Department for International Development

UKaid
from the British people

Department for International Development (DFID)

Standard Terms and Conditions – Service Contracts

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Introduction

1. DEFINITIONS AND INTERPRETATION

1.1 In this Contract, unless otherwise provided or the context otherwise requires, capitalised expressions shall have the meanings set out in Schedule 1 (Definitions) or the meaning set out in the relevant Schedule in which that capitalised expression appears.

1.2 The interpretation and construction of the Contract shall be subject to the following provisions:

(a) clause headings shall not affect the interpretation of the Contract;

(b) a reference to any statute, enactment, order, regulation or similar instrument is a reference to it as in force from time to time taking account of any amendment or re-enactment;

(c) a reference to a statute or statutory provision shall include any subordinate legislation made under that statute or statutory provision;

(d) references to a "person" includes a natural person and a corporate or unincorporated body;

(e) words in the singular shall include the plural and vice versa;

(f) a reference to one gender shall include a reference to the other genders; and

(g) where the context allows, references to clauses are to clauses in this Contract and references to Sections are the sections of this Contract.

1.3 In entering into this Contract DFID is acting as part of the Crown.

2. ENTIRE AGREEMENT

2.1 The Contract constitutes the entire agreement between the Parties relating to the subject matter of the Contract. The Contract supersedes all prior negotiations, representations and undertakings, whether written or oral, except that this Clause 2.1 shall not exclude liability in respect of any fraudulent misrepresentation.

2.2 If there is any conflict between the sections or other documents referred to in the Contract, the following order or precedence shall apply:

Section 1 – Form of Agreement
Section 4 – Special Conditions
Section 2 – Standard Terms & Conditions
Section 3 – Terms of Reference
Section 5 – Schedule of Prices

2.3 Except as expressly provided in Clause 9 the Supplier is not the agent of DFID and has no authority to represent and shall not purport to represent or enter into any commitments on behalf of DFID in any respect.

2.4 Nothing in this Contract is intended to make nor shall it make DFID the employer of the Supplier or any of the Supplier's Personnel.

2.5 All communications by the Supplier relating to the Contract must be addressed to the DFID Contract Officer whose name and address are given in Section 4.

3. APPLICABLE PROVISIONS AND FINANCIAL LIMIT

3.1 Unless different provisions are substituted in Section 4, Clauses 3, 14, 15, 16, 17,18 and 19 inclusive shall apply in relation to price and payment.

3.2 The components which comprise the Financial Limit are set out in the Schedule of Prices, Section 5. No expenditure may be incurred in excess of the Financial Limit and no virements between components shown in the Schedule of Prices in Section 5 are permitted without the prior written authority of the Contract Officer.

Provision of services

4. OBLIGATIONS OF THE SUPPLIER

4.1 The Supplier shall perform all its obligations under this Contract (including the provision of the Services) with all necessary skill, diligence, efficiency and economy to satisfy generally accepted professional standards expected from experts.

4.2 If the Supplier is a joint venture or an Unincorporated Consortium then each of the joint venture or consortium partners shall bear joint and several liability where liability may arise in respect of the Supplier under this Contract.

5. WARRANTIES

5.1 The Supplier represents and warrants that:

(a) it is validly incorporated, organised and subsisting in accordance with the Laws of its place of incorporation;

(b) it has full capacity and authority to enter into and to perform this Contract;

(c) this Contract is executed by its duly authorised representative;

(d) it has all necessary consents and regulatory approvals to enter into this Contract;

(e) there are no actions, suits or proceedings or regulatory investigations before any court or administrative body or arbitration tribunal pending or, to its knowledge, threatened against it or any of its Affiliates that might affect its ability to perform its obligations under this Contract;

(f) its execution, delivery and performance of its obligations under this Contract will not constitute a breach of any Law or obligation applicable to it and will not cause or result in a default under any agreement by which it is bound;

(g) its obligations under this Contract constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms subject to applicable bankruptcy, reorganisation, insolvency, moratorium or similar Laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or law);

(h) all written statements and representations in any written submissions made by the Supplier as part of the procurement process, including without limitation its response to the PQQ and ITT (if applicable), its tender and any other documents submitted remain true and accurate except to the extent that such statements and representations have been superseded or varied by this Contract or to the extent that the Supplier has otherwise disclosed to DFID in writing prior to the date of this Contract;

(i) it has notified DFID in writing of any Occasions of Tax Non-Compliance and any litigation in which it is involved that is in connection with any Occasion of Tax Non-Compliance;

(j) it has all necessary rights in and to the Licensed Software, the Third Party IPRs, the Supplier Background IPRs and any other materials made available by the Supplier (and/or any Sub-contractor) to DFID which are necessary for the performance of the Supplier's obligations under this Contract and/or the receipt of the Services by DFID;

(k) the Contract Inception Report is/will be a true and accurate reflection of the Costs and supplier profit margin forecast by the Supplier and the Supplier does not have any other internal financial model in relation to the Services inconsistent with the Financial Model;

(l) it is not subject to any contractual obligation, compliance with which is likely to have a material adverse effect on its ability to perform its obligations under this Contract;

(m) no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Supplier or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Supplier's assets or revenue.

5.2 The representations and warranties set out in Clause 5.1 shall be deemed to be repeated by the Supplier on the Commencement Date (if later than the date of signature of this Contract) by reference to the facts then existing.

5.3 The representations and warranties set out in this Clause 5 shall be construed as a separate representation and warranty and shall not be limited or restricted by reference to, or inference from, the terms of any other representation, warranty or any other undertaking in this Contract.

5.4 If at any time a Party becomes aware that a representation or warranty given by it under Clause 5.1 has been breached, is untrue or is misleading, it shall immediately notify the other Party of the relevant occurrence in sufficient detail to enable the other Party to make an accurate assessment of the situation.

5.5 The Supplier's system and assets used in the performance of the Services:

(a) will be free of all encumbrances [any exceptions must be agreed in writing with DFID];

(b) will be Euro Compliant.

5.6 The supplier shall at all times comply with Law and Regulations in carrying out its obligations under this Contract.

5.7 For the avoidance of doubt, the fact that any provision within this Contract is expressed as a warranty shall not preclude any right of termination which DFID may have in respect of breach of that provision by the Supplier.

5.8 Except as expressly stated in this Contract, all warranties and conditions whether express or implied by statute, common law or otherwise are hereby excluded to the extent permitted by Law.

6. PERSONNEL

6.1 All members of the Supplier's Personnel shall be appropriately qualified, regulatory approved, experienced and in a suitable physical condition so as to ensure that the Supplier complies with all the Supplier's obligations under this Contract.

6.2 No changes or substitutions may be made to members of the Supplier's Personnel identified as key personnel in Section 4 of this Contract without DFID's prior written consent.

6.3 If DFID considers any member of the Supplier's Personnel unsuitable, the Supplier shall substitute such member as quickly as reasonably possible with a replacement acceptable to DFID without direct or indirect charge to DFID and the supplier hereby agrees to full indemnify and hold DFID harmless against any claims of any kind that many arise with regard to the substitution of such Supplier Personnel considered to be unsuitable by DFID.

6.4 The Supplier shall comply with the Staff Vetting Procedures in respect of all Supplier's Personnel employed or engaged in the provision of the Services. The Supplier confirms that all Supplier's Personnel employed or engaged by the Supplier at the agreed start date of this Contract were vetted and recruited on a basis that is equivalent to and no less strict than the Staff Vetting Procedures, as provided within DFID's Security Policy.

7. DUTY OF CARE

7.1 The Supplier owes a duty of care to the Supplier's Personnel and is responsible for the health, safety, security of life and property and general wellbeing of such persons and their property and this includes where the Supplier's Personnel carry out the Services.

7.2 The Supplier warrants that it has and will throughout the duration of the Contract:

(a) carry out the appropriate risk assessment with regard to its delivery of the Services;

(b) provide the Supplier's Personnel with adequate information, instruction, training and supervision;

(c) have appropriate emergency procedures in place to enable their provision of the Services so as to prevent damage to the Supplier's Personnel's health, safety, security of life and property and general wellbeing.

7.3 The provision of information of any kind whatsoever by DFID to the Supplier shall not in any respect relieve the Supplier from responsibility for its obligations under this Clause 7. The positive evaluation of the Supplier's proposal for the provision of the Services and the award of this Contract is not an endorsement by DFID of any arrangements which the Supplier has made for the health, safety, security of life and property and wellbeing of the Supplier's Personnel in relation to the provision of the Services.

7.4 The Supplier acknowledges that the DFID accepts no responsibility for the health, safety, security of life and property and general wellbeing of the Supplier's Personnel with regard to the Supplier's Personnel carrying out the Services under this Contract.

7.5 The Supplier shall indemnify and keep indemnified DFID in respect of:

(a) any loss, damage or claim, howsoever arising out of, or relating to any act, omission or negligence by the Supplier, the Supplier's Personnel in connection with the performance of the Contract;

(b) any claim, howsoever arising, by the Supplier's Personnel or any person employed or otherwise engaged by the Supplier, in connection with the performance of the Contract.

7.6 The Supplier will ensure that such insurance arrangements as are made to cover the Supplier's Personnel, or any person employed or otherwise engaged by the Supplier, and pursuant to the Suppliers duty of care as referred to in this Clause 7, are reasonable and prudent in all circumstances, including in respect of death, injury or disablement, and emergency medical expenses.

7.7 The costs of any insurance specifically taken out by the Supplier to support the performance of this Contract in relation to the Suppliers Duty of Care may be included as part of the management costs of the project, and must be separately identified in all financial reporting relating to the project.

7.8 Where DFID is providing any specific security arrangements for Suppliers in relation to the Contract, these will be as detailed in the Terms of Reference.

7.9 The Supplier shall provide training on a continuing basis for all Supplier Personnel, in compliance with the Security Policy and the security plan.

8. SUB-CONTRACTORS

8.1 The Supplier shall not sub-contract any of its obligations under this Contract without the prior written consent of DFID.

8.2 If, having obtained DFID's consent, the Supplier sub-contracts any of its obligations, the sub-contract shall:

(a) provide that payments due to the Sub-contractor shall be made not more than 30 days after submission to the Supplier of a valid invoice; and

(b) include rights for the Supplier and obligations on the Sub-contractor to ensure that DFID's rights to require replacement of personnel (as set out in Clause 6.3 (Personnel)) and DFID's rights and the Supplier's obligations (as detailed within this Contract) can be enforced against the Sub-contractor.

8.3 The Sub-contract shall also include a provision enabling DFID to have the ability to directly enforce the benefit of the sub-Contract under the Contracts (Rights of Third Parties) Act 1999, obligations in respect of security and secrecy, intellectual property and audit rights for the benefit of DFID corresponding to those placed on the Supplier, but with such variations as DFID reasonably considers necessary. The Supplier shall not include in any Sub-contract any provision the effect of which would be to limit the ability of the Sub-contractor to contract directly with DFID or a replacement provider of Services.

9. PROCUREMENT OF EQUIPMENT

9.1 Subject to Clause 9.4 all Equipment to be procured pursuant to this Contract and paid for by DFID shall be procured by a DFID registered procurement agent, acting as agent of DFID ("the Procurement Agent") or as agreed by DFID.

9.2 For the purpose of the appointment of a Procurement Agent and for this purpose only, the Supplier shall act as an agent of DFID.

9.3 The Supplier shall provide the Procurement Agent with sufficient details for the satisfactory procurement and delivery of Equipment and shall manage the Procurement Agent on DFID's behalf.

9.4 Where the total value of the Equipment is less than 50% of the Financial Limit or the current EU Threshold (£111,676), whichever is less the Supplier may, subject to DFID's prior written consent, procure such Equipment.

9.5 All procurement of Equipment shall:

(a) be undertaken in accordance with DFID's "corporate social and environmental responsibility information note" or such other procedures as may be agreed in writing by DFID;

(b) achieve "Value for Money" and be conducted in a fully transparent manner;

(c) be on the basis that the ownership in Equipment shall vest in DFID, and shall be so marked.

9.6 "Value for Money" shall mean procuring at the optimum combination of whole-life cost and quality to meet requirements.

10. USE OF AND RESPONSIBILITY FOR EQUIPMENT

10.1 Equipment may only be used in providing the Services and shall be safely kept and maintained. Personal use of Equipment by the Supplier is not permitted unless DFID gives prior written consent.

10.2 The Supplier shall keep an up to date inventory of the Equipment its condition and location and make such inventory available to DFID immediately on request.

10.3 Subject to Clause 10.4 the Supplier shall be responsible for all loss or damage to Equipment other than that caused by fair wear and tear. The Supplier shall notify DFID immediately the Supplier becomes aware of any loss of or damage to Equipment.

10.4 Except as required by law or circumstance, the Supplier shall not insure Equipment. DFID shall bear the risk in respect of loss or damage provided such loss or damage was not due to the Supplier's negligence and provided the Supplier obtains and pays to DFID such proper compensation as may be due from any third party in respect of such loss or damage to the Equipment.

10.5 The Supplier shall obtain DFID's instructions on the disposal of Equipment and comply with such instructions.

11. MONITORING OF CONTRACT PERFORMANCE

11.1 Prior to the Commencement Date DFID shall agree in consultation with the Supplier the arrangements for the purpose of monitoring by the Supplier of the performance of its obligations under this Contract.

11.2 These arrangements, as identified within Section 3 will include without limitation:

(a) regular meetings;

(b) the regular delivery of written management reports;

(c) monthly report on Key Performance Indicators.

12. PROGRESS & FINANCIAL REPORTS

12.1 Where progress and financial reports are to be submitted under the Contract, the Supplier shall render those reports at such time and in such form as may be specified by DFID or where not specified by DFID, as otherwise agreed between the Parties.

13. RE-TENDERING AND HANDOVER

13.1 Within 21 days of being so requested by DFID's Representative the Supplier shall provide:

(a) and thereafter keep updated and accessible to DFID, in a fully indexed and catalogued format, all the information reasonably necessary to enable DFID to issue tender documents for the future provision of the Services and for a third party to prepare an informed, non-qualified offer for those Services and not be disadvantaged in any procurement process compared to the Supplier (if the Supplier is invited to participate);

(b) a draft exit plan to be agreed with DFID that shall set out each Parties obligations in detail in order to ensure a smooth and efficient transfer of the Services to DFID for a Successor Supplier. The Parties shall review and update the exit plan annually and as soon as reasonably practicable in the event of a material change in any aspect of the Services which could reasonably be expected to impact upon the exit plan in order to ensure that the exit plan remains relevant.

Payment

14. FEES

14.1 Any fees payable by DFID for the Services under this Contract are deemed to cover the cost of salary, overseas inducements, leave allowances, bonuses, profit, taxes, insurances, superannuation, non-working days and all other costs including, but not limited to, clothing, passports, visas and vaccinations, overheads and expenses of whatsoever nature that may be incurred by the Supplier in the delivery of the Services except where otherwise specifically provided for in this Contract.

15. EXPENSES

15.1 Travel and living expenses will be paid at a rate consistent with the Schedule of Prices at Section 5. All journeys by rail or air will be made by a class of travel that is no more than “standard economy”.

15.2 The budgets identified in Section 5 (Schedule of Prices) represent the maximum payment to the Supplier under this Contract. DFID reserves the right to ask for proof of purchase and refuse payment where this cannot be reasonably provided.

16. MILESTONE PAYMENTS

16.1 Where the Parties have agreed in the Schedule of Prices that the Services will be provided on a fixed price basis, then the fixed price shall be paid according to the schedule of prices as detailed in the Schedule of Prices which may relate to the achievement of specific predefined milestones, dates or acceptance and shall be inclusive of all Supplier costs.

17. SATISFACTORY PERFORMANCE

17.1 Payments pursuant to clause 16.1 are subject to the satisfaction of the Project Officer in relation to the performance by the Supplier of its obligations under the Contract and to verification by the Project Officer that all prior payments made to the Supplier under this Contract were properly due.

17.2 If for any reason DFID is dissatisfied with the performance of this Contract, an appropriate sum may be withheld from any payment otherwise due to the Supplier. In such event DFID shall identify the particular element(s) of the Services with which it is dissatisfied together with the reasons for such dissatisfaction, and payment by DFID shall be made to the Supplier of the amount outstanding will be made upon remedy of any unsatisfactory work or resolution of outstanding queries.

17.3 Should DFID determine after paying for a particular part of the Services that this has not been completed satisfactorily, DFID may recover, or withhold from further payments, an amount not exceeding that previously charged for that part of the Service until the unsatisfactory part of the Service is remedied to its satisfaction.

18. RECOVERY OF SUMS DUE TO DFID

18.1 Wherever any sum of money is payable to DFID by the Supplier as a sum specifically ascertained under or in respect of the Contract (including any Key Performance Indicator related or other rebate or any sum which the Supplier is liable to pay to DFID in respect of any breach of this Contract), DFID may unilaterally deduct that sum from any sum then due or which at any later time becomes due to the Supplier under this Contract or under any other contract with DFID or with any other department, office or agency of the Crown.

18.2 DFID shall give at least 21 days' notice to the Supplier of its intention to make a deduction under Clause 18.1, giving particulars of the sum to be recovered and the contract under which the payment arises from which the deduction is to be made.

18.3 Any overpayment by DFID to the Supplier, whether of the Contract Price or of Value Added Tax, shall be a sum of money recoverable from the Supplier.

18.4 The rights of the Parties in respect of set-off are fully set out in this Clause 18 and no other right relating to set-off shall be implied as a term of the Contract.

19. PAYMENTS & INVOICING INSTRUCTIONS

19.1 Subject to DFID being satisfied that the Supplier is or has been carrying out their duties, obligations and responsibilities under this Contract, sums duly approved by DFID shall be paid within 30 days of receipt of a valid invoice.

19.2 Payment shall be made in sterling in the UK. Expenses (if any) arising in foreign currency shall be reimbursed at the exchange rate stated in OANDA (www.oanda.com) on the Friday immediately preceding the date on which the purchase was made or services acquired by the Supplier or, if this took place on a Friday, at the rate so stated on that day.

19.3 Unless otherwise expressly provided in Section 4 (Special Conditions) or Section 5 (Schedule of Prices), invoices should be submitted electronically, monthly in arrears to the Accounts Payable Section, DFID Financial Management Group e-invoicing@dfid.gov.uk, and in accordance with this clause 19.

19.4 DFID shall unless otherwise expressly provided in Section 4 (Special Conditions) make payments due by direct credit through the UK Bank Clearing Systems (BACS). All invoices must contain details of the bank account to which payments are to be made.

19.5 The Supplier shall submit an original invoice to DFID as indicated in Section 5: Schedule of Prices, in respect of the Services provided by the Supplier. Each invoice shall contain all appropriate references, a detailed breakdown of the Services and the appropriate Prices or Rates and shall be supported by any other documentation required by DFID's Representative to substantiate the invoice.

19.6 All invoices should correspond with the budget lines identified in the Schedule of Prices in Section 5 of this Contract.

19.7 DFID may request proof of purchase in respect of any item and shall be entitled to refuse to meet a claim if this cannot be provided.

19.8 The final invoice presented by the Supplier in connection with this Contract should be endorsed "Final Invoice".

19.9 Any invoice not presented in accordance with this clause 19 may be rejected by DFID and in any event shall be liable to query and delay in payment. DFID reserves the right to not pay any amount due in respect of an invoice received by DFID more than 90 days after the day of the Supplier becoming entitled to invoice for the payment to which it relates.

20. UNITED KINGDOM INCOME TAX AND NATIONAL INSURANCE CONTRIBUTIONS

20.1 Where the Supplier or any Supplier Personnel are liable to be taxed in the UK or to pay national insurance contributions in respect of consideration received under this Contract, the Supplier shall:

(a) at all times comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax, and the Social Security Contributions and Benefits Act 1992 and all other statutes and regulations relating to national insurance contributions, in respect of that consideration;

(b) indemnify DFID against any income tax, national insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made in connection with the provision of the Services by the Supplier or any Supplier Personnel.

Protection of Information

21. INTELLECTUAL PROPERTY RIGHTS

21.1 All intellectual property rights in all material (including but not limited to reports, data, designs whether or not electronically stored) produced by the Supplier or the Supplier's Personnel pursuant to the performance of the Services ("the Material") shall be the property of the Supplier.

21.2 The Supplier hereby grants to DFID a perpetual, world-wide, non-exclusive, irrevocable, royalty-free licence to use all the Material.

21.3 For the purpose of Clause 21.2, "use" shall mean, without limitation, the reproduction, publication and sub-licence of all the Material and the intellectual property rights therein, including the reproduction and sale of the Material and products incorporating the same for use by any person or for sale or other dealing anywhere in the world.

22. SECURITY REQUIREMENTS

22.1 The Supplier shall comply, and shall procure the compliance of the Suppliers Personnel, with the Security Policy and the security plan and the Supplier shall ensure that the security plan produced by the Supplier fully complies with the Security Policy.

22.2 DFID's security policy can be accessed on the DFID website at http://www.dfid.gov.uk/work-with-us/procurement/dfid-information-security-policy-for-contractorsconsultants/ or as notified to the Supplier from time to time. The Supplier shall ensure that they keep up to date with the latest version of the Security Policy on this website.

22.3 If the Supplier believes that a change to the Security Policy will have a material and unavoidable cost implication to the Services it may submit a change request. 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 then be agreed in discussion with the Contract Officer.

22.4 Until and/or unless a change to the Charges is agreed by DFID pursuant to clause 22.3 the Supplier shall continue to perform the Services in accordance with its obligations and for the Charges applicable prior to any change request.

23. MALICIOUS SOFTWARE

23.1 The Supplier shall, as an enduring obligation throughout the Term, use the latest versions of anti-virus definitions available [from an industry accepted anti-virus software vendor] to check for and delete Malicious Software from the ICT Environment.

23.2 Notwithstanding clause 23.1 if Malicious Software is found, the Parties shall co-operate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of DFID Data, assist each other to mitigate any losses and to restore the Services to their desired operating efficiency.

23.3 Any cost arising out of the actions of the Parties taken in compliance with the provisions of clause 23.2 shall be borne by the Parties as follows:

(a) By the Supplier where the Malicious Software originates from the Supplier Software, the Third Party Software or the DFID Data (whilst the DFID Data was under the control of the Supplier); and

(b) By DFID if the Malicious Software originates from the DFID Software or the DFID Data (whilst DFID Data was under the control of DFID).

24. TRANSPARENCY

24.1 The parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the Freedom of Information Act 2000 (Clause 28), the content of this Contract is not confidential information. DFID shall be responsible for determining in its absolute discretion whether any of the content of the Contract is exempt from disclosure in accordance with the provisions of the FOIA.

24.2 Notwithstanding any other term of this Contract, the Supplier hereby gives their consent for DFID to publish the Contract in its entirety, including from time to time agreed changes to the Contract, to the general public.

24.3 DFID may consult with the supplier to inform its decision regarding any exemptions with regard to FOIA but DFID shall have the final decision in its absolute discretion.

24.4 The Supplier shall assist and cooperate with DFID to enable DFID to publish this Contract.

24.5 The Supplier acknowledges that DFID endorses/supports the requirements of the IATI standard and shall assist and cooperate with DFID, to enable the Supplier to understand the different elements of IATI implementation and to comply with the different data, policy and technical considerations that need to be taken into account.

24.6 The Supplier shall:

(a) publish information data to the IATI standard, that relates to a specific activity in a single, common, electronic format for the transparent, accurate, timely and comprehensive publishing of data, on all activities in the supply chain, in the delivery of development cooperation and humanitarian aid

(b) provide all necessary assistance as reasonably requested by DFID to enable DFID to respond to the IATI requirements.

25. CONFIDENTIALITY

25.1 Except to the extent set out in this Clause 25 or where disclosure is expressly permitted elsewhere in this Contract, each Party shall:

(a) treat the other Party's Confidential Information as confidential and safeguard it accordingly;

(b) not disclose the other Party's Confidential Information to any other person without the owner's prior written consent.

25.2 Clause 25.1 shall not apply to the extent that:

(a) such disclosure is a requirement of Law applicable to the Party making the disclosure, including any requirements for disclosure under the FOIA, the Environmental Information Regulations and associated codes of practice pursuant to Clause 28(Freedom of Information);

(b) such information was in the possession of the Party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;

(c) such information was obtained from a third party without obligation of confidentiality;

(d) such information was already in the public domain at the time of disclosure otherwise than by a breach of this Contract;

(e) it is independently developed without access to the other party's Confidential Information.

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

25.4 The Supplier shall not, and shall procure that the Supplier's Personnel do not, use any of DFID's Confidential Information received otherwise than for the purposes of this Contract.

25.5 At the written request of DFID, the Supplier shall procure that those members of the Supplier's Personnel referred to in Clause 25.3, respectively sign a confidentiality undertaking prior to commencing any work in accordance with this Contract.

25.6 Nothing in this Contract shall prevent DFID from disclosing the Supplier's Confidential Information:

(a) on a confidential basis to any Central Government Body for any proper purpose of DFID or of the relevant Central Government Body;

(b) to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;

(c) to the extent that DFID (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;

(d) on a confidential basis to a professional adviser, consultant, supplier or other person engaged by any of the entities described in Clause 25.6 (a) (including any benchmarking organisation) for any purpose relating to or connected with this Contract;

(e) on a confidential basis for the purpose of the exercise of its rights under this Contract, including the Audit Rights, its step-in rights pursuant to Clause 31 (Access and Audit), its rights to appoint a Remedial Adviser pursuant to Clause 45 (Dispute Resolution) and Exit Management rights;

(f) on a confidential basis to a proposed Successor Body in connection with any assignment, novation or disposal of any of its rights, obligations or liabilities under this Contract, and for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on DFID under this Clause 25.

(g) for the purpose of the examination and certification of DFID's accounts.

25.7 DFID shall use all reasonable endeavours to ensure that any government department, Contracting Authority, employee, third party or Sub-contractor to whom the Supplier's Confidential Information is disclosed pursuant to clause 25.6 is made aware of DFID's obligations of confidentiality.

25.8 Nothing in this clause 25 shall prevent either party from using any techniques, ideas or know-how gained during the performance of the Contract in the course of its normal business to the extent that this use does not result in a disclosure of the other party's Confidential Information or an infringement of IPR.

26. OFFICIAL SECRETS ACT

26.1 The Supplier shall ensure that all members of the Supplier's Personnel are aware that the Official Secrets Acts 1911 to 1989 applies to them respectively.

27. DISCLOSURE OF INFORMATION

27.1 The Supplier and the Suppliers Personnel, servants, agents or Sub-contractors, or any person acting on their behalves shall not, without the prior written consent of DFID, disclose to any third party any confidential information obtained during or arising from this Contract (other than in the proper performance of this Contract or as may be required by a court of competent jurisdiction). In addition, no publicity is to be given to this Contract without the prior written consent of DFID.

28. FREEDOM OF INFORMATION

28.1 The Supplier acknowledges that DFID is subject to the requirements of the FOIA, the Environmental Information Regulations and associated codes of practice and shall assist and cooperate with DFID to enable DFID to comply with its Information disclosure obligations.

28.2 The Supplier shall and shall ensure that its Sub-contractors shall:

(a) transfer to DFID all Requests for Information that it receives as soon as practicable and in any event within two Working Days of receiving a Request for Information;

(b) provide DFID with a copy of all Information in its possession, or power in the form that DFID requires within five Working Days (or such other period as DFID may specify) of DFID's request;

(c) provide all necessary assistance as reasonably requested by DFID to enable DFID to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations.

28.3 DFID shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Contract or any other agreement whether the Commercially Sensitive Information and/or any other Information is exempt from disclosure in accordance with the provisions of the FOIA, the Environmental Information Regulations and associated codes of practice.

28.4 In no event shall the Supplier respond directly to a Request for Information unless expressly authorised to do so by DFID.

28.5 The Supplier acknowledges that (notwithstanding the provisions of Clause 28) DFID may, acting in accordance with the Department of Constitutional Affairs' Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of Information Act 2000 (**"the Code"**), be obliged under the FOIA, or the Environmental Information Regulations to disclose information concerning the Supplier or the Services:

(a) in certain circumstances without consulting the Supplier;

(b) following consultation with the Supplier and having taken their views into account;

(c) provided always that where Clause 28.5 (a) applies DFID shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Supplier advanced notice, or failing that, to draw the disclosure to the Supplier's attention after any such disclosure.

28.6 The Supplier shall ensure that all Information is retained for disclosure in accordance with clauses 28.7 and 28.8 and shall permit DFID to inspect such records as requested by DFID from time to time.

28.7 The Supplier shall, during this Contract and for a period of at least seven years following the expiry or termination of this Contract, retain and maintain all Information:

(a) in accordance with the requirements of the Public Records Office and in accordance with the exercise of the degree of care that would be expected from a leading company within the relevant industry or business sector;

(b) in chronological order;

(c) in a form that is capable of audit;

(d) at its own expense.

28.8 Wherever practical, original Information shall be retained and maintained in hard copy form.

29. DFID DATA

29.1 The Supplier shall not delete or remove any proprietary notices contained within or relating to DFID Data.

29.2 The Supplier shall not store, copy, disclose, or use DFID Data except as necessary for the performance by the Supplier of its obligations under this Contract or as otherwise expressly authorised in writing by DFID.

29.3 To the extent that DFID Data is held and/or processed by the Supplier, the Supplier shall supply that DFID Data to DFID as requested by DFID in the format(s) specified by DFID.

29.4 Upon receipt or creation by the Supplier of any DFID Data and during any collection, processing, storage and transmission by the Supplier of any DFID Data, the Supplier shall take responsibility for preserving the integrity of DFID Data and preventing the corruption or loss of DFID Data.

29.5 The Supplier shall perform secure back-ups of all DFID Data and shall ensure that up-to-date back-ups are stored off-site in accordance with the Security Policy. The Supplier shall ensure that such back-ups are available to DFID at all times upon request, with delivery times as specified by DFID.

29.6 The Supplier shall ensure that the system on which the Supplier holds any DFID Data, including back-up data, is a secure system that complies with the Security Policy.

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

(a) require the Supplier (at the Supplier's expense) to restore or procure the restoration of DFID Data to the extent and in accordance with the Business Continuity and Disaster Recovery Provisions specified in the Security Policy and the Supplier shall do so as soon as practicable but not later than three days following a written request from DFID; and/or

(b) itself restore or procure the restoration of DFID Data, and shall be repaid by the Supplier any reasonable expenses incurred in doing so to the extent and in accordance with the requirements specified in the Business Continuity and Disaster Recovery provisions specified in the Security Policy.

29.8 If at any time the Supplier suspects or has reason to believe that DFID Data has or may become corrupted, lost or sufficiently degraded in any way for any reason, then the Supplier shall notify DFID immediately and inform DFID of the remedial action the Supplier proposes to take.

29.9 Where required in accordance with the Terms of Reference (Section 3) and tender documentation, the Supplier shall obtain and maintain certification under the HM Government Cyber Essentials Scheme at the level set out in the Terms of Reference (Section 3) and tender documentation.

30. PROTECTION OF PERSONAL DATA

30.1 With respect to the Parties' rights and obligations under this Contract, the parties agree that DFID is the Data Controller and that the Supplier is the Data Processor.

30.2 The Supplier shall:

(a) process the Personal Data only in accordance with instructions from DFID (which may be specific instructions or instructions of a general nature as set out in this Contract or as otherwise notified by DFID to the Supplier during the Term);

(b) process the Personal Data only to the extent, and in such manner, as is necessary for the provision of the Services or as is required by Law or any Regulatory Body;

(c) implement appropriate technical and organisational measures to protect the Personal Data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure. These measures shall be appropriate to the harm which might result from any unauthorised or unlawful processing, accidental loss, destruction or damage to the Personal Data and having regard to the nature of the Personal Data which is to be protected;

(d) take reasonable steps to ensure the reliability of any Supplier's Personnel who have access to the Personal Data;

(e) obtain prior written consent from DFID in order to transfer the Personal Data to any Sub-contractors or Affiliates for the provision of the Services;

(f) ensure that all Supplier's Personnel required to access the Personal Data are informed of the confidential nature of the Personal Data and comply with the obligations set out in this Clause 30;

(g) ensure that none of Supplier's Personnel publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by DFID;

(h) notify DFID (within two Working Days) if it receives:

(i) a request from a Data Subject to have access to that person's Personal Data; or

(ii) a complaint or request relating to DFID's obligations under the Data Protection Legislation;

(i) provide DFID with full cooperation and assistance in relation to any complaint or request made, including by:

(i) providing DFID with full details of the complaint or request;

(ii) complying with a data access request within the relevant timescales set out in the Data Protection Legislation and in accordance with DFID's instructions;

(iii) providing DFID with any Personal Data it holds in relation to a Data Subject (within the timescales required by DFID);

(iv) providing DFID with any information requested by DFID;

(j) permit DFID or its representatives (subject to reasonable and appropriate confidentiality undertakings), to inspect and audit, in accordance with clause 31 (Access and Audit), Supplier's data processing activities (and/or those of its agents, subsidiaries and Sub-contractors) and comply with all reasonable requests or directions by DFID to enable DFID to verify and/or procure that the Supplier is in full compliance with its obligations under this Contract;

(k) provide a written description of the technical and organisational methods employed by the Supplier for processing Personal Data (within the timescales required by DFID);

(l) not Process Personal Data outside the United Kingdom without the prior written consent of DFID and, where DFID consents to a transfer, to comply with:

(i) the obligations of a Data Controller under the Eight Data Protection Principle set out in Schedule 1 of the Data Protection Act 1998 by providing an adequate level of protection to any Personal Data that is transferred;

(ii) any reasonable instructions notified to it by DFID.

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

31. ACCESS AND AUDIT

31.1 The Supplier and any Sub-contractor shall keep secure and maintain until six years after the final payment of all sums due to the Supplier under the Contract, or such other period as may be agreed between the Parties, full and accurate records of the Services, all expenditure reimbursed by DFID and all payments made by DFID.

31.2 The Supplier and/or Sub-contractor shall grant to DFID, or its authorised agents, such access to those records as they may reasonably require in order to check the Supplier's compliance with the Contract and monies utilised, throughout the whole supply chain.

31.3 For the purposes of the examination and certification of DFID's accounts, or any examination under section 6(1) of the National Audit Act 1983 or annual re-enactment thereof as to the economy, efficiency and effectiveness with which DFID has used its resources, the Comptroller and Auditor General may examine such documents as he may reasonably require which are owned, held or otherwise within the control of the Supplier and may require the Supplier to provide such oral or written explanations as he may reasonably require for those purposes. The Supplier shall give all reasonable assistance to the Comptroller and Auditor General for those purposes.

31.4 Clause 31.3 applies only in respect of documents relating to the Contract and only for the purpose of the auditing of DFID. It does not constitute an agreement under section 6(3)(d) of the National Audit Act 1983 such as to make the Supplier the subject of auditing under that Act.

31.5 In addition to where an audit is imposed on DFID by a Regulatory Body (in which case DFID may carry out the audit required without prejudice to its other rights) DFID may conduct an audit:

a) to review the integrity, confidentiality and security of DFID Data;

b) to review the Supplier's compliance with the Data Protection Act 1998, the Freedom of Information Act 2000 in accordance with generally and in accordance with the Contract and any other legislation applicable to the Services.

31.6 Subject to DFID's obligations of confidentiality under this Contract, the Supplier shall on demand provide DFID (and/or its agents or representatives) with all reasonable co-operation and assistance in relation to each audit, including:

a) all information requested by DFID within the permitted scope of the audit;

b) reasonable access to any Sites controlled by the Supplier and to any equipment used (whether exclusively or non-exclusively) in the performance of the Services;

c) reasonable access to Sub-Contractors throughout the supply chain;

d) access to the Supplier's system;

e) access to the Supplier's Personnel.

31.7 Where it is found by DFID that any overpayment has been made to the Supplier the Supplier shall reimburse DFID such amount within 28 days of the date of DFID's written demand.

Compliance with Legal Obligations

32. PREVENTION OF FRAUD AND BRIBERY

32.1 The Supplier represents and warrants that neither it, nor to the best of its knowledge any Supplier Personnel, servants, agents or sub-contractors, or any person acting on their behalf, have at any time prior to the Commencement Date:

(a) committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act; and/or

(b) been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act.

32.2 The Supplier, their servants, agents or sub-contractors, or any person acting on their behalf shall not during the term of this Contract:

(a) commit a Prohibited Act; and/or

(b) do or suffer anything to be done which would cause DFID or any of DFID's employees, consultants, suppliers, Sub-contractors or agents to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements.

32.3 The Supplier shall during the term of this Contract:

(a) establish, maintain and enforce, and require that its Sub-contractors establish, maintain and enforce, policies and procedures which are adequate to ensure compliance with the Relevant Requirements and prevent the occurrence of a Prohibited Act;

(b) keep appropriate records of its compliance with its obligations under Clause 32.3(a) and make such records available to DFID on request.

32.4 The Supplier shall immediately notify DFID in writing if it becomes aware of any breach of Clause 32.1 and/or 32.2, or has reason to believe that it has or any Supplier's Personnel, servants, agents or sub-contractors, or any person acting on their behalf have:

(a) been subject to an investigation or prosecution which relates to an alleged Prohibited Act;

(b) been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act; and/or

(c) received a request or demand for any undue financial or other advantage of any kind in connection with the performance of this Contract or otherwise suspects that any person or party directly or indirectly connected with this Contract has committed or attempted to commit a Prohibited Act.

32.5 The Supplier warrants and represents to DFID that to the best of its knowledge, that neither the Supplier, Supplier's Personnel, servants, agents or sub-contractors, or any person acting on their behalf:

(a) has given, offered or agreed to give or accepted, any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any act in relation to the obtaining or execution of any contract or for showing or forbearing to show favour or disfavour to any person or entity in relation to any contract; or

(b) has entered into any contract in connection with which commission has been paid or agreed to be paid by or to the Supplier or Supplier's Personnel or on their behalf or to their knowledge unless, before such contract was made, particulars of any such commission and of the terms of any agreement for the payment of such commission were disclosed in writing to DFID, whose written consent was subsequently given to such payment.

32.6 Neither the Supplier, Supplier's Personnel, servants, agents or sub-contractors, nor any person acting on their behalf shall accept for their own benefit or pass on for the benefit of partner government, recipient or end user, any trade commission, discount, voucher scheme, re-sale or similar payment or benefit in connection with this Contract.

32.7 Where the Supplier or any of its employees, servants, agents or sub-contractors, or any person acting on their behalf, does any of the acts mentioned in Clause 32.2 or commits any offence under the Bribery Act 2010, with or without the knowledge of the Supplier, in relation to this Contract or any other contract with the Crown, DFID shall be entitled:

(a) to terminate the Contract with immediate effect by written notice to the Supplier and recover from the Supplier the amount of any loss resulting from the termination;

(b) to recover from the Supplier the amount or value of any such gift, consideration or commission;

(c) to recover from the Supplier any other loss sustained as a result of any breach of this Clause 32, whether or not the Contract is terminated.

32.8 DFID and the Supplier will immediately and without undue delay inform each other of any event that interferes or threatens to materially interfere with the successful implementation of the project, whether financed in full or in part by DFID, including credible suspicion of/or actual fraud, bribery, corruption or any other financial irregularity or impropriety.

DFID have an expert fraud investigation unit, that should be contacted in the first instance at fraud@dfid.gov.uk or +44 (0)1355 843351. All suspicions will be treated with the utmost confidentiality.

32.9 When exercising its rights or remedies under this Clause DFID shall:

(a) act proportionately in the light of the gravity and circumstances of the particular breach; and

(b) give all due consideration, where appropriate, to the use of remedies other than termination of the Contract.

33. ANTI-TERRORISM REGULATIONS

33.1 In accordance to the Terrorism Act 2000 and all subsequent regulations pursuant to this Act, the Supplier will assure itself to the best of its knowledge that UK funding, including financial assets or economic resources is not made available, either directly or indirectly to, or for the benefit of persons, groups or entities listed in accordance with European Council Regulation EC/2580/2001 (as amended) and/or the Terrorism (United Nations Measures) Orders 2009 of the United Kingdom, or contravene the provisions of those and any subsequent applicable terrorism legislation.

33.2 The Supplier represents and warrants that neither it, nor to the best of its knowledge any Supplier's Personnel, servants, agents or sub-contractors, or any person acting on their behalf, have at any time prior to the Commencement Date and/or during the term of this Contract appeared on the Home Office Proscribed Terrorist Organisations List.

33.3 The Supplier shall immediately notify DFID in writing if it becomes aware of any breach of Clause 33.1 and/or 33.2, or has reason to believe that it has or any Supplier's Personnel, servants, agents or sub-contractors, or any person acting on their behalves have:

(a) been subject to an investigation or prosecution which relates to an alleged infringement of these Clauses 33.1 and/or 33.2;

(b) been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts.

33.4 Where the Supplier or any of his employees, servants, agents or sub-contractors, or any person acting on their behalf, breaches any of the acts mentioned in Clauses 33.1 or 33.2 commits any offence under the Terrorism Act 2000, with or without the knowledge of the Supplier, in relation to this Contract or any other contract with the Crown, DFID shall be entitled:

(a) to terminate the Contract with immediate effect by written notice to the Supplier and recover from the Supplier the amount of any loss resulting from the termination;

(b) to recover from the Supplier any other loss sustained as a result of any breach of this Clause 33, whether or not the Contract has been terminated.

34. DISCRIMINATION

34.1 The Supplier shall not unlawfully discriminate either directly or indirectly against protected characteristics such as race, colour, ethnic or national origin, disability, sex or sexual orientation, religion or belief, or age and without prejudice to the generality of the foregoing the Supplier shall not unlawfully discriminate within the meaning and scope of the provisions of all relevant legislation including the Equality Act 2010, the International Development (Gender Equality) Act 2014 or other relevant or equivalent legislation, or any statutory modification or re-enactment thereof.

34.2 The Supplier shall adhere to the current relevant codes of practice or recommendations published by the Equality and Human Rights Commission. The Supplier shall take all reasonable steps to secure the observance of these provisions and codes of conduct by all suppliers, employees or agents of the Supplier and all suppliers and Sub-contractors employed in the execution of this Contract.

34.3 The Supplier will comply with any request by DFID to assist DFID in meeting its obligations under the Equality Act 2010 and to allow DFID to assess the Supplier's compliance with its obligations under the Equality Act 2010.

34.4 Where any investigation is concluded or proceedings are brought under the Equality Act 2010 which arise directly or indirectly out of any act or omission of the Supplier, its agents or sub-contractors, or Supplier's Personnel, and where there is a finding against the Supplier in such investigation or proceedings, the Supplier will indemnify DFID with respect to all costs, charges and expenses (including legal and administrative expenses) arising out of or in connection with any such investigation or proceedings and such other financial redress to cover any payment DFID may have been ordered or required to pay to a third party.

35. TAX COMPLIANCE

35.1 Particularly relating to occasions of Disclosure of Tax Avoidance Schemes (DOTAS) in line with General Anti-Abuse Rule (GAAR), the Supplier represents and warrants that as at the Commencement Date, it has notified DFID in writing of any Occasions of Tax Non-Compliance or any litigation that is involved in that is connection with any Occasions of Tax Non-Compliance.

35.2 If, at any point during the Term, an Occasion of Tax Non-Compliance occurs, the Supplier shall:

(a) notify DFID in writing of such fact within 5 Working Days of its occurrence;

(b) promptly provide to DFID:

(i) details of the steps which the Supplier is taking to address the Occasion of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors that it considers relevant; and

(ii) such other information in relation to the Occasion of Tax Non-Compliance as DFID may reasonably require.

Liabilities

36. LIMIT OF LIABILITY

36.1 Except as stated in Clause 36.2, where there has been misconduct, gross negligence, dishonesty or fraud by the Supplier or the Supplier's Personnel the Supplier's liability under this Contract shall be limited to the amount of the Financial Limit.

36.2 Neither Party limits its liability for:

(a) death or personal injury caused by its negligence, or that of its employees, agents or Sub-contractors (as applicable);

(b) fraud or fraudulent misrepresentation by it or its employees;

(c) breach of any obligation as to title implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or

(d) any liability to the extent it cannot be limited or excluded by Law.

36.3 Subject always to Clauses 36.2; in no event shall either Party be liable to the other for any:

a) loss of profits, business, revenue or goodwill; and/or

b) indirect or consequential loss or damage of any nature and howsoever caused, even if the losses were reasonably foreseeable or the Party has been advised of the possibility of such losses occurring.

36.4 The Supplier shall not exclude liability for additional operational, administrative costs and/or expenses or wasted expenditure resulting from the direct Default of the Supplier.

37. INDEMNITY

37.1 Subject to Clauses 36.1 to 36.4 (inclusive), the Supplier shall indemnify DFID in respect of any loss, damage or claim howsoever arising out of or in consequence of negligent acts or omissions by the Supplier or the Supplier's Personnel or any claims made against DFID by third parties in respect thereof and in relation to this Contract.

37.2 The Supplier shall not be responsible for any injury, loss, damage, cost or expense if and to the extent that it is caused by the negligence or wilful misconduct of DFID or DFID's employees, or by breach by DFID of its obligations under the Contract.

38. INSURANCE

38.1 The Supplier shall effect and maintain, and shall procure that their Sub-contractors effect and maintain, with a reputable insurance company a policy or policies of insurance providing a level of cover not less than the Financial Limit in respect of all risks which may be incurred by the Supplier, arising out of the Supplier's and/or their Sub-contractors performance of their obligations under the Contract, including death or personal injury, loss of or damage to property or any other loss. Such policies shall include cover in respect of any financial loss arising from any advice given or omitted to be given by the Supplier. Such insurance shall be maintained for the duration of the Contract Period and for a minimum of 6 (six) years following the expiration or earlier termination of the Contract.

38.2 Without limitation to Clause 36.4 the Supplier shall effect and maintain and shall procure that all agents, professional consultants and Sub-contractors effect and maintain, employer's liability insurance in respect of the Supplier's Personnel in accordance with any legal requirement from time to time in force. The Supplier shall also effect and maintain, and shall ensure that all agents, professional consultants and Sub-contractors involved in the supply of the Services effect and maintain, appropriate professional indemnity insurance cover during the Contract Period and for a minimum of 6 (six) years following the expiration or earlier termination of the Contract.

38.3 The Supplier shall give DFID, immediately on request, copies of all insurance policies referred to in this Clause 38 or a broker's verification of insurance to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.

38.4 With regard to any breach of any obligations implied by Section 2 of the Supply of Goods and Services Act 1982, the Supplier shall maintain professional indemnity insurance cover of an amount not less than the Financial Limit.

Control of Contract

39. VARIATIONS

39.1 No variation to the terms or scope of this Contract shall be effective without the Contract Officer's prior written consent and recorded in writing in a formal Contract Amendment Letter (Appendix A). DFID shall have no liability in respect of work performed outside the Services set out in Section 3 (Terms of Reference).

39.2 The Supplier may request a Variation provided that:

(a) the Supplier shall notify DFID's Representative in writing of any additional or changed requirement which it considers should give rise to a Variation;

(b) any proposed Variation shall be fully supported by a formal, technical and commercial justification.

39.3 DFID shall, having the sole and absolute right to do so, either approve or reject any Variation proposed by the Supplier.

40. ASSIGNMENT AND NOVATION

40.1 The Supplier shall not assign, novate or otherwise dispose of or create any trust in relation to any or all of its rights, obligations or liabilities under this Contract without the prior written consent of DFID.

40.2 Subject to Clause 40.1, the Supplier may assign to a third party ("**the Assignee**") the right to receive payment of the Contract Price or any part thereof due to the Supplier under this Contract (including any interest to which DFID is liable under the Late Payments of Commercial Debts (Interest) Act 1998). Any assignment under this clause 40.2 shall be subject to:

(a) deduction of any sums in respect of which DFID exercises its right of recovery under Clause 18 (Recovery of Sums Due);

(b) all related rights of DFID under the Contract in relation to the recovery of sums due but unpaid; and

(c) DFID receiving notification under both clauses 40.3 and 40.4.

40.3 In the event that the Supplier assigns the right to receive the Contract Price under clause 40.2, the Supplier shall notify DFID in writing of the assignment and the date upon which the assignment becomes effective.

40.4 The Supplier shall notify DFID of the assignee's contact information and bank account details to which DFID shall make payment.

41. WAIVER

41.1 A waiver of any of the terms and/or conditions of this Contract shall be valid only where it is agreed expressly in writing and signed by the parties. No failure or delay by a Party to exercise any right or remedy provided under this Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

Default and Termination

42. FORCE MAJEURE

42.1 Any failure or delay by the Supplier in performing its obligations under this Contract which results from a failure or delay by an agent, Sub-contractor or supplier shall be regarded as due to a Force Majeure Event only if that agent, Sub-contractor or supplier is itself impeded by a Force Majeure Event from complying with an obligation to the Supplier.

42.2 Where the performance by the Supplier of their obligations under this Contract is delayed, hindered or prevented by a Force Majeure Event, the Supplier shall promptly notify DFID in writing, specifying the nature of the Force Majeure Event and stating the anticipated delay in the performance of this Contract.

42.3 From the date of receipt of notice given in accordance with Clause 42.2, DFID may, at its sole discretion, either suspend this Contract for up to a period of 6 months ("the Suspension Period") or terminate this Contract forthwith.

42.4 In the event that DFID does not terminate the Contract pursuant to Clause 42.3, as soon as practicable after the Affected Party issues to the other a notice of a Force Majeure Event, and at regular intervals thereafter, the Parties shall consult in good faith and use reasonable endeavours to agree any steps to be taken and an appropriate timetable in which those steps should be taken, to enable continued provision of the Services affected by the Force Majeure Event.

42.5 The Affected Party shall notify the other Party as soon as practicable after the Force Majeure Event ceases or no longer causes the Affected Party to be unable to comply with its obligations under this Contract.

42.6 If by the end of the Suspension Period the parties have not agreed a further period of suspension or re-instatement of the Contract, this Contract shall terminate automatically.

43. SUSPENSION OR TERMINATION WITHOUT DEFAULT OF THE SUPPLIER

43.1 DFID may, at its sole discretion, suspend or terminate this Contract or any part of the Services, at any time by so notifying the Supplier and giving the reason(s) for such suspension or termination.

43.2 Where this Contract has been suspended or terminated pursuant to Clause 43.1, the Supplier shall:

(a) take such steps as are necessary to terminate the provision of the Services or any part of the Services (including suspending or terminating any Sub-Contracts) in a cost-effective, timely and orderly manner; and

(b) provide to DFID, not more than 60 days after DFID notifies the Supplier of the suspension or termination of this Contract an account in writing, stating;

(i) any costs, if any, due before the date of suspension or termination;

(ii) costs to be expended after the date of suspension or termination which the Supplier necessarily incurred in the proper performance of this Contract and which it cannot reasonably be expected to avoid or recover.

43.3 Subject to DFID's approval DFID shall pay such amount stated pursuant to Clause 43.2 to the Supplier within 30 days after receipt from the Supplier of an Invoice in respect of the amount due.

44. SUSPENSION OR TERMINATION WITH DEFAULT OF THE SUPPLIER

44.1 DFID may notify the Supplier of the suspension or termination of this Contract where the Services or any part of them are not provided to the satisfaction of DFID, giving the reasons for such dissatisfaction and, in the case of suspension, the action required by the Supplier to remedy that dissatisfaction and the time within which it must be completed.

44.2 Where this Contract is suspended under Clause 44.1 and the Supplier subsequently fails to remedy the dissatisfaction DFID may terminate this Contract forthwith.

44.3 DFID may, without prejudice to its other rights, including but not limited to the right to claim for costs and losses incurred, terminate this Contract forthwith where:

(a) the Supplier or any member of the Supplier's Personnel, either directly or through their servants or agents or sub-contractors breaches any of their obligations under this Contract; or

(b) the Supplier, Supplier's Personnel, servants, agents or sub-contractors, or any person acting on their behalf has committed an offence under the Bribery Act 2010 or the Terrorism Act 2000 in breach of Clauses 32 or 33 of this Contract; or

(c) the Supplier is an individual or a partnership and at any time:

(i) becomes bankrupt; or

(ii) is the subject of a receiving order or administration order; or

(iii) makes any composition or arrangement with or for the benefit of the Supplier's creditors; or

(iv) makes any conveyance or assignment for the benefit of the Supplier's creditors; or

(v) the warranty given by the supplier pursuant to Clause 35 (Tax Compliance) is materially untrue; or

(vi) the Supplier commits a material breach of its obligation to notify DFID of any Occasion of Tax Non Compliance as required by Clause 35 (Tax Compliance); or

(vii) the supplier fails to provide details of proposed mitigating factors which in the reasonable opinion of DFID, are acceptable.

(d) the Supplier is a company and:

(i) an order is made or a resolution is passed for the winding up of the Supplier; or

(ii) a receiver or administrator is appointed in respect of the whole or any part of the undertaking of the Supplier.

(e) the Supplier is a partnership or a company and there is a Change in Control. "Change in Control" means that the person(s) (including corporate bodies) directly or indirectly in Control of the Supplier at the time this Contract is entered into cease to be in Control. "Control" means the power of a person to secure that the affairs of the Supplier are conducted in accordance with the wishes of that person.

44.4 Where this Contract is terminated in accordance with this Clause 44, the Supplier shall without prejudice to DFID's other remedies, take any steps necessary to terminate the provision of the Services in a timely and orderly manner but shall not be entitled to any further payment in relation to this Contract.

44.5 Where this Contract is terminated pursuant to Clause 44.3(b) the Supplier shall pay DFID within 10 days of notification by DFID, such amount as DFID shall have determined as the amount of any loss to DFID resulting from such termination together with the amount or value of any gift, consideration, commission, corruption or fraud concerned.

Dispute Resolution

45. DISPUTE RESOLUTION

45.1 The Parties will attempt in good faith to negotiate a settlement to any claim or dispute between them arising out of or in connection with this Contract. If the matter is not resolved by negotiation within 45 days of when either Party first made contact in respect of the same, the parties will refer the dispute to mediation in accordance with CEDR (Centre for Effective Dispute Resolution in London, UK) procedures. If the parties fail to agree terms of settlement within 90 days of the initiation of the procedure the dispute may be referred to an arbitrator as agreed between the parties or failing such agreement as may be nominated by the President of the Law Society of England and Wales upon application of any Party. The initiation of the procedure is defined as the written request to CEDR by any Party for mediation provided that such request is copied to the other Party.

45.2 The decision of the arbitrator shall be final and binding on both parties.

45.3 The seat and place of arbitration shall be London.

Law

46. LAW AND JURISDICTION

46.1 This Contract shall be governed by and interpreted in accordance with English Law and shall be subject to the exclusive jurisdiction of the Courts of England and Wales.

Compliance with Environmental Requirements

47. ENVIRONMENTAL REQUIREMENTS

47.1 The supplier shall provide the Services and any goods & equipment required under the Contract in accordance with applicable national and international laws, including those of the country or countries in which the Services or goods & equipment are to be provided, and DFID's environmental operations policy, which is to conserve energy, water and other resources, reduce waste, 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.

47.2 The UK Government is committed to promoting a low carbon, high growth, global economy. The Supplier shall work with DFID and the populations that are potentially affected by its operations under the Contract regarding any environmental issues that could affect the sustainable development provisions of the International Development Act (2002), comply with special conditions as stipulated in the Terms of Reference and carry out any reasonable additional request to ensure the protection of the environment, society and the economy throughout the contract period.

47.3 The Supplier shall ensure it has the requisite expertise and controls to identify and mitigate all factors that may affect compliance with the conditions outlined in Clauses 47.1 and 47.2 as a result of its own operations or those of Sub-contractors working on its behalf.

47.4 The Supplier shall promptly notify DFID of any changes in potential material adverse effects from its operations under the Contract and of the occurrence of any incident or accident related to the Project that has or is likely to have a significant adverse effect on the environment.

47.5 Nothing in Clauses 47.1 to 47.3 shall relieve the obligations of the Supplier to comply with its statutory duties and Good Industry Practice.

Conflict of Interest

48. CONFLICT OF INTEREST

48.1 Neither the Supplier nor any of the Supplier's Personnel shall engage in any personal, business or professional activity which conflicts or could conflict with any of their obligations in relation to this Contract.

48.2 The Supplier and the Supplier's Personnel shall notify DFID immediately of any actual or potential conflict together with recommendations as to how the conflict can be avoided.

48.3 The Supplier shall establish and maintain appropriate business standards, procedures and controls to ensure that no conflict of interest arises between Services undertaken for DFID and that undertaken for other clients. The Supplier shall avoid knowingly committing any acts which are likely to result in any allegation of impropriety against DFID, including conflicts of interest which are likely to prejudice their independence and objectivity in performing the Contract, howsoever arising.

48.4 The Supplier shall notify DFID immediately of any circumstances of which it becomes aware which give rise or potentially give rise to a conflict with the Services and shall advise DFID of how they intend to avoid such a conflict arising or remedy such situation. The Supplier shall subject to any obligations of confidentiality it may have to third parties provide all information and assistance reasonably necessary (at the Supplier's cost) that DFID may request of the Supplier in order to avoid or resolve a conflict of interest and shall ensure that at all times they work together with DFID with the aim of avoiding a conflict or remedy a conflict.

48.5 Pursuant to Clause 48.4, DFID shall have the right to require that the Supplier puts in place "Ethical Walls" and will ensure and satisfy DFID that all information relating to the Contract and to the Services and Deliverables completed pursuant to it (to include all working papers, draft reports in both tangible and intangible form) are not shared or made available to other employees, suppliers or agents of the Supplier and that such matters are not discussed by the relevant staff with other employees, suppliers or agents of the Supplier.

48.6 In the event of a failure to maintain the "Ethical Walls" as described above arising during the course of this Contract, DFID reserves the right to immediately terminate the Contract on giving written notice to the Supplier.

Retention of Rights

49. CONSEQUENCES OF EXPIRY OR TERMINATION

49.1 Clauses 8,9,21,22,23,24,25,26,27,28,29,30,31,36,37,45 and 46 of this Section 2 and any relevant clauses listed under Section 4 (Special Conditions) shall survive the termination or expiry of this Contract.

SCHEDULE 1

Definitions

Unless otherwise provided or the context otherwise requires the following expressions shall have the meanings set out below:

"Affected Party" the Party seeking to claim relief in respect of a Force Majeure Event;

"Affiliate" in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control with, that body corporate from time to time;

"Central Government Body" a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics:
(a) Government Department;
(b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);
(c) Non-Ministerial Department; or
(d) Executive Agency;

"Charges" the charges for the provision of the Services set out in or otherwise calculated in accordance with Schedule 5 (Schedule of Prices);

"Commencement Date" means the date identified in Section 1 Form of Agreement.

"Commercially Sensitive Information" the information listed in Section 4 comprising the information of a commercially sensitive nature relating to the Supplier, its intellectual property rights or its business of which the Supplier has indicated to DFID that, if disclosed by DFID, would cause the Supplier significant commercial disadvantage or material financial loss;

"Confidential Information" means all Personal Data and any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel and suppliers of either party, including all intellectual property rights, together with all information derived from any of the above, and any other information clearly being designated as being confidential (whether or not it is marked "confidential") or which ought reasonably be considered to be confidential;

"Contract" means this agreement between DFID and the Supplier consisting of this Section 2 (Standard Terms and Generals) and any attached Schedules and Appendices

"Contract Amendment Letter" means the form set out in Appendix A.

"Contract Inception Report" the initial financial model in a form agreed by the Supplier and DFID in writing on or before the Commencement Date ;

"Contract Officer" means the person named in Section 4 who is responsible for all contractual aspects of the Contract.

"Contract Price" means the price, exclusive of any applicable Value Added Tax, payable by DFID to the Supplier, as set out in Section 3 (Schedule of Prices) for the performance of the Services and its obligations under this Contract but before taking into account the effect of any adjustment of price in accordance with Section 5 (Schedule of Prices).

"Contracting Authority" any Contracting Authority as defined in Regulation 5(2) of the Public Contracts (Works, Services and Supply) (Amendment) Regulations other than DFID;

"Crown Body" any department, office or agency of the Crown;

"Data Controller" shall have the same meanings as set out in the Data Protection Act 1998;

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

"DFID System" DFID's computing environment (consisting of hardware, software and/or telecommunications networks or equipment) used by DFID or the Supplier in connection with this Contract which is owned by DFID or licensed to it by a third party and which interfaces with the Supplier System or which is necessary for DFID to receive the Services;

"Data Processor" shall have the same meaning as set out in the Data Protection Act 1998;

"Data Protection Legislation" means the Data Protection Act 1998 and all other applicable laws and regulations relating to the processing of personal data and privacy, including without limitation, the guidance and codes of practice issued by the Information Commissioner;

"Data Subject" shall have the same meaning as set out in the Data Protection Act 1998;

"Default" any breach of the obligations of the relevant Party (including abandonment of this Contract in breach of its terms, repudiatory breach or breach of a fundamental term) or any other default, act, omission, negligence or statement:

(a) in the case of DFID, of its employees, servants, agents; or

(b) in the case of the Supplier, of its Subcontractors or any Supplier Personnel, in connection with or in relation to the subject matter of this Contract and in respect of which such Party is liable to the other;

"Dispute" any dispute, difference or question of interpretation arising out of or in connection with this Contract, including any dispute, difference or question of interpretation relating to the Services, failure to agree in accordance with the Change Control Procedure or any matter where this Contract directs the Parties to resolve an issue by reference to the Dispute Resolution Procedure;

"DOTAS" means the Disclosure of Tax Avoidance Schemes rules which require a promoter of tax schemes to tell HM Revenue & Customs 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 by the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012, SI 2012/1868 made under s.132A Social Security Administration Act 1992.

"Employment Business" means an employment agency is an organization which matches employers to employees. In all developed countries there is a publicly funded employment agency and multiple private businesses which also act as employment agencies.

"Environmental Information Regulations" means the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issues by the Information Commissioner or relevant Government Department in relation to such regulations;

"Ethical Walls" means a process for avoiding conflicts of interest by limiting disclosure of information to certain individuals within an organisation, thereby building a metaphorical wall between the holders of information and colleagues who represent interests or hold opinions which conflict.

"Euro Compliant" means that:

(i) the introduction of the euro within any part(s) of the UK shall not affect the performance or functionality of any relevant items nor cause such items to malfunction, end abruptly, provide invalid results or adversely affect DFID's business;

(ii) all currency-reliant and currency-related functions (including all calculations concerning financial data) of any relevant items enable the introduction and operation of the euro; and

(iii) in particular each and every relevant item shall, to the extent it performs or relies upon currency-related functions (including all calculations concerning financial data):

(a) be able to perform all such functions in any number of currencies and/or in euros;

(b) during any transition phase applicable to the relevant part(s) of the UK, be able to deal with multiple currencies and, in relation to the euro and the national currency of the relevant part(s) of the UK, dual denominations;

(c) recognise accept, display and print all the euro currency symbols and alphanumeric codes which may be adopted by any government and other European Union body in relation to the euro;

(d) incorporate protocols for dealing with rounding and currency conversion;

(e) recognise data irrespective of the currency in which it is expressed (which includes the euro) and express any output data in the national currency of the relevant part(s) of the UK and/or the euro; and

(f) permit the input of data in euro and display an outcome in euro where such data, supporting DFID's normal business practices, operates in euro and/or the national currency of the relevant part(s) of the UK;

"Equipment" means any equipment, computer hardware or software, materials, goods and vehicles and associated services necessarily required for the implementation of the Services, which the Supplier cannot reasonably be expected to provide, which are financed or provided by DFID for use by the Supplier.

"Exit Management" services, activities, processes and procedures to ensure a smooth and orderly transition of all or part of the Services from the Supplier to DFID and/or a Replacement Supplier.

"Exit Plan" the plan produced and updated by the Supplier during the Term in accordance with Terms of Reference;

"Financial Limit" means the amount specified in Section 1 and is the maximum amount payable by DFID under this Contract for the receipt of the Services.

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

“Force Majeure Event” any event outside the reasonable control of either Party affecting its performance of its obligations under this Contract arising from acts, events, omissions, happenings or non-happenings beyond
its reasonable control and which are not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party, including acts of God, riots, war or armed conflict, acts of terrorism, acts of government, government or regulatory bodies, fire, flood, storm or earthquake, or disaster but excluding any industrial dispute relating to the Supplier or the Supplier Personnel, servants, agents or sub-contractors, or any person acting on their behalf or any other failure in the Supplier’s or a Sub-contractor’s supply chain;

“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” means (a) the legislation in Part 5 of the Finance Act 2013; and (b) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid national insurance contributions.

“Good Industry Practice” at any time the exercise of that degree of care, skill, diligence, prudence, efficiency, foresight and timeliness which would be reasonably expected at such time from a leading and expert supplier of
services similar to the Services to a customer like DFID, such supplier seeking to comply with its contractual obligations in full and complying with applicable Laws;

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

"HM Government Cyber Essentials Scheme"means the HM Government Cyber Essentials Scheme as further defined in the documents relating to this scheme published at https://www.gov.uk/government/publications/cyber-essentials-scheme-overview

“IATI” means the International Aid Transparency Initiative standard and is a technical publishing framework allowing data to be compared. It is designed to report forward-looking aggregate budget information for the reported organisations, and planned future budgets to recipient institutions or countries.

“Information” has the meaning given under Section 84 of the Freedom of Information Act 2000; including
all information of whatever nature, however conveyed and in whatever form, including in writing, orally, by demonstration, electronically and in a tangible, visual or machine-readable medium (including CD-ROM, magnetic and digital form);

“Intellectual Property Rights” or “IPRs”
(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 names, designs, Know-How, trade secrets and other rights in Confidential Information;
(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
(c) all other rights having equivalent or similar effect in any country or jurisdiction;

“Key Performance Indicators” means a set of quantifiable measures that DFID and Supplier will use to measure the performance of the Services provided by the Supplier under the Contract (as defined in Section 3 Terms of Reference).

“Law” means any applicable law, statute, bye-law, regulation, order, regulatory policy, guidance or industry code, rule of court or directives or requirements of any Regulatory Body, delegated or subordinate legislation or notice of any Regulatory Body;

“Licensed Software” all and any Software licensed by or through the Supplier, its Sub-contractors or any third party to DFID for the purposes of or pursuant to this Contract, including any Supplier Software, Third Party Software and/or any Specially Written Software;

“Malicious Software” any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether the malicious software is introduced wilfully, negligently or without knowledge of its existence;

Milestone” an event or task described in the Implementation Plan which, if applicable, shall be completed by
the relevant Milestone Date;

“Milestone Payment” a payment identified in Section 5 to be made following the issue of a Milestone Achievement Certificate;

"Occasion of Tax Non-Compliance" means:

(a) Any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 is found on or after 1 April 2013 to be incorrect as a result of:
(I)a Relevant Tax Authority successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle:
(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; and/or
(b) Any tax return of the Supplier submitted to a Relevant Tax Authority on or after October 2012 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 Effective Date or to a civil penalty for fraud evasion.

"Parties" and "Party" have the meanings respectively given in Section 1 of this Contract;

"Performance Indicators" the Key Performance Indicators and the Subsidiary Performance Indicators;

"Personal Data" personal data (as defined in the Data Protection Act 1998) which is Processed by the Supplier or any Sub-contractor on behalf of DFID or a Central Government Body pursuant to or in connection with this Contract;

"Process" has the meaning given to it under the Data Protection Legislation but, for the purposes of this Contract, it shall include both manual and automatic processing;

"Prohibited Act" has the meaning;

(a) to directly or indirectly offer, promise or give any person working for or engaged by DFID a financial or other advantage to:

(i) induce that person to perform improperly a relevant function or activity; or

(ii) reward that person for improper performance of a relevant function or activity;

(b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Contract;

(c) an offence:

(i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act);

(ii) under legislation or common law concerning fraudulent acts; or

(iii) defrauding, attempting to defraud or conspiring to defraud DFID; or

(d) any activity, practice or conduct which would constitute one of the offences listed under

(e) above if such activity, practice or conduct had been carried out in the UK;

"Project" means a set of co-ordinated activities, with definite starting and finishing points, undertaken by an individual or team to meet specific objectives within defined time, cost and performance parameters

"Project Officer" means the person named in Section 4 who is responsible for issuing instructions and dealing with all correspondence in connection with the technical aspects of the Contract;

"Regulatory Bodies" means those government departments, regulatory, statutory and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this Contract or any other affairs of DFID and "Regulatory Body" shall be construed accordingly;

"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 for Justice pursuant to section 9 of the Bribery Act 2010;

"Relevant Tax Authority" means HM Revenue & Customs, or, if applicable, a Tax Authority in the jurisdiction in which the Supplier is established.

"Replacement Services" any services which are the same as or substantially similar to any of the Services and which DFID receives in substitution for any of the Services following the expiry or termination or Partial Termination of this Contract, whether those services are provided by DFID internally and/or by any third party;

"Replacement Supplier" any third party service provider of Replacement Services appointed by DFID from time to time;

"Request for Information" a request for information or an apparent request under the FOIA, the Environmental Information Regulations and associated codes of practice;

"Security Policy" means DFID's security policy, which can be accessed on DFID's website at http://www.dfid.gov.uk/work-with-us/procurement/dfid-information-security-policy-for-contractorsconsultants/ or as notified to the Supplier from time to time;

"Services" means the services set out in the Terms of Reference (Section 3).

"Sites" any premises (including DFID premises, the Supplier's premises or third party premises):
(a) from, to or at which:
(i) the Services are (or are to be) provided; or
(ii) the Supplier manages, organises or otherwise directs the provision or the use of the Services; or
(b) where:
(i) any part of the Supplier System is situated;
(ii) any physical interface with DFID System takes place;

"Staff Vetting Procedure" means DFID's procedures and departmental policies for the vetting of Personnel whose role will involve the handling of information of a sensitive or confidential nature or the handling of information which is subject to any relevant security measures, including, but not limited to, the provisions of the Official Secrets Act 1911 to 1989.

"Software" Specially Written Software, Supplier Software and Third Party Software;

"Sub-contract" any contract or agreement (or proposed contract or agreement) between the Supplier (or a Sub-contractor) and any third party whereby that third party agrees to provide to the Supplier (or the
Sub-contractor) all or any part of the Services or facilities or services which are material for the
provision of the Services or any part thereof or necessary for the management, direction or control of the Services or any part thereof;

"Sub-contractor" means any third party employed by the Supplier in the provision of Services;

"Successor Body" means a body which is not a Central Government Body or if a body which is not a Central Government Body succeeds the Authority;

"Supplier" means the person(s), partnership(s) or company (ies) with whom this Contract is placed.

"Supplier Background IPRs" means;
(a) Intellectual Property Rights owned by the Supplier before the Effective Date, for example those subsisting in the Supplier's standard development tools, program components or standard code used in computer programming or in physical or electronic media containing the Supplier's Know-How or generic business methodologies; and/or
(b) Intellectual Property Rights created by the Supplier independently of this Agreement, which in each case is or will be used before or during the Term for designing, testing implementing or providing the Services but excluding Intellectual Property Rights owned by the Supplier subsisting in the Supplier Software;

"Supplier's Personnel" means any person instructed pursuant to this Contract to undertake any of the Supplier's obligations under this Contract, including the Supplier's employees, agents and sub-contractors.

"Supplier Software" Supplier Software (including open source software) that:
(a) the Supplier makes generally available commercially prior to the date of this Contract (whether by way of sale, lease or licence) on standard terms which are not typically negotiated by the Supplier save as to price; and
(b) has a Non-trivial Customer Base;

"Supplier System" the information and communications technology system used by the Supplier in implementing and performing the Services including the Software, the Supplier Equipment, configuration and management utilities, calibration and testing tools and related cabling (but excluding DFID System);

"Term" the period commencing on the Effective Date and ending on the expiry of the Initial Term or any Extension Period or on earlier termination of this Contract;

"Third Party IPRs" Third Party IPRs that:
(a) the Supplier makes generally available commercially prior to the date of this Contract (whether by way of sale, lease or licence) on standard terms which are not typically negotiated by the Supplier save as to price; and
(b) has a Non-trivial Customer Base;

“Unincorporated Consortium” means groups of economic operators, including temporary associations, may participate in procurement procedures and shall not be required by contracting authorities to have a specific legal form in order to submit a tender or request to participate (The Public Contracts Regulations 2015 – *Economic Operators 19.3*).

"Variation" means a properly executed variation to the Contract in compliance with Condition 38.

“Working Day” any day other than a Saturday, Sunday or public holiday in England and Wales.

Appendix A. Contract Amendment Letter

Department for International Development
Abercrombie House
Eaglesham Road
EAST KILBRIDE
Glasgow
G75 8EA

Telephone: East Kilbride 01355 84 4000
Directline: 01355 84 [

File Ref: [
Date: [

Contract Amendment No: [

CONTRACT FOR: [

CONTRACT NUMBER: [

With reference to the contractual letter dated [(as most recently amended by the letter dated [ ) whereby your firm [(in association with [ ) was engaged to [and with reference to your letter[s of [and subsequent discussion, I confirm that the UK Government wishes to make the following [further amendment[s to the letter of [:

[

2. [These/This amendment[s relate[s to [

3. Please confirm in writing by signing and returning one copy of this letter, within 15 working days of the date of signature on behalf of DFID that you accept the amendment[s set out herein.

4. Please note the provision in the contractual letter that the financial limit of the UK Government's liability to the Supplier under this engagement shall not exceed the sum specified unless the amount of any such excess has been agreed by the Department for International Development in writing before the Supplier takes any action which might result in the financial limit being exceeded.

For and on behalf of the
Secretary of State
for International Development

Name: [

Position:

Signature:

Date: [

For and on behalf of

Name: [

Signature:

Date:

(March 2014)

Appendix B. Terms & Conditions Cross-reference (old reference linked to new)

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