
- 1.7.3. Any licence granted to the Supplier pursuant to Paragraph 1.4 (Licence granted by the Buyer) shall terminate automatically on the Expiry Date and the Supplier shall:
- 1.7.3.1. immediately cease all use of the Buyer Existing IPR (including the Buyer Data within which the Buyer Existing IPR may subsist);
 - 1.7.3.2. at the discretion of the Buyer, return or destroy documents and other tangible materials that contain any of the Buyer Existing IPR and the Buyer Data, provided that if the Buyer has not made an election within six months of the termination of the licence, the Supplier may destroy the documents and other tangible materials that contain any of the Buyer Existing IPR and the Buyer Data (as the case may be); and

- 1.7.3.3. ensure, so far as reasonably practicable, that any Buyer Existing IPR and Buyer Data that are held in electronic, digital or other machine-readable form ceases to be readily accessible from any computer, word processor, voicemail system or any other device of the Supplier containing such Buyer Existing IPR or Buyer Data.

ANNEX 1: NEW IPR

Name of New IPR	Details

The New IPR which must be recorded in this Annex does not include all forms of IPR which may be created by the Supplier and the Supplier Staff during the completion of their obligations under the Contract. Only New IPR which is part of the Deliverables, or is necessary for the use of the Deliverables by the Buyer, or as part of the Buyer's ownership of IPR will need to be recorded here. IPR such as email communications or documents which do not form part of the Deliverables need not be recorded in this Annex.