

Order Form

1.	Contract Reference	Asset Tracking System for Mobile Testing Services	
2.	Date	02/08/2021	
3.	Buyer	THE SECRETARY OF STATE FOR HEALTH AND SOCIAL CARE Richmond House, 79 Whitehall, London, SW1A 2NS	
4.	Supplier	3D LIFE PRINTS UK LIMITED The Innovation Hub Alder Hey Children's NHS Foundation Trust, Eaton Road, West Derby, Liverpool, Merseyside, L12 2AP CRN: 09514155	
5.	The Contract	<p>The Supplier shall supply the deliverables described below on the terms set out in this Order Form and the attached contract conditions ("Conditions") and any Annex/Annexes.</p> <p>Unless the context otherwise requires, capitalised expressions used in this Order Form have the same meanings as in Conditions.</p> <p>The definitions set out in the Specification shall have full effect in this Contract</p> <p>In the event of any conflict between this Order Form and the Conditions, this Order Form shall prevail.</p> <p>Please do not attach any Supplier terms and conditions to this Order Form as they will not be accepted by the Buyer and may delay conclusion of the Contract.</p>	
6.	Deliverables	Goods	None
		Services	<ul style="list-style-type: none"> means the asset management service solution ("Asset Management Service") for Mobile Processing Units ("MPUs") which will include the Devices, User Interface and the Support Services as more particularly described in the Specification. The Services may also include Training as described in the Specification
7.	Specification	The specification of the Deliverables is as set out in Annex 2 (" Specification ").	

The Short form Contract

8. Term	<p>The Term shall commence on the date of delivery of the forty seven (47) Devices and continue until the date which is twelve (12) months from that date ("Expiry Date")</p> <p>unless it is otherwise extended or terminated in accordance with the terms and conditions of the Contract.</p> <p>The Buyer may extend the Contract for a period of up to 6 months by giving not less than 10 Working Days' notice in writing to the Supplier prior to the Expiry Date. The terms and conditions of the Contract shall apply throughout any such extended period.</p>		
9. Charges	<p>The Charges for the Deliverables shall be as set out in Annex 3.</p>		
10. Payment	<p>All invoices must be sent, quoting a valid purchase order number (PO Number) to:</p> <p>[REDACTED]</p> <p>Within 10 Working Days of receipt of your countersigned copy of this letter, we will send you a unique PO Number. You must be in receipt of a valid PO Number before submitting an invoice.</p> <p>To avoid delay in payment it is important that the invoice is compliant and that it includes a valid PO Number, PO Number item number (if applicable) and the details (name and telephone number) of your Buyer contact (i.e. Contract Manager). 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 our Accounts Payable section by email to:</p> <p>[REDACTED]</p>		
11. Buyer Authorised Representative(s)	<p>For general liaison your contact will continue to be</p> <p>[REDACTED]</p>		
12. Address notices for	<table border="0"> <tr> <td style="vertical-align: top;"> Buyer: Department of Health and Social Care 39 Victoria Street Westminster London SW1H 0EU [REDACTED] </td><td style="vertical-align: top;"> Supplier: 3D Life Prints UK Limited The Innovation Hub Alder Hey Children's NHS Foundation Trust Eaton Road West Derby Liverpool Merseyside L12 2AP </td></tr> </table>	Buyer: Department of Health and Social Care 39 Victoria Street Westminster London SW1H 0EU [REDACTED]	Supplier: 3D Life Prints UK Limited The Innovation Hub Alder Hey Children's NHS Foundation Trust Eaton Road West Derby Liverpool Merseyside L12 2AP
Buyer: Department of Health and Social Care 39 Victoria Street Westminster London SW1H 0EU [REDACTED]	Supplier: 3D Life Prints UK Limited The Innovation Hub Alder Hey Children's NHS Foundation Trust Eaton Road West Derby Liverpool Merseyside L12 2AP		


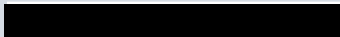

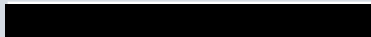
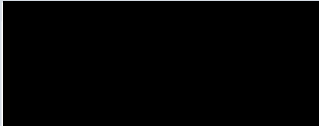

The Short form Contract

	Email: [REDACTED] Attention: [REDACTED] Email: [REDACTED]				
13. Key Personnel	<table border="0"> <tr> <td>Buyer:</td><td>Supplier:</td></tr> <tr> <td> The Department of Health and Social Care 39 Victoria Street Westminster London SW1H 0EU Attention: [REDACTED] Email: [REDACTED] </td><td> 3D LifePrints UK Ltd The Innovation Hub Alder Hey Children's NHS Foundation Trust Eaton Road West Derby Liverpool Merseyside L12 2AP Attention: [REDACTED] Email: [REDACTED] </td></tr> </table>	Buyer:	Supplier:	The Department of Health and Social Care 39 Victoria Street Westminster London SW1H 0EU Attention: [REDACTED] Email: [REDACTED]	3D LifePrints UK Ltd The Innovation Hub Alder Hey Children's NHS Foundation Trust Eaton Road West Derby Liverpool Merseyside L12 2AP Attention: [REDACTED] Email: [REDACTED]
Buyer:	Supplier:				
The Department of Health and Social Care 39 Victoria Street Westminster London SW1H 0EU Attention: [REDACTED] Email: [REDACTED]	3D LifePrints UK Ltd The Innovation Hub Alder Hey Children's NHS Foundation Trust Eaton Road West Derby Liverpool Merseyside L12 2AP Attention: [REDACTED] Email: [REDACTED]				
14. Procedures and Policies	<p>For the purposes of the Contract the Staff Vetting Procedures/data security requirements/equality and diversity policy and environmental policy are:</p> <p>https://www.gov.uk/government/publications/vetting-explained-and-our-vetting-charter/vetting-explained</p> <p>https://www.gov.uk/government/publications/equality-and-diversity-policy</p>				

The Short form Contract

	<p>https://www.gov.uk/government/publications/security-policy-framework,</p> <p>https://www.gov.uk/government/publications/environmental-and-sustainability-policy</p> <p>The Buyer may require the Supplier to ensure that any person employed in the delivery of the Deliverables has undertaken a Disclosure and Barring Service check.</p> <p>The Supplier shall ensure that no person who discloses that he/she has a conviction that is relevant to the nature of the Contract, relevant to the work of the Buyer, or is of a type otherwise advised by the Buyer (each such conviction a "Relevant Conviction"), or is found by the Supplier to have a Relevant Conviction (whether as a result of a police check, a Disclosure and Barring Service check or otherwise) is employed or engaged in the provision of any part of the Deliverables.</p>
--	--

The Short form Contract

Signed for and on behalf of the Supplier	Signed for and on behalf of the Buyer
Name:  	Name:  
Date: 02/08/2021	Date: 02/08/2021
Signature: 	S 

Annex 1 – Authorised Processing Template

Contract:	[XXXX]
Date:	
Description of Authorised Processing	Details
Subject matter of the processing	
Duration of the processing	
Nature and purposes of the processing	
Type of Personal Data	
Categories of Data Subject	

Annex 2 – Specification

- **The Asset Management Service** - means the asset tracking as a service solution as described in this Specification including the supply of hardware (Devices and Asset Tags), the User Interface, the Data Connectivity and the Support Services. It does not include the Initial Installation and Training.
- **Devices** - means 4G cellular and GPS enabled tracking / gateway devices more particularly detailed in the specification for such devices set out below.
- **Asset Tags** - means low power Bluetooth Tags which are provided with each Device to report equipment presence within a MPU more particularly detailed in the specification for such devices set out below.
- **The User Interface** - means an online dashboard display of the Asset Management Service provided by the Supplier accessible from any computer or mobile device using a supported browser.
- **Installation** - means the installation of the Devices in an MPU.
- **Support Services** - means the Tier 2 Technical Support Helpdesk which will be available Monday to Friday from 08.00 - 23.00 GMT via submission of a web portal ticket through the Supplier's customer support centre contact details of which the Supplier will provide to the Buyer no later than the date of delivery of the Devices .
- **Data Connectivity** - means the data connectivity provided by the cellular modem and SIM card in the Devices to enable reporting of MPU location and Asset Tag presence.
- **The Training** - means the initial training provided by the Supplier to the Buyer and any subsequent training services requested by the Buyer relating to the Service, and installation of the Devices and Asset Tags.
- **The Mobile Processing Units (MPUs)** - means the minimum of 47 Mobile Processing Units to each of which Devices will be fitted.
- **Tier 2 Technical Support Help Desk** - means the Supplier's technical help desk that sits behind the Buyer's operations team which will take initial enquiries or service requests from the Buyer's end users or operatives. The Tier 2 Technical Help Desk is staffed by technicians who have troubleshooting capabilities beyond the Buyer's operational team.

The Asset Management Service includes the delivery of at least 47 Devices together with 470 Asset Tags for tracking MPU's for the specified Term. The Devices and Asset Tags shall remain the property of the Supplier. Once installed, each Device will act as a vehicle tracking device for an MPU which will report the location in real-time using GPS. Each Device will also act as a data gateway to report the presence of 10 Asset Tags. Asset Tags will be attached and registered to specific pieces of equipment inside an MPU.

The Short form Contract

The installation of Devices and associated Asset Tags will be performed by the Buyer or its appointed agent after Training. The Training will be provided at a single location to be determined by the Buyer and notified to the Supplier.

Each Asset Tag is to be attached and registered to a piece of equipment within each MPU. The registration of Asset Tags to specific pieces of equipment will be determined by the Buyer and communicated to the Supplier.

Device location and Asset Tag presence will be reported to the Buyer via the GDPR compliant, cloud based User Interface. The User Interface will show Device and Asset Tag status with exception reporting which will be available 2 weeks from the date of contract signature. The default configuration is that Device location and Asset Tag status will report every 15 minutes when in transit, every 60 minutes when static or once per day if static for more than one day. The User Interface will allow for the export of data. The exported data will follow the data format jointly agreed upon by the Supplier and the Buyer. The User Interface will allow for notes to be entered, stored and reported for each Asset Tag. The final specifications for the User interface will be defined and agreed upon during the project kick-off meeting. The Asset Management Service is based on the following functionality of the User Interface:

- Secure login by users
- Window that displays a table-based representation of the Devices as they last reported to the User Interface
- Window that displays a map-based representation of the Devices as they last reported to the User Interface
- The ability to export the data into a CVS file based on selecting the last 1,3,7 or 30 days' worth of data
- The ability for the user to enter free form notes for each Device and have this data saved, reported with an ability to edit at any time

Any additional functionality will need to be reviewed, formally defined and a roadmap developed for when the functionality can be added to the base system. Requested changes could affect the monthly cost of the Asset Management Service based on the complexity of the change.

The User Interface will support API interface capabilities to share this data with the Buyer's (or the Buyer's appointed agent's) back-end systems as necessary.

The Supplier will provide the Support Services during the Term for any issues arising with the Asset Management Service including any of the Devices or Asset Tags and in accordance with the Service Level Agreement below.

Data Connectivity is subject to underlying mobile carrier network coverage which the Supplier does not control. Data Connectivity may be affected by various environmental factors including, but not limited to service interruptions, poor coverage areas, network congestion, roaming and similar access issues.

Global Positioning System (“GPS”) is a satellite based global positioning technology and the Device’s GPS antenna must have a direct link to the satellites. If its path is impaired, it can affect the ability to correctly recognise a location.

The Supplier will also provide Training Services to the Buyer (or the Buyer’s appointed agents). The Training Services will be provided to enable the Buyer (or the Buyer’s appointed agents) to install / deinstall the Devices and Asset Tags after the Initial Installation. The Training shall be delivered over at least two sessions at such locations and to such persons as the Buyer will notify to the Supplier, and the Supplier shall reasonably agree. This training will be scheduled within 2 weeks of the date of contract signature and (subject to the Buyer’s availability) will occur no later than 4 weeks from contract signature.

The Buyer may request the Seller provide additional Asset Tags which the Seller shall supply within a reasonable time frame subject to availability. The cost of such additional Asset Tags is set out in Annex 3

At the end of the Term, the Supplier shall shut down the User Interface and end the Data Connectivity. The Buyer is then required to remove the Devices and Asset Tags from the MPUs and send them to the Supplier by registered courier.

A project kick-off meeting will be scheduled by the Buyer with the Supplier within one week of contract signature including assigned project managers from both parties and relevant technical and operational support resources. A project implementation plan will be jointly agreed including timelines, location and dependencies for Deliverables including Initial installation and Training.

Service Level Agreement

Technical Support for the Service is provided by the Tier 2 Technical Support Helpdesk by submitting a web portal ticket between Monday to Friday from 08.00 – 23.00 UK hours.

The Buyer’s operational team should triage initial enquiries or service requests to determine the issue, cause and best course of action. If the Buyer’s operational team is unable to resolve the request or issue, the Tier 2 Technical Help Desk should be contacted (via web portal ticket submission) for technical support and guidance to help support a request or resolve an issue. The Buyer should escalate an issue to the Supplier only after making a reasonable determination that the issue is within the Supplier’s control. The Supplier will make all reasonable endeavours to resolve the issue as soon as possible. The Supplier does not provide customer support for non-Supplier products and services.

Designated Support Contacts

The Buyer must provide the Supplier with an email address for service notifications (a distribution list is recommended) and a list of names and phone numbers of their employees who have been designated as support contacts for the Supplier’s Customer Support Centre. The Buyer may change the names and numbers from this list at any time with notice to the Supplier.

Support Requests

Support Requests from the Buyer should include:

The Short form Contract

- All information required in the electronic portal or trouble ticketing form
- Name and contact information of the person reporting a problem
- Description of the problem and symptoms
- The date/time the incident was first observed
- The exact location of the issue if applicable
- The IMEI number(s) of the Device(s) involved;
- The type of device, make and model number
- A statement of the steps taken to attempt to resolve the problem

Definitions in this Service Level Agreement:

"Service Month" means any entire calendar month during the Term.

"Monthly Uptime Percentage" is calculated by subtracting from the percentage of 5-minute periods during the Service Month in which a Service was Unavailable from 100%, excluding Exclusions.

"Unavailable" means that Buyer is unable to connect to the Service.

2. Scope:

The Supplier will make the Asset Management Service available with a Monthly Uptime Percentage of at least 99.5% during each Service Month (the Service Level). In the event the Supplier's actual Monthly Uptime Percentage in any given Service Month is less than 99.5%, then the Supplier shall credit the Buyer against the Retained Sum (as defined at Annex 3 below) a sum equal to 5% of the Service amounts that would otherwise be owed to the Supplier for such month ("**Service Credits**");

Worked example: for 47 Devices the Service Credit for a month where the Service Uptime fell beneath the requirement above would be calculated as [REDACTED]

3. Exclusions:

Scheduled maintenance and any malfunction or failure of a third-party network through which the Services are accessed will not count against such uptime percentage.

Classification and Escalation of Incidents:

The table below outlines the Service Level Objectives and Escalation policy. Tickets are classified by the Buyer upon entry into the incident reporting system.

The Short form Contract

Support Request Method	Service Level Objectives	Supplier Escalation Path
Tier 2 Technical Support Team available: 08.00 – 23.00 UK hours / Monday – Friday	Initial Response Provided: within 2 Hours	If Initial Response is not received within 3 hours from ticket submission / acknowledgement:
		1st Escalation (Supplier Manager): within 1 Hour from escalation point
		2nd Escalation (Supplier Director): within 4 Hours from escalation point
		3rd Escalation (Supplier Senior Director): within 6 Hours from escalation point

RETURN MATERIALS AUTHORISATION POLICY (the RMA Policy)

Each Device is covered by a 12 month warranty from the date of delivery and during the Term the Supplier is responsible for the replacement of Devices that are defective or stop operating under normal use under the RMA Policy set out here. The replacement costs to be calculated in accordance with Annex 3 (Replacement Devices) below) provided such costs shall only be for the account of the Buyer to the extent any Device is defective or stops operating because of misuse by the Buyer.

Buyer shall submit the model number and serial number of each suspected defective Device along with a brief description of the failure mechanism to the Supplier via on online web-portal ticket. The Supplier will send a replacement Device to the Buyer within three (3) business days of submission of such online web-portal ticket with required information including address, contact details, number of Devices. The replacement Device may be a repaired, reconditioned or “no fault found” Device.

The Supplier shall issue an RMA number and return address to the Buyer for return of suspected defective Device. The Buyer shall ship such Device to the Supplier (or designated sub-contractor) using a prepaid courier label to be provided by the Supplier. All shipping packages must clearly identify the RMA number on the label. Please note the Supplier reserves the right to refuse packages that do not have an RMA number shown on the label.

The Short form Contract

Upon the Supplier's determination that the returned Device is defective and is covered under warranty, the Supplier, at its sole discretion, shall repair or replace such Devices and ship back to Buyer at the Supplier's expense within the time frame set out above.

If the returned Device is not found to be defective the Buyer agrees to reimburse the Supplier for any shipment costs incurred by the Supplier with respect to returning such Device.

If the returned Device is found to be defective but not covered by warranty either because the warranty period has expired or because the Buyer has mis-used the Device, the Supplier shall offer to return such Device, unrepaid, to the Buyer or to repair such Device, at the Buyer's expense. The Supplier's minimum standard out of warranty repair charge of [REDACTED] will apply to each unit of out-of-warranty Device that the Supplier repairs. Additional charges based on necessary component replacement may also apply. The Supplier shall notify the Buyer prior to repairing the defective Device.

Repaired or replaced Devices shall be warranted for the longer of three (3) months or the remaining life of the original warranty on defective returned Device.

Devices Specification



XT4900 Series



Consumer Solutions



High-Value Asset Management



Commercial Vehicle & Long-Haul Trucking



Driver Behavior



Trailer & Container Management



Mobile Resource Management

The XT4900 is an energy-harvesting LTE Cat 1 platform that supports long-term, remote deployments without the need to replace the battery.

The XT4900 utilizes a high-efficiency solar panel to charge and maximize the operating life of the internal Lithium Ion battery. Customers requiring frequent data for location, health, and monitoring of their remote assets can be assured that XT4900 will provide more frequent data for longer periods compared to other asset tracking devices. The XT4900 supports configurable reporting frequency and event triggers and thresholds along with 16MB flash memory that supports up to 10K 11-point geofences. The internal 10Ah battery is best-in-class, exceeding industry standards for charge and discharge temperature extremes, capable of more than 4000 life cycles by controlling and optimizing battery state of charge and depth of discharge. The XT4900 is designed to withstand various environmental factors and meets IP 67 rating. With a fully sealed, protective case the device can be deployed in marine and desert environments.

HIGHLIGHTS

- Dual carrier LTE/HSPA+ Cat 4
- LED indicators for GPS lock, Cellular and WLAN
- Over-the-air firmware upgrade
- Supports SMS, TCP, UDP, UDP/ACK, FTP
- 3-axis accelerometer and motion sensor
- Internal temperature sensor
- Integrated GPS receiver/antenna, LTE band antenna
- Integrated 10 Ah backup battery
- Optional Bluetooth, Zigbee, and I/O configurable with embedded antennas, 1-wire bus
- Integrated 16MB flash memory
- Certifications: FCC, PTCRB, IC, CE, AT&T, Verizon², Voda¹

© 2020 Xirgo Technologies Inc. | 188 Camino Ruiz, Camarillo, CA 93012 | xirgo.com



Specifications



GPS



Cellular



Solar Charge



Battery Options



Bluetooth

Mechanical

Dimensions	8.45" x 4.73" x 1.06" (21.5 x 12.0 x 7.0 cm)
Weight	24 oz. (680 g)
Case Material	PC+PBT
IP Rating	IP 67

Physical Connections

Operating Temperature	-40°F to 158°F (-40°C to 70°C)
Harness Connector	8-pin circular bayonet
Serial Interface	RS232
Optional I/O	1 digital input, 1 digital output, 2 ADC inputs
Multi-Function Switch	Wake/Wi-Fi/BLE pairing

Power Requirement

DC Power	DC 8-24V
Power Source	Internal 10Ah rechargeable (via solar) battery

GPS Module

Receiver Type	(GPS)
Tracking Sensitivity	-157 dBm
Accuracy	± 2.5m CEP (50%, -130 dBm, >6 satellites)

Cellular Module

MNO	AT&T, Verizon ² , Voda ¹
4G LTE FDD Bands	1 ¹ , 2, 3 ¹ , 4, 5, 7 ¹ , 8 ¹ , 12 ^{1,3} , 13 ^{1,2} , 17 ² , 18 ¹ , 19 ¹ , 20 ¹ , 25 ¹ , 26 ¹ , 28 ¹
4G LTE TDD Bands ¹	38, 39, 40, 41
3G UMTS Bands	1 ^{1,3} , 2, 4 ¹ , 5, 6 ¹ , 8 ^{1,3} , 19 ¹
2G EGPRS Bands ^{1,3}	PCS (Band 2), DCS (Band 3), GSM (Band 5), E-GSM (Band 8)
Comm. Interfaces	4G LTE Cat M1, 3G UMTS, 3GPP release 13, 2G EGPRS
Power Class	4G/3G—Class 3 (23 dBm); GSM—Class 4; DCS/PCS—Class 1
SMS Support	MT/MO

¹ only available on XT4964; ² only on XT4970; ³ only on XT4975;

© 2020 Xirgo Technologies Inc. | 188 Camino Ruiz, Camarillo, CA 93012 | xirgo.com

Asset Tag Specification

RADBEACON CHIP

Portable, lightweight, compact beacon technology.

The RadBeacon Chip is a fully stand-alone Bluetooth 5 proximity beacon that supports iBeacon™, AltBeacon™, and Eddystone™ technology. The RadBeacon Chip is portable, lightweight, small in size, and easy to deploy. It can be utilized in any location, regardless of available power, and provides proximity advertisements for mobile applications that are compatible with iBeacon, AltBeacon, and Eddystone standards. The RadBeacon Chip is battery-powered and perfect for conferences, trade shows, and other events where power may not be readily available.



HARDWARE

Size: 32 x 23 x 3.3mm

Weight: 6.5g

Colors: White

Form Factor: Card shape, slim

Electrical Interface: CR2016, replaceable

Operating Temperature: -40°C to 60°C (-40°F to 140°F)

BLUETOOTH RADIOS

Version: Bluetooth 5

Frequency: 2.402 GHz to 2480 GHz Transmit Power: +4dBm to -30dBm Transmission Range: 50m

Antenna: Omnidirectional PCB antenna

CERTIFICATIONS

Apple iBeacon™: iBeacon Licensed Product Eddystone™: Eddystone Licensed Product
Bluetooth: Bluetooth controller subsystem FCC: FCC Part 15

CE: EN300328, EN60950, EN62479

SETTINGS

Configurable Advertisements:

iBeacon

AltBeacon (Beacon ID | Reference RSSI) Eddystone-UID

Advertisement Rate: 1Hz - 10Hz Transmit Power: +4dBm to -20dBm

BATTERIES

Battery Life: 1 year

Included: CR2032, replaceable

Annex 3 – Charges

The Price for supply of the Asset Management Service

- The Asset Management Service Price is [REDACTED] plus VAT per delivered Device per month. The Price is inclusive of the Asset Management Service as defined in the Specification.
- The full 12 months Asset Management Service Price is [REDACTED] plus VAT ("**Full Price**")
- Upon the delivery of the 47 Devices the Buyer shall pay ninety five per cent (95%) of the Full Price being the sum of [REDACTED] plus VAT
- The Buyer shall retain the unpaid balance of the Full Price being the sum of [REDACTED] ("**Retained Sum**") which shall be payable as set out below
- The Buyer shall pay the Retained Sum (less the value of any Service Credits which have accrued against the Retained Sum as calculated in accordance with the provisions of the Service Level Agreement set out in Annex 2 above) plus VAT on the Expiry Date

Training charges

- The Training of the Buyer or the Buyer's agent will be charged at [REDACTED] plus VAT per day (minimum 2 days).
- Subsequent Training as requested by the Buyer will be charged at [REDACTED] plus VAT per day.

Replacement or Additional Devices

- The Charge for replacement Devices or additional Asset Tags is as follows:
- Replacement Device @ [REDACTED] each excluding VAT
- Replacement Asset Tags @ [REDACTED] excluding VAT
- Additional Asset Tags @ [REDACTED] VAT

Short form Terms

1. Definitions used in the Contract

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

"Buyer"	means the person identified in the letterhead of the Order Form;
"Buyer Cause"	any breach of the obligations of the Buyer or any other default, act, omission negligence or statement of the Buyer, of its employees, servants, agents in connection with or in relation to the subject-matter of the Contract and in respect of which the Buyer is liable to the Supplier;
"Central Government Body"	<p>means a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics:</p> <ul style="list-style-type: none">a) Government Department;b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);c) Non-Ministerial Department; ord) Executive Agency;
"Change in Law"	means any change in Law which impacts on the supply of the Deliverables (including taxation or duties of any sort affecting the Supplier) which comes into force after the start date of the Contract set out in the Order Form;
"Charges"	means the charges for the Deliverables as specified in the Order Form;
"Confidential Information"	<p>means all information, whether written or oral (however recorded), provided by the disclosing Party to the receiving Party and which:</p> <ul style="list-style-type: none">(i) is known by the receiving Party to be confidential;

The Short form Contract

	<ul style="list-style-type: none"> (ii) is marked as or stated to be confidential; or (iii) ought reasonably to be considered by the receiving Party to be confidential;
"Contract"	<p>means the contract between:</p> <ul style="list-style-type: none"> (i) the Buyer; and (ii) the Supplier <p>which is created by the Supplier's counter signing the Order Form and includes the Order Form and Annexes;</p>
"Controller"	has the meaning given to it in the GDPR;
"Date of Delivery"	means that date by which the Deliverables must be delivered to the Buyer, as specified in the Order Form;
"Data Loss Event"	any event that results, or may result, in unauthorised access to Personal Data held by the Supplier under this Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of this Contract, including any Personal Data Breach;
"Data Protection Legislation"	<ul style="list-style-type: none"> (i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time; (ii) the Data Protection Act 2018 to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy;
"Data Protection Impact Assessment"	an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data;
"Data Protection Officer"	has the meaning given to it in the GDPR;
"Data Subject"	has the meaning given to it in the GDPR;
"Data Subject Access Request"	a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data;
"Deliver"	means hand over (which may be by post/courier) the Deliverables to the Buyer at the address and on the date specified in the Order Form or as shall be agreed between the parties, which shall include any other specific arrangements

	agreed in accordance with clause 4.2. Delivered and Delivery shall be construed accordingly;
"Existing IPR"	any and all intellectual property rights that are owned by or licensed to either Party and which have been developed independently of the Contract (whether prior to the date of the Contract or otherwise);
"Exit Day"	has the meaning in the European Union (Withdrawal) Act 2018;
"Expiry Date"	means the date for expiry of the Contract as set out in the Order Form;
"FOIA"	means the Freedom of Information Act 2000 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation;
"Force Majeure Event"	<p>any event, occurrence, circumstance, matter or cause affecting the performance by either Party of its obligations under the Contract arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control which prevent or materially delay it from performing its obligations under the Contract but excluding:</p> <ul style="list-style-type: none">(i) any industrial dispute relating to the Supplier, the Supplier Staff (including any subsets of them) or any other failure in the Supplier or the Subcontractor's supply chain;(ii) any event, occurrence, circumstance, matter or cause which is attributable to the wilful act, neglect or failure to take reasonable precautions against it by the Party concerned;(iii) any failure of delay caused by a lack of funds;(iv) any event or other consequence arising as a result of or in connection with the withdrawal of the United Kingdom from the European Union; and(v) any event or other consequence arising as a result of or in connection with the COVID-19 pandemic except for circumstances caused by or related to the COVID-19 pandemic which are changes in applicable Law and/or governmental guidance which mean that the Deliverables cannot be provided as set out in the Contract (in all material respects) without such Laws and/or government guidance being breached, or if the Supplier can reasonably demonstrate that despite all

The Short form Contract

reasonable endeavours, it is unable to secure non-COVID-19 infected personnel to provide the Deliverables due to the levels of COVID-19 infections in the population of the United Kingdom;

"GDPR"

the General Data Protection Regulation (Regulation (EU) 2016/679);

"Good Industry Practice"

standards, practices, methods and procedures conforming to the Law and the exercise of the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged within the relevant industry or business sector;

"Government Data"

- (a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, including any of the Buyer's Confidential Information, and which:
 - (i) are supplied to the Supplier by or on behalf of the Buyer; or
 - (ii) the Supplier is required to generate, process, store or transmit pursuant to the Contract; or
- (b) any Personal Data for which the Buyer is the Data Controller;

"Information"

has the meaning given under section 84 of the FOIA;

"Information Commissioner"

the UK's independent authority which deals with ensuring information relating to rights in the public interest and data privacy for individuals is met, whilst promoting openness by public bodies;

"Insolvency Event"

in respect of a person:

- (i) if that person is insolvent;
- (ii) if an order is made or a resolution is passed for the winding up of the person (other than voluntarily for the purpose of solvent amalgamation or reconstruction);
- (iii) if an administrator or administrative receiver is appointed in respect of the whole or any part of the persons assets or business;
- (iv) if the person makes any composition with its creditors or takes or suffers any similar or analogous action to

The Short form Contract

any of the actions detailed in this definition as a result of debt in any jurisdiction;

"Key Personnel"	means any persons specified as such in the Order Form or otherwise notified as such by the Buyer to the Supplier in writing;
"Law"	means any law, statute, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, byelaw, enforceable right within the meaning of section 2 of the European Communities Act 1972, regulation, order, 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;
"LED"	Law Enforcement Directive (Directive (EU) 2016/680);
"New IPR"	all intellectual property rights in any materials created or developed by or on behalf of the Supplier pursuant to the Contract but shall not include the Supplier's Existing IPR;
"Order Form"	means the letter from the Buyer to the Supplier printed above these terms and conditions;
"Party"	the Supplier or the Buyer (as appropriate) and "Parties" shall mean both of them;
"Personal Data"	has the meaning given to it in the GDPR;
"Personal Data Breach"	has the meaning given to it in the GDPR;
"Processor"	has the meaning given to it in the GDPR;
"Purchase Order Number"	means the Buyer's unique number relating to the order for Deliverables to be supplied by the Supplier to the Buyer in accordance with the terms of the Contract;
"Regulations"	the Public Contracts Regulations 2015 and/or the Public Contracts (Scotland) Regulations 2015 (as the context requires) as amended from time to time;
"Request for Information"	has the meaning set out in the FOIA or the Environmental Information Regulations 2004 as relevant (where the meaning set out for the term "request" shall apply);
"Services"	means the services to be supplied by the Supplier to the Buyer under the Contract in accordance with the Specification;
"Specification"	means the specification for the Deliverables to be supplied by the Supplier to the Buyer (including as to quantity, description

	and quality) as specified in Annex 2 of the Order Form;
"Staff"	means all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any sub-contractor of the Supplier engaged in the performance of the Supplier's obligations under the Contract;
"Staff Vetting Procedures"	means vetting procedures that accord with Good Industry Practice or, where applicable, the Buyer's procedures for the vetting of personnel as provided to the Supplier in the Order Form and from time to time;
"Subprocessor"	any third party appointed to process Personal Data on behalf of the Supplier related to the Contract;
"Supplier"	means the person named as Supplier in the Order Form;
"Supplier Staff"	all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Subcontractor engaged in the performance of the Supplier's obligations under a Contract;
"Term"	means the period from the start date of the Contract set out in the Order Form to the Expiry Date as such period may be extended in accordance with clause 8 of the Order Form or terminated in accordance with the terms and conditions of the Contract;
"VAT"	means value added tax in accordance with the provisions of the Value Added Tax Act 1994;
"Workers"	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;
"Working Day"	means a day (other than a Saturday or Sunday) on which banks are open for business in the City of London.

2. Understanding the Contract

In the Contract, unless the context otherwise requires:

- 2.1 references to numbered clauses are references to the relevant clause in these terms and conditions;
- 2.2 any obligation on any Party not to do or omit to do anything shall include an obligation not to allow that thing to be done or omitted to be done;

- 2.3 the headings in this Contract are for information only and do not affect the interpretation of the Contract;
- 2.4 references to "writing" include printing, display on a screen and electronic transmission and other modes of representing or reproducing words in a visible form;
- 2.5 the singular includes the plural and vice versa;
- 2.6 a reference to any law includes a reference to that law as amended, extended, consolidated or re-enacted from time to time and to any legislation or byelaw made under that law;
- 2.7 the word "including", "for example" and similar words shall be understood as if they were immediately followed by the words "without limitation"; and
- 2.8 Any reference in this Contract which immediately before Exit Day was a reference to (as it has effect from time to time):
 - (a) any EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement ("**EU References**") which is to form part of domestic law by application of section 3 of the European Union (Withdrawal) Act 2018 shall be read on and after Exit Day as a reference to the EU References as they form part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018 as modified by domestic law from time to time; and
 - (b) any EU institution or EU authority or other such EU body shall be read on and after Exit Day as a reference to the UK institution, authority or body to which its functions were transferred.

3. How the Contract works

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

4. What needs to be delivered

4.1 All Deliverables

- (a) The Supplier must provide Deliverables:
 - (i) in accordance with the Specification;
 - (ii) to a professional standard;

- (iii) using reasonable skill and care;
 - (iv) using Good Industry Practice;
 - (v) using its own policies, processes and internal quality control measures as long as they don't conflict with the Contract;
 - (vi) on the dates agreed (which are subject to amendment if agreed by both parties); and
 - (vii) that comply with all law.
- (b) The Supplier must provide Deliverables with a warranty of at least 12 months (or longer where the Supplier offers a longer warranty period to its Buyers) from Delivery against all obvious defects.

4.2 Services clauses

- (a) Subject to the Buyer complying with clause 4.2(c) late performance of the Services will be a default of the Contract.
- (b) The Supplier must co-operate with the Buyer and third party suppliers on all aspects connected with the performance of the Services and ensure that Supplier Staff comply with any reasonable instructions including any security requirements.
- (c) The Buyer must provide the Supplier with reasonable access to its premises and other relevant locations and staff at reasonable times for the purpose of supplying the Services.
- (d) The Supplier must at its own risk and expense provide all equipment required to perform the Services. Any equipment provided by the Buyer to the Supplier for supplying the Services remains the property of the Buyer and is to be returned to the Buyer on expiry or termination of the Contract.
- (e) The Supplier must allocate sufficient resources and appropriate expertise to the Contract.
- (f) The Supplier must take all reasonable care to ensure performance does not disrupt the Buyer's operations, employees or other contractors more than is reasonably necessary for the provision of the Service.
- (g) On completion of the Services, the Supplier is responsible for leaving the Buyer's premises and other relevant locations in a clean, safe and tidy condition and making good any damage that it has caused to the Buyer's premises and other relevant locations or property, other than fair wear and tear and changes, such as holes, necessary for installation and securing of Devices.
- (h) The Supplier must ensure all Services, and anything used to perform the Services, are of good quality and free from defects.

- (i) The Buyer is entitled to withhold payment for partially or non-performed Services, but doing so does not stop it from using its other rights under the Contract.
- (j) The Buyer will not be liable for any actions, claims, costs and expenses incurred by the Supplier or any third party during the performance of the Services unless and to the extent that it is caused by negligence or other wrongful act of the Buyer or its servant or agent. If the Buyer suffers or incurs any property damage or personal injury (whether fatal or otherwise) occurring in the course of the performance of the Services by the Supplier then the Supplier shall indemnify the Buyer from any losses, charges, costs or expenses which arise as a result of or in connection with such damage or injury where it is attributable to any act or omission of the Supplier or any of its sub-contractors.

5. Pricing and payments

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

6. The Buyer's obligations to the Supplier

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

7. Record keeping and reporting

- 7.1 The Supplier must ensure that suitably qualified representatives attend progress meetings with the Buyer and provide progress reports when specified in the Order Form.
- 7.2 The Supplier must keep and maintain full and accurate records and accounts on everything to do with the Contract for seven years after the date of expiry or termination of the Contract.
- 7.3 The Supplier must allow any auditor appointed by the Buyer access to their premises, , during normal business hours, following reasonable notice, to verify all contract accounts and records of everything to do with the Contract and provide copies for the audit.
- 7.4 The Supplier must provide information to the auditor and reasonable co-operation at their request.
- 7.5 If the Supplier is not providing any of the Deliverables, or is unable to provide them, it must immediately:
- (a) tell the Buyer and give reasons;
 - (b) propose corrective action;
 - (c) provide a deadline for completing the corrective action.
- 7.6 If the Buyer, acting reasonably, is concerned as to the financial stability of the Supplier such that it may impact on the continued performance of the Contract then the Buyer may:

- (a) require that the Supplier provide to the Buyer (for its approval) a plan setting out how the Supplier will ensure continued performance of the Contract and the Supplier will make changes to such plan as reasonably required by the Buyer and once it is agreed then the Supplier shall act in accordance with such plan and report to the Buyer on demand;
- (b) if the Supplier fails to provide a plan or fails to agree any changes which are requested by the Buyer or fails to implement or provide updates on progress with the plan, terminate the Contract immediately for material breach (or on such date as the Buyer notifies).

8. Supplier staff

8.1 The Supplier Staff involved in the performance of the Contract must:

- (a) be appropriately trained and qualified;
- (b) be vetted using Good Industry Practice and in accordance with the Staff Vetting Procedures;
- (c) comply with all conduct requirements when on the Buyer's premises.

8.2 Where a Buyer decides one of the Supplier's Staff isn't suitable to work on the Contract, the Supplier must replace them with a suitably qualified alternative.

8.3 If requested, the Supplier must replace any person whose acts or omissions have caused the Supplier to breach clause 8.

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

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

8.6 The Supplier shall use those persons nominated in the Order Form (if any) to provide the Deliverables and shall not remove or replace any of them unless:

- (a) requested to do so by the Buyer (not to be unreasonably withheld or delayed);
- (b) the person concerned resigns, retires or dies or is on maternity or long-term sick leave; or
- (c) the person's employment or contractual arrangement with the Supplier or any subcontractor is terminated for material breach of contract by the employee.

9. Rights and protection

9.1 The Supplier warrants and represents that:

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

10. Intellectual Property Rights (IPRs)

- 10.1 Each Party keeps ownership of its own Existing IPRs. The Supplier gives the Buyer a non-exclusive, perpetual, royalty-free, irrevocable, transferable licence to use, change and sub-license the Supplier's Existing IPR to enable it and its sub-licensees to receive and use the Deliverables where specified in the Specification.

Any New IPR created under the Contract is owned by the Supplier. The Buyer gives the Supplier a licence to use any Existing IPRs for the purpose of fulfilling its obligations under the Contract. The Supplier gives Buyer a perpetual, irrevocable, royalty free, non-exclusive licence to use any New IPRs. Notwithstanding the foregoing, to the extent that any data captured by Buyer's use of the Asset Management Service, and the analysis, reports, and alerts generated by the Asset Management Service containing such data constitutes New IPR, then the Buyer owns such New IPR. The Supplier may collect and use analytics, statistics or other data related to the data and the Buyer's use of the Asset Management Service solely for the purposes of (i) providing the Asset Management Service to Buyer; (ii) for statistical reporting to the Buyer (provided that such data is not personally identifiable) in relation to the Asset Management Service ; and (iii) to monitor,

analyse, develop upon, maintain, and improve the Asset Management Service for the Buyer.

- 10.2 Where a Party acquires ownership of intellectual property rights incorrectly under this Contract it must do everything reasonably necessary to complete a transfer assigning them in writing to the other Party on request and at its own cost.
- 10.3 Neither Party has the right to use the other Party's intellectual property rights, including any use of the other Party's names, logos or trademarks, except as provided in clause 10 or otherwise agreed in writing.
- 10.4 If any claim is made against the Buyer for actual or alleged infringement of a third party's intellectual property arising out of, or in connection with, the supply or use of the Deliverables (an "**IPR Claim**"), then the Supplier indemnifies the Buyer against all losses, damages, costs or expenses (including professional fees and fines) incurred as a result of the IPR Claim.
- 10.5 If an IPR Claim is made or anticipated the Supplier must at its own expense and the Buyer's sole option, either:
 - (a) obtain for the Buyer the rights in clauses 10.1 and **Error! Reference source not found.** without infringing any third party intellectual property rights;
 - (b) replace or modify the relevant item with substitutes that don't infringe intellectual property rights without adversely affecting the functionality or performance of the Deliverables.

11. Ending the contract

- 11.1 The Contract takes effect on the date of or (if different) the date specified in the Order Form and ends on the earlier of the date of expiry or termination of the Contract or earlier if required by Law.
- 11.2 The Buyer can extend the Contract where set out in the Order Form in accordance with the terms in the Order Form.

11.3 Ending the Contract without a reason

The Buyer has the right to terminate the Contract at any time without reason or liability by giving the Supplier not less than 90 days' written notice and if it is terminated clause 11.5(b) to 11.5(f) applies save that notwithstanding the ending of payments and any recovery of any sums already paid by the Buyer, the Supplier shall be paid (or retain if already paid) 25% of the total Charges for the Services..

11.4 When the Buyer can end the Contract

- (a) If any of the following events happen, the Buyer has the right to immediately terminate its Contract by issuing a termination notice in writing to the Supplier:

- (i) there's a Supplier Insolvency Event;
 - (ii) if the Supplier repeatedly breaches the Contract in a way to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms and conditions of the Contract;
 - (iii) if the Supplier is in material breach of any obligation which is capable of remedy, and that breach is not remedied within 30 days of the Supplier receiving notice specifying the breach and requiring it to be remedied;
 - (iv) there's a change of control (within the meaning of section 450 of the Corporation Tax Act 2010) of the Supplier which isn't pre-approved by the Buyer in writing;
 - (v) if the Buyer discovers that the Supplier was in one of the situations in 57(1) or 57(2) of the Regulations at the time the Contract was awarded;
 - (vi) the Court of Justice of the European Union uses Article 258 of the Treaty on the Functioning of the European Union (TFEU) to declare that the Contract should not have been awarded to the Supplier because of a serious breach of the TFEU or the Regulations;
 - (vii) the Supplier or its affiliates, in the reasonable opinion of the Buyer, embarrass or bring the Buyer into disrepute or diminish the public trust in them.
- (b) If any of the events in 73(1) (a) to (c) of the Regulations (substantial modification, exclusion of the Supplier, procurement infringement) happen, the Buyer has the right to immediately terminate the Contract and clause 11.5(a) to 11.5(h) applies.

11.5 What happens if the Contract ends

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

- (a) the Supplier is responsible for the Buyer's reasonable costs of procuring replacement Deliverables for the rest of the term of the Contract;
- (b) the Buyer's payment obligations under the terminated Contract stop immediately;
- (c) accumulated rights of the Parties are not affected;
- (d) the Supplier must promptly delete or return the Government Data except where required to retain copies by law;
- (e) the Supplier must promptly return any of the Buyer's property provided under the Contract;

- (f) the Buyer must promptly return any of the Supplier's property provided under the Contract;
- (g) the Supplier must, at no cost to the Buyer, give all reasonable assistance to the Buyer and any incoming supplier and co-operate fully in the handover and re-procurement;
- (h) the following clauses survive the termination of the Contract: 3.2, 6, 7.2, 9, 11, 14, 15, 16, 17, 18, 19, 33, 34 and any clauses which are expressly or by implication intended to continue.

11.6 When the Supplier can end the Contract

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

11.7 Partially ending and suspending the Contract

- (a) Where the Buyer has the right to terminate the Contract it can terminate or suspend (for any period), all or part of it. If the Buyer suspends the Contract it can provide the Deliverables itself or buy them from a third party.
- (b) The Buyer can only partially terminate or suspend the Contract if the remaining parts of it can still be used to effectively deliver the intended purpose.
- (c) The Parties must agree (in accordance with clause 24) any necessary variation required by clause 11.6, but the Supplier may not either:
 - (i) reject the variation; or
 - (ii) increase the Charges.
- (d) The Buyer can still use other rights available, or subsequently available to it if it acts on its rights under clause 11.6.

12. How much you can be held responsible for

- 12.1 Each Party's total aggregate liability under or in connection with the Contract (whether in tort, contract or otherwise) is no more than 125% of the Charges paid or payable to the Supplier .
- 12.2 No Party is liable to the other for:
- (a) any indirect losses;
 - (b) loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect).
- 12.3 In spite of clause 12.1, neither Party limits or excludes any of the following:
- (a) its liability for death or personal injury caused by its negligence, or that of its employees, agents or subcontractors;
 - (b) its liability for bribery or fraud or fraudulent misrepresentation by it or its employees;
 - (c) any liability that cannot be excluded or limited by law.
- 12.4 Notwithstanding clause 12.1, the Supplier does not limit or exclude its liability for any indemnity given under clauses 8.5, 9.3, 10.4, 13.2, 30.2.
- 12.5 Each Party must use all reasonable endeavours to mitigate any loss or damage which it suffers under or in connection with the Contract, including any indemnities.
- 12.6 If more than one Supplier is party to the Contract, each Supplier Party is fully responsible for both their own liabilities and the liabilities of the other Suppliers.

13. Obeying the law

- 13.1 The Supplier must, in connection with provision of the Deliverables, use reasonable endeavours to:
- (a) comply and procure that its subcontractors comply with the Supplier Code of Conduct appearing at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/646497/2017-09-13_Official_Sensitive_Supplier_Code_of_Conduct_September_2017.pdf and such other corporate social responsibility requirements as the Buyer may notify to the Supplier from time to time;
 - (b) support the Buyer in fulfilling its Public Sector Equality duty under S149 of the Equality Act 2010;
 - (c) not use nor allow its subcontractors to use modern slavery, child labour or inhumane treatment;

- (d) meet the applicable Government Buying Standards applicable to Deliverables which can be found online at:

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

- 13.2 The Supplier indemnifies the Buyer against any costs resulting from any default by the Supplier relating to any applicable Law to do with the Contract.
- 13.3 The Supplier must appoint a Compliance Officer who must be responsible for ensuring that the Supplier complies with Law, clause 12.1 and clauses 27 to 32.
- 13.4 **"Compliance Officer"** the person(s) appointed by the Supplier who is responsible for ensuring that the Supplier complies with its legal obligations.

14. Data protection

- 14.1 The Buyer is the Controller and the Supplier is the Processor for the purposes of the Data Protection Legislation.
- 14.2 The Supplier must process Personal Data and ensure that Supplier Staff process Personal Data only in accordance with Data Protection Legislation.
- 14.3 The Supplier must not remove any ownership or security notices in or relating to the Government Data.
- 14.4 The Supplier must make accessible back-ups of all Government Data, stored in an agreed off-site location
- 14.5 The Supplier must ensure that any Supplier system holding any Government Data, including back-up data, is a secure system that complies with the security requirements specified by the Buyer.
- 14.6 If at any time the Supplier suspects or has reason to believe that the Government Data provided under the Contract is corrupted, lost or sufficiently degraded, then the Supplier must notify the Buyer and immediately suggest remedial action.
- 14.7 If the Government Data is corrupted, lost or sufficiently degraded so as to be unusable the Buyer may either or both:
 - (a) tell the Supplier to restore or get restored Government Data as soon as practical but no later than five Working Days from the date that the Buyer receives notice, or the Supplier finds out about the issue, whichever is earlier;
 - (b) restore the Government Data itself or using a third party.
- 14.8 The Supplier must pay each Party's reasonable costs of complying with clause 14.7 unless the Buyer is at fault.
- 14.9 Only the Buyer can decide what processing of Personal Data a Supplier can do under the Contract and must specify it for the Contract using the template in Annex 1 of the Order Form (Authorised Processing).

The Short form Contract

- 14.10 The Supplier must only process Personal Data if authorised to do so in the Annex to the Order Form (Authorised Processing) by the Buyer. Any further written instructions relating to the processing of Personal Data are incorporated into Annex 1 of the Order Form.
- 14.11 The Supplier must give all reasonable assistance to the Buyer in the preparation of any Data Protection Impact Assessment before starting any processing, including:
- (a) a systematic description of the expected processing and its purpose;
 - (b) the necessity and proportionality of the processing operations;
 - (c) the risks to the rights and freedoms of Data Subjects;
 - (d) the intended measures to address the risks, including safeguards, security measures and mechanisms to protect Personal Data.
- 14.12 The Supplier must notify the Buyer immediately if it thinks the Buyer's instructions breach the Data Protection Legislation.
- 14.13 The Supplier must put in place appropriate Protective Measures to protect against a Data Loss Event which must be approved by the Buyer.
- 14.14 If lawful to notify the Buyer, the Supplier must notify it if the Supplier is required to process Personal Data by Law promptly and before processing it.
- 14.15 The Supplier must take all reasonable steps to ensure the reliability and integrity of any Supplier Staff who have access to the Personal Data and ensure that they:
- (a) are aware of and comply with the Supplier's duties under this clause **Error! Reference source not found.**;
 - (b) are subject to appropriate confidentiality undertakings with the Supplier or any Subprocessor;
 - (c) are informed of the confidential nature of the Personal Data and do not provide any of the Personal Data to any third party unless directed in writing to do so by the Buyer or as otherwise allowed by the Contract;
 - (d) have undergone adequate training in the use, care, protection and handling of Personal Data.
- 14.16 The Supplier must not transfer Personal Data outside of the EU unless all of the following are true:
- (a) it has obtained prior written consent of the Buyer;
 - (b) the Buyer has decided that there are appropriate safeguards (in accordance with Article 46 of the GDPR);

The Short form Contract

- (c) the Data Subject has enforceable rights and effective legal remedies when transferred;
- (d) the Supplier meets its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred;
- (e) where the Supplier is not bound by Data Protection Legislation it must use its best endeavours to help the Buyer meet its own obligations under Data Protection Legislation; and
- (f) the Supplier complies with the Buyer's reasonable prior instructions about the processing of the Personal Data.

14.17 The Supplier must notify the Buyer immediately if it:

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

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

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

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

The Short form Contract

- (e) assistance that it requests relating to a consultation with, or request from, the Information Commissioner's Office.
- 14.20 The Supplier must maintain full, accurate records and information to show it complies with this clause 14. This requirement does not apply where the Supplier employs fewer than 250 staff, unless either the Buyer determines that the processing:
- (a) is not occasional;
 - (b) includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR;
 - (c) is likely to result in a risk to the rights and freedoms of Data Subjects.
- 14.21 The Supplier must appoint a Data Protection Officer responsible for observing its obligations in this Schedule and give the Buyer their contact details.
- 14.22 Before allowing any Subprocessor to process any Personal Data, the Supplier must:
- (a) notify the Buyer in writing of the intended Subprocessor and processing;
 - (b) obtain the written consent of the Buyer;
 - (c) enter into a written contract with the Subprocessor so that this clause 14 applies to the Subprocessor;
 - (d) provide the Buyer with any information about the Subprocessor that the Buyer reasonably requires.
- 14.23 The Supplier remains fully liable for all acts or omissions of any Subprocessor.
- 14.24 At any time the Buyer can, with 30 Working Days' notice to the Supplier, change this clause 14 to:
- (a) replace it with any applicable standard clauses (between the controller and processor) or similar terms forming part of an applicable certification scheme under GDPR Article 42;
 - (b) ensure it complies with guidance issued by the Information Commissioner's Office.
- 14.25 The Parties agree to take account of any non-mandatory guidance issued by the Information Commissioner's Office.
- 14.26 The Supplier:
- (a) must provide the Buyer with all Government Data in an agreed open format within 10 Working Days of a written request;

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

15. What you must keep confidential

15.1 Each Party must:

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

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

- (a) where disclosure is required by applicable Law or by a court with the relevant jurisdiction if the recipient Party notifies the disclosing Party of the full circumstances, the affected Confidential Information and extent of the disclosure;
- (b) if the recipient Party already had the information without obligation of confidentiality before it was disclosed by the disclosing Party;
- (c) if the information was given to it by a third party without obligation of confidentiality;
- (d) if the information was in the public domain at the time of the disclosure;
- (e) if the information was independently developed without access to the disclosing Party's Confidential Information;
- (f) to its auditors or for the purposes of regulatory requirements;
- (g) on a confidential basis, to its professional advisers on a need-to-know basis;
- (h) to the Serious Fraud Office where the recipient Party has reasonable grounds to believe that the disclosing Party is involved in activity that may be a criminal offence under the Bribery Act 2010.

- 15.3 The Supplier may disclose Confidential Information on a confidential basis to Supplier Staff on a need-to-know basis to allow the Supplier to meet its obligations under the Contract. The Supplier Staff must enter into a direct confidentiality agreement with the Buyer at its request.
- 15.4 The Buyer may disclose Confidential Information in any of the following cases:
- (a) on a confidential basis to the employees, agents, consultants and contractors of the Buyer;
 - (b) on a confidential basis to any other Central Government Body, any successor body to a Central Government Body or any company that the Buyer transfers or proposes to transfer all or any part of its business to;
 - (c) if the Buyer (acting reasonably) considers disclosure necessary or appropriate to carry out its public functions;
 - (d) where requested by Parliament;
 - (e) under clauses 5.7 and 16.
- 15.5 For the purposes of clauses 15.2 to 15.4 references to disclosure on a confidential basis means disclosure under a confidentiality agreement or arrangement including terms as strict as those required in clause 15.
- 15.6 Information which is exempt from disclosure by clause 16 is not Confidential Information.
- 15.7 The Supplier must not make any press announcement or publicise the Contract or any part of it in any way, without the prior written consent of the Buyer and must take all reasonable steps to ensure that Supplier Staff do not either.

16. When you can share information

- 16.1 The Supplier must tell the Buyer within 48 hours if it receives a Request For Information.
- 16.2 Within the required timescales the Supplier must give the Buyer full co-operation and information needed so the Buyer can:
- (a) comply with any Freedom of Information Act (**FOIA**) request;
 - (b) comply with any Environmental Information Regulations (**EIR**) request.
- 16.3 The Buyer may talk to the Supplier to help it decide whether to publish information under clause 16. However, the extent, content and format of the disclosure is the Buyer's decision, which does not need to be reasonable.

17. Invalid parts of the contract

If any part of the Contract is prohibited by Law or judged by a court to be unlawful, void or unenforceable, it must be read as if it was removed from that Contract as much as required and rendered ineffective as far as possible without affecting the rest of the Contract, whether it's valid or enforceable.

18. No other terms apply

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

19. Other people's rights in a contract

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

20. Circumstances beyond your control

- 20.1 Any Party affected by a Force Majeure Event is excused from performing its obligations under the Contract while the inability to perform continues, if it both:
- (a) provides written notice to the other Party;
 - (b) uses all reasonable measures practical to reduce the impact of the Force Majeure Event.
- 20.2 Either Party can partially or fully terminate the Contract if the provision of the Deliverables is materially affected by a Force Majeure Event which lasts for 90 days continuously.
- 20.3 Where a Party terminates under clause 20.2:
- (a) each Party must cover its own losses;
 - (b) clause 11.5(a) to 11.5(h) applies.

21. Relationships created by the contract

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

22. Giving up contract rights

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

23. Transferring responsibilities

- 23.1 The Supplier cannot assign the Contract without the Buyer's written consent.
- 23.2 The Buyer can assign, novate or transfer its Contract or any part of it to any Crown Body, public or private sector body which performs the functions of the Buyer.
- 23.3 When the Buyer uses its rights under clause 23.2 the Supplier must enter into a novation agreement in the form that the Buyer specifies.
- 23.4 The Supplier can terminate the Contract novated under clause 23.2 to a private sector body that is experiencing an Insolvency Event.
- 23.5 The Supplier remains responsible for all acts and omissions of the Supplier Staff as if they were its own.
- 23.6 If the Buyer asks the Supplier for details about Subcontractors, the Supplier must provide details of Subcontractors at all levels of the supply chain including:
 - (a) their name;
 - (b) the scope of their appointment;
 - (c) the duration of their appointment.

24. Changing the contract

- 24.1 Either Party can request a variation to the Contract which is only effective if agreed in writing and signed by both Parties. The Buyer is not required to accept a variation request made by the Supplier.
- 24.2 The Supplier shall neither be relieved of its obligations to supply the Deliverables in accordance with the terms and conditions of the Contract nor be entitled to an increase in the Charges as a result of a Change in Law.

25. How to communicate about the contract

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

26. Preventing fraud, bribery and corruption

- 26.1 The Supplier shall not:

- (a) commit any criminal offence referred to in the Regulations 57(1) and 57(2);
 - (b) offer, give, or agree to give anything, to any person (whether working for or engaged by the Buyer or any other public body) an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of the Contract or any other public function or for showing or refraining from showing favour or disfavour to any person in relation to the Contract or any other public function.
- 26.2 The Supplier shall take all reasonable steps (including creating, maintaining and enforcing adequate policies, procedures and records), in accordance with Good Industry Practice, to prevent any matters referred to in clause 26.1 and any fraud by the Staff and the Supplier (including its shareholders, members and directors) in connection with the Contract and shall notify the Buyer immediately if it has reason to suspect that any such matters have occurred or is occurring or is likely to occur.
- 26.3 If the Supplier or the Staff engages in conduct prohibited by clause 26.1 or commits fraud in relation to the Contract or any other contract with the Crown (including the Buyer) the Buyer may:
- (a) terminate the Contract and recover from the Supplier the amount of any loss suffered by the Buyer resulting from the termination, including the cost reasonably incurred by the Buyer of making other arrangements for the supply of the Deliverables and any additional expenditure incurred by the Buyer throughout the remainder of the Contract; or
 - (b) recover in full from the Supplier any other loss sustained by the Buyer in consequence of any breach of this clause.

27. Equality, diversity and human rights

- 27.1 The Supplier must follow all applicable equality Law when they perform their obligations under the Contract, including:
- (a) protections against discrimination on the grounds of race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise;
 - (b) any other requirements and instructions which the Buyer reasonably imposes related to equality Law.
- 27.2 The Supplier must take all necessary steps, and inform the Buyer of the steps taken, to prevent anything that is considered to be unlawful discrimination by any court or tribunal, or the Equality and Human Rights Commission (or any successor organisation) when working on the Contract.

28. Health and safety

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

- (a) all applicable Law regarding health and safety;
 - (b) the Buyer's current health and safety policy while at the Buyer's premises, as provided to the Supplier.
- 28.2 The Supplier and the Buyer must as soon as possible notify the other of any health and safety incidents or material hazards they're aware of at the Buyer premises that relate to the performance of the Contract.

29. Environment

- 29.1 When working on Site the Supplier must perform its obligations under the Buyer's current Environmental Policy.
- 29.2 The Supplier must ensure that Supplier Staff are aware of the Buyer's Environmental Policy.

30. Tax

- 30.1 The Supplier must not breach any tax or social security obligations and must enter into a binding agreement to pay any late contributions due, including where applicable, any interest or any fines. The Buyer cannot terminate the Contract where the Supplier has not paid a minor tax or social security contribution.
- 30.2 Where the Supplier or any Supplier Staff are liable to be taxed or to pay National Insurance contributions in the UK relating to payment received under the Contract, the Supplier must both:
- (a) comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax, the Social Security Contributions and Benefits Act 1992 (including IR35) and National Insurance contributions;
 - (b) indemnify the Buyer against any Income Tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made during or after the Contract Period in connection with the provision of the Deliverables by the Supplier or any of the Supplier Staff.
- 30.3 If any of the Supplier Staff are Workers who receive payment relating to the Deliverables, then the Supplier must ensure that its contract with the Worker contains the following requirements:
- (a) the Buyer may, at any time during the term of the Contract, request that the Worker provides information which demonstrates they comply with clause 30.2, or why those requirements do not apply, the Buyer can specify the information the Worker must provide and the deadline for responding;

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

31. Conflict of interest

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

32. Reporting a breach of the contract

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

33. Resolving disputes

- 33.1 If there is a dispute between the Parties, their senior representatives who have authority to settle the dispute will, within 28 days of a written request from the other Party, meet in good faith to resolve the dispute.
- 33.2 If the dispute is not resolved at that meeting, the Parties can attempt to settle it by mediation using the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure current at the time of the dispute. If the Parties cannot agree on a mediator, the mediator will be nominated by CEDR. If either Party does not wish to use, or continue to use mediation, or mediation does not resolve the dispute, the dispute must be resolved using clauses 33.3 to 33.5.
- 33.3 Unless the Buyer refers the dispute to arbitration using clause 33.4, the Parties irrevocably agree that the courts of England and Wales have the exclusive jurisdiction to:

- (a) determine the dispute;
 - (b) grant interim remedies;
 - (c) grant any other provisional or protective relief.
- 33.4 The Supplier agrees that the Buyer has the exclusive right to refer any dispute to be finally resolved by arbitration under the London Court of International Arbitration Rules current at the time of the dispute. There will be only one arbitrator. The seat or legal place of the arbitration will be London and the proceedings will be in English.
- 33.5 The Buyer has the right to refer a dispute to arbitration even if the Supplier has started or has attempted to start court proceedings under clause 33.3, unless the Buyer has agreed to the court proceedings or participated in them. Even if court proceedings have started, the Parties must do everything necessary to ensure that the court proceedings are stayed in favour of any arbitration proceedings if they are started under clause 33.4.
- 33.6 The Supplier cannot suspend the performance of the Contract during any dispute.

34. Wireless Provisions

- 34.1 With respect to wireless technology services, the Supplier is not obligated to maintain any particular technology if its wireless provider reduces or terminates such technology network. The Supplier will provide written notice of intended changes to such technology as soon as possible following the Suppliers receipt of such notice.
- 34.2 With respect to wireless services, the Supplier makes no warranties, express or implied, and specifically disclaims any representation or warranty that telephone calls or other transmissions will be routed or completed without error or interruption (including calls to any emergency response number) and makes no guarantee regarding network security, the encryption employed by any service, the integrity of any data (other than any Personal Data) that is sent, backed up, stored or subject to load balancing or that security procedures will prevent the loss or alteration of or improper access to the Buyer's data and information.
- 34.3 With respect to wireless services, in no event will the Supplier be liable for any damages arising out of or relating to, service defects, service levels, delays or any service error or interruption, including interruptions or errors in routing or completing any emergency response calls or any other calls or transmissions, lost or altered messages or transmissions, or unauthorized access to or theft, alteration, loss or destruction of Buyer's (or its affiliates', users' or third parties') applications, content data (other than any Personal Data), programs, information, networks or systems.
- 34.4 The Buyer must not use or assist others to use the wireless service or a Device for any unlawful, unauthorized, abusive or fraudulent purpose. The Buyer must make good faith efforts to minimize abuse or fraudulent use, to promptly report to the Supplier any abuse or fraudulent use of which they become aware, and to cooperate in any investigation or prosecution initiated. The Buyer must use reasonable

The Short form Contract

endeavours to disable any SIMs, or otherwise block access to the wireless service to any user suspected of abuse or fraudulent use.

34.5 The Buyer understands and agrees that:

- (a) it has no contractual relationship with the underlying wireless service carrier;
- (b) it is not a third party beneficiary of any agreement between the Supplier and the underlying carrier;
- (c) the underlying carrier has no liability of any kind to the Buyer, whether for breach of contract, warranty, negligence, strict liability in tort or otherwise;
- (d) messages or data transmissions may be delayed, deleted or not delivered, and emergency calls may not be completed;
- (e) the underlying carrier cannot guarantee the security of wireless transmissions and will not be liable for any lack of security relating to the use of the services.

34.6 The Buyer shall not use the wireless service provided hereunder in any manner that

- (a) infringes the intellectual property, publicity, privacy or other proprietary rights of others;
- (b) violates any applicable laws, including those related to export, spamming, privacy, consumer and child protection, obscenity or defamation; or
- (c) is harmful, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libellous or otherwise inappropriate.

34.7 The Buyer shall not violate or attempt to violate the security of the wireless service provided hereunder, including:

- (a) accessing data not intended for the Buyer;
- (b) attempting to probe, scan or test the vulnerability of a system or network or to breach security or authentication measures without proper authorisation;
- (c) attempting to interfere with, disrupt or disable service to any user, host or network, including via means of overloading, "flooding", "mail-bombing" or "crashing";
- (d) forging any TCP/IP packet header or any part of the header information in any e-mail;
- (e) taking any action in order to obtain services to which the Buyer is not entitled; or
- (f) sending any virus, worm, Trojan horse or other harmful code or attachment.

Violations may result in civil or criminal liability.

35. Which law applies

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