

Department for Work and Pensions  
Quarry House  
Quarry Hill  
Leeds  
LS2 7UA

[www.dwp.gov.uk](http://www.dwp.gov.uk)

Access Included Ltd  
104 Claverdale Road,  
London,  
SW2 2DL

Attn: REDACTED  
By email to: REDACTED

Date: 22<sup>nd</sup> November

2022

Our ref: 25438

Dear Sirs,

### **Supply of Neurodiversity Advisory Services**

Following your proposal for the supply of Neurodiversity Design Support to the Secretary of State for the Department for Work and Pensions ("DWP"), we are pleased to confirm our intention to award this contract to you.

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

We thank you for your co-operation to date and look forward to forging a successful working relationship resulting in a smooth and successful delivery of the deliverables. Please confirm your acceptance of the Conditions by signing and returning the Order Form to REDACTED within 5 days from the date of this Order Form. No other form of acknowledgement will be accepted. Please remember to include the reference number above in any future communications relating to this contract.

Yours faithfully,

REDACTED  
Email: REDACTED  
Mobile: REDACTED

# Order Form

<b>1. Contract Reference</b>	25438	
<b>2. Date</b>	22 <sup>nd</sup> November 2022	
<b>3. Buyer</b>	The Secretary of State for the Department for Work and Pensions Caxton House Tothill Street London SW1H 9NA	
<b>4. Supplier</b>	Access Included Ltd 104 Claverdale Road, London, SW2 2DL  And registration number 05168642	
<b>5. The Contract</b>	<p>The Supplier shall supply the deliverables described below on the terms set out in this Order Form and the attached contract conditions ("<b>Conditions</b>") and any <b>Annexes</b>.</p> <p>Unless the context otherwise requires, capitalised expressions used in this Order Form have the same meanings as in Conditions.</p> <p>In the event of any conflict between this Order Form and the Conditions, this Order Form shall prevail.</p> <p>Please do not attach any Supplier terms and conditions to this Order Form as they will not be accepted by the Buyer and may delay conclusion of the Contract.</p>	
<b>6. Deliverables</b>	<b>Goods</b>	None
	<b>Services</b>	To be performed at primarily the Supplier's premises.
<b>7. Specification</b>	The Buyer's Specification is set out in Annex 2 - The Buyer's Specification.	
<b>8. Term</b>	The Term shall commence on 23 <sup>rd</sup> November 2022 and the Expiry Date shall be 31 <sup>st</sup> March 2023, unless the Buyer issues a "Notice to Proceed" as defined in Annex 2 -The Buyer's Specification or otherwise terminates in accordance with the terms and conditions of the Contract.	
<b>9. Charges</b>	The Charges for the Deliverables shall be as set out Annex 3 - The Supplier's Proposal dated 28 <sup>th</sup> October 2022.	
<b>10. Payment</b>	<p>All invoices must be sent, quoting a valid purchase order number (PO Number), to:</p> <p><b>REDACTED</b> and <b>REDACTED</b></p>	

	<p>Within 15 Working Days of receipt of your countersigned copy of this letter, we will send you a unique PO Number. You must be in receipt of a valid PO Number before submitting an invoice.</p> <p>To avoid delay in payment it is important that the invoice is compliant and that it includes a valid PO Number, PO Number item number (if applicable) and the details (name and telephone number) of your Buyer contact (i.e. Contract Manager). Non-compliant invoices will be sent back to you, which may lead to a delay in payment.</p>	
<b>11. Buyer Authorised Representative(s)</b>	<p>For general liaison your contact will continue to be  REDACTED or, in their absence:  REDACTED</p>	
<b>12. Address for notices</b>	<p>Buyer:  REDACTED  REDACTED</p>	<p>Supplier:  REDACTED</p>
<b>13. Key Personnel</b>	<p>Buyer:  REDACTED  REDACTED  REDACTED  REDACTED</p>	<p>Supplier:  REDACTED</p>
<b>14. Procedures and Policies</b>	<p>For the purposes of the Contract the Staff Vetting Procedures and data security requirements are defined in Annex 4 - Buyer's Security Requirements.</p> <p>Performance of the Contract will be monitored through Annex 5 - Key Performance Indicators.</p>	

Signed for and on behalf of the <b>Supplier</b>	Signed for and on behalf of the <b>Buyer</b>
Name: REDACTED REDACTED	Name: REDACTED REDACTED
Date: 23.11.22	Date: 23/11/2022

Signature:

REDACTED

Signature:

REDACTED

## Annex 1 - Authorised Processing Template

<b>Contract:</b>	<b>25438</b>
<b>Date:</b>	<b>22<sup>nd</sup> November 2022</b>
<b>Description Of Authorised Processing</b>	<b>Details</b>
Subject matter of the processing	The processing is needed in order to ensure that the Processor can effectively deliver the Contract to provide the Services to the Buyer.
Duration of the processing	Personal Data is processed for the duration of the Term to allow the Services to be performed.
Nature and purposes of the processing	The nature of the processing will include the storage and use of names and business contact details of staff of both the Buyer and the Supplier as necessary to deliver the services and to undertake contract management. The Contract itself will include the names and business contact details of staff of both the Buyer and the Supplier involved in delivery or management of the Contract.
Type of Personal Data	Names, business telephone details and email addresses, office location and position of staff of both the Buyer and the Supplier.
Categories of Data Subject	Staff of both the Buyer and the Supplier, including where those staff are named within the Contract itself or involved in contract management.

## **Annex 2 - The Buyer's Specification**



### **Annex 2: The Buyer's Specification**

**Neurodiversity Design Support FY22/23**

## 1. Background to the Buyer

The Department for Work and Pensions (the Buyer) is responsible for welfare, pensions and child maintenance policy. As the UK's biggest public service department, it operates on a scale that is almost unmatched anywhere in Europe and most people in Britain come into contact with the Buyer at some point in their lives.

The Buyer delivers these services across England, Wales and Scotland (including the Orkney and Shetland Islands), across a diverse estate of c.1,000 buildings. The Buyer's commercial estate is the largest within Government and its diverse national property portfolio reflects this scale. It is a unique mix ranging from modern corporate centres, multi-occupied service centres, to its frontline Jobcentre Plus high street services.

The Buyer's Estates Directorate (the BED) are accountable for the delivery of all aspects of real estate services, which are critical in ensuring the vital work that the Buyer undertakes is enabled effectively. The BED are responsible for the Buyer's 900+ workplaces, that provide workplaces for 90,000 employees and a UK wide presence for all those that visit the Buyer.

The Buyer operates an 'Estates Target Operating Model' (**ETOM**), which is described further in Annex A.

As part of the ETOM, the Buyer has a supply chain supporting the delivery of all types of construction projects, including minor and major capex projects and lifecycle works (LCW). This supply chain involves suppliers providing construction, specialist construction services e.g. architectural or quantity surveying services, programme management and the Estates Programme Management Service (EPMS) (the 'Projects Delivery Supply Chain').

## 2. Background to the Buyer's Requirements

### **Workplace Transformation Programme (WTP)**

The Buyer has secured funding through the Spending Review 2021 (SR21) to deliver the Workplace Transformation Programme (WTP), which involves a major programme of refurbishment/fit out across the Buyer's front and back of house estate. WTP is a 10-year programme, the first 3 years of which are included with the SR21 funding bid.

The working environment is one of the key elements to success by creating a great place to work; physical building environment influences the health and wellbeing of the workforce and can improve productivity as a result. Utilising Smarter Working principles in the workplace along with the concept of hybrid working allows flexible working environments. Smarter Working principles have driven the design work to achieve more modern, improved working environments.

The Buyer's spaces are being designed in conjunction with the Government Property Agency (GPA) Workplace Design Guide and around the needs of colleagues, evaluating the type of areas required to create the most appropriate environment to achieve and deliver the best outcomes, focusing on collaborative working, and more contemporary working practices.

The Department will use lease break opportunities in 2023 and 2028 to transform and right-size the estate, with targeted investment based on length of building tenure, making the

overall estate smaller. Those sites we intend to exit in 2028, will be subject to an absolute minimum spend, driven by the results of individual building assessment reports. Sites with a longer-term strategic future, retained beyond 2028 and capable of meeting greening government targets, will be upgraded to meet the standards of other modern Buyer buildings.

### **Design Guides**

The Buyer's design guide for Jobcentre Plus (JCP) has not been fully updated since the initial version was developed by Lewis and Hickey in September 2003 following the integration of the Employment Service and the Benefits Agency in 2002. The aim was to re-design, re-brand and refurbish over 800 former Jobcentres and social security offices and make the job-seeking and benefit claiming experience more like that experienced in a bank or modern retail environment. This included the move away from screened customer interactions to friendlier customer facing desks.

The design is now seen as dated, expensive and inefficient in the use of space. As an example, the bespoke desks were designed prior to widespread adoption of flat screens and the work was more reliant on paper than today. Also, significant progress has been made to improve spaces for those with health conditions, and disabilities, that needs to be incorporated into the design guidance.

The Buyer's "Estates Workplace Design Standards Team" within BED are the team with responsibility for overseeing changes to the design guide. The Buyer's Estates Workplace Design Standards Team have previously worked closely with the Buyer's health transformation programme to draft interim design guidelines for assessment centres. These design guidelines are mainly text based but include diagrams showing the preferred layout of assessment rooms.

Previous output from Access Included Ltd provided content to include within draft design guidelines for JCP and draft design guidelines for assessment centres, but these designs need refining and developing further.

The Buyer is in the process of appointing a consultant, to provide architectural and other construction professional services, to develop two versions of the design guide for JCP and a new version of the design guide for assessment centres. Version 1.5 of the JCP and assessment centre design guides will include design aspects considered by DWP to be straightforward, and immediately deliverable whereas version 2.0 will include more contentious and unresolved design thinking. Development of these documents is expected to be an iterative process comprising of several phases across FY22/23 and FY23/24.

As part of these new design guides, DWP needs to understand how the building environment can be designed to facilitate the engagement of neurodivergent individuals, particularly those that are the most vulnerable.

### **3. The Buyer's Requirements**



The Supplier will need to apply its specialist knowledge to the Buyer's estate and support the Buyer's Workplace Design Standards Team in its work to understand disability and neurodiversity.

Following the provision of draft design guides by the DWP appointed consultant, the Buyer is looking for the Supplier to engage with a range of relevant stakeholders and refine, ready for release, a new 'Design Guide,' for both JCP and assessment centres, that can be used across the Buyer's estate to provide a standardised approach to fit-out that best meets the needs of a diverse range of users.

The development of the 'Design Guides' by the DWP appointed consultant is expected to be an iterative process comprising of several phases across FY22/23 and possibly FY23/24.

The Services required by the Buyer include, but are not limited to, the following activities:

1. Provide technical support to the Buyer's Estates Workplace Design Standards Team;
2. Attend and participate in Buyer meetings as necessary (in person and via Microsoft Teams);
3. Design and lead specialist workshops with the Buyer and other members of the Buyer's ETOM on disability and neurodiversity;
4. Lead PAS 6463 neurodiversity guidance workshop to the Buyer's Estates Workplace Design Standards team, including the updated [PAS guidance](#). This activity must be completed before the end of the current financial year (22/23). More specific timeframes will be provided by the Buyer to be discussed and agreed with the Supplier upon the commencement of the Contract;
5. Review, then provide clear and concise comments on the JCP design guide version 1.5, and on the assessment centre design guide, which are being written by the DWP appointed consultant for the Buyer. These design guides are due for issue to stakeholders in January 2023;
6. Review, then provide clear concise comments on the JCP design guide version 2.0, and the next iteration of the assessment centre design guide, which are being written by the DWP appointed consultant for the Buyer. These design guides are due for issue to stakeholders in spring 2023;
7. Provide clear and concise advice on how the Buyer can improve upon the Government Property Agency's (GPA) Government Property Design Guide version 3.0. The Buyer will produce an addendum to the GPA guidance, which will incorporate Supplier comments. This activity must be completed before the end of the current financial year (22/23). More specific timeframes will be provided by the Buyer upon the commencement of the Contract.
8. Provide clear and concise advice on how the Buyer can improve the access audit template being drafted by McBains Ltd to include questions on neurodiversity. This activity must be completed before 31<sup>st</sup> December 2022;

9. Lead site visits with the Buyer's Estates Workplace Design Standards Team to Buyer sites and to external sites, where design best practice can be observed and discussed;
10. In line with '[Procurement Policy Note \(PPN\) 06/20](#) – taking account of social value in the award of central government contracts,' the Buyer requires the Supplier to deliver social value throughout the duration of this Contract.

The Supplier will be expected to run a workshop with the Buyer before the end of January 2023 to present innovative ideas and proposals in regards to delivering social value in line with the following expected theme from [The Social Value Model](#) first published by the Government Commercial Function in December 2020: Equal Opportunity.

The Buyer expects the Supplier to deliver against MAC 5.1: Increased Representation of Disabled People, but the Buyer is happy to discuss the theme and MAC selected.

Once proposals have been selected and agreed by the Supplier to be implemented, the Supplier shall implement proposals against a timed project plan, in addition to setting up agreed monitoring, reporting and evaluation processes. The Buyer is happy to provide clarification around [The Social Value Model](#) and how it can be delivered through this Contract.

This is not an exhaustive list and the Supplier will be expected to engage with the Buyer to share best practice and industry trends which may inform other activities. The amount due to the Supplier for expenses will be limited to the expenses properly spent by the Buyer in providing the Services in line with the Buyer's Expenses Policy (please see Annex B).

Currently the Supplier will be required to complete the Services from Contract award until 31st March 2023. However, due to the iterative process involved in the Design Guide development, there are some activities within the Services which may extend into or even commence in FY23/24, particularly providing comment on the Job Centre Design Guide version 2.0.

The Buyer intends that any of the Services required in FY23/24 will complete on or before 21<sup>st</sup> July 2023 and will have sufficient budget to proceed. However, availability of that funding has not yet been confirmed to the Buyer. The requirement to provide any of the Services in FY23/24 up till and including 21<sup>st</sup> July 2023 is conditional upon the Buyer confirming in writing (the confirmation being a Notice to Proceed) on or prior to 28 February 2023 that it has sufficient funding to proceed with Services in FY23/24.

If the Buyer does not confirm on or prior to 28 February 2023 that it has sufficient funding to proceed with Services in FY23/24 or if the Buyer confirms in writing that it will not have sufficient funding to proceed with Services in FY23/24 then delivery of Services in FY23/24 shall not be a requirement under this Annex 2 - The Buyer's Specification and the Buyer shall not be required to make any payment in respect of it. The Supplier shall not be entitled to any payment in relation to Services in FY23/24 in such circumstances.

**a. Staff Requirements**

All Staff must be professionally qualified and highly competent in this sector, having relevant technical expertise, qualifications and substantive experience in successfully undertaking similar roles. A strong team ethic is essential, allied to an ability to communicate clearly and effectively with a wide and diverse stakeholder community.

The Buyer requires that all Staff employed, whether permanent or temporary, on the provision of the Services are subject to the requirements of the HM Government Baseline Personnel Security Standard (BPSS).

There is no requirement to apply to the Buyer or any other third party for BPSS clearance. BPSS clearance is obtained if the following steps have been completed as part of your organisation's pre-employment checks:

- Verification of identity
- Verification of Nationality and Immigration Status (including an entitlement to undertake the work in question)
- Verification of Employment history (past 3 years)
- Verification of Criminal record (unspent convictions only). This will require a basic disclosure certificate (at cost via Disclosure and Barring Service, Disclosure Scotland and Access Northern Ireland).

Copies of the current HM Government Baseline Personnel Security Standard, providing further information regarding how each of these steps should be verified, can be found via the following link [Government Baseline Personnel Security Standard](#). The Supplier is expected to arrange the BPSS checks at no additional charge.

All Staff must comply with the Buyer's Security Policy in Annex 4 of the Contract. The Supplier will only be expected to comply with those Security Policies and Standards outlined in Annex A to Annex 4 that are applicable to their delivery model and technologies used.

The Supplier must be able to immediately (on Contract award) resource this requirement with Staff meeting the requirements of this section a).

#### **b. Cooperation, Mobilisation and Handover**

The Supplier will be required to work collaboratively with the Buyer and all members of the Buyer's supply chain as necessary to support effective delivery of the services.

Where there is duplication between the Services provided by the Supplier and the services of another supplier(s), the Supplier shall bring the matter to the attention of the Buyer as soon as is reasonably practicable, and work in line with the Buyer's instructions to resolve the service duplication by agreement with the Supplier and the supplier(s) concerned.

To assist this, mobilisation may require meetings and/or workshops which include (but may not be limited to) introductions with other members of the Buyer's supply chain, including those involved in management of the Buyer's ETOM (Please see Annex A). The Supplier will attend any meetings and/or workshops required for mobilisation (including any meeting and/or workshop held on site) on an inclusive basis, free of charge, as this will define

standard ways of working across both programmes and all sites over the Term of the Contract.

The Supplier will provide an effective handover to colleagues in the Buyer's operations and any other persons identified by the Buyer. If required, the Supplier will also provide any assistance required by the Buyer to exit the Contract and tender for any ongoing or future support or services free of charge, including entering into an appropriate form of ethical walls agreement.

#### **4. Proposal**

Please provide a proposal detailing how you will deliver the Services within this Annex 2: The Buyer's Specification. The proposal should include (but not be limited to) the following:

- Details of the Key Personnel proposed to be used in delivering the services, including rationale for their appointment. The proposal should include CVs for those proposed, inclusive of location and grade;
- A delivery plan, broken down into stages showing timescales to complete each deliverable, specifying any dependencies or potential issues. Show how will you manage the project to ensure completion by your proposed end date;
- Details of data, information and any other input you will require from the Buyer at each of these stages; and
- A commercial breakdown, including daily/hourly rates for all activities which will remain fixed should the buyer wish to utilise the Notice to Proceed in FY23/24. The Buyer anticipates REDACTED of activity in FY22/23.

#### **Annex A - The Buyer's 'Estates Target Operating Model' (ETOM)**

Within the Department, the BED are accountable for the delivery of all aspects of real estate services, supported by the Estates Category Management Team within Commercial Directorate to undertake all commercial activity required within the complex estates portfolio.

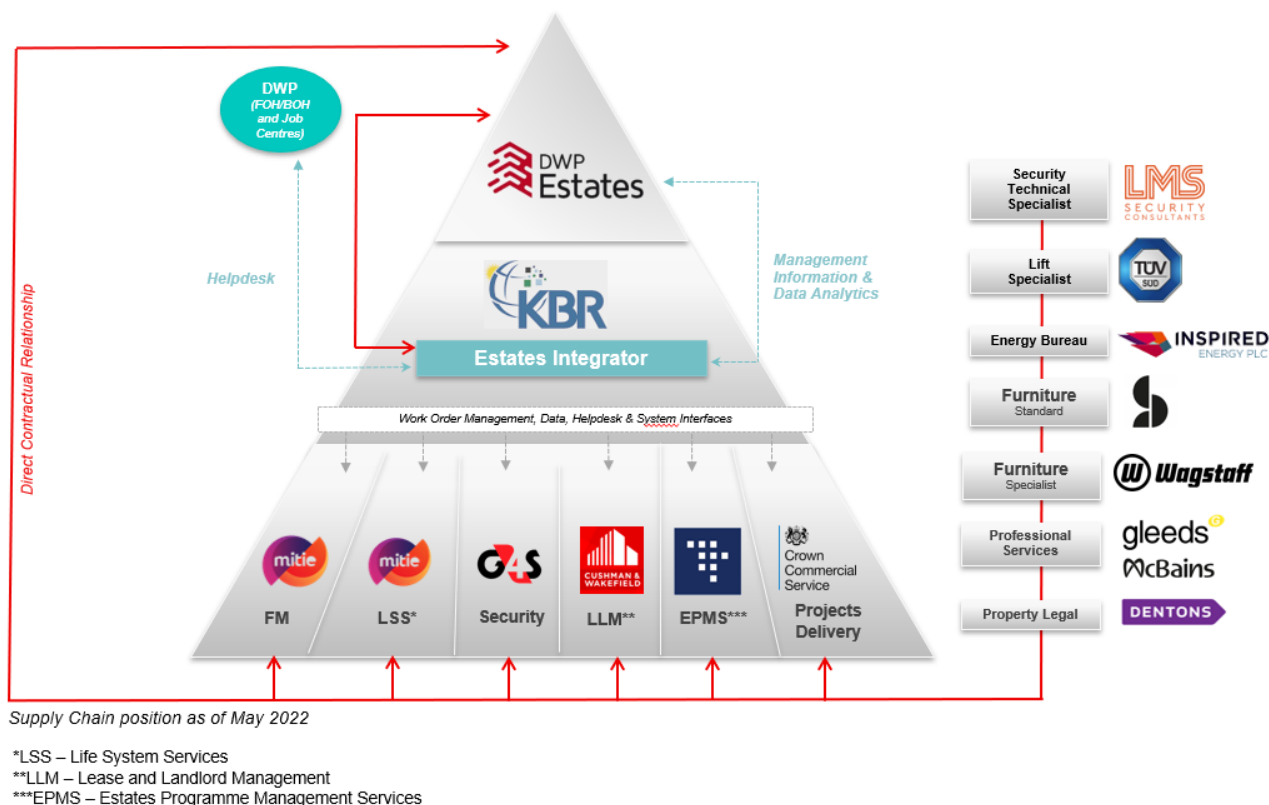
The Buyer operates an 'Estates Target Operating Model' (ETOM), shown in Figure 1, whereby a large proportion of the estates management is out-sourced to an independent third party organisation ('the Supply Chain Integrator'). The Supply Chain Integrator is independent from the Buyer's Supply Chain and provides an aggregated data, reporting and systems service. As of 1<sup>st</sup> May 2022, the Buyer's Supply Chain Integrator KBR is responsible for:

- a) providing a single up-to-date and accurate version of all Buyer data and information, including a master asset register;
- b) reporting holistically across the Buyer's estate and estate services;
- c) processing all supply chain invoices for payment;
- d) providing a help desk to the Buyer's workforce for all estates related problems, incidents or maintenance; and
- e) providing a CAFM system and process for the creation, dissemination, management and closure of work orders between the Buyer and members of the Buyer's supply chain.

The Buyer is also supported by a new Estates Programme Management Service (EPMS) delivered by Turner & Townsend Project Management Limited (Turner & Townsend), which went live on 1<sup>st</sup> February 2022. Turner & Townsend will provide robust management and oversight across all types of projects for the Buyer's estate. They will be responsible for setting governance, providing robust Management Information, and oversee cost and risk management for the Buyer's project pipeline, including major and minor Capex projects, lifecycle works (LCW) and other strategic change programmes.

Turner & Townsend will work closely with the Buyer's construction professional services suppliers, listed in Table 2, project delivery suppliers and other supply chain members to ensure all project works are initiated, managed and delivered to high standards providing overall value for money, and in line with the Buyer's strategy and vision.

**Figure 1: The Buyer's Estates Target Operating Model (ETOM)**



## ETOM Suppliers

Suppliers listed within Figure 1 are referred to by the Buyer as ‘towers:’

- FM (Facilities Management):** This tower includes the FM and LSS contracts, supplied by Mitie FM Ltd, the Buyer’s Energy Bureau provided by Inspired Energy Plc and furniture, fittings and equipment (FFE) contracts, supplied by Southern Broadstock Ltd and Wagstaff Interiors Group;
- Security:** The security tower consists of several contracts for physical security guards and systems, supplied by G4S (SS) UK (G4S);
- Projects Delivery:** The Buyer is shortly expecting to award two further contracts to other providers of construction professional services as well as 21 further providers of construction, fit-out and LCW from CCS Framework RM6088: Construction Works and Associated Services, as well as other public sector Frameworks, including those available from Scape and Pagabo. The Projects Delivery Supply Chain is therefore subject to change.
- Integrator, EPMS and LLM (Landlord and Lease Management):** This tower includes the Integrator contract with KBR, the EPMS contract with Turner & Townsend and LLM supplied by Cushman and Wakefield Plc. The EPMS will provide robust management and oversight across all types of projects for the Buyer’s estate

and will be responsible for setting governance, providing robust management information, and oversee cost and risk management for the Buyer's project pipeline.

**Table 2: Summary of the Buyer's Current Construction Professional Services Providers (currently appointed up to 31<sup>st</sup> March 2023)**

Buyer projects supported	Supplier	Services	Geographic Area
LCW and minor business as usual projects	McBains Ltd	<ul style="list-style-type: none"> <li>• Cost Managers</li> <li>•</li> </ul>	Nationally across England, Wales and Scotland
	Gleeds Advisory Ltd	<ul style="list-style-type: none"> <li>• Project Managers</li> <li>• Contract Administrators</li> <li>• Principal Designers</li> <li>• Technical Advisors</li> </ul>	
Major Capex and WPT projects	Gleeds Advisory Ltd	<ul style="list-style-type: none"> <li>• Project Managers</li> <li>• Contract Administrators</li> </ul>	Nationally across England, Wales and Scotland
	McBains Ltd	<ul style="list-style-type: none"> <li>• Architects</li> <li>• Building Services Engineer (Mechanical and Electrical Engineers)</li> <li>• Civil Engineer</li> <li>• Principal Designer</li> <li>• Building Information Management (BIM) Information Manager</li> </ul>	Scotland, North-East England, North-West England, Yorkshire and the Humber and East Midlands
	Ridge & Partners LLP	<ul style="list-style-type: none"> <li>• BIM Coordinator</li> <li>• Cost Managers</li> </ul>	Wales, West Midlands, East of England, South East, South West and London
Perfect Circle JV Ltd		WPT Programme Managers	Nationally across England, Wales and Scotland

## Annex B - The Buyer's Expenses Policy

This policy is subject to change as updates are periodically made by the Buyer.

### **1. Circumstances where the Buyer will not reimburse expenses incurred**

The Buyer will not reimburse costs incurred for travel to, or accommodation at, the main base location.

Additionally, in order to comply with propriety and regularity, audit and tax rules the Buyer will not pay, or be responsible for the payment of any fines or penalty charges in respect of private vehicles etc. during the undertaking of duties for the Buyer.

### **2. Circumstances where the Buyer will reimburse expenses incurred**

The Buyer will reimburse necessary and reasonable business travel and accommodation costs incurred during the undertaking of duties for the Buyer. This is subject to:

- All such expenses being agreed with the Buyer in advance;
- The rules for claiming expenses must be in accordance with the Buyer's Expenses Policy in force at the time the expense is incurred;
- All such expenses must have been incurred in performing the Buyer's services away from their main base location of the Buyer's work, and be minus the cost of travel to the usual place of work;
- Appropriate documentary evidence, such as receipts and tickets, of such expenses being incurred is provided to the appropriate contact of the Buyer;
- The expenses must be submitted at the same time as the relevant weekly timesheet.

### **3. Offshore Staff**

In respect of Staff who are located outside the UK:

- Business travel and accommodation expenses incurred in off-shore locations will not be reimbursed;
- Where the Supplier decides to bring off-shore Staff into the UK in order to perform the Buyer's services i.e. they become "landed", then the Buyer's Expenses Policy may apply to costs incurred within the UK;
- The Buyer will not be liable for any expenses incurred in order for the Staff to be "landed" i.e. for travel from the off-shore location to the on-shore location.

### **4. General statements on business travel and accommodation**

4.1 Before committing to any travel arrangements, the Supplier must discuss travelling needs with the Buyer's Key Personnel within the Order Form

and assess:



- Whether the following could be used:
  - video conferencing;
  - telephone conferencing;
  - web conferencing;
  - audio conferencing;
  - The business need to travel; and
  - The most economical and suitable means of travel, taking into account value for money and sustainability factors.

4.2 Business journeys must only be made when face-to-face meetings are essential. Authorisation to travel must be received from the Buyer's Key Personnel within the Order Form before committing to make travel arrangements.

4.3 The most cost effective/value for money option should be obtained and suppliers can use their own organisations' booking agent(s) or low-cost alternatives. Advantage should be taken of any offers for reduced travel (including restricted and advanced purchase tickets/advanced booking for rooms) or room rates. Any claims for the cost of travel and accommodation must be evidenced with supporting documentation and receipts.

4.4 No organisational or personal benefit must be obtained arising from the promotions, offers, or reward schemes that ensue from official travel or accommodation paid for by the Buyer, whether in advance or by refund. Where such promotions or offers are available, the Supplier should agree with the Buyer, whenever possible, how to use any such benefits to offset against other expenses payable by the Buyer.

4.5 The Buyer reserves the right to reject claims for unreasonable expenses, or expenses which could have been avoided if a journey had been better planned.

## **5. Rates and expenses type**

The types of expenses and the rates payable are given at Annex A below and are applicable from 1st March 2015. The rates payable are subject to change.

### **5.1 Claims for mobile phone calls and internet use**

Costs for mobile telephone calls and internet use cannot be claimed.

### **5.2 Public Transport including rail travel**

On public transport standard class travel must be used. First class travel is strictly prohibited irrespective of the duties undertaken.

The use of rail, oyster and other discount cards or schemes is encouraged if evidence is shown that these will save the Buyer more than their cost.

### **5.3 Taxis**

Taxi fares may be reimbursed for business travel where their use is reasonable in the circumstances. Actual fares only can be claimed in the following circumstances:

- Where there is no other suitable method of public transport;
- In exceptional and infrequent circumstances where the saving of official time is important;
- When heavy luggage has to be handled; and
- When shared by colleagues and the fare overall is cheaper than public transport.

#### 5.4 Air Travel

Claims for domestic air travel are not permitted unless the flight is over 300 miles. This limit is for one-way flights within the British mainland. In particular, for travel between the destinations shown below air travel is not permitted, journeys must be taken by rail:

- Newcastle and London
- Birmingham and Newcastle
- Manchester and London

Economy class air travel must always be booked when travelling on domestic flights within the UK. No business class or first class tickets must be booked on domestic flights regardless of the length/duration of journey.

#### 5.5 Private Motor Vehicles

##### Private Vehicle Use

The Buyer aims to reduce mileage travelled in private motor vehicles undertaken by the Supplier. When considering the use of a vehicle on official business, Staff must only use their own vehicle for business journeys when there is no other practicable mode of transport including public transport. Permission must be gained from the Buyer for each business journey carried out in a private vehicle.

Before undertaking such journeys, the Buyer's manager must check that Staff hold a full current driving licence. The private vehicle must be roadworthy and, where required, have a valid MOT test certificate. All Staff must ensure their motor vehicle insurance policy includes a Buyer indemnity clause in addition to the business use clause. It is the policyholder's responsibility to check with their insurance company that they have both types of cover and for the Buyer to validate this.

There are mileage restrictions of a maximum of 1000 miles per financial year and 100 miles per day once authorisation has been obtained. Staff who genuinely need to travel more than 1000 miles per year or 100 miles per day in their own vehicle must have written permission from the Buyer in the form of business case outlined in Annex D authorised by the Buyer's Key Personnel identified as points of escalation within the Order Form.

Note: For daily journeys over 100 miles, an exemption is required only if it is likely to be a regular occurrence. One-off situations can be approved locally with no form required.

Reasons for granting permission must be clearly documented in a Business Case (Annex D) and retained for audit purposes.

Mileage rates can be claimed as detailed in Annex C.

Car parking fees can be claimed on production of the appropriate documentary evidence. Receipts and tickets should be provided to the appropriate contact of the Buyer. However, the Buyer will not provide remuneration for travel on toll roads.

## 5.6 Overnight accommodation

### 5.6.1 Hotel

Where it is necessary for the Supplier to stay away from their main base location(s) for the performance of the contract then:

- a) Expenses will only be reimbursed where it is not possible for Staff to stay at their home; and
- b) The following two principles must apply to any accommodation booking:
  - i) It must be as close to the traveller's end location as possible and within a 5 mile radius; and
  - ii) It must be the most economical option, having taken into account the whole trip cost, such as public transport costs, taxi fares and travelling time.

Regional maximum limits for claims for overnight hotel accommodation are included at Annex C.

### 5.6.2 Overnight stay with relatives or friends

Where Staff elect to stay with friends or relatives rather than in a hotel or other commercial establishment, then the overnight accommodation rates do not apply. Alternatively, the friends and relatives allowance is payable at a flat rate to cover accommodation.

#### Annex C: Expenses Rates

Expense Type	Conditions/Category	Rate as at 1 March 2015
Lodging	Friends and relatives – Nightly	£25.00

<b>Mileage rates (amount per mile)</b>	Higher standard rate (up to 1,000)	£0.45
	Lower standard rate (over 1,000)*	£0.25
	Motor cycle	£0.24

\*Restrictions apply and business case is required - see para 5.5

Regional limits on claims for overnight hotel accommodation

<b>Hotel allowance – upper limits</b>	<b>(£ per night)</b>
<b>London</b>	£130
<b>Rest of the country (except London)</b>	£80

Annex D: Business case for approval to exceed the Buyer's mileage restrictions of 100 miles per day or 1000 miles per year

<b>Business Unit:</b>	
<b>Name of proposer:</b>	
<b>Home office:</b>	
<b>Name of Staff the exemption covers</b>	
<b>Short description of journeys undertaken including daily mileage</b>	



## Annex 4 - The Buyer's Security Requirements

### GENERAL

The Supplier shall and shall procure that any Sub-contractor (as applicable) shall, comply with the Buyer's Security Requirements as set out in the Contract which include the requirements set out in this Annex 4 to the Contract (the "**Buyer's Security Requirements**"). The Buyer's Security Requirements include, but are not limited to, requirements regarding the confidentiality, integrity and availability of Buyer Assets, the Buyer's Systems Environment and the Supplier's Systems Environment.

Terms used in this Annex 4 which are not defined below shall have the meanings given to them in clause 1 (Definitions used in the Contract) of the Contract.

## 1. DEFINITIONS

1.1 In this Annex 4, the following definitions shall apply:

<b>“Buyer Assets”</b>	shall mean any Buyer Devices and Buyer Data;
<b>“Buyer Data”</b>	<p>shall means the data, guidance, specifications, instructions, toolkits, plans, databases, patents, patterns, models, design, 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:-</p> <p>2</p> <p>(i) supplied to the Supplier by or on behalf of the Buyer; or</p> <p>(ii) which the Supplier is required to generate, process, store or transmit pursuant to this Contract.</p>
<b>“Buyer Device”</b>	means any asset that provides an ICT function and is used by the Buyer to conduct its business and operations;
<b>“Buyer’s Systems Environment”</b>	means all of the Buyer’s ICT systems which are or may be used for the provision of the Services;
<b>“Cyber Essentials”</b>	shall mean the Government-backed, industry-supported scheme managed by the NCSC to help organisations to protect themselves against online threats or the relevant successor or replacement scheme which is published and/or formally recommended by the NCSC;
<b>“Good Security Practice”</b>	<p>shall mean:</p> <p>a) the technical and organisational measures and practices that are required by, or recommended in, nationally or internationally accepted management standards and codes of practice relating to Information Security (such as published by the International Organization for Standardization or the National Institute of Standards and Technology);</p> <p>b) security standards and guidelines relating to Information Security (including generally accepted principles regarding the segregation</p>

of the duties of governance, implementation and control) provided to the general public or Information Security practitioners and stakeholders by generally recognised authorities and organisations; and

- c) the Government's security policies, frameworks, standards and guidelines relating to Information Security.

**"Information Security"**

shall mean:

- a) the protection and preservation of:
  - i) the confidentiality, integrity and availability of any Buyer Assets, the Buyer's Systems Environment (or any part thereof) and the Supplier's Systems Environment (or any part thereof);
  - ii) related properties of information including, but not limited to, authenticity, accountability, and non-repudiation; and
- b) compliance with all Law applicable to the processing, transmission, storage and disposal of Buyer Assets.

**"Security Policies and Standards"**

- 3 Shall mean the Security Policies and the Security Standards. published by the Buyer from time to time and shall include any successor, replacement or additional Security Policies and Standards. The Security Policies and Standards are set out in Annex A to this Annex 4;

**"Supplier's Systems Environment"**

means any ICT systems provided by the Supplier (and any Sub-contractor) which are or may be used for the provision of the Services;

**"NCSC"**

shall mean the National Cyber Security Centre or its successor entity (where applicable).

- 3.1 Reference to any notice to be provided by the Supplier to the Buyer shall be construed as a notice to be provided by the Supplier to the Buyer Authorised Representative.

## **2. PRINCIPLES OF SECURITY**

- 2.1 The Supplier shall at all times comply with the Buyer's security requirements set out in this Annex 4 to the Contract and provide a level of security which is in accordance with the Security Policies and Standards, Good Security Practice and Law.

## **3. SUPPLIER STAFF VETTING PROCEDURES**



- 3.1 The Supplier shall at all times comply with the Buyer's security requirements set out in this Annex 4 to the Contract and provide a level of security which is in accordance with the Security Policies and Standards, Good Security Practice and Law. The Buyer requires that all Staff employed, whether permanent or temporary, on the provision of the services are subject to the requirements of the HM Government Baseline Personnel Security Standard (BPSS).
- 3.2 The Supplier is expected to arrange the BPSS checks at no additional charge.

#### **4. CYBER ESSENTIALS SCHEME**

- 4.1 The Supplier shall, and shall procure that any Sub-contractor (as applicable) shall, obtain and maintain certification to Cyber Essentials (the "Cyber Essentials Certificate") in relation to the Services during the Term. The Cyber Essentials Certificate shall be provided by the Supplier to the Buyer annually on the dates as agreed by the Parties.
- 4.2 The Supplier shall notify the Buyer of any failure to obtain, or the revocation of, a Cyber Essentials Certificate within 2 Working Days of confirmation of such failure or revocation. The Supplier shall, at its own expense, undertake those actions required in order to obtain a Cyber Essentials Certificate following such failure or revocation. For the avoidance of doubt, any failure to obtain and/or maintain a Cyber Essentials Certificate during the Term after the first date on which the Supplier was required to provide a Cyber Essentials Certificate in accordance with clause 4.1 (regardless of whether such failure is capable of remedy) shall constitute a material breach entitling the Buyer to exercise its rights under clause 11.4.

#### **5. SECURITY POLICIES AND STANDARDS**

- 5.1 The Supplier shall, and shall procure that any Sub-contractor (as applicable) shall, comply with the Security Policies and Standards set out Annex A.
- 5.2 Notwithstanding the foregoing, the Buyer's security requirements applicable to the Services may be subject to change following certain events including, but not limited to, any relevant change in the delivery of the Services. Where any such change constitutes a contract change, any change in the Buyer's security requirements resulting from such contract change (if any) shall be agreed by the Parties in accordance with the contract change procedure.
- 5.3 The Supplier shall, and shall procure that any Sub-contractor (as applicable) shall, maintain appropriate records and is otherwise able to demonstrate compliance with the Security Policies and Standards.

#### **ANNEX A - BUYER SECURITY POLICIES AND STANDARDS**

The Security Policies are published on:

<https://www.gov.uk/government/publications/dwp-procurement-security-policies-and-standards> unless specified otherwise:

- a) Acceptable Use Policy
- b) Information Security Policy

- c) Physical Security Policy
- d) Information Management Policy
- e) Remote Working Policy
- f) Social Media Policy
- g) Security Classification Policy
- h) HMG Personnel Security Controls – May 2018  
(published on <https://www.gov.uk/government/publications/hmg-personnel-security-controls>)

## Annex 5 - Key Performance Indicators

**REDACTED**

Unless otherwise communicated by the Buyer to the Supplier, a report of performance against each Key Performance Indicator is provided by the Supplier to the Buyer at monthly intervals.

- The Parties shall meet within 5 Working Days following each KPI performance report being provided at a Performance Review Meeting. Without prejudice to the Improvement Plan Process set out below, actions and associated timescales will be agreed to share best practice and/or agree how improvements to performance will be implemented.
- The performance of the Supplier in the preceding month is classified as 'Good' if KPIs 1 to 4 are marked as Green.
- The performance of the Supplier in the preceding month is classified as 'Poor' if two or more of the KPIs are marked as Red.
- The performance of the Supplier in the preceding month is classified as 'Requiring Improvement' if the Key Performance Indicators are neither classified as 'Good' or 'Poor.'
- The Buyer reserves the right to disapply the KPIs detailed in Schedule A of Annex 5 where the Buyer considers that mitigating circumstances apply.

### **Improvement Plan Process**

- An **Improvement Plan** is the plan to address the impact of and prevent the reoccurrence of performance by the Supplier which is 'Poor' or 'Requiring Improvement'.
- Where the performance of the Supplier is 'Poor' or 'Requiring Improvement' in the previous month, the Buyer may serve notice (an **Improvement Notice**) on the Supplier setting out sufficient detail to make it clear what the Supplier has to rectify.
- Where an Improvement Notice is served the Supplier submits to the Buyer a draft Improvement Plan and the Buyer reviews it as soon as possible and in any event within 10 Working Days (as defined in Contract Schedule 5) (or such other period as the Parties agree) of the monthly performance meeting or, if later, the date of service of the Improvement Notice. The Supplier submits a draft Improvement Plan even if it disputes the performance rating in the previous month.
- The draft Improvement Plan sets out:
  1. full details of the performance rating in the previous month and which KPIs were rated as Red or Amber to achieve this rating; and
  2. the steps the Supplier proposes to take to rectify and improve the performance of these KPIs and to prevent any issues from recurring, including timescales for such steps.

- The Supplier provides the Buyer with such additional information or documentation as the Buyer reasonably requires.
- The Buyer notifies the Supplier that:
  1. it agrees the draft Improvement Plan; or
  2. it rejects the draft Improvement Plan because it is inadequate, for example because it is not detailed enough to evaluate, will take too long to complete, will not prevent reoccurrence of the Red or Amber markings it was drafted to improve or is otherwise unacceptable to the Buyer. Where the Buyer does so it shall set out its reasons for doing so.
- Where the Buyer accepts the Improvement Plan the Supplier immediately implements the actions in the Improvement Plan.
- Where the Buyer rejects the Improvement Plan the Supplier resubmits its draft Improvement Plan taking into account the Buyer's comments within 5 Working Days of notice that the Buyer rejects the preceding Improvement Plan.
- Without prejudice to any other right or remedy of the Buyer, the Buyer may terminate this contract by written notice to the Supplier if performance of the Supplier is classified as 'Poor' in three or more consecutive months and the Supplier fails in respect of any of such incidences of 'Poor' performance:
  1. to submit a draft Improvement Plan to the Buyer;
  2. to submit a draft Improvement Plan which the Buyer acting reasonably does not approve;
  3. to implement an Improvement Plan agreed by the Parties by the date of rectification stipulated in the Improvement Plan; or
  4. following implementation of a previous Improvement Plan, where one or more of the same KPIs has received a Red marking in consecutive months for the same (or substantially the same) root cause.

## Short form Terms

## 1. Definitions used in the Contract

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

<b>"Central Government Body"</b>	means a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics: 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;
<b>"Charges"</b>	means the charges for the Deliverables as specified in the Order Form;
<b>"Confidential Information"</b>	means all information, whether written or oral (however recorded), provided by the disclosing Party to the receiving Party and which (i) is known by the receiving Party to be confidential; (ii) is marked as or stated to be confidential; or (iii) ought reasonably to be considered by the receiving Party to be confidential;
<b>"Contract"</b>	means the contract between (i) the Buyer and (ii) the Supplier which is created by the Supplier's counter signing the Order Form and includes the Order Form and Annexes;
<b>"Controller"</b>	has the meaning given to it in the GDPR;
<b>"Buyer"</b>	means the person identified in the letterhead of the Order Form;
<b>"Date of Delivery"</b>	means that date by which the Deliverables must be delivered to the Buyer, as specified in the Order Form;
<b>"Buyer Cause"</b>	any breach of the obligations of the Buyer or any other default, act, omission, negligence or statement of the Buyer, of its employees, servants, agents in connection with or in relation to the subject-matter of the Contract and in respect of which the Buyer is liable to the Supplier;
<b>"Data Protection Legislation"</b>	(i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the Data Protection Act 2018 to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy;
<b>"Data Protection Impact Assessment"</b>	an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data;

<b>"Data Protection Officer"</b>	has the meaning given to it in the GDPR;
<b>"Data Subject"</b>	has the meaning given to it in the GDPR;
<b>"Data Loss Event"</b>	any event that results, or may result, in unauthorised access to Personal Data held by the Supplier under this Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of this Contract, including any Personal Data Breach;
<b>"Data Subject Access Request"</b>	a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data;
<b>"Deliver"</b>	means hand over the Deliverables to the Buyer at the address and on the date specified in the Order Form, which shall include unloading and any other specific arrangements agreed in accordance with Clause [ ]. Delivered and Delivery shall be construed accordingly;
<b>"Existing IPR"</b>	any and all intellectual property rights that are owned by or licensed to either Party and which have been developed independently of the Contract (whether prior to the date of the Contract or otherwise);
<b>"Expiry Date"</b>	means the date for expiry of the Contract as set out in the Order Form;
<b>"FOIA"</b>	means the Freedom of Information Act 2000 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation;
<b>"Force Majeure Event"</b>	any event, occurrence, circumstance, matter or cause affecting the performance by either Party of its obligations under the Contract arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control which prevent or materially delay it from performing its obligations under the Contract but excluding: i) any industrial dispute relating to the Supplier, the Supplier Staff (including any subsets of them) or any other failure in the Supplier or the Sub-contractor's supply chain; ii) any event, occurrence, circumstance, matter or cause which is attributable to the wilful act, neglect or failure to take reasonable precautions against it by the Party concerned; and iii) any failure of delay caused by a lack of funds;
<b>"GDPR"</b>	the General Data Protection Regulation (Regulation (EU) 2016/679);
<b>"Goods"</b>	means the goods to be supplied by the Supplier to the Buyer under the Contract;
<b>"Good Industry Practice"</b>	standards, practices, methods and procedures conforming to the law and the exercise of the degree of skill and care, diligence, prudence and foresight which would reasonably and

ordinarily be expected from a skilled and experienced person or body engaged within the relevant industry or business sector;

<b>"Government Data"</b>	a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, including any of the Buyer's confidential information, and which: i) are supplied to the Supplier by or on behalf of the Buyer; or ii) the Supplier is required to generate, process, store or transmit pursuant to the Contract; or b) any Personal Data for which the Buyer is the Data Controller;
<b>"Information"</b>	has the meaning given under section 84 of the FOIA;
<b>"Information Commissioner"</b>	the UK's independent authority which deals with ensuring information relating to rights in the public interest and data privacy for individuals is met, whilst promoting openness by public bodies;
<b>"Insolvency Event"</b>	in respect of a person: a) if that person is insolvent; ii) if an order is made or a resolution is passed for the winding up of the person (other than voluntarily for the purpose of solvent amalgamation or reconstruction); iii) if an administrator or administrative receiver is appointed in respect of the whole or any part of the persons assets or business; iv) if the person makes any composition with its creditors or takes or suffers any similar or analogous action to any of the actions detailed in this definition as a result of debt in any jurisdiction;
<b>"Key Personnel"</b>	means any persons specified as such in the Order Form or otherwise notified as such by the Buyer to the Supplier in writing;
<b>"Law"</b>	means any applicable law, Act of Parliament, subordinate legislation including legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, exercise of the royal prerogative, enforceable European Union right including enforceable rights within the meaning of Section 2 of the European Communities Act 1972, regulatory policy, guidance or industry code, judgment of a relevant court of law, regulation, directive, order, mandatory guidance, code of practice and/or requirements or any Regulatory Body of which the Supplier is bound to comply;
<b>"LED"</b>	Law Enforcement Directive (Directive (EU) 2016/680);
<b>"New IPR"</b>	all and intellectual property rights in any materials created or developed by or on behalf of the Supplier pursuant to the Contract but shall not include the Supplier's Existing IPR;
<b>"Order Form"</b>	means the letter from the Buyer to the Supplier printed above these terms and conditions;
<b>"Party"</b>	the Supplier or the Buyer (as appropriate) and "Parties" shall mean both of them;

<b>"Personal Data"</b>	has the meaning given to it in the GDPR;
<b>"Personal Data Breach"</b>	has the meaning given to it in the GDPR;
<b>"Processor"</b>	has the meaning given to it in the GDPR;
<b>"Purchase Order Number"</b>	means the Buyer's unique number relating to the order for Deliverables to be supplied by the Supplier to the Buyer in accordance with the terms of the Contract;
<b>"Regulations"</b>	the Public Contracts Regulations 2015 and/or the Public Contracts (Scotland) Regulations 2015 (as the context requires) as amended from time to time;
<b>"Request for Information"</b>	has the meaning set out in the FOIA or the Environmental Information Regulations 2004 as relevant (where the meaning set out for the term "request" shall apply);
<b>"Services"</b>	means the services to be supplied by the Supplier to the Buyer under the Contract;
<b>"Specification"</b>	means the specification for the Deliverables to be supplied by the Supplier to the Buyer (including as to quantity, description and quality) as specified in the Order Form;
<b>"Staff"</b>	means all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any sub-contractor of the Supplier engaged in the performance of the Supplier's obligations under the Contract;
<b>"Staff Vetting Procedures"</b>	means vetting procedures that accord with good industry practice or, where applicable, the Buyer's procedures for the vetting of personnel as provided to the Supplier from time to time;
<b>"Storage Media"</b>	means the part of any device that is capable of storing and retrieving data;
<b>"Sub-contractor"</b>	means any third party appointed by the Supplier which through its employees or agents directly delivers the Services.
<b>"Subprocessor"</b>	any third Party appointed to process Personal Data on behalf of the Supplier related to the Contract;
<b>"Supplier Staff"</b>	all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Sub-contractor engaged in the performance of the Supplier's obligations under a Contract;
<b>"Supplier"</b>	means the person named as Supplier in the Order Form;
<b>"Term"</b>	means the period from the start date of the Contract set out in the Order Form to the Expiry Date as such period may be extended in accordance with the terms and conditions of the



Contract;

<b>"US-EU Privacy Shield Register"</b>	a list of companies maintained by the United States of America Department for Commerce that have self-certified their commitment to adhere to the European legislation relating to the processing of personal data to non-EU countries which is available online at: <a href="https://www.privacyshield.gov/list">https://www.privacyshield.gov/list</a> ;
<b>"VAT"</b>	means value added tax in accordance with the provisions of the Value Added Tax Act 1994;
<b>"Workers"</b>	any one of the Supplier Staff which the Buyer, in its reasonable opinion, considers is an individual to which Procurement Policy Note 08/15 (Tax Arrangements of Public Appointees) ( <a href="https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees">https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees</a> ) applies in respect of the Deliverables;
<b>"Working Day"</b>	means a day (other than a Saturday or Sunday) on which banks are open for business in the City of London.

## **2. Understanding the Contract**

In the Contract, unless the context otherwise requires:

- 2.1 references to numbered clauses are references to the relevant clause in these terms and conditions;
- 2.2 any obligation on any Party not to do or omit to do anything shall include an obligation not to allow that thing to be done or omitted to be done;
- 2.3 the headings in this Contract are for information only and do not affect the interpretation of the Contract;
- 2.4 references to "writing" include printing, display on a screen and electronic transmission and other modes of representing or reproducing words in a visible form;
- 2.5 the singular includes the plural and vice versa;
- 2.6 a reference to any law includes a reference to that law as amended, extended, consolidated or re-enacted from time to time and to any legislation or byelaw made under that law; and
- 2.7 the word 'including', "for example" and similar words shall be understood as if they were immediately followed by the words "without limitation".

## **3. How the Contract works**

- 3.1 The Order Form is an offer by the Buyer to purchase the Deliverables subject to and in accordance with the terms and conditions of the Contract.
- 3.2 The Supplier is deemed to accept the offer in the Order Form when the Buyer receives a copy of the Order Form signed by the Supplier.

- 3.3 The Supplier warrants and represents that its tender and all statements made and documents submitted as part of the procurement of Deliverables are and remain true and accurate.

## **4. What needs to be delivered**

### **4.1 All Deliverables**

- (a) The Supplier must provide Deliverables: (i) in accordance with the Specification; (ii) to a professional standard; (iii) using reasonable skill and care; (iv) using Good Industry Practice; (v) using its own policies, processes and internal quality control measures as long as they don't conflict with the Contract; (vi) on the dates agreed; (vii) that comply with all Law; (viii) in accordance with Annex 5 - Key Performance Indicators.
- (b) The Supplier must provide Deliverables with a warranty of at least 90 days (or longer where the Supplier offers a longer warranty period to its Buyers) from Delivery against all obvious defects.

### **4.2 Goods clauses**

- (a) All Goods delivered must be new, or as new if recycled, unused and of recent origin.
- (b) All manufacturer warranties covering the Goods must be assignable to the Buyer on request and for free.
- (c) The Supplier transfers ownership of the Goods on completion of delivery (including off-loading and stacking) or payment for those Goods, whichever is earlier.
- (d) Risk in the Goods transfers to the Buyer on delivery, but remains with the Supplier if the Buyer notices damage following delivery and lets the Supplier know within three Working Days of delivery.
- (e) The Supplier warrants that it has full and unrestricted ownership of the Goods at the time of transfer of ownership.
- (f) The Supplier must deliver the Goods on the date and to the specified location during the Buyer's working hours.
- (g) The Supplier must provide sufficient packaging for the Goods to reach the point of delivery safely and undamaged.
- (h) All deliveries must have a delivery note attached that specifies the order number, type and quantity of Goods.
- (i) The Supplier must provide all tools, information and instructions the Buyer needs to make use of the Goods.
- (j) The Supplier will notify the Buyer of any request that Goods are returned to it or the manufacturer after the discovery of safety issues or defects that might endanger health or hinder performance and shall indemnify the Buyer against the costs arising as a result of any such request.
- (k) The Buyer can cancel any order or part order of Goods which has not been delivered. If the Buyer gives less than 14 days' notice then it will pay the Supplier's reasonable and proven costs already incurred on the cancelled order as long as the Supplier takes all reasonable steps to minimise these costs.
- (l) The Supplier must at its own cost repair, replace, refund or substitute (at the Buyer's option and request) any Goods that the Buyer rejects because they don't conform with clause 4.2. If the Supplier doesn't do this it will pay the Buyer's costs including repair or re-supply by a third party.
- (m) The Buyer will not be liable for any actions, claims, costs and expenses incurred by the Supplier or any third party during delivery of the Goods unless

and to the extent that it is caused by negligence or other wrongful act of the Buyer or its servant or agent. If the Buyer suffers or incurs any damage or injury (whether fatal or otherwise) occurring in the course of delivery or installation then the Supplier shall indemnify from any losses, charges costs or expenses which arise as a result of or in connection with such damage or injury where it is attributable to any act or omission of the Supplier or any of its [sub-suppliers].

#### **4.3 Services clauses**

- (a) Late delivery of the Services will be a default of the Contract.
- (b) The Supplier must co-operate with the Buyer and third party suppliers on all aspects connected with the delivery of the Services and ensure that Supplier Staff comply with any reasonable instructions including any security requirements.
- (c) The Buyer must provide the Supplier with reasonable access to its premises at reasonable times for the purpose of supplying the Services
- (d) The Supplier must at its own risk and expense provide all equipment required to deliver the Services. Any equipment provided by the Buyer to the Supplier for supplying the Services remains the property of the Buyer and is to be returned to the Buyer on expiry or termination of the Contract.
- (e) The Supplier must allocate sufficient resources and appropriate expertise to the Contract.
- (f) The Supplier must take all reasonable care to ensure performance does not disrupt the Buyer's operations, employees or other contractors.
- (g) On completion of the Services, the Supplier is responsible for leaving the Buyer's premises in a clean, safe and tidy condition and making good any damage that it has caused to the Buyer's premises or property, other than fair wear and tear.
- (h) The Supplier must ensure all Services, and anything used to deliver the Services, are of good quality and free from defects.
- (i) The Buyer is entitled to withhold payment for partially or undelivered Services, but doing so does not stop it from using its other rights under the Contract.

### **5. Pricing and payments**

- 5.1 In exchange for the Deliverables, the Supplier shall be entitled to invoice the Buyer for the charges in the Order Form. The Supplier shall raise invoices promptly and in any event within 90 days from when the charges are due.
- 5.2 All Charges:
  - (a) exclude VAT, which is payable on provision of a valid VAT invoice;
  - (b) include all costs connected with the supply of Deliverables.
- 5.3 The Buyer must pay the Supplier the charges within 30 days of receipt by the Buyer of a valid, undisputed invoice, in cleared funds to the Supplier's account stated in the Order Form.
- 5.4 A Supplier invoice is only valid if it:
  - (a) includes all appropriate references including the Purchase Order Number and other details reasonably requested by the Buyer;
  - (b) includes a detailed breakdown of Deliverables which have been delivered (if any).
- 5.5 If there is a dispute between the Parties as to the amount invoiced, the Buyer shall pay the undisputed amount. The Supplier shall not suspend the provision of the

Deliverables unless the Supplier is entitled to terminate the Contract for a failure to pay undisputed sums in accordance with clause 11.6. Any disputed amounts shall be resolved through the dispute resolution procedure detailed in clause 33.

- 5.6 The Buyer may retain or set-off payment of any amount owed to it by the Supplier if notice and reasons are provided.
- 5.7 The Supplier must ensure that all Sub-contractors are paid, in full, within 30 days of receipt of a valid, undisputed invoice. If this doesn't happen, the Buyer can publish the details of the late payment or non-payment.

## **6. The Buyer's obligations to the Supplier**

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

## **7. Record keeping and reporting**

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

Supplier will make changes to such plan as reasonably required by the Buyer and once it is agreed then the Supplier shall act in accordance with such plan and report to the Buyer on demand

- (b) if the Supplier fails to provide a plan or fails to agree any changes which are requested by the Buyer or fails to implement or provide updates on progress with the plan, terminate the Contract immediately for material breach (or on such date as the Buyer notifies).

## **8. Supplier staff**

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

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

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

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

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

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

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

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

## **9. Rights and protection**

9.1 The Supplier warrants and represents that:

- (a) it has full capacity and authority to enter into and to perform the Contract;
- (b) the Contract is executed by its authorised representative;
- (c) it is a legally valid and existing organisation incorporated in the place it was formed;
- (d) there are no known legal or regulatory actions or investigations before any court, administrative body or arbitration tribunal pending or threatened against it or its affiliates that might affect its ability to perform the Contract;
- (e) it maintains all necessary rights, authorisations, licences and consents to perform its obligations under the Contract;
- (f) it doesn't have any contractual obligations which are likely to have a material adverse effect on its ability to perform the Contract; and
- (g) it is not impacted by an Insolvency Event.

9.2 The warranties and representations in clause 9.1 are repeated each time the Supplier provides Deliverables under the Contract.

- 9.3 The Supplier indemnifies the Buyer against each of the following:
- (a) wilful misconduct of the Supplier, any of its Sub-contractor and/or Supplier Staff that impacts the Contract;
  - (b) non-payment by the Supplier of any tax or National Insurance.
- 9.4 If the Supplier becomes aware of a representation or warranty that becomes untrue or misleading, it must immediately notify the Buyer.
- 9.5 All third party warranties and indemnities covering the Deliverables must be assigned for the Buyer's benefit by the Supplier.

## **10. Intellectual Property Rights (IPRs)**

- 10.1 Each Party keeps ownership of its own Existing IPRs. The Supplier gives the Buyer a non-exclusive, perpetual, royalty-free, irrevocable, transferable worldwide licence to use, change and sub-license the Supplier's Existing IPR to enable it and its sub-licensees to both:
- (a) receive and use the Deliverables;
  - (b) use the New IPR.
- 10.2 Any New IPR created under the Contract is owned by the Buyer. The Buyer gives the Supplier a licence to use any Existing IPRs for the purpose of fulfilling its obligations under the Contract and a perpetual, royalty-free, non-exclusive licence to use any New IPRs.
- 10.3 Where a Party acquires ownership of intellectual property rights incorrectly under this Contract it must do everything reasonably necessary to complete a transfer assigning them in writing to the other Party on request and at its own cost.
- 10.4 Neither Party has the right to use the other Party's intellectual property rights, including any use of the other Party's names, logos or trademarks, except as provided in clause 10 or otherwise agreed in writing.
- 10.5 If any claim is made against the Buyer for actual or alleged infringement of a third party's intellectual property arising out of, or in connection with, the supply or use of the Deliverables (an "**IPR Claim**"), then the Supplier indemnifies the Buyer against all losses, damages, costs or expenses (including professional fees and fines) incurred as a result of the IPR Claim.
- 10.6 If an IPR Claim is made or anticipated the Supplier must at its own expense and the Buyer's sole option, either:
- (a) obtain for the Buyer the rights in clauses 10.1 and 10.2 without infringing any third party intellectual property rights;
  - (b) replace or modify the relevant item with substitutes that don't infringe intellectual property rights without adversely affecting the functionality or performance of the Deliverables.

## **11. Ending the contract**

- 11.1 The Contract takes effect on the date of or (if different) the date specified in the Order Form and ends on the earlier of the date of expiry or termination of the Contract or earlier if required by Law.

11.2 The Buyer can extend the Contract where set out in the Order Form in accordance with the terms in the Order Form.

### 11.3 Ending the Contract without a reason

The Buyer has the right to terminate the Contract at any time without reason or liability by giving the Supplier not less than 90 days' written notice and if it's terminated clause 11.5(b) to 11.5(g) applies.

### 11.4 When the Buyer can end the Contract

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

### 11.5 What happens if the Contract ends

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

- (a) the Supplier is responsible for the Buyer's reasonable costs of procuring replacement deliverables for the rest of the term of the Contract;
- (b) the Buyer's payment obligations under the terminated Contract stop immediately;
- (c) accumulated rights of the Parties are not affected;
- (d) the Supplier must promptly delete or return the Government Data except where required to retain copies by law;
- (e) the Supplier must promptly return any of the Buyer's property provided under the Contract;
- (f) the Supplier must, at no cost to the Buyer, give all reasonable assistance to the Buyer and any incoming supplier and co-operate fully in the handover and re-procurement;
- (g) the following clauses survive the termination of the Contract: [3.2.10, 6, 7.2, 9, 11, 14, 15, 16, 17, 18, 34, 35] and any clauses which are expressly or by implication intended to continue.

## **11.6 When the Supplier can end the Contract**

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

## **11.7 Partially ending and suspending the Contract**

- (a) Where the Buyer has the right to terminate the Contract it can terminate or suspend (for any period), all or part of it. If the Buyer suspends the Contract it can provide the Deliverables itself or buy them from a third party.
- (b) The Buyer can only partially terminate or suspend the Contract if the remaining parts of it can still be used to effectively deliver the intended purpose.
- (c) The Parties must agree (in accordance with clause 24) any necessary variation required by clause 11.7, but the Supplier may not either:
  - (i) reject the variation;
  - (ii) increase the Charges, except where the right to partial termination is under clause 11.3.
- (d) The Buyer can still use other rights available, or subsequently available to it if it acts on its rights under clause 11.7.

## **12. How much you can be held responsible for**

- 12.1 Each Party's total aggregate liability under or in connection with the Contract (whether in tort, contract or otherwise) is no more than 125% of the Charges paid or payable to the Supplier.
- 12.2 No Party is liable to the other for:
  - (a) any indirect losses;
  - (b) loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect).
- 12.3 In spite of clause 12.1, neither Party limits or excludes any of the following:
  - (a) its liability for death or personal injury caused by its negligence, or that of its employees, agents or Sub-contractors;
  - (b) its liability for bribery or fraud or fraudulent misrepresentation by it or its employees;
  - (c) any liability that cannot be excluded or limited by law.
- 12.4 In spite of clause 12.1, the Supplier does not limit or exclude its liability for any indemnity given under clauses 4.2(j), 4.2(m), 8.5, 9.3, 10.5, 13.2, 14.26(e) or 30.2(b).
- 12.5 Each Party must use all reasonable endeavours to mitigate any loss or damage which it suffers under or in connection with the Contract, including any indemnities.



- 12.6 If more than one Supplier is party to the Contract, each Supplier Party is fully responsible for both their own liabilities and the liabilities of the other Suppliers.

### **13. Obeying the law**

- 13.1 The Supplier must, in connection with provision of the Deliverables, use reasonable endeavours to:
- (a) comply and procure that its Sub-contractors comply with the Supplier Code of Conduct appearing at ([https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/779660/20190220-Supplier\\_Code\\_of\\_Conduct.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779660/20190220-Supplier_Code_of_Conduct.pdf)) and such other corporate social responsibility requirements as the Buyer may notify to the Supplier from time to time;
  - (b) support the Buyer in fulfilling its Public Sector Equality duty under S149 of the Equality Act 2010;
  - (c) not use nor allow its Sub-contractors to use modern slavery, child labour or inhumane treatment;
  - (d) meet the applicable Government Buying Standards applicable to Deliverables which can be found online at: <https://www.gov.uk/government/collections/sustainable-procurement-the-government-buying-standards-gbs>
- 13.2 The Supplier indemnifies the Buyer against any costs resulting from any default by the Supplier relating to any applicable law to do with the Contract.
- 13.3 The Supplier must appoint a Compliance Officer who must be responsible for ensuring that the Supplier complies with Law, Clause 13.1 and Clauses 27 to 32
- 13.4 "Compliance Officer" the person(s) appointed by the Supplier who is responsible for ensuring that the Supplier complies with its legal obligations;

### **14. Data protection**

- 14.1 The Buyer is the Controller and the Supplier is the Processor for the purposes of the Data Protection Legislation.
- 14.2 The Supplier must process Personal Data and ensure that Supplier Staff process Personal Data only in accordance with this Contract.
- 14.3 The Supplier must not remove any ownership or security notices in or relating to the Government Data.
- 14.4 The Supplier must make accessible back-ups of all Government Data, stored in an agreed off-site location and send the Buyer copies every six Months.
- 14.5 The Supplier must ensure that any Supplier system holding any Government Data, including back-up data, is a secure system that complies with the security requirements specified [in writing] by the Buyer.
- 14.6 If at any time the Supplier suspects or has reason to believe that the Government Data provided under the Contract is corrupted, lost or sufficiently degraded, then the Supplier must notify the Buyer and immediately suggest remedial action.
- 14.7 If the Government Data is corrupted, lost or sufficiently degraded so as to be unusable the Buyer may either or both:

- (a) tell the Supplier to restore or get restored Government Data as soon as practical but no later than five Working Days from the date that the Buyer receives notice, or the Supplier finds out about the issue, whichever is earlier;
  - (b) restore the Government Data itself or using a third party.
- 14.8 The Supplier must pay each Party's reasonable costs of complying with clause 14.7 unless the Buyer is at fault.
- 14.9 Only the Buyer can decide what processing of Personal Data a Supplier can do under the Contract and must specify it for the Contract using the template in Annex 1 of the Order Form (*Authorised Processing*).
- 14.10 The Supplier must only process Personal Data if authorised to do so in the Annex to the Order Form (*Authorised Processing*) by the Buyer. Any further written instructions relating to the processing of Personal Data are incorporated into Annex 1 of the Order Form.
- 14.11 The Supplier must give all reasonable assistance to the Buyer in the preparation of any Data Protection Impact Assessment before starting any processing, including:
  - (a) a systematic description of the expected processing and its purpose;
  - (b) the necessity and proportionality of the processing operations;
  - (c) the risks to the rights and freedoms of Data Subjects;
  - (d) the intended measures to address the risks, including safeguards, security measures and mechanisms to protect Personal Data.
- 14.12 The Supplier must notify the Buyer immediately if it thinks the Buyer's instructions breach the Data Protection Legislation.
- 14.13 The Supplier must put in place appropriate Protective Measures to protect against a Data Loss Event which must be approved by the Buyer.
- 14.14 If lawful to notify the Buyer, the Supplier must notify it if the Supplier is required to process Personal Data by Law promptly and before processing it.
- 14.15 The Supplier must take all reasonable steps to ensure the reliability and integrity of any Supplier Staff who have access to the Personal Data and ensure that they:
  - (a) are aware of and comply with the Supplier's duties under this clause 14;
  - (b) are subject to appropriate confidentiality undertakings with the Supplier or any Subprocessor;
  - (c) are informed of the confidential nature of the Personal Data and do not provide any of the Personal Data to any third Party unless directed in writing to do so by the Buyer or as otherwise allowed by the Contract;
  - (d) have undergone adequate training in the use, care, protection and handling of Personal Data.
- 14.16 The Supplier must not transfer Personal Data outside of the EU unless all of the following are true:
  - (a) it has obtained prior written consent of the Buyer;
  - (b) the Buyer has decided that there are appropriate safeguards (in accordance with Article 46 of the GDPR);
  - (c) the Data Subject has enforceable rights and effective legal remedies when transferred;
  - (d) the Supplier meets its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred;

- (e) where the Supplier is not bound by Data Protection Legislation it must use its best endeavours to help the Buyer meet its own obligations under Data Protection Legislation; and
  - (f) the Supplier complies with the Buyer's reasonable prior instructions about the processing of the Personal Data.
- 14.17 The Supplier must notify the Buyer immediately if it:
- (a) receives a Data Subject Access Request (or purported Data Subject Access Request);
  - (b) receives a request to rectify, block or erase any Personal Data;
  - (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
  - (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Contract;
  - (e) receives a request from any third Party for disclosure of Personal Data where compliance with the request is required or claims to be required by Law;
  - (f) becomes aware of a Data Loss Event.
- 14.18 Any requirement to notify under clause 14.17 includes the provision of further information to the Buyer in stages as details become available.
- 14.19 The Supplier must promptly provide the Buyer with full assistance in relation to any Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 14.17. This includes giving the Buyer:
- (a) full details and copies of the complaint, communication or request;
  - (b) reasonably requested assistance so that it can comply with a Data Subject Access Request within the relevant timescales in the Data Protection Legislation;
  - (c) any Personal Data it holds in relation to a Data Subject on request;
  - (d) assistance that it requests following any Data Loss Event;
  - (e) assistance that it requests relating to a consultation with, or request from, the Information Commissioner's Office.
- 14.20 The Supplier must maintain full, accurate records and information to show it complies with this clause 14. This requirement does not apply where the Supplier employs fewer than 250 staff, unless either the Buyer determines that the processing:
- (a) is not occasional;
  - (b) includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR;
  - (c) is likely to result in a risk to the rights and freedoms of Data Subjects.
- 14.21 The Supplier must appoint a Data Protection Officer responsible for observing its obligations in this Schedule and give the Buyer their contact details.
- 14.22 Before allowing any Subprocessor to process any Personal Data, the Supplier must:
- (a) notify the Buyer in writing of the intended Subprocessor and processing;
  - (b) obtain the written consent of the Buyer;
  - (c) enter into a written contract with the Subprocessor so that this clause 14 applies to the Subprocessor;
  - (d) provide the Buyer with any information about the Subprocessor that the Buyer reasonably requires.
- 14.23 The Supplier remains fully liable for all acts or omissions of any Subprocessor.

- 14.24 At any time the Buyer can, with 30 Working Days notice to the Supplier, change this clause 14 to:
- (a) replace it with any applicable standard clauses (between the controller and processor) or similar terms forming part of an applicable certification scheme under GDPR Article 42;
  - (b) ensure it complies with guidance issued by the Information Commissioner's Office.
- 14.25 The Parties agree to take account of any non-mandatory guidance issued by the Information Commissioner's Office.
- 14.26 The Supplier:
- (a) must provide the Buyer with all Government Data in an agreed open format within 10 Working Days of a written request;
  - (b) must have documented processes to guarantee prompt availability of Government Data if the Supplier stops trading;
  - (c) must securely destroy all Storage Media that has held Government Data at the end of life of that media using Good Industry Practice;
  - (d) securely erase all Government Data and any copies it holds when asked to do so by the Buyer unless required by Law to retain it;
  - (e) indemnifies the Buyer against any and all Losses incurred if the Supplier breaches clause 14 and any Data Protection Legislation.

## **15. What you must keep confidential**

- 15.1 Each Party must:
- (a) keep all Confidential Information it receives confidential and secure;
  - (b) not disclose, use or exploit the disclosing Party's Confidential Information without the disclosing Party's prior written consent, except for the purposes anticipated under the Contract;
  - (c) immediately notify the disclosing Party if it suspects unauthorised access, copying, use or disclosure of the Confidential Information.
- 15.2 In spite of clause 15.1, a Party may disclose Confidential Information which it receives from the disclosing Party in any of the following instances:
- (a) where disclosure is required by applicable Law or by a court with the relevant jurisdiction if the recipient Party notifies the disclosing Party of the full circumstances, the affected Confidential Information and extent of the disclosure;
  - (b) if the recipient Party already had the information without obligation of confidentiality before it was disclosed by the disclosing Party;
  - (c) if the information was given to it by a third party without obligation of confidentiality;
  - (d) if the information was in the public domain at the time of the disclosure;
  - (e) if the information was independently developed without access to the disclosing Party's Confidential Information;
  - (f) to its auditors or for the purposes of regulatory requirements;
  - (g) on a confidential basis, to its professional advisers on a need-to-know basis;
  - (h) to the Serious Fraud Office where the recipient Party has reasonable grounds to believe that the disclosing Party is involved in activity that may be a criminal offence under the Bribery Act 2010.
- 15.3 The Supplier may disclose Confidential Information on a confidential basis to Supplier Staff on a need-to-know basis to allow the Supplier to meet its obligations under the

Contract. The Supplier Staff must enter into a direct confidentiality agreement with the Buyer at its request.

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

## **16. When you can share information**

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

## **17. Invalid parts of the contract**

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

## **18. No other terms apply**

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

## **19. Other people's rights in a contract**

No third parties may use the Contracts (Rights of Third Parties) Act (CRTPA) to enforce any term of the Contract unless stated (referring to CRTPA) in the Contract.

This does not affect third party rights and remedies that exist independently from CRTPA.

## **20. Circumstances beyond your control**

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

## **21. Relationships created by the contract**

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

## **22. Giving up contract rights**

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

## **23. Transferring responsibilities**

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

## **24. Changing the contract**

- 24.1 Either Party can request a variation to the Contract which is only effective if agreed in writing and signed by both Parties. The Buyer is not required to accept a variation request made by the Supplier.

## **25. How to communicate about the contract**

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

## **26. Preventing fraud, bribery and corruption**

- 26.1 The Supplier shall not:
- (a) commit any criminal offence referred to in the Regulations 57(1) and 57(2);
  - (b) offer, give, or agree to give anything, to any person (whether working for or engaged by the Buyer or any other public body) an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of the Contract or any other public function or for showing or refraining from showing favour or disfavour to any person in relation to the Contract or any other public function.
- 26.2 The Supplier shall take all reasonable steps (including creating, maintaining and enforcing adequate policies, procedures and records), in accordance with good industry practice, to prevent any matters referred to in clause 26.1 and any fraud by the Staff and the Supplier (including its shareholders, members and directors) in connection with the Contract and shall notify the Buyer immediately if it has reason to suspect that any such matters have occurred or is occurring or is likely to occur.
- 26.3 If the Supplier or the Staff engages in conduct prohibited by clause 26.1 or commits fraud in relation to the Contract or any other contract with the Crown (including the Buyer) the Buyer may:
- (a) terminate the Contract and recover from the Supplier the amount of any loss suffered by the Buyer resulting from the termination, including the cost reasonably incurred by the Buyer of making other arrangements for the supply of the Deliverables and any additional expenditure incurred by the Buyer throughout the remainder of the Contract; or
  - (b) recover in full from the Supplier any other loss sustained by the Buyer in consequence of any breach of this clause.

## **27. Equality, diversity and human rights**

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

tribunal, or the Equality and Human Rights Commission (or any successor organisation) when working on the Contract.

## **28. Health and safety**

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

## **29. Environment**

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

## **30. Tax**

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



- demonstrate how it complies with clause 30.2 or confirms that the Worker is not complying with those requirements;
- (d) the Buyer may supply any information they receive from the Worker to HMRC for revenue collection and management.

### **31. Conflict of interest**

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

### **32. Reporting a breach of the contract**

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

### **33. Resolving disputes**

- 33.1 If there is a dispute between the Parties, their senior representatives who have authority to settle the dispute will, within 28 days of a written request from the other Party, meet in good faith to resolve the dispute.
- 33.2 If the dispute is not resolved at that meeting, the Parties can attempt to settle it by mediation using the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure current at the time of the dispute. If the Parties cannot agree on a mediator, the mediator will be nominated by CEDR. If either Party does not wish to use, or continue to use mediation, or mediation does not resolve the dispute, the dispute must be resolved using clauses 33.3 to 33.5.
- 33.3 Unless the Buyer refers the dispute to arbitration using clause 33.4, the Parties irrevocably agree that the courts of England and Wales have the exclusive jurisdiction to:
- (a) determine the dispute;
  - (b) grant interim remedies;
  - (c) grant any other provisional or protective relief.
- 33.4 The Supplier agrees that the Buyer has the exclusive right to refer any dispute to be finally resolved by arbitration under the London Court of International Arbitration Rules current at the time of the dispute. There will be only one arbitrator. The seat or legal place of the arbitration will be London and the proceedings will be in English.
- 33.5 The Buyer has the right to refer a dispute to arbitration even if the Supplier has started or has attempted to start court proceedings under clause 33.3, unless the Buyer has agreed to the court proceedings or participated in them. Even if court proceedings have started, the Parties must do everything necessary to ensure that

the court proceedings are stayed in favour of any arbitration proceedings if they are started under clause 33.4.

33.6 The Supplier cannot suspend the performance of the Contract during any dispute.

### **34. Which law applies**

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