



Ministry  
of Justice

Date: 29 March 2019

## A Concession Contract

Between

The Lord Chancellor

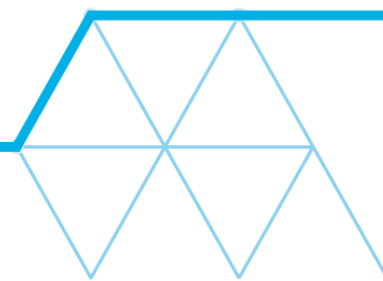
And

The Chancellor Masters and Scholars of the  
University of Oxford trading as Oxford University  
Press

For

Publication of the Guidelines for the Assessment of  
General Damages in Personal Injury Cases

Contract Ref: con\_16393



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**This contract is dated: 29 March 2019**

**PARTIES:**

- (1) The Lord Chancellor of 102 Petty France, London, SW1H 9AJ, acting as part of the Crown (the “**Authority**”);

**AND**

- (2) The Chancellor Masters and Scholars of the University of Oxford trading as Oxford University Press with registered company number (NA), whose registered office is Great Clarendon Street, Oxford, OX2 6DP (the “**Supplier**”)

(each a “**Party**” and together the “**Parties**”).

**WHEREAS**

- A. Following a competitive tender process conducted in accordance with The Concession Contracts Regulations 2016, the Authority wishes to appoint the Supplier to publish and market the relevant editions of the Guidelines for the Assessment of General Damages in Personal Injury Cases, while receiving royalties and gratis copies to be delivered directly to addresses provided by the Authority;
- B. The Supplier agrees to provide these goods and services on a concessionary basis and in accordance with these terms and conditions;
- C. The Supplier has proven capability of delivering this service concession in accordance with the Authority’s requirements;
- D. This Agreement is a services concession contract for a precuniary interest by means of which the Authority non-exclusively entrusts the provision and management of services to the Supplier, the consideration of which consists in the right for the Supplier to exploit the services that are the subject of this contract;
- E. For the purposes of this Agreement, the Lord Chancellor (the Authority) is acting through his/her officials within the Ministry of Justice, which acts on behalf of the Judicial Office (of which the Judicial College is a constituent part). The Judicial Office is an Office of the Ministry of Justice.

**THE SUPPLIER AGREES TO PROVIDE THE GOODS AND SERVICES AS SPECIFIED IN THIS AGREEMENT AND SUBJECT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT:**

**Signed by:**

**Name:**

[REDACTED]

**Job Title: Senior Commercial Manager, Ministry of Justice**

**for and on behalf of the Authority**

**Date:**

**Signed by:**

**Name:**

[REDACTED]

**Job Title: Editorial Director, The Chancellor Masters and Scholars of the University of Oxford T/A Oxford University Press**

**for and on behalf of the Supplier**

**Date:**

## A GENERAL

### A1 Definitions and Interpretation

Unless the context otherwise requires the following terms shall have the meanings given to them below:

**“Affected Party”** means the Party seeking to claim relief in respect of a Force Majeure Event.

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

**“Approve”, “Approval” and “Approved”** means the prior written consent of the Authority.

**“Authors”** means the authors of the Guidelines as set out in Schedule 2.

**“Authorised Representative”** means the Authority representative named in a CCN as authorised to approve agreed Changes.

**“Authority Data”** means:

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

**“Authority Premises”** means any premises owned, occupied or controlled by the Authority or any other Crown Body which are made available for use by the Supplier or its Sub-Contractors for provision of the Services.

**“Authority Software”** means software which is owned by or licensed to the Authority (other than under or pursuant to the Contract) and which is or will be used by the Supplier for the purposes of providing the Services.

**“Authority System”** means the Authority’s computing environment (consisting of hardware, software and/or telecommunications networks or equipment) used by the Authority or the Supplier in connection with the Contract which is owned by or licensed to the Authority by a third party and which interfaces with the Supplier System or which is necessary for the Authority to receive the Services.

**“Baseline Security Requirements”** means the security requirements in Annexe 1 of Schedule 8.

**“BPSS”** means the Government’s Baseline Personnel Security Standard for Government employees.

**“Breach of Security”** means an occurrence of:

- (a) any unauthorised access to or use of the ICT Environment and/or any Information Assets and/or Authority Data (including Confidential Information) in connection with the Contract;
- (b) the loss (physical or otherwise) and/or unauthorised disclosure of any Information Assets and/or Authority Data (including Confidential Information) in connection with the Contract, including copies; and/or
- (c) any part of the Supplier System ceasing to be compliant with the Certification Requirements.

**“CCN”** means a change control notice in the form set out in Schedule 6.

**“Certification Requirements”** means the requirements in paragraph 5.1 of Schedule 8.

**“CESG”** means the Government’s Communications Electronics Security Group.

**“Change”** means a change in the Specification, the Price or any of the terms or conditions of the Contract.

**“Change in Law”** means any change in Law which affects the performance of the Services which comes into force after the Commencement Date.

**“Commencement Date”** means the date specified in clause A5.1.

**“Commercially Sensitive Information”** means the information listed in Schedule 4 comprising the information of a commercially sensitive nature relating to:

- (a) the Price; and/or
- (b) the Supplier’s business and investment plans

which the Supplier has informed the Authority would cause the Supplier significant commercial disadvantage or material financial loss if it was disclosed.

**“Comparable Supply”** means the supply of services to another customer of the Supplier which are the same or similar to any of the Services.

**“Confidential Information”** means any information which has been designated as confidential by either Party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information the disclosure of which would, or would be likely to, prejudice the commercial interests of any person or trade secrets or Intellectual Property Rights of either Party and all Personal Data. Confidential Information shall not include information which:

- (a) was public knowledge at the time of disclosure otherwise than by breach of clause E4;
- (b) was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party;
- (c) is received from a third party (who lawfully acquired it) without restriction as to its disclosure; or
- (d) is independently developed without access to the Confidential Information.

**“Contract”** means these terms and conditions, the attached Schedules and any other documents the Parties expressly agree are included.

**“Contracting Authority”** means any contracting authority (other than the Authority) as defined in regulation 3 of the Regulations.

**“Contracts Finder”** means the Government’s portal for public sector procurement opportunities.

**“Control”** means that a person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the other person (whether through the ownership of voting shares, by contract or otherwise) and **“Controls”** and **“Controlled”** are interpreted accordingly.

**“Controller”** means, where Personal Data is being processed for Law Enforcement Purposes, as it is defined in the LED; and in all other circumstances, as it is defined in GDPR.

**“Copyright”** means as it is defined in s.1 of Part 1 Chapter 1 of the Copyright, Designs and Patents Act 1988.

**“Crown”** means the government of the United Kingdom (including the Northern Ireland Executive Committee and Northern Ireland Departments, the Scottish Executive and the National Assembly for Wales), including, but not limited to, government ministers, government departments, government offices and government agencies and **“Crown Body”** is an emanation of the foregoing.

**“Data Loss Event”** means any event which results, or may result, in unauthorised access to Personal Data held by the Supplier under the Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of the Contract, including any Personal Data.

**“Data Protection Impact Assessment”** means an assessment by the Controller of the effect of the envisaged processing on the protection of Personal Data.

**“Data Protection Legislation”** means:

- (a) the GDPR, the LED and applicable implementing Laws;



- (b) the DPA 2018 (subject to Royal Assent) to the extent that it relates to the processing of Personal Data and privacy; and
- (c) all applicable Laws relating to the processing of Personal Data and privacy.

**“Data Protection Officer”** means as it is defined in the GDPR.

**“Data Subject”** means as it is defined in the GDPR.

**“Data Subject Request”** means 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.

**“Database Rights”** means as rights in databases are defined in s.3A of Part 1 Chapter 1 of the Copyright, Designs and Patents Act 1988.

**“Default”** means any breach of the obligations or warranties of the relevant Party (including abandonment of the Contract in breach of its terms, repudiatory breach or breach of a fundamental term) or any other default, act, omission, negligence or statement of the relevant Party or the Staff in connection with the subject-matter of the Contract and in respect of which such Party is liable to the other.

**“DOTAS”** means the Disclosure of Tax Avoidance Schemes rules which require a promotor of tax schemes to tell HMRC of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Part 7 of the Finance Act and as extended to NICs by the National Insurance (Application of Part 7 of the Finance Act 2004) regulations 2012, SI 2012/1868 made under section 132A of the Social Security Administration Act 1992.

**“DPA 2018”** means the Data Protection Act 2018.

**“EIR”** means the Environmental Information Regulations 2004 (SI 2004/3391) and any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations.

**“End Date”** means the date specified in clause A5.1.

**“Equipment”** means the Supplier’s equipment, consumables, plant, materials and such other items supplied and used by the Supplier in the delivery of the Services.

**“Extension”** means as defined in clause A5.2.

**“Financial Distress Event”** means the occurrence of one or more of the events listed in paragraph 2.1 of Schedule 12 (Financial Distress).

**“Financial Distress Service Continuity Plan”** means a plan setting out how the Service Provider will ensure the continued performance and delivery of the Services in accordance with the Contract in the event that a Financial Distress Event occurs.

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

**“Force Majeure Event”** means any event outside the reasonable control of either Party affecting its performance of its obligations under the Contract arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control and which are not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party, including acts of God, riots, war or armed conflict, acts of terrorism, acts of government, local government or regulatory bodies, for flood, storm or earthquake, or disaster but excluding any industrial dispute relating to the Supplier or the Staff or any other failure in the Supplier’s supply chain.

**“Guarantor”** means [insert name], a company registered in [insert country] with company number [insert company number] and whose registered office is at [insert registered address]. Not Used

**“GDPR”** means the General Data Protection Regulation (Regulation (EU) 2016/679).

**“General Anti-Abuse Rule”** means:

- (a) the legislation in Part 5 of the Finance Act 2013; and
- (b) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid NICs.

**“General Change in Law”** means a Change in Law where the change is of a general legislative nature (including taxation or duties of any sort affecting the Supplier) or which affects or relates to a Comparable Supply.

**“Good Industry Practice”** means standards, practices, methods and procedures conforming to the Law and 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 in a similar type of undertaking under the same or similar circumstances.

**“Goods”** means any goods supplied by the Supplier (or by a Sub-Contractor) under the Contract as specified in Schedule 1 including any modified or alternative goods.

**“Government”** means Her Majesty’s Government of the United Kingdom.

**“Government Buying Standards”** means the standards set out at:

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

**“Guidelines”** means the Guidelines for the Assessment of General Damages in Personal Injury Cases publication, in printed, ebook or electronic format.

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

**“Health and Safety Policy”** means the Ministry of Justice’s health and safety policy, available at the following web address:  
<https://intranet.justice.gov.uk/documents/2017/12/moj-corporate-health-and-safety-policy.pdf>

**“HMRC”** means HM Revenue & Customs.

**“ICT Environment”** means the Authority System and the Supplier System.

**“Information”** has the meaning given under section 84 of the FOIA.

**“Information Assets”** means definable pieces of information stored in any manner which are determined by the Authority to be valuable and relevant to the Services.

**“Initial Term”** means the period from the Commencement Date to the End Date.

**“Intellectual Property Rights”** means patents, utility models, inventions, trademarks, service marks, logos, design rights (whether registrable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, plant variety rights, Know-How, trade or business names, moral rights and other similar rights or obligations whether registrable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off.

**“ISMS”** means the Supplier’s information and management system and processes to manage information security as set out in paragraph 2.3 of Schedule H.

**“IT Health Check”** means penetration testing of systems under the Supplier’s control on which Information Assets and/or Authority Data are held which are carried out by third parties in accordance with the CHECK scheme operated by CESG or to an equivalent standard.

**“ITEPA”** means the Income Tax (Earnings and Pensions) Act 2003.

**“Key Performance Indicator”** means a key performance indicator set out in the Annex to Schedule 5 (Key Performance Indicator).

**“Key Personnel”** mean the people named in the Specification as key personnel.

**“Know-How”** means all information not in the public domain held in any form (including without limitation that comprised in or derived from drawings, data formulae, patterns, specifications, notes, samples, chemical compounds, biological materials, computer software, component lists, instructions, manuals, brochures, catalogues and process descriptions and scientific approaches and methods).

**“Law”** means law, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory

guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Supplier is bound to comply.

**“Law Enforcement Purposes”** means as it is defined in DPA 2018.

**“LED”** means the Law Enforcement Directive (Directive (EU) 2016/680).

**“Losses”** means losses, liabilities, damages, costs, fines and expenses (including legal fees on a solicitor/client basis) and disbursements and costs of investigation, litigation, settlement, judgment interest and penalties whether arising in contract, tort (including negligence), breach of statutory duty or otherwise.

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

**“Milestone”** means a significant stage or event in the development of the publication process of the Guidelines as agreed between Parties during Mobilisation & Transition.

**“Material Breach”** means a breach (including an anticipatory breach) that is serious in the widest sense of having a serious effect on the benefit which the Authority would otherwise derive from:

- (a) a substantial portion of the Contract; or
- (b) any of the obligations set out in clauses D1, E1, E2, E3, E4, E10 or I4.

**“Month”** means calendar month.

**“NICs”** means National Insurance Contributions.

**“Occasion of Tax Non-Compliance”** means:

- (a) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which is found on or after 1 April 2013 to be incorrect as a result of:
  - i) a Relevant Tax Authority successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax Abuse principle or under any tax rules or legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle;
  - ii) the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been, notified to the Relevant Tax Authority under the DOTAS or any equivalent or similar regime; and/or

- (b) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 gives rise on or after 1 April 2013 to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Commencement Date or to a civil penalty for fraud or evasion.

**“Personal Data”** means as it is defined in the GDPR.

**“Personal Data Breach”** means as it is defined in the GDPR.

**“Premises”** means the location where the Services are to be supplied as set out in the Specification.

**“Price”** means the price (excluding any applicable VAT) payable to the Supplier by the Authority under the Contract, as set out in Schedule 2 for the full and proper performance by the Supplier of its obligations under the Contract.

**“Processor”** means, where Personal Data is being processed for Law Enforcement Purposes, as it is defined in the LED; and in all other circumstances, as it is defined in GDPR.

**“Prohibited Act”** means:

- (a) to directly or indirectly offer, promise or give any person working for or engaged by the Authority a financial or other advantage to:
  - i) induce that person to perform improperly a relevant function or activity; or
  - ii) reward that person for improper performance of a relevant function or activity;
- (b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with the Contract;
- (c) an offence:
  - i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act;
  - ii) under legislation or common law concerning fraudulent acts; or
  - iii) the defrauding, attempting to defraud or conspiring to defraud the Authority;
- (d) any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct has been carried out in the UK.

**“Property”** means the property, other than real property, issued or made available to the Supplier by the Authority in connection with the Contract.

**“Protective Measures”** means appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the measures adopted.

**“Purchase Order”** the Authority’s order for the supply of the Goods and/or Services.

**“Quality Standards”** means the quality standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardization or other reputable or equivalent body (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Supplier would reasonably and ordinarily be expected to comply with, and as may be further detailed in Schedule 1.

**“Receipt”** means the physical or electronic arrival of the invoice at the address specified in clause C1.18 or at any other address given by the Authority to the Supplier for the submission of invoices from time to time.

**“Regulations”** means the Public Contract Regulations 2015 (SI 2015/102) and where appropriate the Concession Contracts Regulations 2016 (SI 2016/273).

**“Regulatory Body”** means a government department and regulatory, statutory and other entities, committees, ombudsmen and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in the Contract or any other affairs of the Authority.

**“Regulator Correspondence”** means any correspondence from the Information Commissioner's Office, or any successor body, in relation to the processing of Personal Data under the Contract.

**“Relevant Conviction”** means a conviction that is relevant to the nature of the Services or as listed by the Authority and/or relevant to the work of the Authority.

**“Relevant Requirements”** means all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State for Justice pursuant to section 9 of the Bribery Act 2010.

**“Relevant Tax Authority”** means HMRC or, if applicable, a tax authority in the jurisdiction in which the Supplier is established.

**“Replacement Supplier”** means any third-party supplier appointed by the Authority to supply any goods and/or services which are substantially similar to any of the Services in substitution for any of the Services following the expiry, termination or partial termination of the Contract.

**“Request for Information”** means a request for information under the FOIA or the EIR.

**“Results”** means any guidance, specifications, reports, studies, instructions, toolkits, plans, data, drawings, databases, patents, patterns, models, designs or other material which is:

- a) prepared by or for the Supplier for use in relation to the performance of its obligations under the Contract; or
- b) the result of any work done by the Supplier or any Staff in relation to the provision of the Services.

**“Returning Employees”** means those persons agreed by the Parties to be employed by the Supplier (and/or any Sub-Contractor) wholly or mainly in the supply of the Services immediately before the end of the Term.

**“Security Plan”** means the plan prepared by the Supplier which includes the matters set out in paragraph 3.2 of Schedule 6.

**“Security Policy Framework”** means the Government’s Security Policy Framework (available from the Cabinet Office’s Government Security Secretariat) as updated from time to time.

**“Security Test”** means a test carried out by the Supplier, the Authority or a third party to validate the ISMS and the security of all relevant processes and systems on which Information Assets and/or Authority Data are held.

**“Services”** means the services set out in Schedule 1 (including any modified or alternative services) and, where the context implies, includes the Goods.

**“Service Improvement Plan”** refers to the plan to improve service levels if there is a significant gap between the expected level of service and the service that is delivered.

**“Service Threshold”** means, in respect of each Key Performance Indicator, the minimum level of performance stated in Schedule 5 (Key Performance Indicator).

**“SME”** means an enterprise falling within the category of micro, small and medium-sized enterprises defined by the European Commission’s Recommendation of 6 May 2003 available at:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:124:0036:0041:en:PDF>

**“Specific Change in Law”** means a Change in Law that relates specifically to the business of the Authority and which would not affect a Comparable Supply.

**“Specification”** means the description of the Goods and Services to be supplied under the Contract as set out in Schedule A including, where appropriate, the Key Personnel, the Premises and the Quality Standards.

**“SSCBA”** means the Social Security Contributions and Benefits Act 1992.

**“Staff”** means all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any of its Sub-Contractors engaged in the performance of the Supplier’s obligations under the Contract.

**“Sub-Contract”** means a contract between two or more suppliers, at any stage of remoteness from the Authority in a sub-contracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of the Contract and **“Sub-Contractor”** shall be construed accordingly.

**“Sub-processor”** means any third party appointed to process Personal Data on behalf of the Supplier related to the Contract.

**“Supplier Software”** means software which is proprietary to the Supplier, including software which is or will be used by the Supplier for the purposes of providing the Services and which is set out in Schedule 5.

**“Supplier System”** means the information and communications technology system used by the Supplier in performing the Services including the Supplier Software, the Equipment and related cabling (but excluding the Authority System).

**“Tender”** means the Supplier’s tender submitted in response to the Authority’s invitation to suppliers for offers to supply the Services.

**“Term”** means the period from the Commencement Date to:

- (a) the End Date; or
- (b) following an Extension, the end date of the Extension or such earlier date of termination or partial termination of the Contract in accordance with the Law or the Contract.

**“TFEU”** means the Treaty on the Functioning of the European Union.

**“Third Party IP Claim”** has the meaning given to it in clause E7.5 (Intellectual Property Rights).

**“Third Party Software”** means software which is proprietary to any third party which is or will be used by the Supplier to provide the Services including the software.

**“Treaties”** means the TFEU and the Treaty on European Union.

**“TUPE”** means the Transfer of Undertakings (Protection of Employment) Regulations 2006.

**“TUPE Information”** means the information set out in clause B17.1.

**“Valid Invoice”** means an invoice containing the information set out in clause C1.5.

**“VAT”** means value added tax charged or regulated in accordance with the Value-Added Tax Act 1994.



**“VCSE”** means a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives.

**“Vulnerability Correction Plan”** means a remedial plan prepared by the Supplier to address vulnerabilities identified in an IT Health Check report.

**“Welsh Language Scheme”** means the Authority’s Welsh language scheme as amended from time to time and available at:

<http://www.justice.gov.uk/publications/corporate-reports/moj/2010/welsh-language-scheme>

**“Working Day”** means a day (other than a Saturday or Sunday) on which banks are open for general business in the City of London.

*In the Contract, unless the context implies otherwise:*

- (a) the singular includes the plural and vice versa;
- (b) words importing the masculine include the feminine and the neuter;
- (c) reference to a clause is a reference to the whole of that clause unless stated otherwise;
- (d) references to a person include natural persons, a company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or central Government body;
- (e) the words “other”, “in particular”, “for example”, “including” and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words “without limitation”;
- (f) headings are included for ease of reference only and shall not affect the interpretation or construction of the Contract;
- (g) the Schedules form an integral part of the Contract and have effect as if set out in full in the body of the Contract. A reference to the Contract includes the Schedules;
- (h) a reference to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time; and
- (i) references to the Contract are references to the Contract as amended from time to time.

## **A2 Authority Obligations**

A2.1 Save as expressly provided, the Authority’s obligations under the Contract are the Authority’s obligations in its capacity as a contracting counterparty and

nothing in the Contract operates as an obligation on, or in any other way fetters or constrains, the Authority in any other capacity.

- A2.2 The exercise by the Authority of its duties and powers in any other capacity shall not make it liable to the Supplier in any way.

### **A3 Supplier's Status**

- A3.1 The Supplier is an independent contractor and nothing in the Contract creates a contract of employment, a relationship of agency or partnership or a joint venture between the Parties and accordingly neither Party is authorised to act in the name of, or on behalf of, or otherwise bind the other Party save as expressly permitted by the Contract.
- A3.2 The Supplier shall not (and shall ensure that any other person engaged in relation to the Contract shall not) say or do anything that might lead another person to believe that the Supplier is acting as the agent or employee of the Authority.

### **A4 Mistakes in Information**

The Supplier is responsible for the accuracy of all drawings, documentation and information supplied to the Authority by the Supplier in connection with the Services and shall pay the Authority any extra costs occasioned by any discrepancies, errors or omissions therein. This Clause shall not apply to discrepancies, errors, or omissions that arise from material provided by the Authority to the Supplier.

### **A5 Term**

- A5.1 The Contract commences on 29<sup>th</sup> March 2019 (the "**Commencement Date**") and ends on 28<sup>th</sup> March 2023 (the "**End Date**") unless it is terminated early or extended in accordance with the terms of this Contract.
- A5.2 The Authority may extend the term of the Contract until 28th March 2025 ("**Extension**"). The terms of the Contract will apply throughout the period of any Extension.
- A5.3 This clause A5 allows for the continued marketing and sale of the 16th edition of the Work (and, subject to extension, the 17th edition) until the publication of future editions not covered by this Contract.

## **B. THE GOODS AND SERVICES**

### **B1 Basis of the Contract**

- B1.1 In consideration of the Supplier's performance of its obligations under the Contract the Authority shall pay the Supplier the Price in accordance with clause C1.

- B1.2 The terms and conditions contained in the Contract apply to the exclusion of any other terms and conditions the Supplier seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

## **B2 Samples**

- B2.1 If requested by the Authority the Supplier shall provide the Authority with samples of Goods for evaluation and Approval.
- B2.2 The Supplier shall ensure that the Goods conform in all respects with the Specification.
- B2.3 The Supplier acknowledges that the Authority relies on the skill and judgment of the Supplier in the supply of the Goods and the performance of the Supplier's obligations under the Contract.

## **B3 Delivery**

- B3.1 Unless otherwise stated in the Specification, if the Goods are delivered by the Supplier, delivery is completed when the Goods are signed for by the Authority. If the Goods are collected by the Authority, the point of delivery is when the Goods are loaded on the Authority's vehicle.
- B3.2 Except where otherwise provided in the Contract, delivery includes the unloading, stacking or installation of the Goods by the Staff or the Supplier or carriers at such place as the Authority or duly authorised person reasonably directs.
- B3.3 The Authority is deemed to have accepted the Goods if it expressly states the same in writing or fails to reject the Goods in accordance with clause B4.7.
- B3.4 The issue by the Authority of a receipt note for delivery of the Goods does not constitute any acknowledgement of the condition, quantity or nature of those Goods or the Authority's acceptance of them.
- B3.5 Any access to the Premises and any labour and equipment provided by the Authority in connection with delivery is provided without acceptance by the Authority of any liability whatsoever to the extent permitted by law.
- B3.6 Where access to the Premises is necessary in connection with delivery of the Goods, the Supplier and its Sub-Contractors shall at all times comply with the security requirements of the Authority.
- B3.7 The Authority is under no obligation to accept or pay for any Goods supplied earlier than the date for delivery stated in the Specification.
- B3.8 The Authority is under no obligation to accept or pay for any Goods delivered in excess of the quantity ordered. If the Authority elects not to accept such over-delivered Goods it shall give notice to the Supplier to remove them within 5 Working Days and to refund to the Authority any expenses incurred by it as a result of such over-delivery (including but not limited to the costs of moving

and storing the Goods), failing which the Authority may dispose of such Goods and charge the Supplier for the costs of such disposal. The risk in any over-delivered Goods remains with the Supplier unless they are accepted by the Authority.

- B3.9 Unless expressly agreed to the contrary, the Authority shall not accept delivery by instalments. If the Authority specifies or agrees to delivery by instalments, delivery of any instalment later than the date specified or agreed for its delivery shall, without prejudice to any other rights or remedies of the Authority, entitle the Authority to terminate the whole of any unfulfilled part of the Contract without further liability to the Authority.
- B3.10 Timely supply of the Goods is of the essence of the Contract, including in relation to commencing the supply of the Goods within the time agreed or on a specified date. If the Supplier fails to deliver the Goods within the time promised or specified in the Specification, the Authority is released from any obligation to accept and pay for the Goods and may terminate the Contract, in either case without prejudice to any other rights and remedies of the Authority.

#### **B4 Quality**

- B4.1 The Supplier shall perform its obligations under the Contract:
- (a) with appropriately experienced, qualified and trained personnel with all due skill, care and diligence;
  - (b) in accordance with Good Industry Practice; and
  - (c) in compliance with all applicable Laws.
- B4.2 The Supplier shall ensure the Goods:
- (a) correspond with their description;
  - (b) conform with the Specification;
  - (c) conform, if applicable, with any sample which has been Approved;
  - (d) operate in accordance with the relevant technical specifications;
  - (e) be of satisfactory quality within the meaning of the Sale of Goods Act 1979;
  - (f) conform in all respects with all applicable Laws; and
  - (g) are free from defects in design, materials and workmanship and are fit and sufficient for all the purposes for which such goods are ordinarily used and for any particular purpose made known to the Supplier by the Authority.

- B4.3 The Authority may inspect and test the Goods at any time on reasonable notice. The Supplier shall provide at its own cost all such facilities as the Authority may reasonably require for such inspection and testing.
- B4.4 If, following such inspection or testing, the Authority considers that the Goods do not conform or are unlikely to conform with the Supplier's undertakings in clauses B4.1 and B4.2, the Authority may enforce one or more of its rights set out in clause B4.7.
- B4.5 Notwithstanding any inspection or testing, the Supplier remains fully responsible for the Goods and any inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract, and the Authority may conduct further inspections and tests after the Supplier has carried out its remedial actions.
- B4.6 If reasonably requested to do so by the Authority, the Supplier shall co-ordinate its activities in supplying the Goods with those of the Authority and other contractors engaged by the Authority.
- B4.7 Pursuant to clause B4.4, the Authority may by notice to the Supplier:
- (a) reject any of the Goods;
  - (b) have the Goods promptly, free of charge and in any event within 5 Working Days, either repaired by the Supplier or replaced by the Supplier with Goods which conform in all respects with the approved sample or with the Specification and due delivery shall not be deemed to have taken place until such repair or replacement has occurred; and/or
  - (c) treat the Contract as discharged by the Supplier's breach and obtain a refund (if payment for the Goods has already been made) from the Supplier in respect of the Goods concerned together with payment of any additional expenditure reasonably incurred by the Authority in obtaining other goods in replacement.
- B4.8 Any Goods rejected or returned by the Authority as set out in clause B4.7 shall be returned to the Supplier at the Supplier's risk and expense.
- B4.9 The Supplier hereby guarantees the Goods against faulty materials or workmanship for such period as may be specified in the Specification or, if no period is specified, for a period of 18 months from the date of delivery. If the Authority within such period or within 25 Working Days thereafter gives notice to the Supplier of any defect in any of the Goods as may have arisen during such period under proper and normal use, the Supplier shall (without prejudice to any other rights and remedies which the Authority may have) promptly remedy such defects (whether by repair or replacement as the Authority shall elect) free of charge.

- B4.10 The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract in respect of the Goods.

## **B5 Risk and Ownership**

- B5.1 Subject to clauses B4.4 and B4.5, risk in the Goods shall, without prejudice to any other rights or remedies of the Authority (including the Authority's rights and remedies under clause F1 (Contract Performance)), pass to the Authority on completion of delivery.
- B5.2 Title in the Goods shall, without prejudice to any other rights or remedies of the Authority (including the Authority's rights and remedies under clause F1), pass to the Authority on completion of delivery (or payment, if earlier).

## **B6 Non-Delivery**

- B6.1 On dispatch of any consignment of the Goods the Supplier shall send the Authority a note specifying the means of transport, the place and date of dispatch, the number of packages and their weight and volume.
- B6.2 If the Goods are not delivered to the Authority on the agreed date for delivery, the Authority shall, within 20 Working Days of that date, give notice to the Supplier that the Goods have not been delivered and may:
- (a) request the Supplier to deliver substitute Goods free of charge by a date specified by the Authority;
  - (b) subject to clause G1.3 claim damages for any other costs, expenses or losses resulting from the Supplier's failure to deliver; or
  - (c) terminate the Contract with immediate effect.

## **B7 Labelling and Packaging**

- B7.1 The Supplier shall ensure that the Goods are labelled and packaged in accordance with the Contract.
- B7.2 The Supplier shall comply with the Packaging & Packaging Waste Directive (94/62/EC), implemented in the UK by the Packaging (Essential Requirements) Regulations 2015 (SI 2015/1640). The container in which the Goods are held shall be labelled with the Supplier's name, the net, gross and tare weights, and contain a description of its contents.

## **B8 Training**

Not used.

## **B9 Services**

- B9.1 The Supplier shall at all times comply with the Quality Standards and, where applicable, shall maintain accreditation with the relevant Quality Standards authorisation body. To the extent that the standard of the Service has not been specified in the Contract, the Supplier shall agree the relevant standard of the Services with the Authority prior to the supply of the Services and, in any event, the Supplier shall perform its obligations under the Contract in accordance with the Law and Good Industry Practice.
- B9.2 The Supplier acknowledges that the Authority relies on the skill and judgment of the Supplier in the supply of the Services and the performance of the Supplier's obligations under the Contract.
- B9.3 The Supplier shall ensure that all Staff supplying the Services do so with all due skill, care and diligence and shall possess such qualifications, skills and experience as are necessary for the proper supply of the Services. The Supplier shall ensure that those Staff are properly managed and supervised.
- B9.4 Not used.
- B9.5 Not used.
- B9.6 Not used.
- B9.7 Not used.
- B9.8 Not used.
- B9.9 If reasonably requested to do so by the Authority, the Supplier shall co-ordinate its activities in supplying the Services with those of the Authority and other contractors engaged by the Authority.
- B9.10 Timely supply of the Services is of the essence of the Contract, including in relation to commencing the supply of the Services within the time agreed or on a specified date. If the Supplier fails to supply the Services within the time promised or specified in the Specification, the Authority is released from any obligation to pay for the Services and may terminate the Contract, in either case without prejudice to any other rights and remedies of the Authority.
- B9.11 If the Authority informs the Supplier in writing that the Authority reasonably believes that any part of the Services do not meet the requirements of the Contract or differs in any way from those requirements, and this is not as a result of a default by the Authority, the Supplier shall at its own expense re-schedule and carry out the Services in accordance with the requirements of the Contract within such reasonable time as may be specified by the Authority.
- B9.12 Not used.

## **B10 Equipment**

Not used.

## **B11 Key Personnel**

Not used.

## **B12 Staff**

B12.1 The Authority may, by notice to the Supplier, refuse to admit onto, or withdraw permission to remain on, the Authority's Premises:

- (a) any member of the Staff; or
- (b) any person employed or engaged by any member of the Staff whose admission or continued presence would, in the Authority's reasonable opinion, be undesirable.

B12.2 The Supplier shall comply with all security requirements of the Authority while on the Authority's Premises and ensure that all Staff comply with such requirements.

B12.3 The Supplier shall not, and shall procure that all Staff shall not, take photographs on the Authority's Premises without Approval.

B12.4 At the Authority's written request, the Supplier shall, at its own cost, provide a list of the names, addresses, national insurance numbers and immigration status of all people who may require admission to the Authority's Premises, specifying the capacities in which they are concerned with the Contract and giving such other particulars as the Authority may reasonably request.

B12.5 The Supplier shall ensure that all Staff who have access to the Authority's Premises, the Authority System or the Authority Data have been cleared in accordance with the BPSS.

B12.6 The Supplier shall co-operate with any investigation relating to security carried out by the Authority or on behalf of the Authority and, at the Authority's request:

- (a) use reasonable endeavours to make available any Staff requested by the Authority to attend an interview for the purpose of an investigation; and
- (b) provide documents, records or other material in whatever form which the Authority may reasonably request or which may be requested on the Authority's behalf, for the purposes of an investigation.



**B13 Not used**

**B14 Not used**

**B15 Not used**

**B16 Offers of Employment**

- B16.1 Neither Party shall, directly or indirectly, solicit or procure (otherwise than by general advertising or under TUPE, any employees or contractors (including the Staff) of the other Party who are directly employed or engaged in connection with the provision of the Services while such persons are employed or engaged and for a period of 6 Months thereafter.
- B16.2 If either Party breaches the clause B16.1, it shall pay the other Party a sum equivalent to 20% of the annual base salary payable by the Party in breach in respect of the first year of person's employment.
- B16.3 The Parties agree that the sum specified in clause B16.2 is a reasonable pre-estimate of the loss and damage which the party not in breach would suffer if there was a breach of clause B16.1

**B17 Employment**

- B17.1 No later than 12 Months prior to the end of the Term, the Supplier shall fully and accurately disclose to the Authority all information the Authority may reasonably request in relation to the Staff including the following:
- (a) the total number of Staff whose employment/engagement terminates at the end of the Term, save for any operation of Law;
  - (b) the age, gender, salary or other remuneration, future pay settlements and redundancy and pensions entitlement of the Staff referred to in clause B17.1 (a);
  - (c) the terms and conditions of employment/engagement of the Staff referred to in clause B17.1 (a), their job titles and qualifications;
  - (d) their immigration status;
  - (e) details of any current disciplinary or grievance proceedings ongoing or circumstances likely to give rise to such proceedings and details of any claims current or threatened; and
  - (f) details of all collective agreements with a brief summary of the current state of negotiations with any such bodies and with details of any current industrial disputes and claims for recognition by any trade union.

- B17.2 At intervals determined by the Authority (which shall not be more frequent than once every 30 days) the Supplier shall give the Authority updated TUPE Information.
- B17.3 Each time the Supplier supplies TUPE Information to the Authority it warrants its completeness and accuracy and the Authority may assign the benefit of this warranty to any Replacement Supplier.
- B17.4 The Authority may use TUPE Information it receives from the Supplier for the purposes of TUPE and/or any retendering process in order to ensure an effective handover of all work in progress at the end of the Term. The Supplier shall provide the Replacement Supplier with such assistance as it shall reasonably request.
- B17.5 If TUPE applies to the transfer of the Services on termination of the Contract, the Supplier indemnifies and keeps indemnified the Authority, the Crown and any Replacement Supplier against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which the Authority or the Crown or any Replacement Supplier may suffer or incur as a result of or in connection with:
- (a) the provision of TUPE Information;
  - (b) any claim or demand by any Returning Employee (whether in contract, tort, under statute, pursuant to EU Law or otherwise) in each case arising directly or indirectly from any act, fault or omission of the Supplier or any Sub-Contractor in respect of any Returning Employee on or before the end of the Term;
  - (c) any failure by the Supplier or any Sub-Contractor to comply with its obligations under regulations 13 or 14 of TUPE or any award of compensation under regulation 15 of TUPE save where such failure arises from the failure of the Authority or a Replacement Supplier to comply with its duties under regulation 13 of TUPE;
  - (d) any claim (including any individual employee entitlement under or consequent on such a claim) by any trade union or other body or person representing any Returning Employees arising from or connected with any failure by the Supplier or any Sub-Contractor to comply with any legal obligation to such trade union, body or person; and
  - (e) any claim by any person who is transferred by the Supplier to the Authority and/or a Replacement Supplier whose name is not included in the list of Returning Employees.
- B17.6 If the Supplier is aware that TUPE Information has become inaccurate or misleading, it shall notify the Authority and provide the Authority with up to date and accurate TUPE Information.
- B17.7 This clause B17 applies during the Term and indefinitely thereafter.

**B17.8** The Supplier undertakes to the Authority that, during the 12 Months prior to the end of the Term the Supplier shall not (and shall procure that any Sub-Contractor shall not) without Approval (such Approval not to be unreasonably withheld or delayed):

- (a) amend or vary (or purport to amend or vary) the terms and conditions of employment or engagement (including, for the avoidance of doubt, pay) of any Staff (other than where such amendment or variation has previously been agreed between the Supplier and the Staff in the normal course of business and where any such amendment or variation is not in any way related to the transfer of the Services);
- (b) terminate or give notice to terminate the employment or engagement of any Staff (other than in circumstances in which the termination is for reasons of misconduct or lack of capability or is not in any way related to the transfer of the Services);
- (c) transfer away, remove, reduce or vary the involvement of any other Staff from or in the provision of the Services (other than where such transfer or removal: (i) was planned as part of the individual's career development; (ii) takes place in the normal course of business; and (iii) will not have any adverse impact upon the delivery of the Services by the Supplier, (provided that any such transfer, removal, reduction or variation is not in any way related to the transfer of the Services); or
- (d) recruit or bring in any new or additional individuals to provide the Services who were not already involved in providing the Services prior to the relevant period.

## **C PAYMENT**

### **C1 Payment and VAT**

**C1.1** The Supplier shall pay the Authority the Contract Payment, in accordance with the Payment & Pricing Schedule

**C1.2** Should the Authority require additional goods, the party shall agree the format of a valid invoice.

The Authority shall, in addition to the Price and following Receipt of a Valid Invoice, pay the Supplier a sum equal to the VAT chargeable on the value of the Services supplied in accordance with the Contract.

**C1.3** The Supplier shall add VAT to the Price at the prevailing rate as applicable and show the amount of VAT payable separately on all invoices as an extra charge. If the Supplier fails to show VAT on an invoice, the Authority is not, at any later date, liable to pay the Supplier any additional VAT.

**C1.4** All Supplier invoices shall be expressed in sterling or any other currency which is Approved.

C1.5 A Valid Invoice is an invoice which includes:

- (a) the Supplier's full name, address and title of the Contract;
- (b) (if Goods are included in the Specification) a description and quantity of the Goods delivered including batch numbers;
- (c) the Purchase Order number;

**and, if requested by the Authority:**

- (d) timesheets for Staff engaged in providing the Services signed and dated by the Authority's representative on the Premises on the day;
- (e) the name of the individuals to whom the timesheet relates and hourly rates for each;
- (f) identification of which individuals are Supplier's staff and which are Sub-Contractors' staff;
- (g) the address of the Premises and the date on which work was undertaken;
- (h) the time spent working on the Premises by the individuals concerned;
- (i) details of the type of work undertaken by the individuals concerned;
- (j) details of plant or materials operated and on standby;
- (k) separate identification of time spent travelling and/or meal or rest breaks; and
- (l) if appropriate, details of journeys made and distances travelled.

C1.6 The Authority shall not pay the Supplier's overhead costs unless Approved and overhead costs include, without limitation: facilities, utilities, insurance, tax, head office overheads, indirect staff costs and other costs not specifically and directly ascribable solely to the provision of the Services.

C1.7 If Schedule 2 expressly provides that the Authority may be charged for plant which is on standby then if plant was waiting to be transferred between Premises or if the Authority has instructed that the plant is retained on the Premises then a standby charge of 60% of agreed rates may be made in respect of such relevant periods if supported by timesheets.

C1.8 The Authority shall not pay a stand-by rate if plant is on standby because no work was being carried out on the Premises at that time or no operator or other relevant staff were available (unless the standby is because the Supplier is awaiting licensing of the Premises on the Authority's instructions).

- C1.9 The Authority shall not pay for plant or equipment which is stood down during any notice period pursuant to clauses H1, H2 and/or H3 and the Supplier shall mitigate such costs as far as is reasonably possible, for example, by reutilising Staff, plant, materials and services on other contracts.
- C1.10 The Supplier may claim expenses only if they are clearly identified, supported by original receipts and Approved.
- C1.11 If the Authority pays the Supplier prior to the submission of a Valid Invoice this payment is on account of and deductible from the next payment to be made.
- C1.12 If any overpayment has been made or the payment or any part is not supported by a Valid Invoice the Authority may recover this payment against future invoices raised or directly from the Supplier. All payments made by the Authority to the Supplier are on an interim basis pending final resolution of an account with the Supplier in accordance with the terms of this clause C1.
- C1.13 The Authority shall pay all sums due to the Supplier within 30 days of Receipt of a Valid Invoice. Valid Invoices should be submitted for payment to the following address:  
  
Not Applicable
- C1.14 Any late payment of undisputed invoices by the Authority will be subject to interest at the rate of a maximum of 3% above the base rate from time to time of Barclays Bank.
- C1.15 The Supplier shall ensure that a provision is included in all Sub-Contracts which requires payment to be made of all sums due to Sub-Contractors within 30 days from the receipt of a valid invoice.
- C1.16 The Supplier indemnifies the Authority on a continuing basis against any liability, including any interest, penalties or costs incurred, which is levied, demanded or assessed on the Authority at any time in respect of the Supplier's failure to account for or to pay any VAT relating to payments made to the Supplier under the Contract. Any amounts due under this clause C1.16 shall be paid by the Supplier to the Authority not less than 5 Working Days before the date upon which the tax or other liability is payable by the Authority.
- C1.17 The Supplier shall not suspend the Services unless the Supplier is entitled to terminate the Contract under clause H2.3 for failure to pay undisputed sums of money.
- C1.18 The Authority shall not pay an invoice which is not a Valid Invoice.

## **C2 Not used**

### **C3 Price During Extension**

Subject to Schedule 2 and clause F4 (Change), the Price applies for the Initial Term and until the end of any Extension or such earlier date of termination or partial termination of the Contract in accordance with the Law or the Contract.

## **D STATUTORY OBLIGATIONS AND CORPORATE SOCIAL RESPONSIBILITY REQUIREMENTS**

The Supplier shall, at all times during the Term, comply with its obligations and the standards and requirements set out in Schedule 10.

## **E PROTECTION OF INFORMATION**

### **E1 Authority Data**

E1.1 The Supplier shall:

- (a) not store, copy, disclose, or use the Authority Data except as necessary for the performance by the Supplier of its obligations under the Contract or as otherwise Approved;
- (b) preserve the integrity of Authority Data and prevent the corruption or loss of Authority Data;
- (c) not delete or remove any proprietary notices contained within or relating to the Authority Data;
- (d) to the extent that Authority Data is held and/or processed by the Supplier, supply Authority Data to the Authority as requested by the Authority in the format specified in the Specification;
- (e) perform secure back-ups of all Authority Data and ensure that up-to-date back-ups are stored securely off-site. The Supplier shall ensure that such back-ups are made available to the Authority immediately upon request;
- (f) ensure that any system on which the Supplier holds any Authority Data, including back-up data, is a secure system that complies with the Security Policy Framework;
- (g) identify, and disclose to the Authority on request those members of Staff with access to or who are involved in handling Authority Data;

- (h) on request, give the Authority details of its policy for reporting, managing and recovering from information risk incidents, including losses of Personal Data, and its procedures for reducing risk;
- (i) notify the Authority immediately and inform the Authority of the remedial action the Supplier proposes to take if it has reason to believe that Authority Data has or may become corrupted, lost or sufficiently degraded in any way for any reason; and
- (j) comply with Schedule 9 (Security Requirements and Policy).

E1.2 If Authority Data is corrupted, lost or sufficiently degraded as a result of the Supplier's Default so as to be unusable, the Authority may:

- (a) require the Supplier (at the Supplier's cost) to restore or procure the restoration of Authority Data and the Supplier shall do so promptly; and/or
- (b) itself restore or procure the restoration of Authority Data, and be repaid by the Supplier any reasonable costs incurred in doing so.

## **E2 Data Protection and Privacy**

E2.1 The Parties acknowledge that for the purposes of Data Protection Legislation, the Authority is the Controller and the Supplier is the Processor. The only processing which the Authority has authorised the Supplier to do is listed in Schedule 11 and may not be determined by the Supplier.

E2.2 The Supplier shall:

- (a) notify the Authority immediately if it considers any Authority instructions infringe the Data Protection Legislation;
- (b) at its own cost, provide all reasonable assistance to the Authority in the preparation of any Data Protection Impact Assessment prior to starting any processing. Such assistance may, at the Authority's discretion, include:
  - i) a systematic description of the envisaged processing operations and the purpose of the processing;
  - ii) an assessment of the necessity and proportionality of the processing operations in relation to the Services;
  - iii) an assessment of the risks to the rights and freedoms of Data Subjects; and

- iv) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data
- (c) in relation to any Personal Data processed in connection with its obligations under the Contract:
  - i) process that Personal Data only in accordance with Schedule 10 unless the Supplier is required to do otherwise by Law. If it is so required the Supplier shall promptly notify the Authority before processing the Personal Data unless prohibited by Law;
  - ii) ensure that it has in place Protective Measures which are appropriate to protect against a Data Loss Event having taken account of the nature of the data to be protected, harm that might result from a Data Loss Event, the state of technological development and the cost of implementing any measures
- (d) ensure that:
  - i) Staff do not process Personal Data except in accordance with the Contract (and in particular Schedule 9);
  - ii) it takes all reasonable steps to ensure the reliability and integrity of any Staff who have access to Personal Data and ensure that they:
    - A) are aware of and comply with the Supplier's duties under this clause E2;
    - B) are subject to appropriate confidentiality undertakings with the Supplier or any Sub-processor;
    - C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Authority or as otherwise permitted by the Contract;
    - D) have undergone adequate training in the use, care, protection and handling of the Personal Data
- (e) not transfer Personal Data outside the EU unless Approved and:
  - i) the Authority or the Supplier has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or s.75 of the DPA 2018) as determined by the Authority;
  - ii) the Data Subject has enforceable rights and effective legal remedies;



- iii) the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Authority in meeting its obligations); and
  - iv) the Supplier complies with any reasonable instructions notified to it in advance by the Authority with respect to the processing of the Personal Data
- (f) at the written direction of the Authority, delete or return Personal Data (and any copies of it) to the Authority on termination of the Contract unless the Supplier is required by Law to retain the Personal Data;
- (g) subject to clause 2.3, notify the Authority immediately if it:
  - i) receives a Data Subject Request (or purported Data Subject Request);
  - ii) receives a request to rectify, block or erase any Personal Data;
  - iii) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
  - iv) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under the Contract;
  - v) receives a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
  - vi) becomes aware of a Data Loss Event.

E2.3 The Supplier's obligation to notify under clause E2.2 (g) includes the provision of further information to the Authority in phases as details become available.

E2.4 Taking into account the nature of the processing, the Supplier shall provide the Authority with full assistance in relation to either Party's obligations under the Data Protection Legislation and any complaint, communication or request made under clause E2.2 (g) (and insofar as possible within the timescales reasonably required by the Authority) including by promptly providing:

- (a) the Authority with full details and copies of the complaint, communication or request;

- (b) such assistance as is reasonably requested by the Authority to enable the Authority to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation;
  - (c) the Authority, at its request, with any Personal Data it holds in relation to a Data Subject;
  - (d) assistance as requested by the Authority following any Data Loss Event; and
  - (e) assistance as requested by the Authority with respect to any request from the Information Commissioner's Office or any consultation by the Authority with the Information Commissioner's Office.
- E2.5 The Supplier shall maintain complete and accurate records and information to demonstrate its compliance with this clause E2. This requirement does not apply if the Supplier employs fewer than 250 people unless the Authority 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; and
  - (c) is likely to result in a risk to the rights and freedoms of Data Subjects.
- E2.6 The Supplier shall allow for audits of its Data Processing activity by the Authority or the Authority's designated auditor.
- E2.7 The Supplier shall designate a Data Protection Officer if required by the Data Protection Legislation.
- E2.8 Before allowing any Sub-processor to process any Personal Data in connection with the Contract, the Supplier shall:
- (a) notify the Authority in writing of the intended Sub-processor and processing;
  - (b) obtain Approval;
  - (c) enter into a written agreement with the Sub-processor which gives effect to the terms set out in this clause E2 such that they apply to the Sub-processor; and
  - (d) provide the Authority with such information regarding the Sub-processor as the Authority reasonably requires.
- E2.9 The Supplier remains fully liable for the acts and omissions of any Sub-processor.

- E2.10 Notwithstanding the provisions of clause F4, the Authority may, at any time on not less than 30 Working Days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to the Contract).
- E2.11 The Parties shall take account of any guidance published by the Information Commissioner's Office and, notwithstanding the provisions of clause F4, the Authority may on not less than 30 Working Days' notice to the Supplier amend the Contract to ensure that it complies with any guidance published by the Information Commissioner's Office.
- E2.12 In relation to Personal Data processed for Law Enforcement Purposes, the Supplier shall:
- (a) maintain logs for its processing operations in respect of:
    - i) collection;
    - ii) alteration;
    - iii) consultation;
    - iv) disclosure (including transfers);
    - v) combination; and
    - vi) erasure.

(together the "**Logs**").
  - (b) ensure that:
    - i) the Logs of consultation make it possible to establish the justification for, and date and time of, the consultation; and as far as possible, the identity of the person who consulted the data;
    - ii) the Logs of disclosure make it possible to establish the justification for, and date and time of, the disclosure; and the identity of the recipients of the data; and
    - iii) the Logs are made available to the Information Commissioner's Office on request
  - (c) use the Logs only to:
    - i) verify the lawfulness of processing;

- ii) assist with self-monitoring by the Authority or (as the case may be) the Supplier, including the conduct of internal disciplinary proceedings;
  - iii) ensure the integrity of Personal Data; and
  - iv) assist with criminal proceedings
- (d) as far as possible, distinguish between Personal Data based on fact and Personal Data based on personal assessments; and
- (e) where relevant and as far as possible, maintain a clear distinction between Personal Data relating to different categories of Data Subject, for example:
  - i) persons suspected of having committed or being about to commit a criminal offence;
  - ii) persons convicted of a criminal offence;
  - iii) persons who are or maybe victims of a criminal offence; and
  - iv) witnesses or other persons with information about offences.

E2.13 This clause E2 applies during the Term and indefinitely after its expiry.

### **E3 Official Secrets Acts and Finance Act**

E3.1 The Supplier shall comply with:

- (a) the Official Secrets Acts 1911 to 1989; and
- (b) section 182 of the Finance Act 1989.

### **E4 Confidential Information**

- E4.1 Except to the extent set out in this clause E4 or if disclosure or publication is expressly allowed elsewhere in the Contract each Party shall treat all Confidential Information belonging to the other Party as confidential and shall not disclose any Confidential Information belonging to the other Party to any other person without the other Party's consent, except to such persons and to such extent as may be necessary for the performance of the Party's obligations under the Contract.
- E4.2 The Supplier hereby gives its consent for the Authority to publish the whole Contract (but with any information which is Confidential Information belonging to the Authority redacted) including from time to time agreed changes to the Contract, to the general public.

- E4.3 If required by the Authority, the Supplier shall ensure that Staff, professional advisors and consultants sign a non-disclosure agreement prior to commencing any work in connection with the Contract in a form approved by the Authority. The Supplier shall maintain a list of the non-disclosure agreements completed in accordance with this clause E4.3.
- E4.4 If requested by the Authority, the Supplier shall give the Authority a copy of the list and, subsequently upon request by the Authority, copies of such of the listed non-disclosure agreements as required by the Authority. The Supplier shall ensure that Staff, professional advisors and consultants are aware of the Supplier's confidentiality obligations under the Contract.
- E4.5 The Supplier may disclose the Authority's Confidential Information only to Staff who are directly involved in providing the Services and who need to know the information, and shall ensure that such Staff are aware of and shall comply with these obligations as to confidentiality.
- E4.6 The Supplier shall not, and shall procure that the Staff do not, use any of the Authority's Confidential Information received otherwise than for the purposes of the Contract.
- E4.7 Clause E4.1 shall not apply to the extent that:
- (a) such disclosure is a requirement of Law placed upon the Party making the disclosure, including any requirements for disclosure under the FOIA or the EIR;
  - (b) such information was in the possession of the Party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;
  - (c) such information was obtained from a third party without obligation of confidentiality;
  - (d) such information was already in the public domain at the time of disclosure otherwise than by a breach of the Contract; or
  - (e) it is independently developed without access to the other Party's Confidential Information.
- E4.8 Nothing in clause E4.1 prevents the Authority disclosing any Confidential Information obtained from the Supplier:
- (a) for the purpose of the examination and certification of the Authority's accounts;
  - (b) for the purpose of any examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources;
  - (c) to Parliament and Parliamentary committees;

(d) to any Crown Body or any Contracting Authority and the Supplier hereby acknowledges that all government departments or Contracting Authorities receiving such Confidential Information may further disclose the Confidential Information to other government departments or other Contracting Authorities on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any government department or any Contracting Authority; or

(e) to any consultant, contractor or other person engaged by the Authority

provided that in disclosing information under clauses E4.8 (d) and (e) the Authority discloses only the information which is necessary for the purpose concerned and requests that the information is treated in confidence and that a confidentiality undertaking is given where appropriate.

E4.9 Nothing in clauses E4.1 to E4.6 prevents either Party from using any techniques, ideas or Know-How gained during the performance of its obligations under the Contract in the course of its normal business, to the extent that this does not result in a disclosure of the other Party's Confidential Information or an infringement of the other Party's Intellectual Property Rights.

E4.10 The Authority shall use reasonable endeavours to ensure that any government department, Contracting Authority, employee, third party or Sub-Contractor to whom the Supplier's Confidential Information is disclosed pursuant to clause E4.6 is made aware of the Authority's obligations of confidentiality.

E4.11 If the Supplier does not comply with clauses E4.1 to E4.8 the Authority may terminate the Contract immediately on notice.

E4.12 To ensure that no unauthorised person gains access to any Confidential Information or any data obtained in the supply of the Services, the Supplier shall maintain adequate security arrangements that meet the requirements of professional standards and best practice.

E4.13 The Supplier shall:

(a) immediately notify the Authority of any breach of security in relation to Confidential Information and all data obtained in the supply of the Services and will keep a record of such breaches;

(b) use best endeavours to recover such Confidential Information or data however it may be recorded;

(c) co-operate with the Authority in any investigation as a result of any breach of security in relation to Confidential Information or data; and

(d) at its own expense, alter any security systems at any time during the Term at the Authority's request if the Authority reasonably believes the Supplier has failed to comply with clause E4.12.

## **E5 Freedom of Information**

- E5.1 The Supplier acknowledges that the Authority is subject to the requirements of the FOIA and the EIR.
- E5.2 The Supplier shall transfer to the Authority all Requests for Information that it receives as soon as practicable and in any event within 2 Working Days of receipt and shall:
- (a) give the Authority a copy of all Information in its possession or control in the form that the Authority requires within 5 Working Days (or such other period as the Authority may specify) of the Authority's request;
  - (b) provide all necessary assistance as reasonably requested by the Authority to enable the Authority to comply with its obligations under the FOIA and EIR; and
  - (c) not respond directly to a Request for Information unless authorised to do so in writing by the Authority.
- E5.3 The Authority shall determine in its absolute discretion and notwithstanding any other provision in the Contract or any other agreement whether the Commercially Sensitive Information and any other Information is exempt from disclosure in accordance with the FOIA and/or the EIR.

## **E6 Publicity, Branding and Media**

- E6.1 The Supplier shall not:
- (a) make any press announcements or publicise the Contract or its contents in any way;
  - (b) use the Authority's name, brand or logo in any publicity, promotion, marketing or announcement of order; or
  - (c) use the name, brand or logo of any of the Authority's agencies or arms-length bodies in any publicity, promotion, marketing or announcement of orders
- without Approval.***
- E6.2 Each Party acknowledges that nothing in the Contract either expressly or impliedly constitutes an endorsement of any products or services of the other Party (including the Services and the ICT Environment) and each Party shall not conduct itself in such a way as to imply or express any such approval or endorsement.
- E6.3 The Supplier shall use reasonable endeavours to ensure that its Staff and professional advisors comply with clause E6.1.

## **E7 Intellectual Property Rights**

### **E7.1 All Intellectual Property Rights in:**

- (a) the Results; or
- (b) any guidance, specifications, reports, studies, instructions, toolkits, plans, data, drawings, databases, patents, patterns, models, designs or other material which is furnished to or made available to the Supplier by or on behalf of the Authority (together with the Results, the "**IP Materials**") shall vest in the Authority (save for Copyright and Database Rights which shall vest in Her Majesty the Queen) and the Supplier shall not, and shall ensure that the Staff shall not, use or disclose any IP Materials without Approval save to the extent necessary for performance by the Supplier of its obligations under the Contract.

### **E7.2 The Supplier hereby assigns:**

- (a) to the Authority, with full title guarantee, all Intellectual Property Rights (save for Copyright and Database Rights) which may subsist in the IP Materials. This assignment shall take effect on the date of the Contract or (in the case of rights arising after the date of the Contract) as a present assignment of future rights that will take effect immediately on the coming into existence of the Intellectual Property Rights produced by the Supplier; and
- (b) to Her Majesty the Queen, with full title guarantee, all Copyright and Database Rights which may subsist in the IP Materials and shall execute all documents and do all acts as are necessary to execute these assignments.
- (c) This Clause shall not apply to any registered trademark of the Supplier.'

### **E7.3 The Supplier shall:**

- (a) waive or procure a waiver of any moral rights held by it or any third party in copyright material arising as a result of the Contract or the performance of its obligations under the Contract;
- (b) ensure that the third party owner of any Intellectual Property Rights that are or which may be used to perform the Services grants to the Authority a non-exclusive licence or, if itself a licensee of those rights, shall grant to the Authority an authorised sub-licence, to use, reproduce, modify, develop and maintain the Intellectual Property Rights in the same. Such licence or sub-licence shall be non-exclusive, perpetual, royalty-free, worldwide and irrevocable and shall include the right for the Authority to sub-license, transfer, novate or assign to other Contracting Authorities, the Crown, the Replacement Supplier or to any other third party supplying goods and/or services to the Authority ("**Indemnified Persons**");



- (c) not infringe any Intellectual Property Rights of any third party in supplying the Services; and
  - (d) during and after the Term, indemnify and keep indemnified the Authority and Indemnified Persons from and against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which the Authority and Indemnified Persons may suffer or incur as a result of or in connection with any breach of this clause E7.3, except to the extent that any such claim results directly from:
    - i) items or materials based upon designs supplied by the Authority; or
    - ii) the use of data supplied by the Authority which is not required to be verified by the Supplier under any provision of the Contract.
- E7.4 The Authority shall notify the Supplier in writing of any claim or demand brought against the Authority or Indemnified Person for infringement or alleged infringement of any Intellectual Property Right in materials supplied and/or licensed by the Supplier to the Authority.
- E7.5 The Supplier shall at its own expense conduct all negotiations and any litigation arising in connection with any claim, demand or action by any third party for infringement or alleged infringement of any third party Intellectual Property Rights (whether by the Authority, the Supplier or Indemnified Person) arising from the performance of the Supplier's obligations under the Contract ("**Third Party IP Claim**"), provided that the Supplier shall at all times:
- (a) consult the Authority on all material issues which arise during the conduct of such litigation and negotiations;
  - (b) take due and proper account of the interests of the Authority; and
  - (c) not settle or compromise any claim without Approval (not to be unreasonably withheld or delayed).
- E7.6 The Authority shall, at the request of the Supplier, afford to the Supplier all reasonable assistance for the purpose of contesting any Third-Party IP Claim and the Supplier shall indemnify the Authority for all costs and expenses (including, but not limited to, legal costs and disbursements) incurred in doing so. The Supplier shall not be required to indemnify the Authority under this clause E7.6 in relation to any costs and expenses to the extent that such arise directly from the matters referred to in clauses E7.3 (d) i) and ii).
- E7.7 The Authority shall not, without the Supplier's consent, make any admissions which may be prejudicial to the defence or settlement of any Third-Party IP Claim.
- E7.8 If any Third-Party IP Claim is made or in the reasonable opinion of the Supplier is likely to be made, the Supplier shall notify the Authority and any relevant

Indemnified Person, at its own expense and subject to Approval (not to be unreasonably withheld or delayed), shall (without prejudice to the rights of the Authority under clauses E7.3 (b) and G2.1 (g)) use its best endeavours to:

- (a) modify any or all of the Services without reducing the performance or functionality of the same, or substitute alternative services of equivalent performance and functionality, so as to avoid the infringement or the alleged infringement; or
- (b) procure a licence to use the Intellectual Property Rights and supply the Services which are the subject of the alleged infringement, on terms which are acceptable to the Authority and if the Supplier is unable to comply with clauses E7.8 (a) or (b) within 20 Working Days of receipt by the Authority of the Supplier's notification the Authority may terminate the Contract immediately by notice to the Supplier.

E7.9 The Supplier grants to the Authority and, if requested by the Authority, to a Replacement Supplier, a royalty-free, irrevocable, worldwide, non-exclusive licence (with a right to sub-license) to use any Intellectual Property Rights that the Supplier owned or developed prior to the Commencement Date and which the Authority (or the Replacement Supplier) reasonably requires in order for the Authority to exercise its rights under, and receive the benefit of, the Contract (including, without limitation, the Services).

## **E8 Audit**

E8.1 The Supplier shall:

- (a) keep and maintain until 6 years after the end of the Term, or as long a period as may be agreed between the Parties, full and accurate records of the Contract including the Services supplied under it, all expenditure reimbursed by the Authority, and all payments made by the Authority;
- (b) on request afford the Authority or the Authority's representatives such access to those records and processes as may be requested by the Authority in connection with the Contract;
- (c) make available to the Authority, free of charge, whenever requested, copies of audit reports obtained by the Supplier in relation to the Services;
- (d) allow authorised representatives of the Authority and/or the National Audit Office to examine the Supplier's records and documents relating to the Contract and provide such copies and oral or written explanations as may reasonably be required; and
- (e) allow the Comptroller and Auditor General (and his appointed representatives) access free of charge during normal business hours on reasonable notice to all such documents (including computerised documents and data) and other information as the Comptroller and Auditor General may reasonably require for the purposes of his financial audit of the Authority and for carrying out examinations into the economy, efficiency and effectiveness

with which the Authority has used its resources. The Supplier shall provide such explanations as are reasonably required for these purposes.

## **E9 Tax Compliance**

- E9.1 If, during the Term, an Occasion of Tax Non-Compliance occurs, the Supplier shall:
- (a) notify the Authority in writing of such fact within 5 Working Days of its occurrence; and
  - (b) promptly give the Authority:
    - i) details of the steps it is taking to address the Occasion of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors it considers relevant; and
    - ii) such other information in relation to the Occasion of Tax Non-Compliance as the Authority may reasonably require.
- E9.2 If the Supplier or any Staff are liable to be taxed in the UK or to pay NICs in respect of consideration received under the Contract, the Supplier shall:
- (a) at all times comply with ITEPA and all other statutes and regulations relating to income tax, and SSCBA and all other statutes and regulations relating to NICs, in respect of that consideration; and
  - (b) indemnify the Authority against any income tax, NICs and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made in connection with the provision of the Services by the Supplier or any Staff.

## **F. CONTROL OF THE CONTRACT**

### **F1 Contract Performance**

- F1.1 The supplier shall provide the services to the standards set in the Specification (Schedule 3) and in compliance with this Agreement (the "**Required Standard**") including those required to meet the Service Thresholds applicable to the Key Performance Indicator as detailed in Schedule 5 (Key Performance Indicator).
- F1.2 The Supplier shall immediately inform the Authority if any of the Services are not being or are unable to be performed, the reasons for non-performance, any corrective action and the date by which that action will be completed.
- F1.3 At or around 6 Months from the Commencement Date and each anniversary of the Commencement Date thereafter, the Authority may carry out a review of the performance of the Supplier (a "**Review**"). Without prejudice to the generality of the foregoing, the Authority may in respect of the period under review consider such items as (but not limited to):

- a) the Supplier's delivery of the Services;
  - b) the Supplier's contribution to innovation in the Authority; whether the Services provide the Authority with best value for money; consideration of any changes which may need to be made to the Services;
  - c) a review of future requirements in relation to the Services; and
  - d) progress against key milestones.
- F1.4 The Supplier shall provide at its own cost any assistance reasonably required by the Authority to perform Reviews including the provision of data and information.
- F1.5 The Authority may produce a report (a "**Review Report**") of the results of each Review stating any areas of exceptional performance and areas for improvement in the provision of the Services and where there is any shortfall in any aspect of performance reviewed as against the Authority's expectations and the Supplier's obligations under the Contract.
- F1.6 The Authority shall give the Supplier a copy of the Review Report (if applicable). The Authority shall consider any Supplier comments and may produce a revised Review Report.
- F1.7 The Supplier shall, within 10 Working Days of receipt of the Review Report (revised as appropriate) provide the Authority with a plan to address resolution of any shortcomings and implementation of improvements identified by the Review Report.
- F1.8 Actions required to resolve shortcomings and implement improvements (either as a consequence of the Supplier's failure to meet its obligations under the Contract identified by the Review Report, or those which result from the Supplier's failure to meet the Authority's expectations notified to the Supplier or of which the Supplier ought reasonably to have been aware) shall be implemented at no extra cost to the Authority.

## **F2 Remedies**

- F2.1 If the Authority reasonably believes the Supplier has committed a Material Breach it may, without prejudice to its rights under clause H2 (Termination on Default), do any of the following:
- (a) without terminating the Contract, itself supply or procure the supply of all or part of the Services until such time as the Supplier has demonstrated to the Authority's reasonable satisfaction that the Supplier will be able to supply the Services in accordance with the Specification;
  - (b) without terminating the whole of the Contract, terminate the Contract in respect of part of the Services only (whereupon a corresponding

reduction in the Price shall be made) and thereafter itself supply or procure a third party to supply such part of the Services;

- (c) withhold or reduce payments to the Supplier in such amount as the Authority reasonably deems appropriate in each particular case; and/or
- (d) terminate the Contract in accordance with clause H2.

F2.2 Not used.

F2.3 If the Authority reasonably believes the Supplier has failed to supply all or any part of the Services in accordance with the Contract, professional or Good Industry Practice which could reasonably be expected of a competent and suitably qualified person, or any legislative or regulatory requirement, the Authority may give the Supplier notice specifying the way in which its performance falls short of the requirements of the Contract or is otherwise unsatisfactory.

F2.4 If the Supplier has been notified of a failure in accordance with clause F2.3 the Authority may:

- (a) direct the Supplier to identify and remedy the failure within such time as may be specified by the Authority and to apply all such additional resources as are necessary to remedy that failure at no additional charge to the Authority within the specified timescale; and/or
- (b) withhold or reduce payments to the Supplier in such amount as the Authority deems appropriate in each particular case until such failure has been remedied to the satisfaction of the Authority.

F2.5 If the Supplier has been notified of a failure in accordance with clause F2.3, it shall:

- (a) use all reasonable endeavours to immediately minimise the impact of such failure to the Authority and to prevent such failure from recurring; and
- (b) immediately give the Authority such information as the Authority may request regarding what measures are being taken to comply with the obligations in this clause F2.5 and the progress of those measures until resolved to the satisfaction of the Authority.

F2.6 If, having been notified of any failure, the Supplier does not remedy it in accordance with clause F2.5 in the time specified by the Authority, the Authority may treat the continuing failure as a Material Breach and may terminate the Contract immediately on notice to the Supplier.

### **F3      Transfer and Sub-Contracting**

- F3.1      Except where both clauses F3.9 and F3.10 apply, the Supplier shall not transfer, charge, assign, sub-contract or in any other way dispose of the Contract or any part of it without Approval. All such actions shall be evidenced in writing and shown to the Authority on request. Sub-contracting any part of the Contract does not relieve the Supplier of any of its obligations or duties under the Contract.
- F3.2      The Supplier is responsible for the acts and/or omissions of its Sub-Contractors as though they are its own. If it is appropriate, the Supplier shall provide each Sub-Contractor with a copy of the Contract and obtain written confirmation from them that they will provide the Services fully in accordance with the Contract.
- F3.3      The Supplier shall ensure that Sub-Contractors retain all records relating to the Services for at least 6 years from the date of their creation and make them available to the Authority on request in accordance with clause E8 (Audit). If any Sub-Contractor does not allow the Authority access to the records then the Authority shall have no obligation to pay any claim or invoice made by the Supplier on the basis of such documents or work carried out by the Sub-Contractor.
- F3.4      If the Authority has consented to the award of a Sub-Contract, the Supplier shall ensure that:
- (a)      the Sub-Contract contains:
    - i)              a right for the Supplier to terminate the if the Sub-Contractor does not comply with its legal obligations in connection with Data Protection Legislation, environmental, social or labour law; and
    - ii)             obligations no less onerous on the Sub-Contractor than those on the Supplier under the Contract in respect of data protection in clauses E1 and E2
  - (b)      the Sub-Contractor includes a provision having the same effect as set out in clause F3.4 (a) in any Sub-Contract which it awards; and
  - (c)      copies of each Sub-Contract are sent to the Authority immediately after their execution.
- F3.5      Unless Approved otherwise, if the total value of the Contract over the Term is, or is likely to be, in excess of £5,000,000, the Supplier shall, in respect of Sub-Contract opportunities arising during the Term from or in connection with the provision of the Goods and/or Services:
- (a)      advertise on Contracts Finder those that have a value in excess of £25,000;

- (b) within 90 days of awarding a Sub-Contract, update the notice on Contracts Finder with details of the Sub-Contractor;
- (c) monitor the number, type and value of the Sub-Contract opportunities placed on Contracts Finder and awarded during the Term;
- (d) provide reports on the information in clause F3.5 (c) to the Authority in the format and frequency reasonably specified by the Authority;
- (e) promote Contracts Finder to its suppliers and encourage them to register on Contracts Finder; and
- (f) ensure that each advertisement placed pursuant to F3.5 (a) includes a full and detailed description of the Sub-Contract opportunity with each of the mandatory fields being completed on Contracts Finder.

F3.6 The Supplier shall, at its own cost, supply to the Authority on each anniversary of the Commencement Date, for the previous 12 Months:

- (a) the total revenue received from the Authority pursuant to the Contract;
- (b) the total value of all its Sub-Contracts;
- (c) the total value of its Sub-Contracts with SMEs; and
- (d) the total value of its Sub-Contracts with VCSEs.

F3.7 The Authority may from time to time change the format and the content of the information required pursuant to clause F3.6.

F3.8 If the Authority believes there are:

- (a) compulsory grounds for excluding a Sub-Contractor pursuant to regulation 57 of the Regulations, the Supplier shall replace or not appoint the Sub-Contractor; or
- (b) non-compulsory grounds for excluding a Sub-Contractor pursuant to regulation 57 of the Regulations, the Authority may require the Supplier to replace or not appoint the Sub-Contractor and the Supplier shall comply with such requirement.

F3.9 Notwithstanding clause F3.1, the Supplier may assign to a third party (the “**Assignee**”) the right to receive payment of the Price or any part thereof due to the Supplier (including any interest which the Authority incurs under clause C1 (Payment and VAT)). Any assignment under this clause F3.9 is subject to:

- (a) reduction of any sums in respect of which the Authority exercises its right of recovery under clause C2 (Recovery of Sums Due);

- (b) all related rights of the Authority under the Contract in relation to the recovery of sums due but unpaid; and
- (c) the Authority receiving notification under both clauses F3.10 and F3.11.

F3.10 If the Supplier assigns the right to receive the Price under clause F3.9, the Supplier or the Assignee shall notify the Authority in writing of the assignment and the date upon which the assignment becomes effective.

F3.11 The Supplier shall ensure that the Assignee notifies the Authority of the Assignee's contact information and bank account details to which the Authority can make payment.

F3.12 Clause C1 continues to apply in all other respects after the assignment and shall not be amended without Approval.

F3.13 Subject to clause F3.14, the Authority may assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof to:

- (a) any Contracting Authority;
- (b) any other body established or authorised by the Crown or under statute in order substantially to perform any of the functions that had previously been performed by the Authority; or
- (c) any private sector body which substantially performs the functions of the Authority

provided that any such assignment, novation or other disposal shall not increase the burden of the Supplier's obligations under the Contract.

F3.14 Any change in the legal status of the Authority such that it ceases to be a Contracting Authority shall not, subject to clause F3.15, affect the validity of the Contract and the Contract shall bind and inure to the benefit of any successor body to the Authority.

F3.15 If the rights and obligations under the Contract are assigned, novated or otherwise disposed of pursuant to clause F3.13 to a body which is not a Contracting Authority or if there is a change in the legal status of the Authority such that it ceases to be a Contracting Authority (in the remainder of this clause both such bodies being referred to as the "**Transferee**"):

- (a) the rights of termination of the Authority in clauses H1 and H2 are available to the Supplier in respect of the Transferee; and
- (b) the Transferee shall only be able to assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof with the prior consent in writing of the Supplier.

F3.16 The Authority may disclose to any Transferee any Confidential Information of the Supplier which relates to the performance of the Supplier's obligations



under the Contract. In such circumstances the Authority shall authorise the Transferee to use such Confidential Information only for purposes relating to the performance of the Supplier's obligations under the Contract and for no other purpose and shall take all reasonable steps to ensure that the Transferee gives a confidentiality undertaking in relation to such Confidential Information.

- F3.17 Each Party shall at its own cost and expense carry out, or use all reasonable endeavours to ensure the carrying out of, whatever further actions (including the execution of further documents) the other Party reasonably requires from time to time for the purpose of giving that other Party the full benefit of the Contract.

## **F4 Change**

- F4.1 After the Commencement Date, either Party may request a Change subject to the terms of this clause F4.
- F4.2 Either Party may request a Change by notifying the other Party in writing of the Change by completing the Change Request Form set out in Schedule 3. The Party requesting the Change shall give the other Party sufficient information and time to assess the extent and effect of the requested Change. If the receiving Party accepts the Change it shall confirm it in writing to the other Party.
- F4.3 If the Supplier is unable to accept a Change requested by the Authority or if the Parties are unable to agree a change to the Price, the Authority may:
- (a) allow the Supplier to fulfil its obligations under the Contract without the Change; or
  - (b) terminate the Contract immediately except where the Supplier has already delivered all or part of the Services or where the Supplier can show evidence of substantial work being carried out to fulfil the requirements of the Specification; and in such case the Parties shall attempt to agree upon a resolution to the matter. If a resolution cannot be reached, the matter shall be dealt with under the Dispute Resolution procedure detailed in clause I2 (Dispute Resolution).
- F4.4 A Change takes effect only when it is recorded in a CCN validly executed by both Parties.
- F4.5 The Supplier is deemed to warrant and represent that the CNN has been executed by a duly authorised representative of the Supplier in addition to the warranties and representations set out in clause G2.
- F4.6 Clauses F4.4 and F4.5 may be varied in an emergency if it is not practicable to obtain the Authorised Representative's approval within the time necessary to make the Change in order to address the emergency. In an emergency, Changes may be approved by a different representative of the Authority. However, the Authorised Representative may review such a Change and

require a CCN to be entered into on a retrospective basis which may itself vary the emergency Change.

## **G LIABILITIES**

### **G1 Liability, Indemnity and Insurance**

- G1.1 Neither Party limits its liability for:
- (a) death or personal injury caused by its negligence;
  - (b) fraud or fraudulent misrepresentation;
  - (c) any breach of any obligations implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982;
  - (d) any breach of clauses D1, E1, E2 or E4;
  - (e) any breach of Schedule 6; or
  - (f) any liability to the extent it cannot be limited or excluded by Law.
- G1.2 Subject to clauses G1.3 and G1.5, the Supplier indemnifies the Authority fully against all claims, proceedings, demands, charges, actions, damages, costs, breach of statutory duty, expenses and any other liabilities which may arise out of the supply, or the late or purported supply, of the Services or the performance or non-performance by the Supplier of its obligations under the Contract or the presence of the Supplier or any Staff on the Premises, including in respect of any death or personal injury, loss of or damage to property, financial loss arising from any advice given or omitted to be given by the Supplier, or any other loss which is caused directly by any act or omission of the Supplier.
- G1.3 Subject to clause G1.1 the Supplier's aggregate liability in respect of the Contract does not exceed £1 million.
- G1.4 Subject to clause G1.1 the Authority's aggregate liability in respect of the Contract does not exceed the Price payable in the previous calendar year of the Contract.
- G1.5 The Supplier is not responsible for any injury, loss, damage, cost or expense if and to the extent that it is caused by the negligence or wilful misconduct of the Authority or by breach by the Authority of its obligations under the Contract.
- G1.6 The Authority may recover from the Supplier the following losses incurred by the Authority to the extent they arise as a result of a Default by the Supplier:

- (a) any additional operational and/or administrative costs and expenses incurred by the Authority, including costs relating to time spent by or on behalf of the Authority in dealing with the consequences of the Default;
- (b) any wasted expenditure or charges;
- (c) the additional costs of procuring a Replacement Supplier for the remainder of the Term and or replacement deliverables which shall include any incremental costs associated with the Replacement Supplier and/or replacement deliverables above those which would have been payable under the Contract;
- (d) any compensation or interest paid to a third party by the Authority; and
- (e) any fine or penalty incurred by the Authority pursuant to Law and any costs incurred by the Authority in defending any proceedings which result in such fine or penalty.

G1.7 Subject to clauses G1.1 and G1.6, neither Party is liable to the other for any:

- (a) loss of profits, turnover, business opportunities or damage to goodwill (in each case whether direct or indirect); or
- (b) indirect, special or consequential loss.

G1.8 Unless otherwise specified by the Authority, the Supplier shall, with effect from the Commencement Date for such period as necessary to enable the Supplier to comply with its obligations herein, take out and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover in respect of all risks which may be incurred by the Supplier, arising out of the Supplier's performance of its obligations under the Contract including:

- (a) if required by the Authority, appropriate, professional indemnity insurance for any advice given by the Supplier to the Authority;
- (b) cover for death or personal injury, loss of or damage to property or any other loss; and
- (c) employer's liability insurance in respect of Staff.

Such insurance policies shall be maintained for the duration of the Term and for a minimum of 6 years following the end of the Term.

G1.9 The Supplier shall give the Authority, on request, copies of all insurance policies referred to in this clause or a broker's verification of insurance to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.

- G1.10 If the Supplier does not have and maintain the insurances required by the Contract, the Authority may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Supplier.
- G1.11 The provisions of any insurance or the amount of cover shall not relieve the Supplier of any liabilities under the Contract.
- G1.12 The Supplier shall not take any action or fail to take any reasonable action, or (to the extent that it is reasonably within its power) permit anything to occur in relation to the Supplier, which would entitle any insurer to refuse to pay any claim under any insurance policy in which the Supplier is an insured, a co-insured or additional insured person.

## **G2 Warranties and Representations**

- G2.1 The Supplier warrants and represents on the Commencement Date and for the Term that:
- (a) it has full capacity and authority and all necessary consents to enter into and perform the Contract and that the Contract is executed by a duly authorised representative of the Supplier;
  - (b) in entering the Contract it has not committed any fraud;
  - (c) as at the Commencement Date, all information contained in the Tender or other offer made by the Supplier to the Authority remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Authority prior to execution of the Contract and in addition, that it will advise the Authority of any fact, matter or circumstance of which it may become aware which would render such information to be false or misleading;
  - (d) no claim is being asserted and no litigation, arbitration or administrative proceeding is in progress or, to the best of its knowledge and belief, pending or threatened against it or any of its assets which will or might have an adverse effect on its ability to perform its obligations under the Contract;
  - (e) it is not subject to any contractual obligation, compliance with which is likely to have a material adverse effect on its ability to perform its obligations under the Contract;
  - (f) no proceedings or other steps have been taken and not discharged (or, to the best of its knowledge, are threatened) for the winding up of the Supplier or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Supplier's assets or revenue;
  - (g) it owns, or has obtained or is able to obtain valid licences for, all Intellectual Property Rights that are necessary for the performance of its obligations under the Contract;

- (h) any person engaged by the Supplier shall be engaged on terms which do not entitle them to any Intellectual Property Right in any IP Materials;
- (i) in the 3 years (or period of existence if the Supplier has not been in existence for 3 years) prior to the date of the Contract:
  - i) it has conducted all financial accounting and reporting activities in compliance in all material respects with the generally accepted accounting principles that apply to it in any country where it files accounts;
  - ii) it has been in full compliance with all applicable securities and tax laws and regulations in the jurisdiction in which it is established; and
  - iii) it has not done or omitted to do anything which could have a material adverse effect on its assets, financial condition or position as an ongoing business concern or its ability to fulfil its obligations under the Contract;
- (j) it has and will continue to hold all necessary (if any) regulatory approvals from the Regulatory Bodies necessary to perform its obligations under the Contract; and
- (k) it has notified the Authority in writing of any Occasions of Tax Non-Compliance and any litigation in which it is involved that is in connection with any Occasion of Tax Non-Compliance.

G2.2 The Supplier confirms that in entering into the Contract it is not relying on any statements, warranties or representations given or made (whether negligently or innocently or whether express or implied), or any acts or omissions by or on behalf of the Authority in connection with the subject matter of the Contract except those expressly set out in the Contract and the Supplier hereby waives and releases the Authority in respect thereof absolutely.

G2.3 The Authority warrants that any Data supplied by the Authority to enable the performance by the Supplier of its obligations under the Contract is in no way a violation or infringement of any existing copyright, licence, or duty of confidence.'

## **H DEFAULT, DISRUPTION AND TERMINATION**

### **H1 Insolvency and Change of Control**

H1.1 The Authority may terminate the Contract with immediate effect by notice and without compensation to the Supplier if the Supplier is a company and in respect of the Supplier:

- (a) a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignment for the benefit of, its creditors;
- (b) a shareholders' meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding-up is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation);
- (c) a petition is presented for its winding up (which is not dismissed within 14 days of its service) or an application is made for the appointment of a provisional liquidator or a creditors' meeting is convened pursuant to section 98 of the Insolvency Act 1986;
- (d) a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets;
- (e) an application order is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given;
- (f) it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986;
- (g) being a "small company" within the meaning of section 247(3) of the Companies Act 1985, a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or
- (h) any event similar to those listed in H1.1 (a)-(g) occurs under the law of any other jurisdiction.

H1.2 The Authority may terminate the Contract with immediate effect by notice and without compensation to the Supplier if the Supplier is an individual and:

- (a) an application for an interim order is made pursuant to sections 252-253 of the Insolvency Act 1986 or a proposal is made for any composition scheme or arrangement with, or assignment for the benefit of, the Supplier's creditors;
- (b) a petition is presented and not dismissed within 14 days or order made for the Supplier's bankruptcy;
- (c) a receiver, or similar officer is appointed over the whole or any part of the Supplier's assets or a person becomes entitled to appoint a receiver, or similar officer over the whole or any part of his assets;
- (d) he is unable to pay his debts or has no reasonable prospect of doing so, in either case within the meaning of section 268 of the Insolvency Act 1986;

- (e) a creditor or encumbrancer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the Supplier's assets and such attachment or process is not discharged within 14 days;
- (f) he dies or is adjudged incapable of managing his affairs within the meaning of Part VII of the Mental Capacity Act 2005;
- (g) he suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of his business; or
- (h) any event similar to those listed in clauses H1.2(a) to (g) occurs under the law of any other jurisdiction.

H1.3 The Supplier shall notify the Authority immediately following a merger, take-over, change of control, change of name or status including where the Supplier undergoes a change of control within the meaning of section 1124 of the Corporation Taxes Act 2010 ("**Change of Control**"). The Authority may terminate the Contract with immediate effect by notice and without compensation to the Supplier within 6 Months of:

- (a) being notified that a Change of Control has occurred; or
- (b) where no notification has been made, the date that the Authority becomes aware of the Change of Control

but is not permitted to terminate where Approval was granted prior to the Change of Control.

H1.4 The Authority may terminate the Contract with immediate effect by notice and without compensation to the Supplier if the Supplier is a partnership and:

- (a) a proposal is made for a voluntary arrangement within Article 4 of the Insolvent Partnerships Order 1994 or a proposal is made for any other composition, scheme or arrangement with, or assignment for the benefit of, its creditors; or
- (b) a petition is presented for its winding up or for the making of any administration order, or an application is made for the appointment of a provisional liquidator; or
- (c) a receiver, or similar officer is appointed over the whole or any part of its assets; or
- (d) the partnership is deemed unable to pay its debts within the meaning of section 222 or 223 of the Insolvency Act 1986 as applied and modified by the Insolvent Partnerships Order 1994; or
- (e) any of the following occurs in relation to any of its partners:

- (i) an application for an interim order is made pursuant to sections 252-253 of the Insolvency Act 1986 or a proposal is made for any composition scheme or arrangement with, or assignment for the benefit of, his creditors;
  - (ii) a petition is presented for his bankruptcy; or
  - (iii) a receiver, or similar officer is appointed over the whole or any part of his assets;
- (f) any event similar to those listed in clauses H1.4 (a) to (e) occurs under the law of any other jurisdiction.

H1.5 The Authority may terminate the Contract with immediate effect by notice and without compensation to the Supplier if the Supplier is a limited liability partnership and:

- (a) a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or a proposal is made for any other composition, scheme or arrangement with, or assignment for the benefit of, its creditors;
- (b) an application is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given within Part II of the Insolvency Act 1986;
- (c) any step is taken with a view to it being determined that it be wound up (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation) within Part IV of the Insolvency Act 1986;
- (d) a petition is presented for its winding up (which is not dismissed within 14 days of its service) or an application is made for the appointment of a provisional liquidator within Part IV of the Insolvency Act 1986;
- (e) a receiver, or similar officer is appointed over the whole or any part of its assets;
- (f) it is or becomes unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
- (g) a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or
- (h) any event similar to those listed in clauses H1.5 (a) to (g) occurs under the law of any other jurisdiction.

H1.6 References to the Insolvency Act 1986 in clause H1.5 (a) are references to that Act as applied under the Limited Liability Partnerships Act 2000 subordinate legislation.



## **H2 Default**

- H2.1 The Authority may terminate the Contract with immediate effect by notice if the Supplier commits a Default and:
- (a) the Supplier has not remedied the Default to the satisfaction of the Authority within 20 Working Days or such other period as may be specified by the Authority, after issue of a notice specifying the Default and requesting it to be remedied;
  - (b) the Default is not, in the opinion of the Authority, capable of remedy; or
  - (c) the Default is a Material Breach.
- H2.2 If, through any Default of the Supplier, data transmitted or processed in connection with the Contract is either lost or sufficiently degraded as to be unusable, the Supplier is liable for the cost of reconstitution of that data and shall reimburse the Authority in respect of any charge levied for its transmission and any other costs charged in connection with such Default.
- H2.3 If the Authority fails to pay the Supplier undisputed sums of money when due, the Supplier shall give notice to the Authority of its failure to pay. If the Authority fails to pay such undisputed sums within 90 Working Days of the date of such notice, the Supplier may terminate the Contract with immediate effect, save that such right of termination shall not apply where the failure to pay is due to the Authority exercising its rights under clause C2.1 or to a Force Majeure Event.

## **H3 Termination on Notice**

The Authority may terminate the Contract at any time by giving 90 days notice to the Supplier.

## **H4 Other Grounds**

- H4.1 The Authority may terminate the Contract if:
- (a) the Contract has been subject to a substantial modification which requires a new procurement procedure pursuant to regulation 72(9) of the Regulations;
  - (b) the Supplier was, at the time the Contract was awarded, in one of the situations specified in regulation 57(1) of the Regulations, including as a result of the application of regulation 57(2), and should therefore have been excluded from the procurement procedure which resulted in its award of the Contract;
  - (c) the Contract should not have been awarded to the Supplier in view of a serious infringement of the obligations under the Treaties and the

Regulations that has been declared by the Court of Justice of the European Union in a procedure under Article 258 of the TFEU; or

- (d) the Supplier has not, in performing the Services, complied with its legal obligations in respect of environmental, social or labour law.

## **H5 Consequences of Expiry or Termination**

- H5.1 If the Authority terminates the Contract under clause H2 and makes other arrangements for the supply of the Services the Authority may recover from the Supplier the cost reasonably incurred of making those other arrangements and any additional expenditure incurred by the Authority throughout the remainder of the Term.
- H5.2 If the Contract is terminated under clause H2 the Authority shall make no further payments to the Supplier (for Services supplied by the Supplier prior to termination and in accordance with the Contract but where the payment has yet to be made by the Authority), until the Authority has established the final cost of making the other arrangements envisaged under this clause H5.
- H5.3 If the Authority terminates the Contract under clauses H3 or H4 the Authority shall make no further payments to the Supplier except for Services supplied by the Supplier prior to termination and in accordance with the Contract but where the payment has yet to be made by the Authority.
- H5.4 Save as otherwise expressly provided in the Contract:
  - (a) termination or expiry of the Contract shall be without prejudice to any rights, remedies or obligations accrued under the Contract prior to termination or expiration and nothing in the Contract prejudices the right of either Party to recover any amount outstanding at such termination or expiry; and
  - (b) termination of the Contract does not affect the continuing rights, remedies or obligations of the Authority or the Supplier under clauses C2 (Payment and VAT), C3 (Recovery of Sums Due), D1 (Prevention of Fraud and Bribery), E2 (Data Protection and Privacy), E3 (Official Secrets Acts and Finance Act), E4 (Confidential Information), E5 (Freedom of Information), E8 (Intellectual Property Rights), E9 (Audit), G1 (Liability, Indemnity and Insurance), H5 (Consequences of Expiry or Termination), H7 (Recovery), H8 (Retendering and Handover), H9 (Exit Management), H10 (Knowledge Retention), I6 (Remedies Cumulative), and I12 (Governing Law and Jurisdiction).

## **H6 Disruption**

- H6.1 The Supplier shall take reasonable care to ensure that in the performance of its obligations under the Contract it does not disrupt the operations of the Authority, its employees or any other contractor employed by the Authority.

- H6.2 The Supplier shall immediately inform the Authority of any actual or potential industrial action, whether such action be by its own employees or others, which affects or might affect its ability at any time to perform its obligations under the Contract.
- H6.3 If there is industrial action by Staff, the Supplier shall seek Approval for its proposals to continue to perform its obligations under the Contract.
- H6.4 If the Supplier's proposals referred to in clause H6.3 are considered insufficient or unacceptable by the Authority acting reasonably, the Contract may be terminated with immediate effect by the Authority.
- H6.5 If the Supplier is unable to deliver the Services owing to disruption of the Authority's normal business, the Supplier may request a reasonable allowance of time, and, in addition, the Authority will reimburse any additional expense reasonably incurred by the Supplier as a direct result of such disruption.

## **H7 Recovery**

- H7.1 On termination of the Contract for any reason, the Supplier shall at its cost:
- (a) immediately return to the Authority all Confidential Information, Personal Data and IP Materials in its possession or in the possession or under the control of any permitted suppliers or Sub-Contractors, which was obtained or produced in the course of providing the Goods and Services;
  - (b) immediately deliver to the Authority all Property (including materials, documents, information and access keys) provided to the Supplier in good working order;
  - (c) assist and co-operate with the Authority to ensure an orderly transition of the provision of the Services to the Replacement Supplier and/or the completion of any work in progress; and
  - (d) promptly provide all information concerning the provision of the Services which may reasonably be requested by the Authority for the purposes of adequately understanding the manner in which the Services have been provided and/or for the purpose of allowing the Authority and/or the Replacement Supplier to conduct due diligence.
- H7.2 If the Supplier does not comply with clauses H7.1 (a) and (b), the Authority may recover possession thereof and the Supplier grants a licence to the Authority or its appointed agents to enter (for the purposes of such recovery) any premises of the Supplier or its suppliers or Sub-Contractors where any such items may be held.

## **H8 Retendering and Handover**

- H8.1 Within 21 days of being requested by the Authority, the Supplier shall provide, and thereafter keep updated, in a fully indexed and catalogued format, all the

information necessary to enable the Authority to issue tender documents for the future provision of the Services.

- H8.2 The Authority shall take all necessary precautions to ensure that the information referred to in clause H8.1 is given only to potential providers who have qualified to tender for the future provision of the Services.
- H8.3 The Authority shall require that all potential providers treat the information in confidence; that they do not communicate it except to such persons within their organisation and to such extent as may be necessary for the purpose of preparing a response to an invitation to tender issued by the Authority; and that they shall not use it for any other purpose.
- H8.4 The Supplier indemnifies the Authority against any claim made against the Authority at any time by any person in respect of any liability incurred by the Authority arising from any deficiency or inaccuracy in information which the Supplier is required to provide under clause H8.1.
- H8.5 The Supplier shall allow access to the Premises in the presence of an authorised representative, to any person representing any potential provider whom the Authority has selected to tender for the future provision of the Services.
- H8.6 If access is required to the Supplier's Premises for the purposes of clause H8.5, the Authority shall give the Supplier 7 days' notice of a proposed visit together with a list showing the names of all persons who will be visiting. Their attendance shall be subject to compliance with the Supplier's security procedures, subject to such compliance not being in conflict with the objectives of the visit.
- H8.7 The Supplier shall co-operate fully with the Authority during any handover at the end of the Contract. This co-operation includes allowing full access to, and providing copies of, all documents, reports, summaries and any other information necessary in order to achieve an effective transition without disruption to routine operational requirements.
- H8.8 Within 10 Working Days of being requested by the Authority, the Supplier shall transfer to the Authority, or any person designated by the Authority, free of charge, all computerised filing, recording, documentation, planning and drawing held on software and utilised in the provision of the Services. The transfer shall be made in a fully indexed and catalogued disk format, to operate on a proprietary software package identical to that used by the Authority.

## **H9 Exit Management**

- H9.1 On termination of the Contract the Supplier shall render reasonable assistance to the Authority to the extent necessary to effect an orderly assumption by a Replacement Supplier in accordance with the procedure set out in clauses H9.2 to H9.5.

- H9.2 If the Authority requires a continuation of all or any of the Services on expiry or termination of the Contract, either by performing them itself or by engaging a third party to perform them, the Supplier shall co-operate fully with the Authority and any such third party and shall take all reasonable steps to ensure the timely and effective transfer of the Services without disruption to routine operational requirements.
- H9.3 The following commercial approach shall apply to the transfer of the Services if the Supplier:
- (a) does not have to use resources in addition to those normally used to deliver the Services prior to termination or expiry, there shall be no change to the Price; or
  - (b) reasonably incurs additional costs, the Parties shall agree a Change to the Price based on the Supplier's rates either set out in Schedule 2 or forming the basis for the Price.
- H9.4 When requested to do so by the Authority, the Supplier shall deliver to the Authority details of all licences for software used in the provision of the Services including the software licence agreements.
- H9.5 Within one Month of receiving the software licence information described in clause H9.4, the Authority shall notify the Supplier of the licences it wishes to be transferred and the Supplier shall provide for the approval of the Authority a plan for licence transfer.

## **H10 Knowledge Retention**

The Supplier shall co-operate fully with the Authority in order to enable an efficient and detailed knowledge transfer from the Supplier to the Authority on the completion or earlier termination of the Contract and in addition, to minimise any disruption to routine operational requirements. To facilitate this transfer, the Supplier shall provide the Authority free of charge with full access to its Staff, and in addition, copies of all documents, reports, summaries and any other information requested by the Authority. The Supplier shall comply with the Authority's request for information no later than 15 Working Days from the date that that request was made.

# **I GENERAL**

## **I1 Dispute Resolution**

- I1.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Contract within 20 Working Days of either Party notifying the other of the dispute and such efforts shall involve the escalation of the dispute to the finance director of the Supplier and the commercial director of the Authority.

- 11.2 Nothing in this dispute resolution procedure prevents the Parties seeking from any court of competent jurisdiction an interim order restraining the other Party from doing any act or compelling the other Party to do any act.
- 11.3 If the dispute cannot be resolved by the Parties pursuant to clause 11.1 either Party may refer it to mediation pursuant to the procedure set out in clause 11.5.
- 11.4 The obligations of the Parties under the Contract shall not cease, or be suspended or delayed by the reference of a dispute to mediation (or arbitration) and the Supplier and the Staff shall comply fully with the requirements of the Contract at all times.
- 11.5 The procedure for mediation and consequential provisions relating to mediation are as follows:
- (a) a neutral adviser or mediator (the “**Mediator**”) shall be chosen by agreement of the Parties or, if they are unable to agree upon a Mediator within 10 Working Days after a request by one Party to the other or if the Mediator agreed upon is unable or unwilling to act, either Party shall within 10 Working Days from the date of the proposal to appoint a Mediator or within 10 Working Days of notice to either Party that he is unable or unwilling to act, apply to the Centre for Effective Dispute Resolution to appoint a Mediator;
  - (b) the Parties shall within 10 Working Days of the appointment of the Mediator meet with him in order to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiations. If appropriate, the Parties may at any stage seek assistance from the Centre for Effective Dispute Resolution to provide guidance on a suitable procedure;
  - (c) unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings;
  - (d) if the Parties reach agreement on the resolution of the dispute, the agreement shall be recorded in writing and shall be binding on the Parties once it is signed by their duly authorised representatives;
  - (e) failing agreement, either of the Parties may invite the Mediator to provide a non-binding but informative written opinion. Such an opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the Contract without the prior written consent of both Parties; and
  - (f) if the Parties fail to reach agreement within 60 Working Days of the Mediator being appointed, or such longer period as may be agreed by the Parties, then any dispute or difference between them may be referred to the Courts unless the dispute is referred to arbitration pursuant to the procedures set out in clause 11.6.

I1.6 Subject to clause I1.2, the Parties shall not institute court proceedings until the procedures set out in clauses I1.1 and I1.3 have been completed save that:

- (a) the Authority may at any time before court proceedings are commenced, serve a notice on the Supplier requiring the dispute to be referred to and resolved by arbitration in accordance with clause I1.7;
- (b) if the Supplier intends to commence court proceedings, it shall serve notice on the Authority of its intentions and the Authority has 21 days following receipt of such notice to serve a reply on the Supplier requiring the dispute to be referred to and resolved by arbitration in accordance with clause I1.7; and
- (c) the Supplier may request by notice to the Authority that any dispute be referred and resolved by arbitration in accordance with clause I1.7, to which the Authority may consent as it sees fit.

I1.7 If any arbitration proceedings are commenced pursuant to clause I1.6:

- (a) the arbitration is governed by the Arbitration Act 1996 and the Authority shall give a notice of arbitration to the Supplier (the “**Arbitration Notice**”) stating:
  - (i) that the dispute is referred to arbitration; and
  - (ii) providing details of the issues to be resolved;
- (b) the London Court of International Arbitration (“**LCIA**”) procedural rules in force at the date that the dispute was referred to arbitration in accordance with I1.7 (b) shall be applied and are deemed to be incorporated by reference to the Contract and the decision of the arbitrator is binding on the Parties in the absence of any material failure to comply with such rules;
- (c) the tribunal shall consist of a sole arbitrator to be agreed by the Parties;
- (d) if the Parties fail to agree the appointment of the arbitrator within 10 days of the Arbitration Notice being issued by the Authority under clause I1.7 (a) or if the person appointed is unable or unwilling to act, the arbitrator shall be appointed by the LCIA;
- (e) the arbitration proceedings shall take place in London and in the English language; and
- (f) the arbitration proceedings shall be governed by, and interpreted in accordance with, English Law.

## **I2 Force Majeure**

I2.1 Subject to this clause I2, a Party may claim relief under this clause I2 from

liability for failure to meet its obligations under the Contract for as long as and only to the extent that the performance of those obligations is directly affected by a Force Majeure Event. Any failure or delay by the Supplier in performing its obligations under the Contract which results from a failure or delay by an agent, Sub-Contractor or supplier shall be regarded as due to a Force Majeure Event only if that agent, Sub-Contractor or supplier is itself impeded by a Force Majeure Event from complying with an obligation to the Supplier.

- 12.2 The Affected Party shall as soon as reasonably practicable issue a Force Majeure Notice, which shall include details of the Force Majeure Event, its effect on the obligations of the Affected Party and any action the Affected Party proposes to take to mitigate its effect.
- 12.3 If the Supplier is the Affected Party, it is not entitled to claim relief under this clause 12 to the extent that consequences of the relevant Force Majeure Event:
  - (a) are capable of being mitigated by any of the Services, but the Supplier has failed to do so; and/or
  - (b) should have been foreseen and prevented or avoided by a prudent provider of services similar to the Services, operating to the standards required by the Contract.
- 12.4 Subject to clause 12.5, as soon as practicable after the Affected Party issues the Force Majeure Notice, and at regular intervals thereafter, the Parties shall consult in good faith and use reasonable endeavours to agree any steps to be taken and an appropriate timetable in which those steps should be taken, to enable continued provision of the Services affected by the Force Majeure Event.
- 12.5 The Parties shall at all times following the occurrence of a Force Majeure Event and during its subsistence use their respective reasonable endeavours to prevent and mitigate the effects of the Force Majeure Event. Where the Supplier is the Affected Party, it shall take all steps in accordance with Good Industry Practice to overcome or minimise the consequences of the Force Majeure Event.
- 12.6 If, as a result of a Force Majeure Event:
  - (a) an Affected Party fails to perform its obligations in accordance with the Contract, then during the continuance of the Force Majeure Event:
    - i) the other Party shall not be entitled to exercise its rights to terminate the Contract in whole or in part as a result of such failure pursuant to clause H2.1 or H2.3; and
    - ii) neither Party shall be liable for any Default arising as a result of such failure;
  - (b) the Supplier fails to perform its obligations in accordance with the Contract it shall be entitled to receive payment of the Price (or a



proportional payment of it) only to the extent that the Services (or part of the Services) continue to be performed in accordance with the terms of the Contract during the occurrence of the Force Majeure Event.

- 12.7 The Affected Party shall notify the other Party as soon as practicable after the Force Majeure Event ceases or no longer causes the Affected Party to be unable to comply with its obligations under the Contract.
- 12.8 Relief from liability for the Affected Party under this clause I2 ends as soon as the Force Majeure Event no longer causes the Affected Party to be unable to comply with its obligations under the Contract and is not dependent on the serving of a notice under clause I2.7.

### **I3 Notices and Communications**

- 13.1 Subject to clause I3.3, where the Contract states that a notice or communication between the Parties must be “written” or “in writing” it is not valid unless it is made by letter (sent by hand, first class post, recorded delivery or special delivery) or by email or by communication via Bravo.

- 13.2 If it is not returned as undelivered a notice served in:

- (a) a letter is deemed to have been received 2 Working Days after the day it was sent; and
- (b) an email is deemed to have been received 4 hours after the time it was sent provided it was sent on a Working Day

or when the other Party acknowledges receipt, whichever is the earlier.

- 13.3 Notices pursuant to clauses I2 (Force Majeure), I1 (Dispute Resolution) or to terminate the Contract or any part of the Services are valid only if served in a letter by hand, recorded delivery or special delivery.
- 13.4 Notices shall be sent to the addresses set out below or at such other address as the relevant Party may give notice to the other Party for the purpose of service of notices under the Contract:

**(a) For the Authority:**

Contact Name: [REDACTED]  
 Address: 1<sup>st</sup> Floor, 5 Wellington Place, Leeds, LS2 4AP; and  
 Email [REDACTED]

**(b) For the Supplier:**

Contact Name: , [REDACTED] Commissioning Editor, Oxford University Press;  
 Address: Great Clarendon Street, Oxford, OX2 6DP; and

Email: [REDACTED]

#### **I4 Conflicts of Interest**

- 14.1 The Supplier shall take appropriate steps to ensure that neither the Supplier nor any Staff is placed in a position where, in the reasonable opinion of the Authority, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Supplier and the duties owed to the Authority under the Contract. The Supplier will notify the Authority immediately giving full particulars of any such conflict of interest which may arise.
- 14.2 The Authority may terminate the Contract immediately by notice and/or take or require the Supplier to take such other steps it deems necessary if, in the Authority's reasonable opinion, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Supplier and the duties owed to the Authority under the Contract. The actions of the Authority pursuant to this clause I4 shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Authority.

#### **I5 Rights of Third Parties**

- 15.1 Clauses B17.5 and E8.3 confer benefits on persons named in them (together "**Third Party Provisions**" and each person a "**Third Party Beneficiary**") other than the Parties and are intended to be enforceable by Third Party Beneficiaries by virtue of the Contracts (Rights of Third Parties) Act 1999 ("**CRTPA**").
- 15.2 Subject to clause 15.1, a person who is not a Party has no right under the CRTPA to enforce the Contract but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to the CRTPA and does not apply to the Crown.
- 15.3 No Third Party Beneficiary may enforce or take steps to enforce any Third Party Provision without Approval.
- 15.4 Any amendments to the Contract may be made by the Parties without the consent of any Third Party Beneficiary.

#### **I6 Remedies Cumulative**

Except as expressly provided in the Contract all remedies available to either Party for breach of the Contract are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy are not an election of such remedy to the exclusion of other remedies.

#### **I7 Waiver**

- 17.1 The failure of either Party to insist upon strict performance of any provision of the Contract, or the failure of either Party to exercise, or any delay in exercising, any right or remedy do not constitute a waiver of that right or remedy and do not cause a diminution of the obligations established by the Contract.
- 17.2 No waiver is effective unless it is expressly stated to be a waiver and communicated to the other Party in writing in accordance with clause I3 (Notices and Communications).
- 17.3 A waiver of any right or remedy arising from a breach of the Contract does not constitute a waiver of any right or remedy arising from any other or subsequent breach of the Contract.

## **I8 Severability**

If any part of the Contract which is not of a fundamental nature is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such part shall be severed and the remainder of the Contract shall continue in full effect as if the Contract had been executed with the invalid, illegal or unenforceable part eliminated.

## **I9 Entire Agreement**

The Contract constitutes the entire agreement between the Parties in respect of the matters dealt with therein. The Contract supersedes all prior negotiations between the Parties and all representations and undertakings made by one Party to the other, whether written or oral, except that this clause shall not exclude liability in respect of any fraudulent misrepresentation.

## **I10 Change in Law**

- I10.1 The Supplier is neither relieved of its obligations to supply the Services in accordance with the terms and conditions of the Contract nor entitled to an increase in the Price as the result of:
- (a) a General Change in Law; or
  - (b) a Specific Change in Law where the effect of that Specific Change in Law on the Services is reasonably foreseeable at the Commencement Date.
- I10.2 If a Specific Change in Law occurs or will occur during the Term (other than as referred to in clause I10.1(b)), the Supplier shall:
- (a) notify the Authority as soon as reasonably practicable of the likely effects of that change, including whether any:
    - (i) Change is required to the Services, the Price or the Contract; and

- (ii) relief from compliance with the Supplier's obligations is required; and

(b) provide the Authority with evidence:

- (i) that the Supplier has minimised any increase in costs or maximised any reduction in costs, including in respect of the costs of its Sub-Contractors; and
- (ii) as to how the Specific Change in Law has affected the cost of providing the Services.

I10.3 Any variation in the Price or relief from the Supplier's obligations resulting from a Specific Change in Law (other than as referred to in clause I10.1 (b)) shall be implemented in accordance with clause F4.

## **I11 Counterparts**

The Contract may be executed in counterparts, each of which when executed and delivered constitute an original but all counterparts together constitute one and the same instrument.

## **I12 Governing Law and Jurisdiction**

Subject to clause I1 (Dispute Resolution) the Contract, including any matters arising out of or in connection with it, are governed by and interpreted in accordance with English Law and are subject to the jurisdiction of the Courts of England and Wales. The submission to such jurisdiction does not limit the right of the Authority to take proceedings against the Supplier in any other court of competent jurisdiction, and the taking of proceedings in any other court of competent jurisdiction does not preclude the taking of proceedings in any other jurisdiction whether concurrently or not.

## **SCHEDULE 1 –SPECIAL CONDITIONS: SERVICES AND GOODS**

### **1. Additional Conditions**

#### **1.1 Appointment Of The Supplier**

- 1.1.1 The Authority appoints the Supplier to publish the official version of the Guidelines throughout the world.
- 1.1.2 The Supplier may only publish the Guidelines in the media and style set out in the Specification or as otherwise agreed in writing between the parties.
- 1.1.3 Unless the Parties agree otherwise, the Supplier may publish the Guidelines in the number of defined editions only.
- 1.1.4 Subject to Approval of its terms and conditions, such approval not to be unreasonably withheld, the Supplier may sub-license End-Users to access electronic or digital versions of the Guidelines by means of an End-User Licence for subsidiary royalty payments as defined within the payment & pricing schedule and specification. E-books are considered an extension of the hard copy publishing format and Royalty Rates will be based on the hard copy format payment.
- 1.1.5 The rights granted under this Agreement do not entitle the Supplier to develop or publish any derivative products based on the Guidelines or to issue licences for subsidiary rights to the Guidelines without Approval.
- 1.1.6 The Authority reserves the right to publish the content of the Guidelines in full or in part in Electronic Media itself.
- 1.1.7 The Supplier is permitted to use the terms 'official version' or 'official edition' in describing the Guidelines.
- 1.1.8 The Authority affirms that it does not intend to appoint an alternative supplier as publisher of the Guidelines during the term of this Agreement, but reserves the right to do so if the Contract is terminated in accordance with the terms and conditions of the contract.

#### **1.2 Delivery of the Guidelines**

- 1.2.1 The Authority will deliver the Guidelines to the Supplier in accordance with the schedule as described in the Specification.

#### **1.3 Publication**

- 1.3.1 The Supplier will reproduce, publish and distribute the Guidelines in accordance with the Specification.

## **1.4 Royalty Payments**

- 1.4.1 The Supplier will pay any royalties on sales, sub licensing of the Guidelines to the Authors & Judicial College at a rate set out in the Payment & Pricing Schedule.
- 1.4.2 The Supplier will pay VAT at the current rate on royalty payments.
- 1.4.3 The Supplier shall submit at the end of each accounting period full and accurate records relating to the sales of the Guidelines and royalties payable to the Authors and Judicial College.
- 1.4.4 For each accounting period the Supplier shall pay in arrears royalties to the Authors & Judicial College either by an agreed date, as set out in the Special Conditions Payment & Pricing Schedule.
- 1.4.5 The Authority may nominate a representative to inspect the Supplier's records relating to sales revenue and the royalties due under this Agreement. Any such inspection will take place pursuant to Clause E8.1.

## **1.5 Copyright and Imprint**

- 1.5.1 Subject to any licences granted to the Supplier under this Agreement, all copyright and intellectual property rights of whatever nature in the Guidelines are and will remain vested in the Crown, in accordance with clause E.7.
- 1.5.2 The Supplier will notify the Authority of any infringement of the copyright in the Guidelines of which the Supplier is aware.
- 1.5.3 If the Guidelines qualifies to join the International Standard Book Number (ISBN) system the Supplier will place an ISBN (and an ISBN barcode) on the Guidelines.
- 1.5.4 Gratis copies of the Guidelines shall be provided to the Authority as described within the specification.

## **1.6 Permissions**

- 1.6.1 The Supplier is non-exclusively licensed to publish the Guidelines for the duration of the contract period for sale within the open market on behalf of the Authority whilst making royalty payments for the copies sold on its behalf.
- 1.6.2 The Supplier shall have express permission under licence to sell non-exclusive subsidiary rights in part or whole title to third parties for reproduction or use in hard or electronic formats in return for a royalty payment to the Authority as defined within the Special Conditions Payment & Pricing schedule.
- 1.6.3 The Supplier may not use the copyright material for their distribution internally or incorporate this product within their own market offerings without royalty payment and Approval.

## **1.7 ADDITIONAL CONTRACTUAL PROVISION (VARIATION)**

- 1.7.1 Throughout the life of the Contract, provision shall be made for variation to the Contract to include similar publications by the Authority that fall within the general scope of the Contract and follow the same business model subject to the perceived value of the individual publication and incurred organisational cost to the Authority.
- 1.7.2 The Authority retains the rights to seek alternative arrangements where any additional requirements are identified outside of this requirement, which are not considered a material change to the Specification.
- 1.7.3 Where publications are to be removed from the contract, the Supplier will be issued with a minimum of three months notice between editions before the initial publication planning meeting.

## **SCHEDULE 2 – SPECIAL CONDITIONS: PAYMENT & PRICING**

### **2. ROYALTY RATES & PAYMENT**

#### **2.1 Royalty Rates & Payment**

- 2.1.1 The Supplier shall pay a minimum royalty rate of 10% to the Author(s) and 10% to the Authority of gross total income from the sales of hard copy and eBook publishing formats.
- 2.1.2 The Authority shall receive 50% of any payment made to the Supplier by other individuals and organisations for the reproduction of the material including sub-licensing or subsidiary rights payments. The Authority Payment will be divided equally between the Judicial College and the Authors.
- 2.1.3 Any subsidiary commercial rates are to be agreed with the Judicial College prior to acceptance and sale by the Supplier.

#### **2.2 Payments of Royalty Rates**

- 2.2.1 Payments are to be made to the Authority and individual Authors by BACS payment, twice yearly.
- 2.2.2 Payment to the Authority shall be made via BACS made payable to Judicial College and sent to the following address [REDACTED] (or such alternative address as the Authority may specify):

##### **Details to be included.**

- 2.2.3 Payment to the Authors shall be made using the details of the Authors stipulated at clause 2.2.4. This could be subject to change and any such changes will be communicated by written communication.
- 2.2.4 BACS payment shall be made payable to:

##### **Authors & Writing Team (Shared)**

#### **2.3 External customers hard copy RRP price and Price Adjustment**

- 2.3.1 The Supplier shall apply a RRP of no more than £30 per copy sold for the 15<sup>th</sup> edition. Thereafter and for further editions, increased will be agreed with the Authority, but should not exceed the Consumer Price Index inflationary rate (CPI).
- 2.3.2 CPI change will be calculated by dividing current prices by old prices, multiplying by 100 and finally subtracting 100. This will calculate a percentage change, which should not exceed the current CPI inflationary rate.

#### **2.4 External customer's hard copy delivery & handling charges**

- 2.4.1. The delivery and costs (including handling, postage and packaging) should be reasonable and in line with the retail publication market.



**Price Schedule - Procurement for the Publication of the Personal Injury Guidelines****REDACTED****Postal Rates****REDACTED**

## **SCHEDULE 3 – SPECIFICATION**

### **Specification for the Publication of The Guidelines for the Assessment of General Damages in Personal Injury Cases.**

#### **3.1 Purpose**

This schedule describes the requirement for the publishing and sale of the Guidelines for the Assessment of General Damages in Personal Injury Cases for the relevant editions.

#### **3.2 Background**

The Ministry of Justice (MoJ) works to protect the public, reduce re-offending and to provide a more effective, transparent and responsive criminal justice system. The MoJ is responsible for different parts of the justice system, courts, prisons, probation services and attendance centres, and works in partnership with other government departments and agencies to reform the criminal justice system.

The requirement relates to the Judicial College, which is an independent part of the Judicial Office and is funded by the MoJ. The Judicial College was established to organise training for Judicial Office holders in the UK who come under the leadership of the Lord Chief Justice of England and Wales or the Senior President of Tribunals, including judges and members of reserved tribunal jurisdictions in Scotland and Northern Ireland.

The Judicial College has published the Guidelines biennially since 1992, and the publication is now in its 14th edition. The 14th edition is a slim, 94-page paperback. The length of each edition varies depending on the amount of material requiring inclusion. The contents are divided into 13 sections relating to different areas of personal injury e.g. Injuries Resulting in Death, Injuries Involving Paralysis, Brain and Head Injuries etc. As development in case law expands, new sections are added as required.

The Guidelines originated as part of the training material provided by the Judicial College to judges with jurisdiction to hear civil cases. The main aim of the Guidelines, from the perspective of the Judicial College, is to continue to act as an aide memoire on the quantum of damages for those judges. Interest in the Guidelines has since extended beyond the judiciary, namely to solicitors and barristers with a personal injury practice, as well as insurance companies, trade unions and other bodies with a professional interest in the subject.

#### **3.3 Specific Publishing Requirement**

##### **3.3.1 Specific Requirement Overview**

The Supplier is required to produce, publish, market and promote under licence the relevant editions of the Guidelines in bound paper copy, including the provision of electronic versions to the national and international market for legal texts, using legal

bookshops and book retail supply chains and other methods employed for this market. This publication is also required to be made available to the public to purchase.

Additionally, the Supplier is to provide and distribute 3,000 copies of each edition, free of charge. The Supplier will also make payment of the contracted Royalties to the Authority based on the total sales received.

The Judicial College has responsibility for the training of the judiciary and a wider duty to ensure the public has access to justice and the law which they are subject to. As a result, the provision of gratis copies and the availability of the publication is of high importance. To ensure the publication remains accessible to the public it must be available at a reasonable price, as a standalone product, and delivered within a reasonable timescale from the point of ordering. The risk of supply and/or demand lies entirely with the Supplier, and the generated value is dependent on the promotion and marketing of the published product. The Authority suggests an RRP cap of £30 per copy sold for the 15<sup>th</sup> edition.

### **3.3.2 Publication Schedule**

The 15th, 16th and 17th editions of the book are expected to be published biennially from 2019. Although, this may be subject to change.

### **3.3.3 Editorial Process**

Below is an estimated for the editorial process used in the publication of previous editions;

- End of May: Deadline for Authors to deliver all new material to the Judicial College
- Early June: The Judicial College to pass all material to Supplier
- Early July: Supplier sends first proofs to the Judicial College, who will circulate to Authors
- Mid July: Corrections to first proofs returned to Supplier
- Late July: Revised proofs sent to the Judicial College for circulation to the Authors
- Early August: Final proof sign off sent to Supplier
- Late August: Book sent to press
- September: Publication

An electronic copy for each edition will be supplied as a Microsoft Word document to the Judicial College and will be made available as a PDF on a password-protected website. The existing layout of the book will be retained, unless revisions have been agreed with the Authority.

### **3.3.4 Initial editorial Meeting**

The Supplier will be required to attend an initial editorial meeting of the Authors in the Spring of each year of publication, on a date agreed between both parties. Where an initial editorial meeting is not held, the Supplier will be required to attend a mobilisation meeting with the Authority for the purposes of scheduling.

### **3.3.5 Scheduling Stage**

A Concession Contract for the Publication of the Guidelines for the Assessment of General Damages in Personal Injury Cases

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The Supplier is required to provide an outline timetable at the initial editorial meeting (or mobilisation meeting) showing the production stages of publication for each edition. The schedule must incorporate two proof stages, with a final press-ready proof to be signed off for publication by the Authors. The Supplier will also be required to submit a marketing schedule at that editorial meeting (or mobilisation meeting), providing details surrounding the planned advertising and publicising of the Guidelines.

### **3.3.6 Recommended Retail Price (RRP)**

RRP will be determined in accordance with the payment and pricing clauses detailed in Schedule 2.

## **3.4 Delivery Stages**

### **3.4.1 Publication Standard & Layout**

The title will be produced in a paperback format to a professional publishing standard, with the layout of the 14th edition retained for existing and new section headings. Any changes should be approved by the Authority.

The style of the cover of the book should also be retained, with the necessary adaptations to accommodate the Suppliers branding. The colour of the cover of each edition shall be agreed between the Supplier and Authority.

### **3.4.2 Gratis Copies**

The Authority requires the Supplier to supply and distribute 3,000 single copies of each published editions free of charge, including all associated costs such as package, delivery, and labour costs. The Supplier shall deliver via 2nd class mail as a minimum.

Up to 2,500 of these copies will be delivered to individual names and addresses to be supplied by the Authority. The Supplier shall dispatch hard copies within two to three weeks of receiving the initial list of judges and addresses. Thereafter, the Authority may request smaller ad hoc orders as and when required.

The names and addresses of the end recipients shall be treated in accordance with the General Data Protection Regulation (GDPR). The Supplier shall not use these personal details for any other marketing purpose nor supply or sell these details without Approval.

The Supplier will also be required to reserve, store, supply and dispatch 500 free copies for call off by the Authority. These copies shall be supplied in batches of 50 copies to the Judicial College offices, intermittently upon request.

## **3.5 Sales & Marketing**

### **3.5.1 Sales**

The primary market for the Guidelines is the judiciary and professional legal and insurance markets. The Supplier will be required to sell and market the Guidelines through direct mailing, legal bookshops, online outlets and where possible through

publicly available eBook platforms. The product must be made available as a standalone item for maximum accessibility to the market.

### **3.5.2 Marketing**

The Supplier shall market the Guidelines to those professional persons, organisations and others with a likely interest in the subject matter. The Guidelines shall be marketed nationally and internationally, including promotion on the Supplier's own website and product listing.

### **3.6 Environment & Sustainability**

The Supplier shall consider and use recycled content where possible, in accordance with the Government Buying Standards.

Virgin pulp content used in the production of the Guidelines shall be from a sustainable auditable source, and the Supplier shall reduce harmful emissions where possible and practicable.

## ANNEX A (to SCHEDULE 3 – SPECIFICATION) – SALES DATA

**Table 1: Number of Sales by Customer Class**

	14th ed.	13th ed.	12th ed.	11th ed.
Retail	3,862	4,968	4,373	3,951
Universities/HE	385	457	455	251
Library Supply	163	131	155	149
Wholesale	181	171	132	136
Legal System	81	190	234	323
Miscellaneous	172	276	390	317
Total	4,844	6,193	5,739	5,127

**Table 2: Number of Sales Country and Product Type**

<b>Hard Copy</b>	14th ed.	13th ed.	12th ed.	11th ed.
UK Sales	4,615	6,014	5,391	4,880
Europe Sales	124	13	252	129
USA sales	71	104	33	62
Other Countries Sales	34	61	63	56
Total Hard Copy Sales	4,844	6,193	5,739	5,127
<b>eBook</b>	14th ed.	13th ed.	12th ed.	11th ed.
UK Sales	124	159	195	257
Europe Sales				1
USA sales	9	15	9	25
Other Countries Sales	8	11	8	12
Total eBook Sales	144	185	212	295
<b>Life Sales Qty</b>	<b>4,992</b>	<b>6,379</b>	<b>5,965</b>	<b>5,457</b>

## **SCHEDULE 4 – CONTRACT MANAGEMENT & ADMINISTRATION**

### **4.1 Contract Management**

#### **4.1.1 MOJ Contract Manager**

The MoJ will nominate a Commercial Contract Manager who will manage the overall contract, and overarching contract management.

The contact point is:



#### **4.1.2 Operational Contract Manager**

The Judicial College will nominate an Operational Contract Manager (OCM) who will be the main point of operational contact between the Supplier and the Contracting Authority and will be responsible for day to day management of the Contract.

The contact point is:



#### **4.1.3 Supplier's Contract Manager**

The Supplier shall likewise provide an executive Contract Manager who will be the single point of contact acting on behalf of the Supplier for the contract period. The Contract Manager shall take overall responsibility for the Contract.

The Supplier shall be responsible for ensuring that the provision of the Goods and Services is carried out with reasonable skill, care and diligence in accordance with the Contract and to the satisfaction of the Commercial and Operational Contract Managers.

The Contract Manager shall be:



#### 4.1.4 Contract Performance Escalation Points.

Supplier	Authority
(Editorial Director, Law):	(Commercial Manager)
(Managing Director, Academic Division):	(Snr Commercial Manager)
(Chief Executive, OUP):	(Head of Commercial Management, Court Reporting, Legal Publications & Enforcement Language Services Category)
(Senior Legal Advisor, Group Legal):	(Commercial Director, HMCTS)

## SCHEDULE 5 – KEY PERFORMANCE INDICATOR

### 1. Introduction

- 1.1. The Supplier shall meet the Service Threshold, and measure its performance against this KPI.
- 1.2. The Authority shall measure the Supplier's performance in the delivery of the Services against:
  - 1.2.1. The fulfilment of Milestones (to the extent of the Supplier's responsibility in delivering the relevant parts of the service as set out in the Specification, and in this Schedule 5);
  - 1.2.2. The Service Thresholds applicable to the KPI; and
  - 1.2.3. Compliant with this contract
- 1.3. The Supplier and Authority will jointly agree appropriate Milestones within the publication process, and dates by which they should be achieve, during Mobilisation and Transition phases.
- 1.4. The Supplier shall report performance of the delivery of the Services (Milestones) to the Authority via written communication.



## **2. Service Threshold and Failure**

- 2.1. Service Thresholds and Failure in relation to this KPI (including in relation to triggering the Service Improvement Plan and the right to terminate under contract clause H2) will be measured by reference to completion of each Milestone.
- 2.2. The Authority shall be entitled to apply remedial action in accordance with contract clause F2 and this Schedule 5 where performance is below the KPI Service Threshold.
- 2.3. The Service Threshold will be a small delay (no more than three days) on a single milestone, although the Authority may request a commitment for improvement.
- 2.4. Should the Supplier fail to meet more than one Milestone consecutively, or three throughout the publication process, the Authority may request a Service Improvement Plan.
- 2.5. If the Service Improvement Plan is not implemented, Milestones continue to be missed and the Authority feels there is significant risk that the publication deadline will not be met, the Authority may seek to source alternative routes for publication.
- 2.6. Should it be deemed necessary to involve a third party the costs incurred will be charged to the Supplier.
- 2.7. Any delay by the Authority in exercising its rights and remedies under this Schedule 5 shall not be construed as a waiver nor prevent the Authority from exercising its rights or remedies at a later date (with retrospective effect, where applicable).

## **SCHEDULE 6 – MONITORING & REPORTING INFORMATION**

### **6.1 Management Information to be supplied to the Authority**

#### **6.1.1 Reporting Requirements**

The Supplier shall be required to report on their performance during the life of the contract.

#### **6.1.2 Sales Reports**

The Supplier shall provide sales reports electronically six monthly from contract start. The reports will be provided for the time period required and with sales segmented into domestic and overseas markets, and broken down by customer type, month by month, as well as showing as a minimum trade, direct, home and export sales.'

#### **6.1.3 Electronic and Subsidiary Right Report**

The supplier shall provide total sales reports for the sale of electronic formats, licences and sub-licences including generated revenue over a defined period, six monthly and on request, within 5 days.

#### **6.1.4 Royalty Payments Report**

The supplier shall provide a report highlighting all payments made to individual royalty recipients over a defined period, six monthly and on request, within 5 days.

#### **6.1.5 Gratis Copies Report**

The supplier shall provide a report highlighting the number of allocated and distributed publications, along with the number of remaining copies for call off. This shall be provided ad hoc upon request, within 5 days.

## SCHEDULE 7 - CHANGE CONTROL

### Change Request Form

(For completion by the Party requesting the Change)

<b>Contract Title:</b>	<b>Party requesting Change:</b>
<b>Name of Supplier:</b>	
<b>Change Request Number:</b>	<b>Proposed Change implementation date:</b>
<b>Full description of requested Change (including proposed changes to wording of the Contract where possible):</b>	
<b>Reasons for requested Change:</b>	
<b>Effect of requested Change</b>	
<b>Assumptions, dependencies, risks and mitigation (if any):</b>	
<b>Change Request Form prepared by (name):</b>	
<b>Signature:</b>	
<b>Date of Change Request:</b>	

### Contract Change Notice (“CCN”)

(For completion by the Authority once the Change has been agreed in principle by both Parties. Changes do not become effective until this form has been signed by both Parties.)

<b>Contract Title:</b>		<b>Change requested by:</b>	
<b>Name of Supplier:</b>			
<b>Change Number:</b>			
<b>Date on which Change takes effect:</b>			
<b>Contract between:</b>  The Lord Chancellor  and  [insert name of Supplier]			
<b>It is agreed that the Contract is amended, in accordance with Regulation 72 of the Public Contracts Regulations 2015 and Regulation 43 of the Concession Contract Regulations (2016), as follows:</b>  [Insert details of the variation (including any change to the Price and deliverables/obligations) based on the information provided in the Change Request Form and any subsequent discussions/negotiations, cross referencing the wording of the original Contract, as previously changed (if applicable), where possible]			
<b>Where significant changes have been made to the Contract, information previously published on Contracts Finder will be updated.</b>			
Words and expressions in this CCN shall have the meanings given to them in the Contract. The Contract, including any previous CCNs, shall remain effective and unaltered except as amended by this CCN			
<b>Signed for and on behalf of the Lord Chancellor</b>		<b>Signed for and on behalf of [insert name of Supplier]</b>	
<b>Signature</b>		<b>Signature</b>	
<b>Name</b>		<b>Name</b>	
<b>Title</b>		<b>Title</b>	
<b>Date</b>		<b>Date</b>	

## SCHEDULE 8 - COMMERCIALLY SENSITIVE INFORMATION

- 1 Without prejudice to the Authority's general obligation of confidentiality, the Parties acknowledge that the Authority may have to disclose Information in or relating to the Contract following a Request for Information pursuant to clause E5 (Freedom of Information).
- 2 In this Schedule 8 the Parties have sought to identify the Supplier's Confidential Information that is genuinely commercially sensitive and the disclosure of which would be contrary to the public interest.
- 3 Where possible the Parties have sought to identify when any relevant Information will cease to fall into the category of Information to which this Schedule 8 applies.
- 4 Without prejudice to the Authority's obligation to disclose Information in accordance with the FOIA and the EIR, the Authority will, acting reasonably but in its sole discretion, seek to apply the commercial interests exemption set out in s.43 of the FOIA to the Information listed below.

SUPPLIER'S COMMERCIALLY SENSITIVE INFORMATION	DATE	DURATION OF CONFIDENTIALITY

## **SCHEDULE 9 – INFORMATION ASSURANCE & SECURITY**

### **1. GENERAL**

- 1.1 This Schedule 9 sets out the obligations of the Parties in relation to information assurance and security, including those which the Supplier must comply with in delivering the Services under the Contract.
- 1.2 The Authority accepts that the Supplier shall provide a robust organisational approach to information assurance and security in keeping with the Good Industry Practice and applicable Law. The Authority accepts the Suppliers position that an ISMS and Security Plan is not necessary given the scope of work within the tender. The Authority accepts that the obligations under this Schedule 9 should be read as applicable without the creation of a bespoke ISMS and Security Plan and the Authority accepts that the Supplier's Information Security and Data Protection Manager has overall responsibility for the Suppliers obligations including information assurance and security, including personnel security and information risk under this Agreement.
- 1.3 The Parties shall each appoint and/or identify a board level individual or equivalent who has overall responsibility for information assurance and security, including personnel security and information risk. The individual appointed by the Supplier, who is the Chief Security Officer, Chief Information Officer, Chief Technical Officer or equivalent and is responsible for compliance with the ISMS, is identified as Key Personnel) and the provisions of clause B11 apply in relation to that person.
- 1.4 The Supplier shall act in accordance with Good Industry Practice in the day to day operation of any system which is used for the storage of Information Assets and/or the storage, processing or management of Authority Data and/or that could directly or indirectly affect Information Assets and/or Authority Data.
- 1.5 The Supplier shall ensure that an information security policy is in place in respect of the operation of its organisation and systems, which shall reflect relevant control objectives for the Supplier System, including those specified in the ISO27002 control set or equivalent, unless otherwise agreed by the Authority. The Supplier shall, upon request, provide a copy of this policy to the Authority as soon as reasonably practicable. The Supplier shall maintain and keep such policy updated and provide clear evidence of this as part of its Security Plan.
- 1.6 The Supplier acknowledges that a compromise of Information Assets and/or Authority Data represents an unacceptable risk to the Authority requiring immediate communication and co-operation between the Parties. The Supplier shall provide clear evidence of regular communication with the Authority in relation to information risk as part of its Security Plan.

## **2. INFORMATION SECURITY MANAGEMENT SYSTEM**

2.1 The Supplier shall, within 30 Working Days of the Commencement Date, submit to the Authority a proposed ISMS which:

2.1.1 has been tested; and

2.1.2 complies with the requirements of paragraphs 2.2 and 2.3 of this Schedule 9.

2.2 The Supplier shall at all times ensure that the level of security, include cyber security, provided by the ISMS is sufficient to protect the confidentiality, integrity and availability of Information Assets and Authority Data used in the provision of the Services and to provide robust risk management.

2.3 The Supplier shall implement, operate and maintain an ISMS which shall:

2.3.1 protect all aspects of and processes of Information Assets and Authority Data, including where these are held on the ICT Environment (to the extent that this is under the control of the Supplier);

2.3.2 be aligned to and compliant with the relevant standards in ISO/IEC 27001: 2013 or equivalent and the Certification Requirements in accordance with paragraph 5 of this Schedule 9 unless otherwise Approved;

2.3.3 provide a level of security which ensures that the ISMS and the Supplier System:

2.3.3.1 meet the requirements in the Contract;

2.3.3.2 are in accordance with applicable Law;

2.3.3.3 demonstrate Good Industry Practice, including the Government's 10 Steps to Cyber Security, currently available at:

<https://www.ncsc.gov.uk/guidance/10-steps-cyber-security>;

2.3.3.4 comply with the Security Policy Framework and any other relevant Government security standards;

2.3.3.5 comply with the Baseline Security Requirements;

2.3.3.6 comply with the Authority's policies, including, where applicable, PSI 24/2014;

2.3.4 address any issues of incompatibility with the Supplier's organisational security policies;

2.3.5 address any specific security threats of immediate relevance to Information Assets and/or Authority Data;

2.3.6 document:

2.3.6.1 the security incident management processes, including reporting, recording and management of information risk incidents, including those relating to the ICT Environment (to the extent that this is within the control of the Supplier) and the loss of protected Personal Data, and the procedures for reducing and raising awareness of information risk;

2.3.6.2 incident response plans, including security incident response companies; and

2.3.6.3 the vulnerability management policy, including processes for identification of system vulnerabilities and assessment of the potential effect on the Services of any new threat, vulnerability or exploitation technique of which the Supplier becomes aware, prioritisation of security patches, testing and application of application of security patches and the reporting and audit mechanism detailing the efficacy of the patching policy;

2.3.7 include procedures for the secure destruction of Information Assets and Authority Data and any hardware or devices on which such information or data is stored; and

2.3.8 be certified by (or by a person with the direct delegated authority of) the Supplier's representative appointed and/or identified in accordance with paragraph 1.3 of this Schedule 9.

2.4 If the Supplier becomes aware of any inconsistency in the provisions of the standards, guidance and policies notified to the Supplier from time to time, the Supplier shall immediately notify the Authority of such inconsistency and the Authority shall, as soon as practicable, notify the Supplier of the provision that takes precedence.

2.5 The Supplier shall, upon request from the Authority or any accreditor appointed by the Authority, provide sufficient design documentation detailing the security architecture of its ISMS to support the Authority's and/or accreditor's assurance that it is appropriate, secure and complies with the Authority's requirements.



- 2.6 The Authority shall review the proposed ISMS submitted pursuant to paragraph 2.1 of this Schedule 9 and shall, within 10 Working Days of its receipt notify the Supplier as to whether it has been approved.
- 2.7 If the ISMS is Approved, it shall be adopted by the Supplier immediately and thereafter operated and maintained throughout the Term in accordance with this Schedule 9.
- 2.8 If the ISMS is not Approved, the Supplier shall amend it within 10 Working Days of a notice of non-approval from the Authority and re-submit it to the Authority for approval. The Authority shall, within a further 10 Working Days notify the Supplier whether the amended ISMS has been approved. The Parties shall use reasonable endeavours to ensure that the approval process takes as little time as possible and in any event no longer than 30 Working Days from the date of its first submission to the Authority. If the Authority does not approve the ISMS following its resubmission, the matter shall be resolved in accordance with clause I1 (Dispute Resolution).
- 2.9 Approval of the ISMS or any change to it shall not relieve the Supplier of its obligations under this Schedule 9.
- 2.10 The Supplier shall provide to the Authority, upon request, any or all ISMS documents.

### **3. SECURITY PLAN**

- 3.1 The Supplier shall, within 30 Working Days of the Commencement Date, submit to the Authority for approval a Security Plan which complies with paragraph 3.2 of this Schedule 9.
- 3.2 The Supplier shall effectively implement the Security Plan which shall:
  - 3.2.1 comply with the Baseline Security Requirements;
  - 3.2.2 identify the organisational roles for those responsible for ensuring the Supplier's compliance with this Schedule 9;
  - 3.2.3 detail the process for managing security risks from those with access to Information Assets and/or Authority Data, including where these are held in the ICT Environment;
  - 3.2.4 set out the security measures and procedures to be implemented by the Supplier, which are sufficient to ensure compliance with the provisions of this Schedule 9;
  - 3.2.5 set out plans for transition from the information security arrangements in place at the Commencement Date to those incorporated in the ISMS;
  - 3.2.6 set out the scope of the Authority System that is under the control of the Supplier;

- 3.2.7 be structured in accordance with ISO/IEC 27001: 2013 or equivalent unless otherwise Approved;
  - 3.2.8 be written in plain language which is readily comprehensible to all Staff and to Authority personnel engaged in the Services and reference only those documents which are in the possession of the Parties or whose location is otherwise specified in this Schedule 6; and
  - 3.2.9 comply with the Security Policy Framework and any other relevant Government security standards.
- 3.3 The Authority shall review the Security Plan submitted pursuant to paragraph 3.1 of this Schedule 9 and notify the Supplier, within 10 Working Days of receipt, whether it has been approved.
- 3.4 If the Security Plan is Approved, it shall be adopted by the Supplier immediately and thereafter operated and maintained throughout the Term in accordance with this Schedule 9.
- 3.5 If the Security Plan is not Approved, the Supplier shall amend it within 10 Working Days of a notice of non-approval from the Authority and re-submit it to the Authority for approval. The Authority shall notify the Supplier within a further 10 Working Days whether it has been approved.
- 3.6 The Parties shall use reasonable endeavours to ensure that the approval process takes as little time as possible and in any event no longer than 30 Working Days from the date of its first submission to the Authority. If the Authority does not approve the Security Plan following its resubmission, the matter shall be resolved in accordance with clause I1 (Dispute Resolution).
- 3.7 Approval by the Authority of the Security Plan pursuant to paragraph 3.3 of this Schedule 9 or of any change to the Security Plan shall not relieve the Supplier of its obligations under this Schedule 9.

#### **4. REVISION OF THE ISMS AND SECURITY PLAN**

- 4.1 The ISMS and Security Plan shall be reviewed in full and tested by the Supplier at least annually throughout the Term (or more often where there is a significant change to the Supplier System or associated processes or where an actual or potential Breach of Security or weakness is identified) to consider and take account of:
- 4.1.1 any issues in implementing the Security Policy Framework and/or managing information risk;
  - 4.1.2 emerging changes in Good Industry Practice;
  - 4.1.3 any proposed or actual change to the ICT Environment and/or associated processes;
  - 4.1.4 any new perceived, potential or actual security risks or vulnerabilities;

4.1.5 any ISO27001: 2013 audit report or equivalent produced regarding the Certification Requirements which indicates concerns; and

4.1.6 any reasonable change in security requirements requested by the Authority.

4.2 The Supplier shall give the Authority the results of such reviews as soon as reasonably practicable after their completion, which shall include without limitation:

4.2.1 suggested improvements to the effectiveness of the ISMS, including controls;

4.2.2 updates to risk assessments; and

4.2.3 proposed modifications to respond to events that may affect the ISMS, including the security incident management processes, incident response plans and general procedures and controls that affect information security.

4.3 Following the review in accordance with paragraphs 4.1 and 4.2 of this Schedule 9 or at the Authority's request, the Supplier shall give the Authority at no additional cost a draft updated ISMS and/or Security Plan which includes any changes the Supplier proposes to make to the ISMS or Security Plan. The updated ISMS and/or Security Plan shall, unless otherwise agreed by the Authority, be subject to clause F4 (Change) and shall not be implemented until Approved.

4.4 If the Authority requires any updated ISMS and/or Security Plan to be implemented within shorter timescales than those set out in clause F4, the Parties shall thereafter follow clause F4 for the purposes of formalising and documenting the relevant change for the purposes of the Contract.

## **5. CERTIFICATION REQUIREMENTS**

5.1 The Supplier shall ensure that any systems, including the ICT Environment, on which Information Assets and Authority Data are stored and/or processed are certified as compliant with:

5.1.1 ISO/IEC 27001:2013 or equivalent by a UKAS approved certification body or are included within the scope of an existing certification of compliance with ISO/IEC 27001:2013 or equivalent unless otherwise Approved; and

5.1.2 the Government's Cyber Essentials Scheme at the BASIC level unless otherwise agreed with the Authority and shall provide the Authority with evidence:

5.1.3 of certification before the Supplier accessed the ICT Environment and receives, stores, processes or manages any Authority Data; and

5.1.4 that such certification remains valid and is kept up to date while the Supplier (as applicable) continues to access the ICT Environment and receives, stores, processes or manages any Authority Data during the Term.

5.2 The Supplier shall ensure that it:

5.2.1 carries out any secure destruction of Information Assets and/or Authority Data at Supplier sites which are included within the scope of an existing certificate of compliance with ISO/IEC 27001:2013 or equivalent unless otherwise Approved; and

5.2.2 is certified as compliant with the CESG Assured Service (CAS) Service Requirement Sanitisation Standard or equivalent unless otherwise Approved and the Supplier shall provide the Authority with evidence of its compliance with the requirements set out in this paragraph 5.2 of this Schedule 9 before the Supplier may carry out the secure destruction of any Information Assets and/or Authority Data.

5.3 The Supplier shall notify the Authority as soon as reasonably practicable and, in any event within 2 Working Days, if the Supplier ceases to be compliant with the certification requirements in paragraph 5.1 of this Schedule 9 and, on request from the Authority, shall:

5.3.1 immediately cease access to and use of Information Assets and/or Authority Data; and

5.3.2 promptly return, destroy and/or erase any Authority Data in accordance with the Baseline Security Requirements and failure to comply with this obligation is a material Default.

## 6. SECURITY TESTING

6.1 The Supplier shall, at its own cost, carry out relevant Security Tests from the Commencement Date and throughout the Term, which shall include:

6.1.1 a monthly vulnerability scan and assessment of the Supplier System and any other system under the control of the Supplier on which Information Assets and/or Authority Data are held;

6.1.2 an annual IT Health Check by an independent CHECK qualified company of the Supplier System and any other system under the control of the Supplier on which Information Assets and/or Authority Data are held and any additional IT Health Checks required by the Authority and/or any accreditor;

6.1.3 an assessment as soon as reasonably practicable following receipt by the Supplier of a critical vulnerability alert from a provider of any software or other component of the Supplier System and/or any other system under the control of the Supplier on which Information Assets and/or Authority Data are held; and

6.1.4 such other tests as are required:

6.1.4.1 by any Vulnerability Correction Plans;

6.1.4.2 by ISO/IEC 27001:2013 certification requirements or equivalent Approved;

6.1.4.3 after any significant architectural changes to the ICT Environment;

6.1.4.4 after a change to the ISMS (including security incident management processes and incident response plans) or the Security Plan; and

6.1.4.5 following a Breach of Security.

6.2 In relation to each IT Health Check, the Supplier shall:

6.2.1 agree with the Authority the aim and scope of the IT Health Check;

6.2.2 promptly, following receipt of each IT Health Check report, give the Authority a copy of the IT Health Check report;

6.2.3 if the IT Health Check report identifies any vulnerabilities:

6.2.3.1 prepare a Vulnerability Correction Plan for Approval which sets out in respect of each such vulnerability:

6.2.3.1.1 how the vulnerability will be remedied;

6.2.3.1.2 the date by which the vulnerability will be remedied;

6.2.3.1.3 the tests which the Supplier shall perform or procure to be performed (which may, at the Authority's discretion, include a further IT Health Check) to confirm that the vulnerability has been remedied;

6.2.3.2 comply with the Vulnerability Correction Plan; and

6.2.3.3 conduct such further Security Tests as are required by the Vulnerability Correction Plan.

6.3 Security Tests shall be designed and implemented by the Supplier to minimise any adverse effect on the Services and the date, timing, content and conduct of Security Tests shall be agreed in advance with the Authority.

6.4 The Authority may send a representative to witness the conduct of the Security Tests. The Supplier shall provide the Authority with the results of Security Tests (in a form to be Approved) as soon as practicable and in any event within 5 Working Days after completion of each Security Test.

6.5 Without prejudice to any other right of audit or access granted to the Authority pursuant to the Contract, the Authority and/or its authorised representatives, including any accreditor, may at any time to carry out Security Tests (including

penetration tests) as it may deem necessary as part of any accreditation process and/or to verify the Supplier's compliance with the ISMS and the Security Plan:

6.5.1 upon giving reasonable notice to the Supplier where reasonably practicable to do so; and

6.5.2 without giving notice to the Supplier where, in the Authority's view, the provision of such notice may undermine the Security Tests to be carried out and, where applicable, the Authority shall be granted access to the Supplier's premises for the purpose of undertaking the relevant Security Tests.

6.6 If the Authority carries out Security Tests in accordance with paragraphs 6.5.1 or 6.5.2 of this Schedule 9, the Authority shall (unless there is any reason to withhold such information) notify the Supplier of the results of the Security Tests as soon as possible and in any event within 5 Working Days after completion of each Security Test.

6.7 If any Security Test carried out pursuant to paragraphs 6.1 or 6.4 of this Schedule 9 reveals any:

6.7.1 vulnerabilities during any accreditation process, the Supplier shall track and resolve them effectively; and

6.7.2 actual or potential Breach of Security or weaknesses (including unpatched vulnerabilities, poor configuration and/or incorrect system management), the Supplier shall promptly notify the Authority of any proposed changes to the ICT Environment (to the extent that this is under the control of the Supplier) and/or to the ISMS and/or to the Security Plan (and the implementation thereof) which the Supplier intend to make in order to correct such failure or weakness. Subject to Approval and paragraphs 4.3 and 4.4 of this Schedule 9, the Supplier shall implement such changes to the ICT Environment (to the extent that this is under the control of the Supplier) and/or the ISMS and/or the Security Plan and repeat the relevant Security Tests in accordance with an Approved timetable or, otherwise, as soon as reasonably practicable.

6.8 If the Authority unreasonably withholds its approval to the implementation of any changes to the ICT Environment and/or to the ISMS and/or to the Security Plan proposed by the Supplier in accordance with paragraph 6.7, the Supplier is not in breach of the Contract to the extent that it can be shown that such breach:

6.8.1 has arisen as a direct result of the Authority unreasonably withholding Approval to the implementation of such proposed changes; and

6.8.2 would have been avoided had the Authority Approved the implementation of such proposed changes.

6.9 If a change to the ISMS or Security Plan is to address any non-compliance with ISO/IEC 27001:2013 requirements or equivalent, the Baseline Security

Requirements or any obligations in the Contract, the Supplier shall implement such change at its own cost and expense.

6.10 If any repeat Security Test carried out pursuant to paragraph 6.7 of this Schedule 9 reveals an actual or potential breach of security or weakness exploiting the same root cause failure, such circumstance shall constitute a material Default.

6.11 On each anniversary of the Commencement Date, the Supplier shall provide to the Authority a letter from the individual appointed or identified in accordance with paragraph 1.3 of this Schedule 9 confirming that having made due and careful enquiry:

6.11.1 the Supplier has in the previous year carried out all Security Tests in accordance with this Schedule 9 and has complied with all procedures in relation to security matters required under the Contract; and

6.11.2 the Supplier is confident that its security and risk mitigation procedures in relation to Information Assets and Authority Data remain effective.

## **7. SECURITY AUDITS AND COMPLIANCE**

7.1 The Authority and its authorised representatives may carry out security audits as it reasonably considers necessary in order to ensure that the ISMS is compliant with the principles and practices of ISO 27001: 2013 or equivalent (unless otherwise Approved), the requirements of this Schedule H and the Baseline Security Requirements.

7.2 If ISO/IEC 27001: 2013 certification or equivalent is provided, the ISMS shall be audited independently in accordance with ISO/IEC 27001: 2013 or equivalent. The Authority and its authorised representatives shall, where applicable, be granted access to the Supplier Sites and Sub-contractor premises for this purpose.

7.3 If, on the basis of evidence resulting from such audits, it is the Authority's reasonable opinion that ISMS is not compliant with any applicable principles and practices of ISO/IEC 27001: 2013 or equivalent, the requirements of this Schedule H and/or the Baseline Security Requirements is not being achieved by the Supplier, the Authority shall notify the Supplier of this and provide a reasonable period of time (having regard to the extent and criticality of any non-compliance and any other relevant circumstances) for the Supplier to implement any necessary remedy. If the Supplier does not ensure that the ISMS is compliant within this period of time, the Authority may obtain an independent audit of the ISMS to assess compliance (in whole or in part).

7.4 If, as a result of any such independent audit as described in paragraph 7.3 the Supplier is found to be non-compliant with any applicable principles and practices of ISO/IEC 27001:2013 or equivalent, the requirements of this Schedule H and/or the Baseline Security Requirements the Supplier shall, at its own cost, undertake those actions that are required in order to ensure that

the ISMS is complaint and shall reimburse the Authority in full in respect of the costs obtaining such an audit.

## **8. SECURITY RISKS AND BREACHES**

- 8.1 The Supplier shall use its reasonable endeavours to prevent any Breach of Security for any reason, including as a result of malicious, accidental or inadvertent behaviour.
- 8.2 If either Party becomes aware of a Breach of Security or an attempted Breach of Security it shall act in accordance with the agreed security incident management processes and incident response plans as set out in the ISMS.
- 8.3 Without prejudice to the security incident management processes and incident response plans set out in the ISMS and any requirements to report incidents in accordance with PSI 24/2014, upon becoming aware of any Breach of Security or attempted Breach of Security, the Supplier shall:

8.3.1 immediately notify the Authority and take all reasonable steps (which shall include any action or changes reasonably required by the Authority) that are necessary to:

8.3.1.1 minimise the extent of actual or potential harm caused by any Breach of Security;

8.3.1.2 remedy any Breach of Security to the extent that is possible and protect the integrity of the ICT Environment (to the extent that this is within its control) and ISMS against any such Breach of Security or attempted Breach of Security;

8.3.1.3 mitigate against a Breach of Security or attempted Breach of Security; and

8.3.1.4 prevent a further Breach of Security or attempted Breach of Security in the future resulting from the same root cause failure;

8.3.2 provide to the Authority and/or the Computer Emergency Response Team for UK Government (“**GovCertUK**”) or equivalent any data that is requested relating to the Breach of Security or attempted Breach of Security within 2 Working Days of such request; and

8.3.3 as soon as reasonably practicable and, in any event, within 2 Working Days following the Breach of Security or attempted Breach of Security, provide to the Authority full details (using the reporting mechanism defined by the ISMS) of the Breach of Security or attempted Breach of Security, including a root cause analysis if required by the Authority and the Supplier recognises that the Authority may report significant actual or potential losses of Personal Data to the Information Commissioner or equivalent and to the Cabinet Office.



- 8.4 If any action is taken by the Supplier in response to a Breach of Security or attempted Breach of Security which occurred as a result of non-compliance of the ISMS with any ISO/IEC 27001: 2013 requirements or equivalent (as applicable), the Baseline Security Requirements and/or the requirements of this Schedule 6, any such action and change to the ISMS and/or Security Plan as a result shall be implemented at the Supplier's cost.

### **IT Environment**

- 8.5 The Supplier shall ensure that the Supplier System:
- 8.5.1 functions in accordance with Good Industry Practice for protecting external connections to the internet;
  - 8.5.2 functions in accordance with Good Industry Practice for protection from malicious code;
  - 8.5.3 provides controls to securely manage (store and propagate) all cryptographic keys to prevent malicious entities and services gaining access to them, in line with the Authority's Cryptographic Policy as made available to the Supplier from time to time;
  - 8.5.4 is patched (and all its components are patched) in line with Good Industry Practice, any Authority patching policy currently in effect and notified to the Supplier and any Supplier patch policy that is agreed with the Authority; and
  - 8.5.5 uses the latest versions of anti-virus definitions, firmware and software available from industry accepted anti-virus software vendors.
- 8.6 Notwithstanding paragraph 8.5 of this Schedule 9, if a Breach of Security is detected in the ICT Environment, the Parties shall co-operate to reduce the effect of the Breach of Security and, if the Breach of Security causes loss of operational efficiency or loss or corruption of Information Assets and/or Authority Data, assist each other to mitigate any losses and to recover and restore such Information Assets and Authority Data.
- 8.7 All costs arising out of the actions taken by the Parties in compliance with paragraphs 8.2, 8.3 and 8.6 of this Schedule 9 shall be borne by:
- 8.7.1 the Supplier if the Breach of Security originates from the defeat of the Supplier's security controls or Information Assets and/or Authority Data is lost or corrupted whilst under the control of the Supplier or its Sub-contractor; or
  - 8.7.2 the Authority if the Breach of Security originates from the defeat of the Authority's security controls or Information Assets and/or Authority Data is lost or corrupted whilst under the control of the Authority and each Party shall bear its own costs in all other cases.

## 9. VULNERABILITIES AND CORRECTIVE ACTION

9.1 The Parties acknowledge that from time to time vulnerabilities in the ICT Environment and ISMS will be discovered which, unless mitigated, will present an unacceptable risk to Information Assets and/or Authority Data.

9.2 The severity of any vulnerabilities shall be categorised by the Supplier as '*Critical*', '*Important*' and '*Other*' according to the agreed method in the ISMS and using any appropriate vulnerability scoring systems.

9.3 The Supplier shall procure the application of security patches to vulnerabilities categorised as '*Critical*' within 7 days of public release, vulnerabilities categorised as '*Important*' within 30 days of public release and vulnerabilities categorised as '*Other*' within 60 days of public release, except where:

9.3.1 the Supplier can demonstrate that a vulnerability is not exploitable within the context of the Services being provided, including where it resides in a software component which is not being used, provided that, where those vulnerabilities become exploitable, they are remedied by the Supplier within the timescales in paragraph 9.3 of this Schedule 9;

9.3.2 the application of a security patch in respect of a vulnerability categorised as '*Critical*' or '*Important*' adversely affects the Supplier's ability to deliver the Services, in which case the Supplier shall be granted an extension to the timescales in paragraph 9.3 of this Schedule 9 of 5 days, provided that the Supplier continues to follow any security patch test plan agreed with the Authority; or

9.3.3 the Authority agrees a different timescale after consultation with the Supplier in accordance with the processes defined in the ISMS.

9.4 The ISMS and the Security Plan shall include provision for the Supplier to upgrade software throughout the Term within 6 months of the release of the latest version unless:

9.4.1 upgrading such software reduces the level of mitigation for known threats, vulnerabilities or exploitation techniques, provided always that such software is upgraded by the Supplier within 12 months of release of the latest version; or

9.4.2 otherwise Approved.

9.5 The Supplier shall:

9.5.1 implement a mechanism for receiving, analysing and acting upon threat information provided by GovCertUK, or any other competent Central Government Body;

9.5.2 ensure that the ICT Environment (to the extent that this is within the control of the Supplier) is monitored to facilitate the detection of anomalous behaviour that would be indicative of system compromise;

9.5.3 ensure that it is knowledgeable about the latest trends in threat, vulnerability and exploitation that are relevant to the ICT Environment (to the extent that this is within the control of the Supplier) by actively monitoring the threat landscape during the Term;

9.5.4 pro-actively scan the ICT Environment (to the extent that this is within the control of the Supplier) for vulnerable components and address discovered vulnerabilities through the processes described in the ISMS;

9.5.5 from the Commencement Date and within 5 Working Days of the end of each subsequent month during the Term provide a report to the Authority detailing both patched and outstanding vulnerabilities in the ICT Environment (to the extent that this is within the control of the Supplier) and any elapsed time between the public release date of patches and either the time of application or, for outstanding vulnerabilities, the time of issue of such report;

9.5.6 propose interim mitigation measures in respect of any vulnerabilities in the ICT Environment (to the extent this is within the control of the Supplier) known to be exploitable where a security patch is not immediately available;

9.5.7 remove or disable any extraneous interfaces, services or capabilities that are no longer needed for the provision of the Services (in order to reduce the attack surface of the ICT Environment to the extent this is within the control of the Supplier); and

9.5.8 inform the Authority when it becomes aware of any new threat, vulnerability or exploitation technique that has the potential to affect the security of the IT Environment (to the extent this is within the control of the Supplier) and provide initial indications of possible mitigations

9.6 If the Supplier is unlikely to be able to mitigate any vulnerability within the timescales in paragraph 9.3 of this Schedule 9, the Supplier shall notify the Authority immediately.

9.7 Any failure by the Supplier to comply with paragraph 9.3 of this Schedule 9 shall constitute a material Default.

## **10. SUB-CONTRACTS**

10.1 The Supplier shall ensure that all Sub-Contracts with Sub-Contractors who have access to Information Assets and/or Authority Data contain equivalent provisions in relation to information assurance and security that are no less onerous than those imposed on the Supplier under the Contract.

## **ANNEX 1 – BASELINE SECURITY REQUIREMENTS**

### **1 Security Classifications and Controls**

- 1.1 The Supplier shall, unless otherwise Approved in accordance with paragraph 6.2 of this Annexe 1, only have access to and handle Information Assets and Authority Data that are classified under the Government Security Classifications Scheme as OFFICIAL.
- 1.2 There may be a specific requirement for the Supplier in some instances on a limited 'need to know basis' to have access to and handle Information Assets and Authority Data that are classified as 'OFFICIAL-SENSITIVE.'
- 1.3 The Supplier shall apply the security controls required for OFFICIAL information and OFFICIAL-SENSITIVE information as described in Cabinet Office guidance, currently at:  
<https://www.gov.uk/government/publications/government-security-classifications>
- 1.4 The Supplier shall be able to demonstrate to the Authority and any accreditor that it has taken into account the "Technical Controls Summary" for OFFICIAL (in the above guidance) in designing and implementing the security controls in the Supplier System, which shall be subject to assurance and accreditation to Government standards.
- 1.5 Additional controls may be required by the Authority and any accreditor where there are aspects of data aggregation.

### **2 End User Devices**

- 2.1 Authority Data shall, wherever possible, be held and accessed on paper or in the ICT Environment on secure premises and not on removable media (including laptops, removable discs, CD-ROMs, USB memory sticks, PDAs and media card formats) without Approval. If Approval is sought to hold and access data by other means, the Supplier shall consider the second-best option and third best option below and record the reasons why a particular approach should be adopted when seeking Approval:
  - 2.1.1 second best option means: secure remote access so that data can be viewed or amended over the internet without being permanently stored on the remote device, using products meeting the FIPS 140-2 standard or equivalent, unless Approved;
  - 2.1.2 third best option means: secure transfer of Authority Data to a remote device at a secure site on which it will be permanently stored, in which case the Authority Data and any links to it shall be protected at least to the FIPS 140-2 standard or equivalent, unless otherwise Approved, and noting that protectively marked Authority Data must not be stored on privately owned devices unless they are protected in this way.

- 2.2 The right to transfer Authority Data to a remote device should be carefully considered and strictly limited to ensure that it is only provided where absolutely necessary and shall be subject to monitoring by the Supplier and Authority.
- 2.3 Unless otherwise Approved, when Authority Data resides on a mobile, removable or physically uncontrolled device, it shall be:
  - 2.3.1 the minimum amount that is necessary to achieve the intended purpose and should be anonymised if possible;
  - 2.3.2 stored in an encrypted form meeting the FIPS 140-2 standard or equivalent and using a product or system component which has been formally assured through a recognised certification process of CESG to at least Foundation Grade, for example, under the CESG Commercial Product Assurance scheme (“**CPA**”) or equivalent, unless otherwise Approved;
  - 2.3.3 protected by an authentication mechanism, such as a password; and
  - 2.3.4 have up to date software patches, anti-virus software and other applicable security controls to meet the requirements of this Schedule 6.
- 2.4 Devices used to access or manage Authority Data shall be under the management authority of the Supplier and have a minimum set of security policy configurations enforced. Unless otherwise Approved, all Supplier devices shall satisfy the security requirements set out in the CESG End User Devices Platform Security Guidance (“**CESG Guidance**”) (<https://www.gov.uk/government/collections/end-user-devices-security-guidance--2>) or equivalent.
- 2.5 Where the CESG Guidance highlights shortcomings in a particular platform the Supplier may wish to use, then these should be discussed with the Authority and a joint decision shall be taken on whether the residual risks are acceptable. If the Supplier wishes to deviate from the CESG Guidance, this should be agreed in writing with the Authority on a case by case basis.

### **3 Data Storage, Processing, Management, Transfer and Destruction**

- 3.1 The Parties recognise the need for Authority Data to be safeguarded and for compliance with the Data Protection Legislation. To that end, the Supplier shall inform the Authority the location within the United Kingdom where Authority Data is stored, processed and managed. The import and export of Authority Data from the Supplier System must be strictly controlled and recorded.
- 3.2 The Supplier shall inform the Authority of any changes to the location within the United Kingdom where Authority Data is stored, processed and managed and shall not transmit, store, process or manage Authority Data outside of the United Kingdom without Approval which shall not be unreasonably withheld or delayed provided that the transmission, storage, processing and management of Authority Data offshore is within:

- 3.2.1 the European Economic Area (“EEA”); or
- 3.2.2 another country or territory outside the EEA if that country or territory ensures an adequate level of protection by reason of its domestic law or of the international commitments it has entered into which have been defined as adequate by the European Commission.
- 3.3 The Supplier System shall support the requirement of the Authority to comply with Government policy and Cabinet Office guidance on Offshoring, currently set out at:
- <https://ogsirooffshoring.zendesk.com/hc/en-us/articles/203107991-HMG-sOffshoring-Policy>
- by assessing, as required, any additional security risks associated with the storage, processing and/or transmission of any data and/or information offshore, including by an offshore Supplier (which may include the use of ‘landed resources’), taking account of European Union requirements to confirm the ‘adequacy’ of protection of Personal Data in the countries where storage, processing and/or transmission occurs. No element of the Supplier System may be off-shored without Approval.
- 3.4 The Supplier shall ensure that the Supplier System provides internal processing controls between security domains to prevent the unauthorised high domain exporting of Authority Data to the low domain if there is a requirement to pass data between different security domains.
- 3.5 The Supplier shall ensure that any electronic transfer of Authority Data:
- 3.5.1 protects the confidentiality of the Authority during transfer through encryption suitable for the impact level of the data;
- 3.5.2 maintains the integrity of the Authority Data during both transfer and loading into the receiving system through suitable technical controls for the impact level of the data; and
- 3.5.3 prevents the repudiation of receipt through accounting and auditing.
- 3.6 The Supplier shall:
- 3.6.1 protect Authority Data, including Personal Data, whose release or loss could cause harm or distress to individuals and ensure that this is handled as if it were confidential while it is stored and/or processed;
- 3.6.2 ensure that OFFICIAL-SENSITIVE information, including Personal Data is encrypted in transit and when at rest when stored away from the Supplier’s controlled environment;
- 3.6.3 on demand, provide the Authority with all Authority Data in an agreed open format;

3.6.4 have documented processes to guarantee availability of Authority Data if it stops trading;

3.6.5 securely destroy all media that has held Authority Data at the end of life of that media in accordance with any requirements in the Contract and, in the absence of any such requirements, in accordance with Good Industry Practice;

3.6.6 securely erase any or all Authority Data held by the Supplier when requested to do so by the Authority;

3.6.7 ensure that all material used for storage of Confidential Information is subject to controlled disposal and the Supplier shall:

3.6.7.1 destroy paper records containing Personal Data by incineration, pulping or shredding so that reconstruction is unlikely; and

3.6.7.2 dispose of electronic media that was used for the processing or storage of Personal Data through secure destruction, overwriting, erasure or degaussing for re-use.

## **4 Networking**

4.1 Any Authority Data transmitted over any public network (including the Internet, mobile networks or un-protected enterprise network) or to a mobile device shall be encrypted using a product or system component which has been formally assured through a certification process recognised by CESG, to at least Foundation Grade, for example, under CPA or through the use of Public Sector Network (“**PSN**”) compliant encrypted networking services or equivalent unless none are available in which case the Supplier shall agree the solution with the Authority.

4.2 The Authority requires that the configuration and use of all networking equipment in relation to the provision of the Services, including equipment that is located in secure physical locations, is at least compliant with Good Industry Practice.

4.3 The Supplier shall ensure that the ICT Environment (to the extent this is within the control of the Supplier) contains controls to maintain separation between the PSN and internet connections if used.

## **5 Security Architectures**

5.1 When designing and configuring the ICT Environment (to the extent that this is within the control of the Supplier) the Supplier shall follow Good Industry Practice and seek guidance from recognised security professionals with the appropriate skills and/or those with a CESG Certified Professional certification or equivalent for all bespoke or complex components.

5.2 The Supplier shall provide to the Authority and any accreditor sufficient design documentation detailing the security architecture of the ICT Environment and

data transfer mechanism to support the Authority's and any accreditor's assurance that this is appropriate, secure and compliant with the Authority's requirements.

- 5.3 The Supplier shall apply the '*principle of least privilege*' (the practice of limiting systems, processes and user access to the minimum possible level) to the design and configuration of the ICT Environment used for the storage, processing and management of Authority Data. Users should only be granted the minimum necessary permissions to access Information Assets and Authority Data and must be automatically logged out of the Supplier System if an account or session is inactive for more than 15 minutes.

## **6 Digital Continuity**

The Supplier shall ensure that each Information Asset is held in an appropriate format that is capable of being updated from time to time to enable the Information Asset to be retrieved, accessed, used and transferred to the Authority, including in accordance with any information handling procedures set out in PSI 24/2014.

## **7 Personnel Vetting and Security**

- 7.1 All Staff shall be subject to pre-employment checks that include, as a minimum, their employment history for at least the last 3 years, identity, unspent criminal convictions and right to work (including nationality and immigration status) and shall be vetted in accordance with:
- 7.1.1 the BPSS or BS7858 or equivalent; and
  - 7.1.2 PSI 07/2014 based on their level of access to Information Assets and/or Authority Data.
- 7.2 If the Authority agrees that it is necessary for any Staff to have logical or physical access to Information Assets and/or Authority Data classified at a higher level than OFFICIAL (such as that requiring 'SC' clearance), the Supplier shall obtain the specific government clearances that are required for access to such Information Assets and/or Authority Data.
- 7.3 The Supplier shall prevent Staff who are unable to obtain the required security clearances from accessing Information Assets and/or Authority Data and/or the ICT Environment used to store, process and/or manage such Information Assets or Authority Data.
- 7.4 The Supplier shall procure that all Staff comply with the Security Policy Framework and principles, obligations and policy priorities stated therein, including requirements to manage and report all security risks in relation to the provision of the Services.
- 7.5 The Supplier shall ensure that Staff who can access Information Assets and/or Authority Data and/or the ICT Environment are aware of their responsibilities when handling such information and data and undergo regular training on



secure information management principles. Unless otherwise Approved, this training must be undertaken annually.

- 7.6 If the Supplier grants Staff access to Information Assets and/or Authority Data, those individuals shall be granted only such levels of access and permissions that are necessary for them to carry out their duties. Once Staff no longer require such levels of access or permissions or leave the organisation, their access rights shall be changed or revoked (as applicable) within one Working Day.

## **8 Identity, Authentication and Access Control**

- 8.1 The Supplier shall operate a robust role-based access control regime, including network controls, to ensure all users and administrators of and those maintaining the ICT Environment are uniquely identified and authenticated when accessing or administering the ICT Environment to prevent unauthorised users from gaining access to Information Assets and/or Authority Data. Applying the '*principle of least privilege*', users and administrators and those responsible for maintenance shall be allowed access only to those parts of the ICT Environment they require. The Supplier shall retain an audit record of accesses and users and disclose this to the Authority upon request.
- 8.2 The Supplier shall ensure that Staff who use the Authority System actively confirm annually their acceptance of the Authority's acceptable use policy.

## **9 Physical Media**

- 9.1 The Supplier shall ensure that all:

9.1.1 OFFICIAL information is afforded physical protection from internal, external and environmental threats commensurate with the value to the Authority of that information;

9.1.2 physical components of the Supplier System are kept in secure accommodation which conforms to the Security Policy Framework and CESG standards and guidance or equivalent;

9.1.3 physical media holding OFFICIAL information is handled in accordance with the Security Policy Framework and CESG standards and guidance or equivalent; and

9.1.4 Information Assets and Authority Data held on paper are:

9.1.4.1 kept secure at all times, locked away when not in use on the premises on which they are held and secured and are segregated if the Supplier is co-locating with the Authority; and

9.1.4.2 only transferred by an approved secure form of transfer with confirmation of receipt obtained.

## **10 Audit and Monitoring**

- 10.1 The Supplier shall implement effective monitoring of its information assurance and security obligations in accordance with Government standards and where appropriate, in accordance with CESG Good Practice Guide 13 – Protective Monitoring or equivalent.
- 10.2 The Supplier shall collect audit records which relate to security events in the ICT Environment (where this is within the control of the Supplier), including those that would support the analysis of potential and actual compromises. In order to facilitate effective monitoring and forensic readiness, such Supplier audit records shall include:
  - 10.2.1 logs to facilitate the identification of the specific asset which makes every outbound request external to the ICT Environment (to the extent it is within the control of the Supplier). To the extent, the design of the ICT Environment allows, such logs shall include those from DHCP servers, HTTP/HTTPS proxy servers, firewalls and routers;
  - 10.2.2 regular reports and alerts giving details of access by users of the ICT Environment (to the extent that it is within the control of the Supplier) to enable the identification of changing access trends any unusual patterns of usage and/or accounts accessing higher than average amounts of Authority Data; and
  - 10.2.3 security events generated in the ICT Environment (to the extent it is within the control of the Supplier) including account logon and logoff events, start and end of remote access sessions, security alerts from desktops and server operating systems and security alerts from third party security software.
- 10.3 The Parties shall work together to establish any additional audit and monitoring requirements for the ICT Environment.
- 10.4 The Supplier shall retain audit records collected in compliance with paragraph 10.1 for at least 6 months.

## SCHEDULE 10 – STATUTORY OBLIGATIONS AND CORPORATE SOCIAL RESPONSIBILITY

### 1 What the Authority expects from the Supplier

- 1.1 In September 2017, Her Majesty's Government published a Supplier Code of Conduct (the "**Code**") setting out the standards and behaviours expected of suppliers who work with government. The Code can be found online at:

*[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/646497/2017-09-3\\_Official\\_Sensitive\\_Supplier\\_Code\\_of\\_Conduct\\_September\\_2017.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/646497/2017-09-3_Official_Sensitive_Supplier_Code_of_Conduct_September_2017.pdf)*

- 1.2 The Authority expects the Supplier and its Sub-Contractors to comply with their legal obligations, in particular those set out in Part 1 of this Schedule I, and to meet the standards set out in the Code as a minimum. The Authority also expects the Supplier and its Sub-Contractors to use reasonable endeavours to comply with the standards set out in Part 2 of this Schedule I.

### PART 1 Statutory Obligations

#### 2 Equality and Accessibility

- 2.1 The Supplier shall:

- (a) perform its obligations under the Contract in accordance with:
  - i) all applicable equality Law (whether in relation to race, sex, gender reassignment, age, disability, sexual orientation, religion or belief, pregnancy maternity or otherwise);
  - ii) the Authority's equality, diversity and inclusion policy as given to the Supplier from time to time;
  - iii) any other requirements and instructions which the Authority reasonably imposes regarding any equality obligations imposed on the Authority at any time under applicable equality law; and
- (b) take all necessary steps and inform the Authority of the steps taken to prevent unlawful discrimination designated as such by any court or tribunal, or the Equality and Human Rights Commission (or any successor organisation).

#### 3 Modern Slavery

- 3.1 The Supplier shall, and procure that each of its Sub-Contractors shall, comply with:
- (a) the Modern Slavery Act 2015 ("**Slavery Act**"); and

- (b) the Authority's anti-slavery policy as provided to the Supplier from time to time ("**Anti-slavery Policy**").

3.2 The Supplier shall:

- (a) implement due diligence procedures for its Sub-Contractors and other participants in its supply chains, to ensure that there is no slavery or trafficking in its supply chains;
- (b) respond promptly to all slavery and trafficking due diligence questionnaires issued to it by the Authority from time to time and shall ensure that its responses to all such questionnaires are complete and accurate;
- (c) prepare and deliver to the Authority each year, an annual slavery and trafficking report setting out the steps it has taken to ensure that slavery and trafficking is not taking place in any of its supply chains or in any part of its business;
- (d) maintain a complete set of records to trace the supply chain of all Services provided to the Authority regarding the Contract; and
- (e) implement a system of training for its employees to ensure compliance with the Slavery Act.

3.3 The Supplier represents, warrants and undertakes throughout the Term that:

- (a) it conducts its business in a manner consistent with all applicable laws, regulations and codes including the Slavery Act and all analogous legislation in place in any part of the world;
- (b) its responses to all slavery and trafficking due diligence questionnaires issued to it by the Authority from time to time are complete and accurate; and
- (c) neither the Supplier nor any of its Sub-Contractors, nor any other persons associated with it:
  - i) has been convicted of any offence involving slavery and trafficking; or
  - ii) has been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence regarding slavery and trafficking.

3.4 The Supplier shall notify the Authority as soon as it becomes aware of:

- (a) any breach, or potential breach, of the Anti-Slavery Policy; or

- (b) any actual or suspected slavery or trafficking in a supply chain which relates to the Contract.

3.5 If the Supplier notifies the Authority pursuant to paragraph 3.4 of this Schedule 8, it shall respond promptly to the Authority's enquiries, co-operate with any investigation, and allow the Authority to audit any books, records and/or any other relevant documentation in accordance with the Contract.

3.6 If the Supplier is in Default under paragraphs 3.2 or 3.3 of this Schedule 8 the Authority may by notice:

- (a) require the Supplier to remove from performance of the Contract any Sub-Contractor, Staff or other persons associated with it whose acts or omissions have caused the Default; or
- (b) immediately terminate the Contract.

#### **4 Income Security**

4.1 The Supplier shall:

- (a) ensure that all pay and benefits paid for a standard working week meet, at least, national legal standards in the country of employment;
- (b) provide all Staff with written and readily understandable information about their employment conditions in respect of pay before they enter employment and about their pay for the pay period concerned each time that they are paid;
- (c) not make deductions from pay:
  - (i) as a disciplinary measure;
  - (ii) except where permitted by Law and the terms of the employment contract; and
  - (iii) without express permission of the person concerned
- (d) record all disciplinary measures taken against Staff.

#### **5 Working Hours**

5.1 The Supplier shall ensure that:

- (a) the working hours of Staff comply with the Law, and any collective agreements;
- (b) the working hours of Staff, excluding overtime, is defined by contract, do not exceed 48 hours per week unless the individual has agreed in writing, and that any such agreement is in accordance with the Law;

- (c) overtime is used responsibly, considering:
  - (i) the extent;
  - (ii) frequency; and
  - (iii) hours worked;
- (d) the total hours worked in any seven-day period shall not exceed 60 hours, except where covered by paragraph 5.3 of this Schedule 8;
- (e) working hours do not exceed 60 hours in any seven-day period unless:
  - (i) it is allowed by Law;
  - (ii) it is allowed by a collective agreement freely negotiated with a worker's organisation representing a significant portion of the workforce;
  - (iii) appropriate safeguards are taken to protect the workers' health and safety; and
  - (iv) the Supplier can demonstrate that exceptional circumstances apply such as during unexpected production peaks, accidents or emergencies;
- (f) all Supplier Staff are provided with at least:
  - (i) 1 day off in every 7-day period; or
  - (ii) where allowed by Law, 2 days off in every 14-day period.

## **6 Right to Work**

6.1 The Supplier shall:

- (a) ensure that all Staff, are employed on the condition that they are permitted to work in the UK, and;
- (b) notify the authority immediately if an employee is not permitted to work in the UK.

## **7 Health and Safety**

7.1 The Supplier shall perform its obligations under the Contract in accordance with:

- (a) all applicable Law regarding health and safety; and
- (b) the Authority's Health and Safety Policy while at the Authority's Premises.

7.2 Each Party shall notify the other as soon as practicable of any health and safety incidents or material health and safety hazards at the Authority's Premises of which it

becomes aware and which relate to or arise in connection with the performance of the Contract. The Supplier shall instruct Staff to adopt any necessary safety measures in order to manage the risk.

## **8. Welsh Language Requirements**

- 8.1 The Supplier shall comply with the Welsh Language Act 1993 and the Welsh Language Scheme as if it were the Authority to the extent that the same relate to the provision of the Services.

## **9 Fraud and Bribery**

- 9.1 The Supplier represents and warrants that neither it, nor to the best of its knowledge any Staff, have at any time prior to the Commencement Date:

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

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

- 9.2 The Supplier shall not during the Term:

(a) commit a Prohibited Act; and/or

(b) do or suffer anything to be done which would cause the Authority or any of its employees, consultants, contractors, sub-contractors or agents to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements.

- 9.3 The Supplier shall, during the Term:

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

(b) keep appropriate records of its compliance with its obligations under paragraph 9.3(a) and make such records available to the Authority on request.

- 9.4 The Supplier shall immediately notify the Authority in writing if it becomes aware of any breach of paragraphs 9.1 and/or 9.2, or has reason to believe that it has or any of the Staff have:

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

(b) been listed by any Government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise

ineligible for participation in Government procurement programmes or contracts on the grounds of a Prohibited Act; and/or

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

- 9.5 If the Supplier notifies the Authority pursuant to paragraph 9.4, the Supplier shall respond promptly to the Authority's enquiries, co-operate with any investigation, and allow the Authority to Audit any books, records and/or any other relevant documentation.
- 9.6 If the Supplier is in Default under paragraphs 9.1 and/or 9.2, the Authority may by notice:
- (a) require the Supplier to remove from performance of the Contract any Staff whose acts or omissions have caused the Default; or
  - (b) immediately terminate the Contract.
- 9.7 Any notice served by the Authority under paragraph 9.6 shall specify the nature of the Prohibited Act, the identity of the party who the Authority believes has committed the Prohibited Act and the action that the Authority has taken (including, where relevant, the date on which the Contract terminates).

## **PART 2 Corporate Social Responsibility**

### **10 Zero Hours Contracts**

10.1 Any reference to zero hours contracts, for the purposes of this Contract, means as they relate to employees or workers and not those who are genuinely self-employed and undertaking work on a zero hours arrangement.

10.2 When offering zero hours contracts, the Supplier shall consider and be clear in its communications with its employees and workers about:

- (a) whether an individual is an employee or worker and what statutory and other rights they have;
- (b) the process by which work will be offered and assurance that they are not obliged to accept work on every occasion; and
- (c) how the individual's contract will terminate, for example, at the end of each work task or with notice given by either party.

### **11 Sustainability**

11.1 The Supplier shall:

- (a) comply with the applicable Government Buying Standards; and



- (b) perform its obligations under the Contract in a way that:
  - (i) conserves energy, water, wood, paper and other resources;
  - (ii) reduces waste and avoids the use of ozone depleting substances;  
and
  - (iii) minimises the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment.

## SCHEDULE 11 – DATA PROCESSING

1. The contact details of the Authority's Data Protection Officer are: data.compliance@justice.gov.uk. **or** Data Protection Officer, 102 Petty France, London, SW1H 9AJ.

The contact details of the Supplier's Data Protection Officer are; privacy@oup.com or Academic Information Security and Data Privacy Manager, Oxford University Press, Great Clarendon Street, Oxford OX2 6DP.

2. The Supplier shall comply with any further written instructions with respect to processing by the Authority.
3. Any such further instructions shall be incorporated into this Schedule 11.

Description	Details
Subject matter of the processing	The Supplier is required to produce, publish, market and promote under licence the relevant editions of the Personal Injury Guidelines
Duration of the processing	NA
Nature and purposes of the processing	NA
Type of Personal Data being Processed	NA
Categories of Data Subject	NA
Plan for return and destruction of the data once the processing is complete  Unless requirement under union or member state law to preserve that type of data	NA

## SCHEDULE 12 – FINANCIAL DISTRESS

### 1. CREDIT RATING AND DUTY TO NOTIFY

- 1.1 The Supplier warrants and represents to the Authority for the benefit of the Authority that as at the Commencement Date the long term credit ratings issued for the Supplier and the Guarantor by each of the Rating Agencies are as set out in Annex 2.
- 1.2 The Supplier shall promptly notify (or shall procure that its auditors promptly notify) the Authority in writing if there is any downgrade in the credit rating issued by any Rating Agency for either the Supplier or the Guarantor (and in any event within 5 Working Days of the occurrence of the downgrade).
- 1.3 If there is any downgrade credit rating issued by any Rating Agency for either the Supplier or the Guarantor, the Supplier shall ensure that the Supplier's auditors or Guarantor's auditors (as the case may be) thereafter provide the Authority within 10 Working Days of the end of each Contract Year and within 10 Working Days of written request by the Authority with written calculations of the quick ratio for the Supplier or the Guarantor as the case may be as at the end of each calendar year or such other date as may be requested by the Authority. For these purposes the "quick ratio" on any date means:

$$\frac{A + B + C}{D}$$

where:

- A is the value at the relevant date of all cash in hand and at the bank of the Supplier or the Guarantor (as the case may be);
- B is the value of all marketable securities held by the Service Provider or the Guarantor (as the case may be) determined using closing prices on the Working Day preceding the relevant date;
- C is the value at the relevant date of all account receivables of the Service Provider or the Guarantor (as the case may be); and
- D is the value at the relevant date of the current liabilities of the Service Provider or the Guarantor (as the case may be).
- 1.4 The Supplier shall:
- (a) regularly monitor the credit ratings of the Supplier, the Guarantor and each Key Sub-contractor with the Rating Agencies;
  - (b) if requested by the Authority, report to the Authority on the then current credit rating with each Ratings Agency of the Supplier, the Guarantor and each Key Sub-contractor; and

- (c) promptly notify (or shall procure that its auditors promptly notify) the Authority in writing following the occurrence of a Financial Distress Event or Key Sub-contractor Financial Distress Event or any fact, circumstance or matter which could cause a Financial Distress Event (and in any event, ensure that such notification is made within 10 Working Days of the date on which the Supplier first becomes aware of the Financial Distress Event, the Key Sub-contractor Financial Distress Event or the fact, circumstance or matter which could cause a Financial Distress Event or a Key Sub-contractor Financial Distress Event).

## 2. **CONSEQUENCES OF A FINANCIAL DISTRESS EVENT**

### 2.1 In the event of:

- (a) any of the Ratings Agencies designating a credit rating for the Supplier, the Guarantor or any Key Sub-contractor which is below the applicable Credit Rating Threshold;
- (b) the Supplier, the Guarantor or any Key Sub-contractor issuing a profits warning to a stock exchange or making any other public announcement, in each case about a material deterioration in its financial position or prospects;
- (c) there being a public investigation into improper financial accounting and reporting, suspected fraud or any other impropriety of the Supplier, the Guarantor or any Key Sub-contractor;
- (d) the Supplier, the Guarantor or any Key Sub-contractor committing a material breach of covenant to its lenders;
- (e) a Key Sub-contractor notifying the Authority that the Supplier has not satisfied any material sums properly due under a specified invoice and not subject to a genuine dispute; or
- (f) any of the following:
  - (i) commencement of any litigation against the Supplier, the Guarantor or any Key Sub-contractor with respect to financial indebtedness greater than £5m or obligations under a service contract with a total contract value greater than £5m;
  - (ii) non-payment by the Supplier, the Guarantor or any Key Sub-contractor of any financial indebtedness;
  - (iii) any financial indebtedness of the Supplier, the Guarantor or any Key Sub-contractor becoming due as a result of an event of default; or
  - (iv) the cancellation or suspension of any financial indebtedness in respect of the Supplier, the Guarantor or any Key Sub-

contractor, in each case which the Authority reasonably believes (or would be likely reasonably to believe) could directly impact on the continued performance and delivery of the Services in accordance with the Contract;

then, immediately upon notification of the Financial Distress Event (or if the Authority becomes aware of the Financial Distress Event without notification and brings the event to the attention of the Supplier), the Supplier shall have the obligations and the Authority shall have the rights and remedies as set out in paragraphs 2.3 to 2.6.

2.2 In the event of a late or non-payment of a Key Sub-contractor pursuant to Paragraph 2.1(e), the Authority shall not exercise any of its rights or remedies under Paragraph 2.3 without first giving the Supplier 10 Working Days to:

- (a) rectify such late or non-payment; or
- (b) demonstrate to the Authority's reasonable satisfaction that there is a valid reason for late or non-payment.

2.3 The Supplier shall (and shall procure that the Guarantor and/or any relevant Key Sub-contractor shall):

- (a) at the request of the Authority, meet the Authority as soon as reasonably practicable (and in any event within 3 Working Days of the initial notification (or awareness) of the Financial Event or such other period as the Authority may permit and notify to the Supplier in writing) to review the effect of the Financial Distress Event on the continued performance and delivery of the Services in accordance with the Contract; and
- (b) where the Authority reasonably believes (taking into account the discussions and any representations made under paragraph (a)) that the Financial Distress Event could impact on the continued performance and delivery of the Services in accordance with the Contract:
  - (i) submit to the Authority for its approval, a draft Financial Distress Service Continuity Plan as soon as reasonably practicable (and in any event, within 10 Working Days of the initial notification (or awareness) of the Financial Distress Event or such other period as the Authority may permit and notify to the Service Provider in writing); and
  - (ii) provide such financial information relating to the Supplier or the Guarantor as the Authority may reasonably require.

2.4 The Authority shall not withhold its approval of a draft Financial Distress Service Continuity Plan unreasonably. If the Authority does not approve the draft Financial Distress Service Continuity Plan, it shall inform the Supplier of its reasons and the Supplier shall take those reasons into account in the

preparation of a further draft Financial Distress Service Continuity Plan, which shall be resubmitted to the Authority within 5 Working Days of the rejection of the first draft. This process shall be repeated until the Financial Distress Service Continuity Plan is approved by the Authority or referred to the Dispute Resolution Procedure under paragraph 2.5.

- 2.5 If the Authority considers that the draft Financial Distress Service Continuity Plan is insufficiently detailed to be properly evaluated, will take too long to complete or will not ensure the continued performance of the Supplier's obligations in accordance with the Contract, then it may either agree a further time period for the development and agreement of the Financial Distress Service Continuity Plan or escalate any issues with the draft Financial Distress Service Continuity Plan using the Dispute Resolution Procedure.
- 2.6 Following approval of the Financial Distress Service Continuity Plan by the Authority, the Supplier shall:
  - (a) on a regular basis (which shall not be less than monthly), review the Financial Distress Service Continuity Plan and assess whether it remains adequate and up to date to ensure the continued performance and delivery of the Services in accordance with this Contract;
  - (b) where the Financial Distress Service Continuity Plan is not adequate or up to date in accordance with paragraph (a), submit an updated Financial Distress Service Continuity Plan to the Authority for its approval, and the provisions of paragraphs 2.4 and 2.5 shall apply to the review and approval process for the updated Financial Distress Service Continuity Plan; and
  - (c) comply with the Financial Distress Service Continuity Plan (including any updated Financial Distress Service Continuity Plan).
- 2.7 Where the Supplier reasonably believes that the relevant Financial Distress Event under paragraph 2.1 (or the circumstance or matter which has caused or otherwise led to it) no longer exists, it shall notify the Authority and the Parties may agree that the Supplier shall be relieved of its obligations under paragraph 2.6.

### 3. **TERMINATION RIGHTS**

- 3.1 The Authority shall be entitled to terminate this Contract if:
  - (a) the Supplier fails to notify the Authority of a Financial Distress Event in accordance with paragraph 1.4(c);
  - (b) the Parties fail to agree a Financial Distress Service Continuity Plan (or any updated Financial Distress Service Continuity Plan) in accordance with paragraphs 2.2 to 2.5; and/or

- (c) the Supplier fails to comply with the terms of the Financial Distress Service Continuity Plan (or any updated Financial Distress Service Continuity Plan) in accordance with paragraph 2.6(c).

#### 4. **PRIMACY OF CREDIT RATINGS**

4.1 Without prejudice to the Suppliers obligations and the Authority's rights and remedies under paragraph 1, if, following the occurrence of a Financial Distress Event pursuant to any of paragraphs 2.1(b) to 2.1(f), the Rating Agencies review and report subsequently that the credit ratings do not drop below the relevant Credit Rating Threshold, then:

- (a) the Supplier shall be relieved automatically of its obligations under paragraphs 2.2 to 2.6; and
- (b) the Authority shall not be entitled to require the Supplier to provide financial information in accordance with paragraph 2.3(b)(ii).

**ANNEX 1**  
**RATING AGENCIES**

1. Equifax
2. NA

**ANNEX 2**  
**CREDIT RATINGS AND CREDIT RATING THRESHOLDS**

Entity	Credit rating (long term)	Credit Rating Threshold
Supplier	A93	£10,000
Guarantor	NA	NA



## **SCHEDULE 13 – TENDERERS RESPONSE**

# **Ministry of Justice on behalf of the Judicial College**

## **Personal Injury Guidelines**

### **Technical Envelope**

#### **Qualitative Questions – GENERIC TENDER FORM**

The qualitative element of your overall Technical response has a 60% weighting. Full details of the scoring protocols and weightings applied to responses can be found in the Instructions Guidance.

<b>1- Organisational Compatibility</b>		
<b>There is one Pass/Fail question in this 1- Organisational Compatibility. A negative response to will result in your tenders withdrawal from the competition.</b>		
<b>Place 'X' in the appropriate box</b>		
<b>1.1 Bidders are required to provide evidence that they are able to carry out or have previously carried out the tendering provision. This should include previous experience or evidence of similar activities, which demonstrate the tender's competence to carry out the requirements of this competition.</b>	<b>Available Score</b>	<b>Weighting</b>
<p>Bidders will be evaluated to ensure that they have the relevant experience, competences or skills to carry out the requested requirement (Produce, Publish, Market and Sell printed publications). This should include examples of previous work undertaken or experience in delivering a similar requirement for the publication, delivery and fulfilment or marketing of goods. Bidders will be evaluated to ensure that they have the relevant experience or evidence of skills which will allow them to perform the final contract requirements.</p> <p>Those bidders who are not compatible with delivering similar requirements will be rejected.</p> <p><b>Insert your response in the pre-set shaded space on the following page. Your response must be limited to 1 side of A4 paper. Margins must not be altered. Arial Font size 11.</b></p>	<b>Pass/Fail</b>	<b>0</b>

Response to 1.1

The mission of Oxford University Press (OUP) is to 'further the University [of Oxford]'s objective of excellence in research, scholarship, and education by publishing worldwide.' In pursuit of this mission our academic publishing program produces, publishes, markets, and sells a wide array of books, journals, and online products. Of particular note for this tender, is our law publishing program which publishes around 180 to 190 legal books per year. These include notable titles such as the annual *Blackstone's Criminal Practice*, which in 2016 was selected by the Judicial Executive Board as the principal practitioner text for criminal courts in England and Wales. A selection of other recent book titles published by the OUP law department include the third edition of *Friston on Costs* by Mark Friston (December 2018), *A Dictionary of Oil & Gas Industry Terms* by Peter Roberts (January 2019), and *International Law's Objects* by Jessie Hohmann and Daniel Joyce (December 2018).

Most significantly, OUP have published previous editions of the *Guidelines for the Assessment of General Damages in Personal Injury Cases* (the *Guidelines*), demonstrating our ability to carry out the tendering provision. We were successful in the competitive tender to publish the work in 2002, and again in 2012. Prior to that, we acquired Blackstone Press who were the original publishing partners for the *Guidelines*.

A Concession Contract for the Publication of the Guidelines for the Assessment of General Damages in Personal Injury Cases

Contract Ref: con\_16393

We have consistently met the quality and schedule requirements, publishing the *Guidelines* to the critical annual publication date and maintaining good relations with the Judicial College and formerly the Judicial Studies Board.

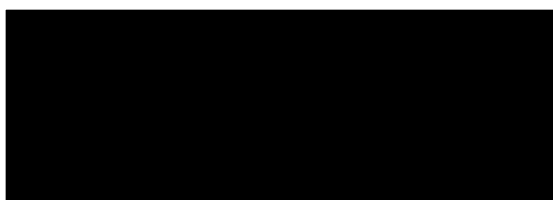
<b>2- Capability</b>  <b>There are 2 questions in this 2-Capability section. This section has a 12% weighting overall. The weighting of each question within this section is noted by each question, with the available score.</b>		
<b>2.1 Please provide details of your organisations project management capability including who would be delivering this project. Please include numbers of staff, their company positions and their role within the project team.</b>  Bidders will be evaluated to ensure that the proposed resource is credible and reasonable with regards to the delivery of the services and project functions described in the Specification.  <b>Insert your response in the pre-set shaded space on the following page. Your response must be limited to 1 sides of A4 paper. Margins must not be altered. Arial Font size 11.</b>	<b>Available score</b>	<b>Weighting</b>
	<b>0-100</b>	<b>6%</b>

#### Response to 2.1

The proposed project team at Oxford University Press (OUP) have extensive experience in project management, including working on complex titles, many of which are on short schedules and require timely publication. Our performance in publishing previous editions of the *Guidelines for the Assessment of General Damages in Personal Injury Cases* (the *Guidelines*) has shown that we have the capability to deliver on an agreed schedule and produce a high quality product.

The core team who would be responsible for delivering this project are as follows.

Commissioning Editor  
 Assistant Commissioning Editor –  
 Editorial Director –  
 Production Editor  
 Content Operations Team Leader  
 Manufacturing Controller  
 Marketing Manager



would be responsible for the smooth publication of the *Guidelines* including but not limited to overseeing financial performance, being the first point of contact with the Judicial College for all queries and

developments, liaising internally at OUP with all relevant departments, and representing OUP at all meetings with the Judicial College.

██████████ is the Assistant Commissioning Editor who works closely with ██████████ on the management of the titles for which they are responsible.

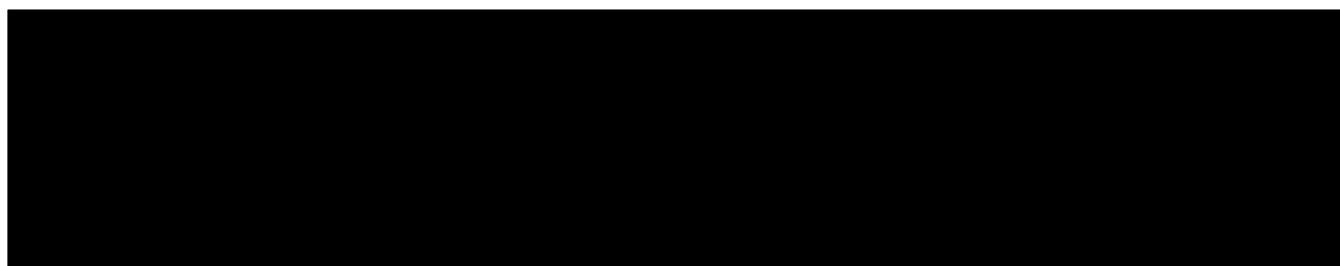
██████████ is Editorial Director, Law, at OUP. ██████████ role at OUP is to manage the entire law publishing program, including books and online products ██████████ ultimately reports to ██████████

██████████ is the Marketing Manager responsible for all titles aimed at the practitioner law market.

██████████ will manage the communication strategy and implementation of all marketing activity.

has many years of experience working on high profile law titles including the *Guidelines*, *Blackstone's Criminal Practice*, and *Blackstone's Civil Practice*, consistently delivering comprehensive campaigns.

Once the *Guidelines* are in production, this stage is managed by ██████████, the Production Editor, overseen by ██████████ in the event of illness or absence from the office, a fellow Production Editor will cover all necessary tasks and our production management system ensures that a project can be easily transferred with live access to the key information on specifications and workflow. The manufacturing of the print books will be managed by ██████████, the Manufacturing Controller.



## 2- Capability - continued

There are 2 questions in this 2-Capability section. This section has a 12% weighting overall. The weighting of each question within this section is noted by each question, with the available score.

2.2 Please provide details of your current publishing capacity to undertake the publication and distribution of the requirements within the required time scales?	Available score	Weighting
<p>Bidders will be evaluated to ensure that they provide a firm capacity commitment to deliver this requirement in the required time frames. Your response should include a description of the facilities you intend to you, the volumes you are able to handle, and suggested lead times from final draft text to printed product.</p> <p><b>Insert your response in the pre-set shaded space on the following page. Your response must be limited to 1 sides of A4 paper. Margins must not be altered. Arial Font size 11.</b></p>	0-100	6%

Response to 2.2

The Law Department of Oxford University Press (OUP) published 187 Law titles last financial year (17/18)



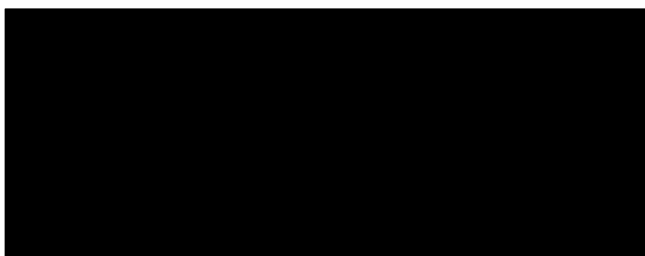
A Concession Contract for the Publication of the Guidelines for the Assessment of General Damages in Personal Injury Cases

Contract Ref: con\_16393

For 18/19 we expect to publish 188 titles. The Law portfolio includes world-famous brands and covers diverse market sectors and customer groups.

The core project team for the *Guidelines* would comprise:

Commissioning Editor  
 Assistant Commissioning Editor  
 Editorial Director  
 Production Editor  
 Content Operations Team Leader  
 Manufacturing Controller  
 Marketing Manager



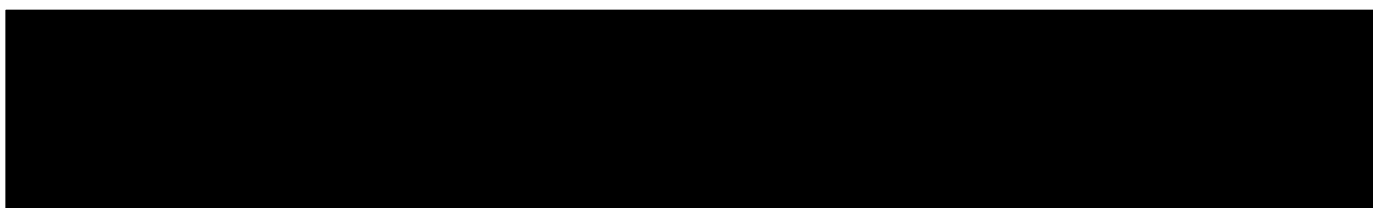
All members of this team have several years of experience in the legal publishing industry and are well versed in delivering projects to tight deadlines in a fast-paced legal environment. Several members of the team have been personally involved in the publication of previous editions of the *Guidelines*.



All of the four editions published since our previous successful tender in 2012, have followed production schedules very similar to the timeframe set out within Schedule 3 of the proposed contract.



The team set out above are all based at OUP's Great Clarendon Street site in Oxford.



<b>3- Assurance of Supply</b>		
<p><b>There are 3 questions in this 3- Assurance of Supply section. This section has a 12% weighting overall. The weighting of each question within this section is noted by each question, with the available score.</b></p>		
<b>3.1 Please provide details of your organisations Contingency Planning and Disaster Recovery Plan or processes in order to deal with a major disruptive event?</b>	Available score	Weighting
	<b>0-100</b>	<b>4%</b>
<p>Instances that may require Business Continuity and Disaster Recovery Plans include loss of IT, closure of main facilities, shortage of key materials, loss of personnel etc.</p> <p>Your response should include, but not be limited to;</p> <ul style="list-style-type: none"> <li>• The planning and preparation your organisation undertakes to overcome serious incidents</li> <li>• The frequency of the reviews of your plan</li> <li>• Key Stakeholder job titles and levels of responsibility</li> <li>• Your solutions</li> <li>• Potential threats and recovery steps</li> </ul> <p>The successful bidder shall be requested to submit their full Business Continuity and Disaster Recovery Plan.</p> <p>Bidder shall be evaluated to ensure that they have comprehensive plans for business continuity and disaster recovery in the event of an incident. This should include reasonable endeavours to agree steps taken and an appropriate timescale in which those steps should be taken, to enable continued provision of the Services affected.</p> <p><b>Insert your response in the pre-set shaded space on the following page. Your response must be limited to 1 sides of A4 paper. Margins must not be altered. Arial Font size 11.</b></p>		

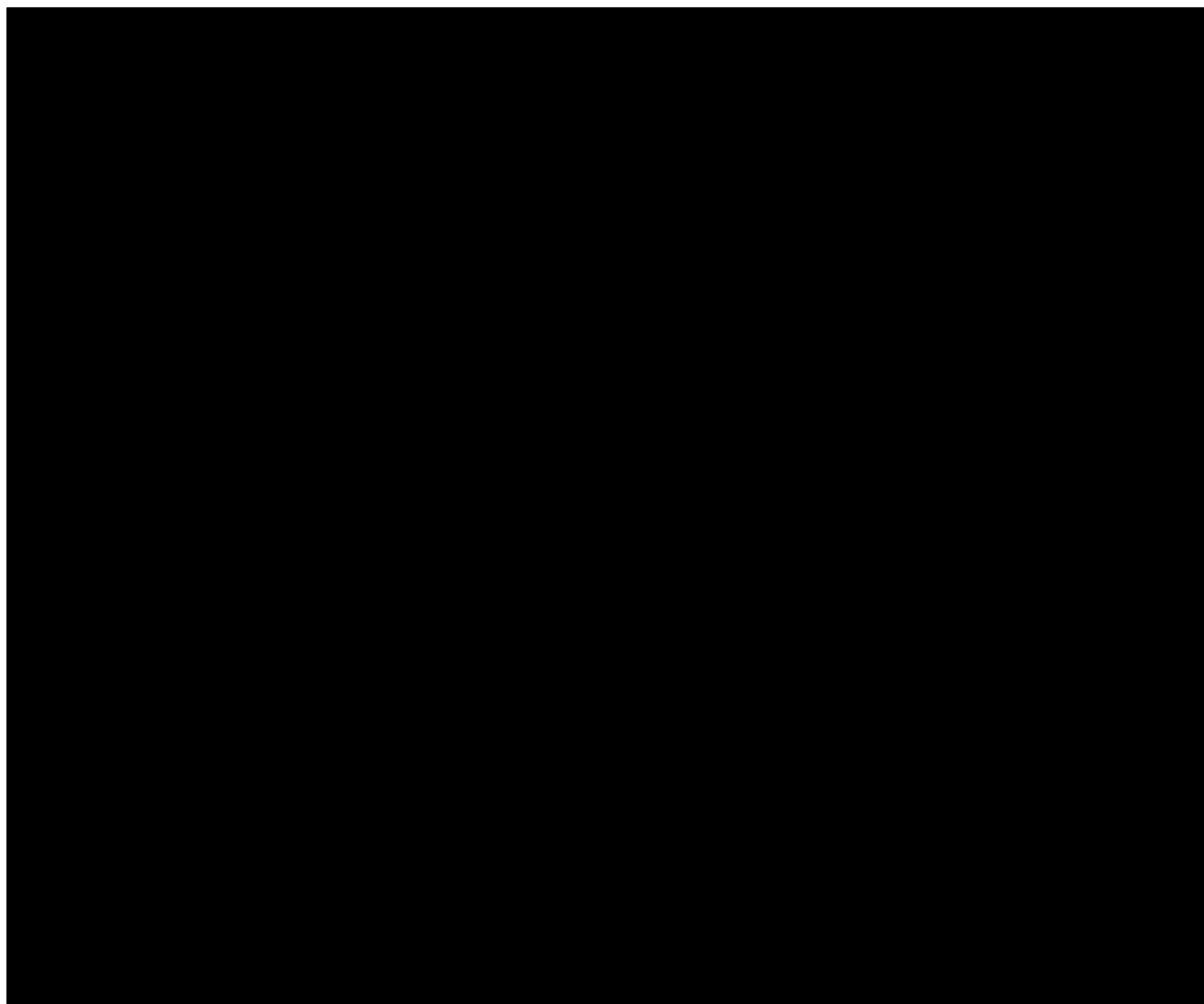
#### Response to 3.1

Oxford University Press (OUP) has a Business Continuity Planning Policy and Framework which applies globally. This is managed by [REDACTED] Health and Safety Manager. Under this policy, every OUP site and each division is required to have a business continuity plan (BCP) following a prescribed template and detailing, at a minimum, a BCP risk assessment, an emergency response plan, and a communications plan. For critical sites the BCP must also include a business impact assessment and an outline recovery strategy.



Relevant site and/or divisional BCPs can be supplied on request but would be subject to redactions to protect confidential data.

Potential risks covered by the BCPs include fire, flood, major weather events, natural disasters, civil unrest, data centre disruption, cyber-attack, prolonged supply chain disruption, loss of access to sites, and situations with potential for significant reputational damage. For each risk, contact points and necessary actions are identified.



<b>3- Assurance of Supply - continued</b>  <b>There are 3 questions in this 3- Assurance of Supply section. This section has a 12% weighting overall. The weighting of each question within this section is noted by each question, with the available score.</b>		
<b>3.2 Please identify the supply chain risks and vulnerabilities for publishing and distribution of this requirement in a hard or electronic format?</b>  Bidders will be evaluated to ensure that they have captured and understand the relevant risks and vulnerabilities and mitigations they have in place associated with this requirement.  Please include as a minimum; <ul style="list-style-type: none"> <li>• Delivery mechanism failure</li> <li>• Shortage of materials</li> <li>• Lower than expected demand</li> <li>• Higher than expected demand</li> <li>• Delays in editing process</li> <li>• Delays in production process</li> </ul> <b>Insert your response in the pre-set shaded space on the following page. Your response must be limited to 1 sides of A4 paper. Margins must not be altered. Arial Font size 11.</b>	Available score	Weighting
	0-100	4%

Response to 3.2

Risk	Measure
Delivery mechanism failure	
Shortage of materials	
Lower than expected demand	
Higher than expected demand	





<b>3- Assurance of Supply - continued</b>  <b>There are 3 questions in this 3- Assurance of Supply section. This section has a 12% weighting overall. The weighting of each question within this section is noted by each question, with the available score.</b>		
<b>3.3 Please identify your proposed stock holding and print run for the publication to ensure sufficient stocks are held for distribution and retail demand. If Print on Demand is used then lead times should be included.</b>  Bidders will be assessed to ensure that sufficient stocks are held to supply the market requirement. A good response would reflect the ordering volume data located in Schedule 3 – Specification, and provide proposals for meeting the estimated demand. If Print on Demand is used then lead-times should be comparable with lead times for purchases in the retail sector (this should not exceed two weeks).  <b>Insert your response in the pre-set shaded space on the following page. Your response must be limited to 1 sides of A4 paper. Margins must not be altered. Arial Font size 11.</b>	Available score	Weighting
	<b>0-100</b>	<b>4%</b>

Response to 3.3

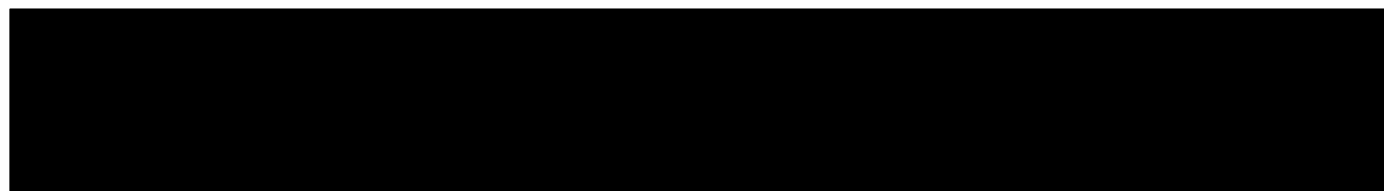
#### 4- Quality Management & Inspection

There are 3 questions in this 4- Quality Management & Inspection section. This section has a 15% weighting overall. The weighting of each question within this section is noted by each question, with the available score.

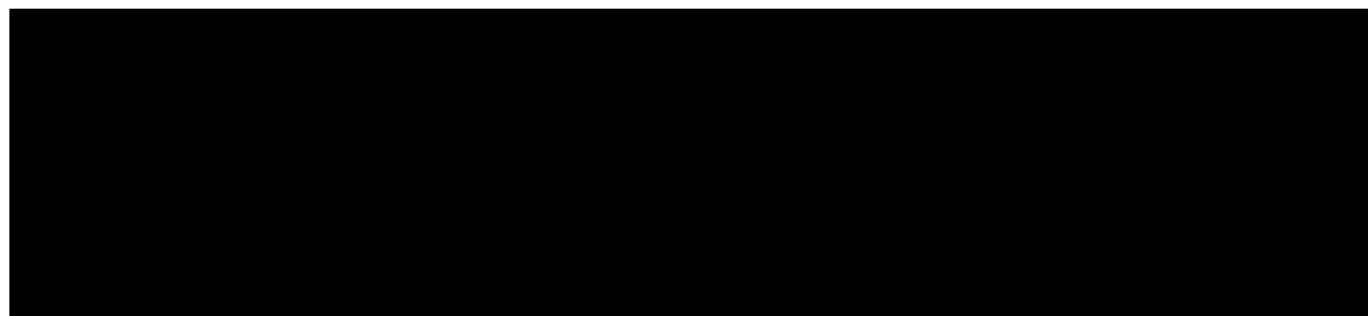
4.1 Please provide details of your quality management processes for the publishing editorial process? (With reference to the example Milestones suggested in Schedule 3 – Specification).	Available score	Weighting
<p>Bidders will be evaluated to ensure procedures or processes are in place to ensure that sufficient review points and quality checking processes are implemented and reviewed, to ensure agreed publication Milestones at met (example milestones suggested in Schedule 3- Specification).</p> <p><b>Insert your response in the pre-set shaded space on the following page. Your response must be limited to 2 sides of A4 paper. Margins must not be altered. Arial Font size 11.</b></p>	0-100	5%

#### Response to 4.1

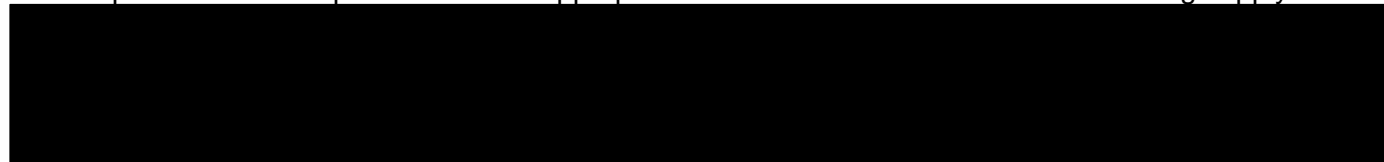
In terms of content for both print and online publication, Oxford University Press (OUP) applies a strict and robust editorial process.



We have a quality management system in place to support our quality assurance, customer satisfaction and continuous improvement programmes.



Further processes are in place to ensure appropriate action should a fault be found following supply.



<b>4- Quality Management &amp; Inspection - continued</b>  <b>There are 3 questions in this 4- Quality Management &amp; Inspection section. This section has a 15% weighting overall. The weighting of each question within this section is noted by each question, with the available score.</b>		
<b>4.2 Please provide details of your quality inspection process for printing?</b>  Bidders will be evaluated to ensure sufficient procedures are in place for print inspection of final publications prior to dispatch, to ensure the publication is of a professional standard.  <b>Insert your response in the pre-set shaded space on the following page. Your response must be limited to 1 sides of A4 paper. Margins must not be altered. Arial Font size 11.</b>	<b>Available score</b>  <b>0-100</b>	<b>Weighting</b>  <b>5%</b>

Response to 4.2

At each key stage of the production process quality assurance checks occur to measure against the expected requirements for the product in the areas of copyediting, typesetting, proof-reading, indexing and tabling.

#### 4- Quality Management & Inspection - continued

There are 3 questions in this 4- Quality Management & Inspection section. This section has a 15% weighting overall. The weighting of each question within this section is noted by each question, with the available score.

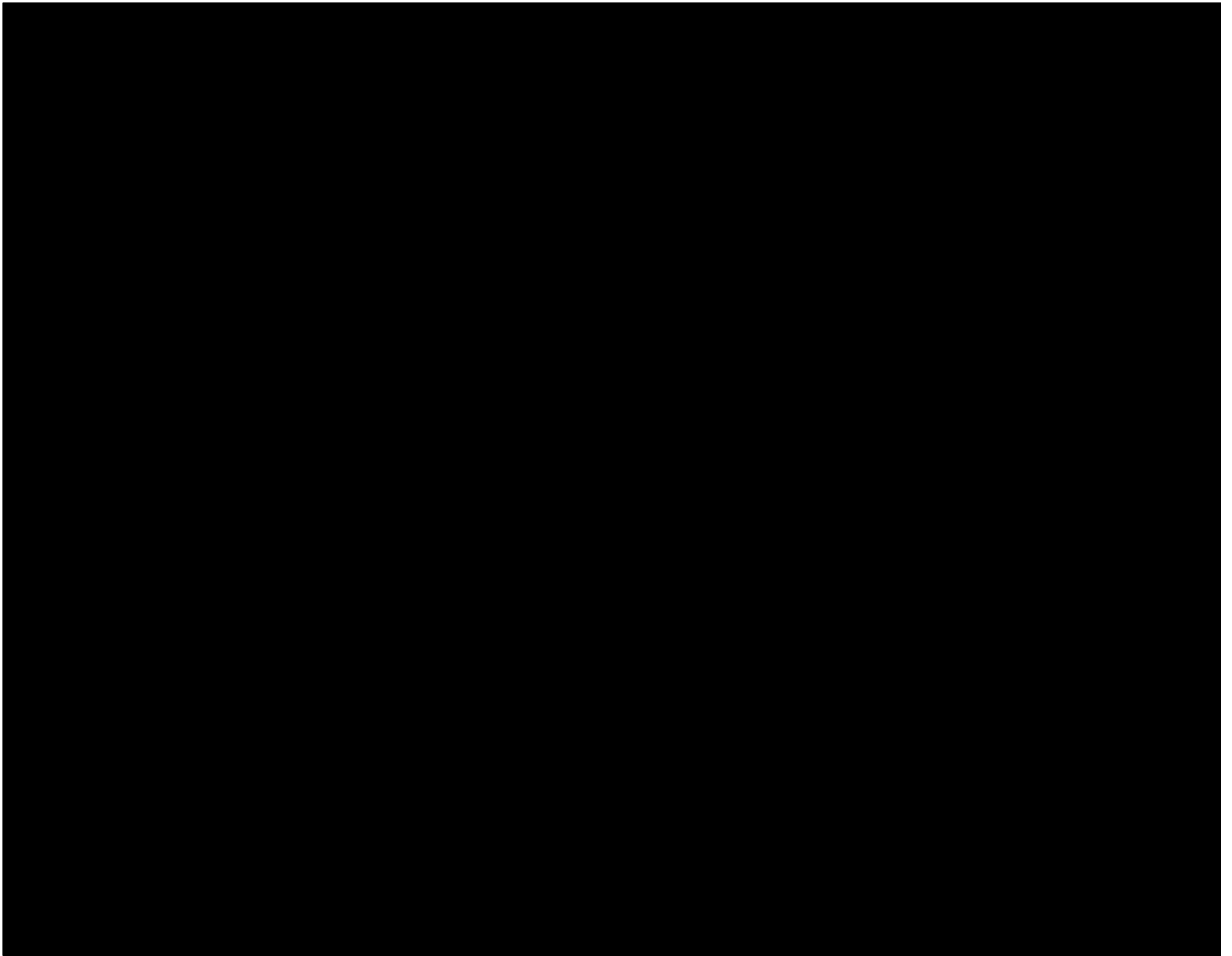
4.3 Please upload an example of one of your recent publications electronically, where you have been involved from the editorial stages to publishing stages. If you do not have an example of a recent publication please provide a sample piece.  Bidders will be evaluated to ensure that the final proof is of a professional equivalent standard to the current publication. Requests for hard copies may be requested to view the final print version quality standards.  See attached document: Oxford University Press - 4.3.pdf	Available score	Weighting
	0-100	5%

#### 5- Logistics & Delivery

There are 3 questions in this 5- Logistics & Delivery section. This section has a 20% weighting overall. The weighting of each question within this section is noted by each question, with the available score.

5.1 Please provide information in relation to your sales, distribution and retail network, which will allow relevant customer access to purchase the resultant publication.  Bidders will be evaluated to ensure that the publication is distributed through relevant specialist channels for legal publications for both the public and private channels.  Insert your response in the pre-set shaded space on the following page. Your response must be limited to 1 sides of A4 paper. Margins must not be altered. Arial Font size 11.	Available score	Weighting
	0-100	5%

Response to 5.1



### 5- Logistics & Delivery - continued

There are 3 questions in this 5- Logistics & Delivery section. This section has a 20% weighting overall. The weighting of each question within this section is noted by each question, with the available score.

5.2 Please define your lead times for delivery to commercial and domestic customers from the release of the publication in hard copy.	Available score	Weighting
	0-100	5%
<p>Bidders will be assessed to ensure that lead-times are comparative to general book retail lead-times, where items are available and in stock.</p> <p><b>Insert your response in the pre-set shaded space on the following page. Your response must be limited to 1 sides of A4 paper. Margins must not be altered. Arial Font size 11.</b></p>		

Response to 5.2

### 5- Logistics & Delivery - continued

There are 3 questions in this 5- Logistics & Delivery section. This section has a 20% weighting overall. The weighting of each question within this section is noted by each question, with the available score.

5.3 Please upload an outline end to end project plan covering mobilisation of the editorial process through to publishing and distribution, capturing the key stages to deliver the project in the required period contained within the specification.	Available score	Weighting
	0-100	20%
<p>Bidders will be evaluated to ensure they capture the relevant elements and tasks whilst committing to deliver within the required timeframes for each edition. Please refer to the suggested Milestones outlines in Schedule 3 – Specification.</p> <p><b>Insert your response in the pre-set shaded space on the following page. Your response must be limited to 2 sides of A4 paper. Margins must not be altered. Arial Font size 11.</b></p>		

#### Response to 5.3

Please see below an outline end to end project plan covering mobilisation of the editorial process through to publishing and distribution. This can be achieved within the timeframe specified by the Judicial College, currently resulting in a publication date in September.

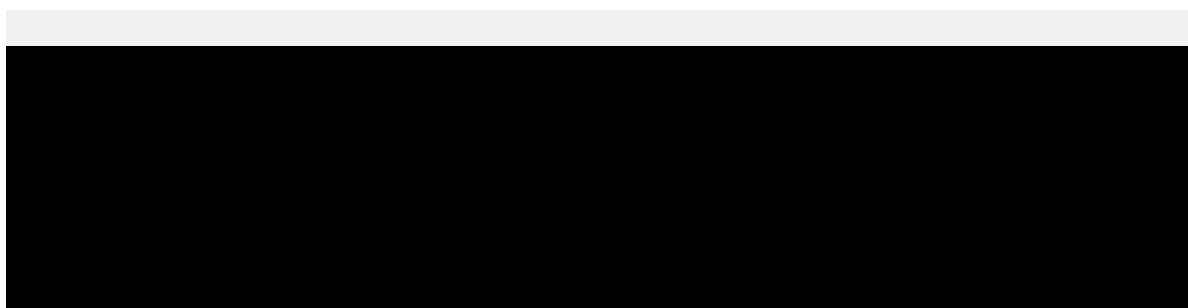
Abbreviations for roles within project team at Oxford University Press (OUP):

ACE – Assistant Commissioning Editor

CE – Commissioning Editor

PE – Production Editor

MC – Manufacturing Controller



At all stages, the OUP team keeps in regular contact with the Judicial College, ensuring they are aware of the key dates and up to date with the progress through to publication.



Specific dates for each milestone within the production process would be agreed when the book enters production, allowing for any absences or prior commitments on the part of the Judicial College or Author team

## 6- Marketing Plans

There is 1 question in this 6- Marketing Plans section. This section has a 12% weighting overall. The weighting of each question within this section is noted by each question, with the available score.

**6.1 Please submit your marketing plan for the UK & Overseas to ensure that this publication has exposure to public and private markets.**

Bidders will be evaluated to ensure that the publication has exposure to these markets.

**Insert your response in the pre-set shaded space on the following page. Your response must be limited to 2 sides of A4 paper. Margins must not be altered. Arial Font size 11.**

Available  
score

Weighting

0-100

12%

Response to 6.1

### Marketing Plan

At Oxford University Press (OUP) [REDACTED] is committed to ensuring that the *Guidelines for the Assessment of General Damages in Personal Injury Cases (Guidelines)* receive extensive exposure to both the UK and global market. Marketing for the *Guidelines* would aim to maximise visibility, awareness, and discoverability among key markets, by using the following strategies:

#### 1. Practitioner market

[REDACTED]

**2. Academic/vocational market**

[REDACTED]

Our proven approach combines audience insights developed over many years of publishing the *Guidelines* with a bespoke marketing strategy, to reach today's readers and support the publication's continued success.

***Our OUP Channels***

**Email marketing**

[REDACTED]

**Review mailing**

[REDACTED]

**Social Media & Content Marketing**

[REDACTED]

**Advertising**

[REDACTED]

Response to 6.1 continued

### **Society and organisational promotional partnerships**



### **Conferences and Events**



We would also support the author team and Judicial College with any events they might be speaking at or hosting by supplying promotional materials and display copies.

### **Print Materials**



### **Catalogues**



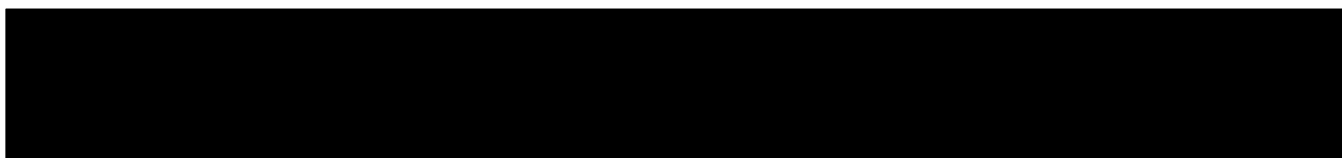
### **Retail, Wholesale and Library Accounts**



### **E-commerce**



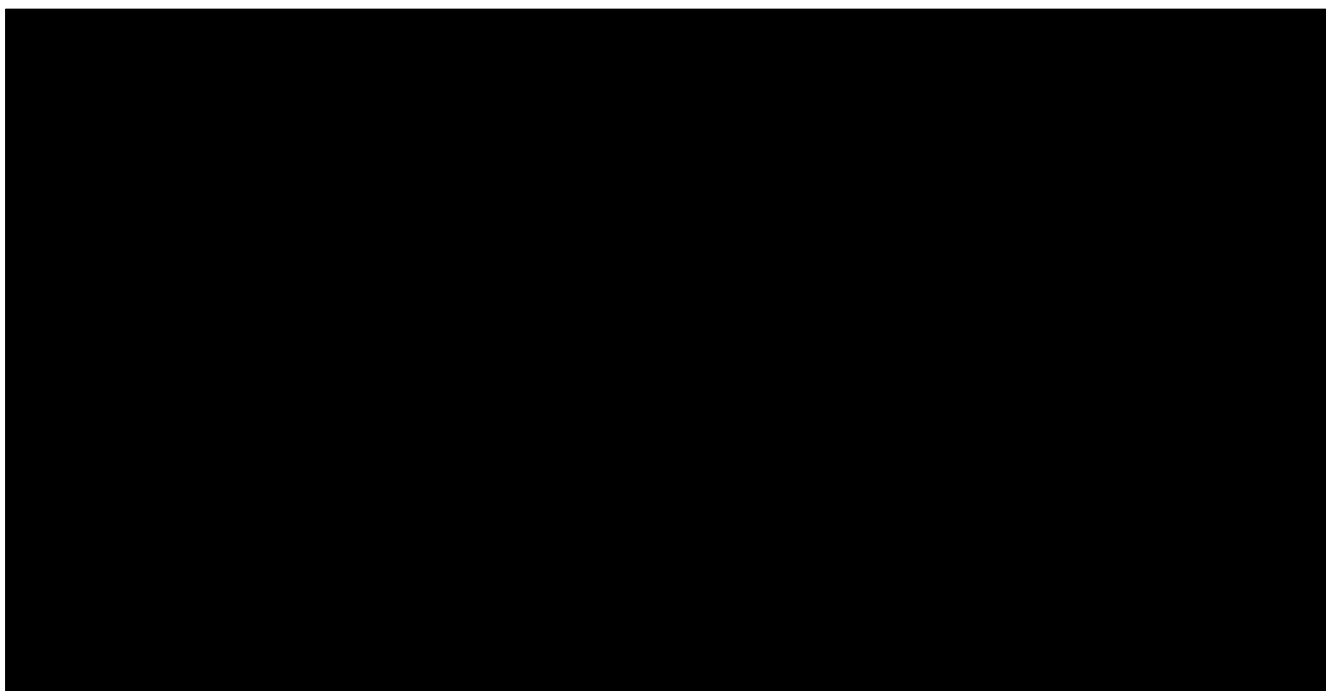
### **Discoverability**



<b>7- Publications Formats</b>  <b>There is 1 question in this 7- Publications Formats section. This section has a 12% weighting overall. The weighting of each question within this section is noted by each question, with the available score.</b>		
<b>7.1 Please provide details of other publication formats and delivery routes which the supplier can provide, other than the traditional hard copy format. These products should be available to the market as a standalone product, and may include eBook, online portal or downloadable formats.</b>  Bidders will be evaluated on their supply of other convenient formats, which the consumer may wish to purchase electronically. These products may be provided as standalone online access or as available on e-readers and/or desktops.  <b>Insert your response in the pre-set shaded space on the following page. Your response must be limited to 1 sides of A4 paper. Margins must not be altered. Arial Font size 11.</b>	Available score	Weighting
	0-100	12%

Response to 7.1

In addition to the paperback print version of the *Guidelines for the Assessment of General Damages in Personal Injury Cases* (the *Guidelines*) Oxford University Press (OUP) would offer the following alternative formats:



## 8- Service Levels

There are 5 questions in this 8- Service Levels section. This section has a 12% weighting overall. The weighting of each question within this section is noted by each question, with the available score.

8.1 Please provide details of how you are going to track, record and report the Performance Monitoring and reporting requirements for the proposed contract.	Available score	Weighting
<p>Bidders will be evaluated to ensure that they have the necessary infrastructure to provide the required information and track performance which is beneficial to the final arrangement. Please refer to Schedule 5 – Key Performance Indicator and Schedule 6 – Monitoring &amp; Reporting Information, of the draft Contract document.</p> <p><b>Insert your response in the pre-set shaded space on the following page. Your response must be limited to 1 sides of A4 paper. Margins must not be altered. Arial Font size 11.</b></p>	0-100	3%

Response to 8.1

[Redacted]

Oxford University Press (OUP) uses an industry standard SAP core system

[Redacted]

The Authority will automatically be sent a royalty statement by our royalties department every six months detailing sales

[Redacted]

and any royalty sums payable

[Redacted]

[Redacted]

<b>8- Service Levels</b>  <b>There are 5 questions in this 8- Service Levels section. This section has a 12% weighting overall. The weighting of each question within this section is noted by each question, with the available score.</b>		
<b>8.2 Please detail your retail ordering and payment processes to allow business and retail customers to order and pay for the publication in various suitable payment and ordering methods.</b>  Bidders will be evaluated to ensure customers can order publications in suitable payment and ordering methods relevant to the customer type.  <b>Insert your response in the pre-set shaded space on the following page. Your response must be limited to 1 sides of A4 paper. Margins must not be altered. Arial Font size 11.</b>	<b>Available score</b>	<b>Weighting</b>
	<b>0-100</b>	<b>3%</b>

Response to 8.2

As a result of these processes, OUP has won the Publisher and Distributor of the Year award at the Academic, Professional and Specialist bookselling group of the Bookseller Association for 13 of the past 14 years and has an unparalleled reputation in this sector of the UK books market

## 8- Service Levels

There are 5 questions in this 8- Service Levels section. This section has a 12% weighting overall. The weighting of each question within this section is noted by each question, with the available score.

8.3 Please identify your processes for complaints, dispute resolution and escalation point.	Available score	Weighting
	0-100	3%
<p>Bidders will be evaluated to ensure that they have a formal procedure for dispute resolution and supply the relevant escalation points contact details.</p> <p><b>Insert your response in the pre-set shaded space on the following page. Your response must be limited to 1 sides of A4 paper. Margins must not be altered. Arial Font size 11.</b></p>		

### Response to 8.3

In the event that any area of dispute should arise regarding substantive performance of the contract, in the first instance the project manager would discuss the issues with the Judicial College.

<b>8- Service Levels</b>  <b>There are 5 questions in this 8- Service Levels section. This section has a 12% weighting overall. The weighting of each question within this section is noted by each question, with the available score.</b>		
<b>8.4 Please provide details of how you will manage, track and report royalty and subsidiary right payments from the bidder and any third parties.</b>  Bidders will be evaluated to ensure that they have monitoring and payment processes to make payment to the Authors and Judicial College for both royalty and subsidiary payments.  <b>Insert your response in the pre-set shaded space on the following page. Your response must be limited to 1 sides of A4 paper. Margins must not be altered. Arial Font size 11.</b>	<b>Available score</b>	<b>Weighting</b>
	<b>0-100</b>	<b>3%</b>

Response to 8.4



Statements are then sent biannually for sales up to the 31st day of December and then 30th day of June. Royalties for sales are accrued as soon as sales are invoiced.



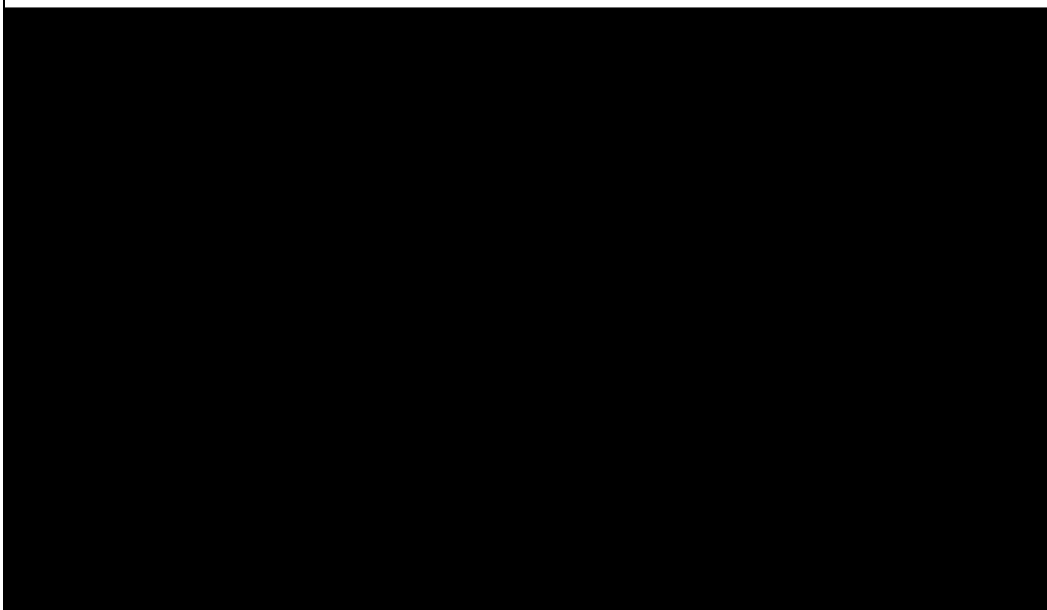
<b>8- Service Levels</b>  <b>There are 5 questions in this 8- Service Levels section. This section has a 12% weighting overall. The weighting of each question within this section is noted by each question, with the available score.</b>		
<b>8.5 Please detail the method of delivery and delivery service levels for</b>	<b>Available score</b>	<b>Weighting</b>



your courier. Please complete as instructed. This is for information only, however this should be representative and in line with the retail publication market.

**Not  
Scored**

**0%**



## 9- Sustainability

There are 2 questions in this 9- Sustainability section. This section has a 5% weighting overall. The weighting of each question within this section is noted by each question, with the available score.

**9.1 Please confirm that the use of materials (paper) within the hard copy publications are made from recycled content or have a high content of recycled pulp (a minimum of 75% recycled content, as stated in the Government Buying Standards).**

Bidders will be evaluated to ensure that delivery and cost are reasonable and appropriate to the market in the opinion of the Authority.

Information on the Government Buying Standards can be found at

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

**Insert your response in the pre-set shaded space on the following page. Your response must be limited to 1 sides of A4 paper. Margins must not be altered. Arial Font size 11.**

Available  
score

0-100

Weighting

2.5%

### Response to 9.1

To print the book block, we would use a 100% recycled 130gsm Revive Silk, improving on the previous edition, which used 75% recycled paper.

For the cover, the previous edition used a standard 240gsm One Sided Art board. We could use this again however we would propose using a 100% Recycled 250gsm Revive Silk.

## 9- Sustainability - continued

There are 2 questions in this 9- Sustainability section. This section has a 5% weighting overall. The weighting of each question within this section is noted by each question, with the available score.

### 9.2 Please confirm that all virgin pulp content used in the production of the publication shall be from a sustainable auditable source.

Bidders will be evaluated to ensure that their publications consider and reduce harmful emissions where possible. Submissions will be considered if Absorbably Organic Halogenated compound (AOX) emissions from the product of each pulp used is below 0.25kg per Air Dried Tonne (ADT), or Process Chlorine Free (PCF).

**Insert your response in the pre-set shaded space on the following page. Your response must be limited to 1 sides of A4 paper. Margins must not be altered. Arial Font size 11.**

Available  
score

Weighting

0-100

2.5%

Response to 9.2

We are proposing to use 100% recycled material in the production of this publication, and as such no virgin pulp.

## 10- Contract Proposed Amendments

There is 1 question in this 10- Contract Proposed Amendments section. This section has a 0% weighting overall. The weighting of each question within this section is noted by each question, with the available score.

### 10.1 Please confirm your acceptance of the Authorities proposed Terms and Conditions included in this Invitation to Tender pack.

**The Authority reserves the right to outright reject any proposed amendments to the Terms and Conditions. There will be no further opportunity for Terms and Conditions negotiation.**

Bidders will be rejected if in the opinion of the Authority the requests impact the commercial arrangement or mitigate against the bidders responsibilities. This is a pass or fail question. Further clarification may be sought via the tender clarification process if needed.

**If NO insert your response in the pre-set shaded space on the following page. Your response must be limited to 1 sides of A4 paper. Margins must not be altered. Arial Font size 11.**

YES

NO

x

Available  
Score

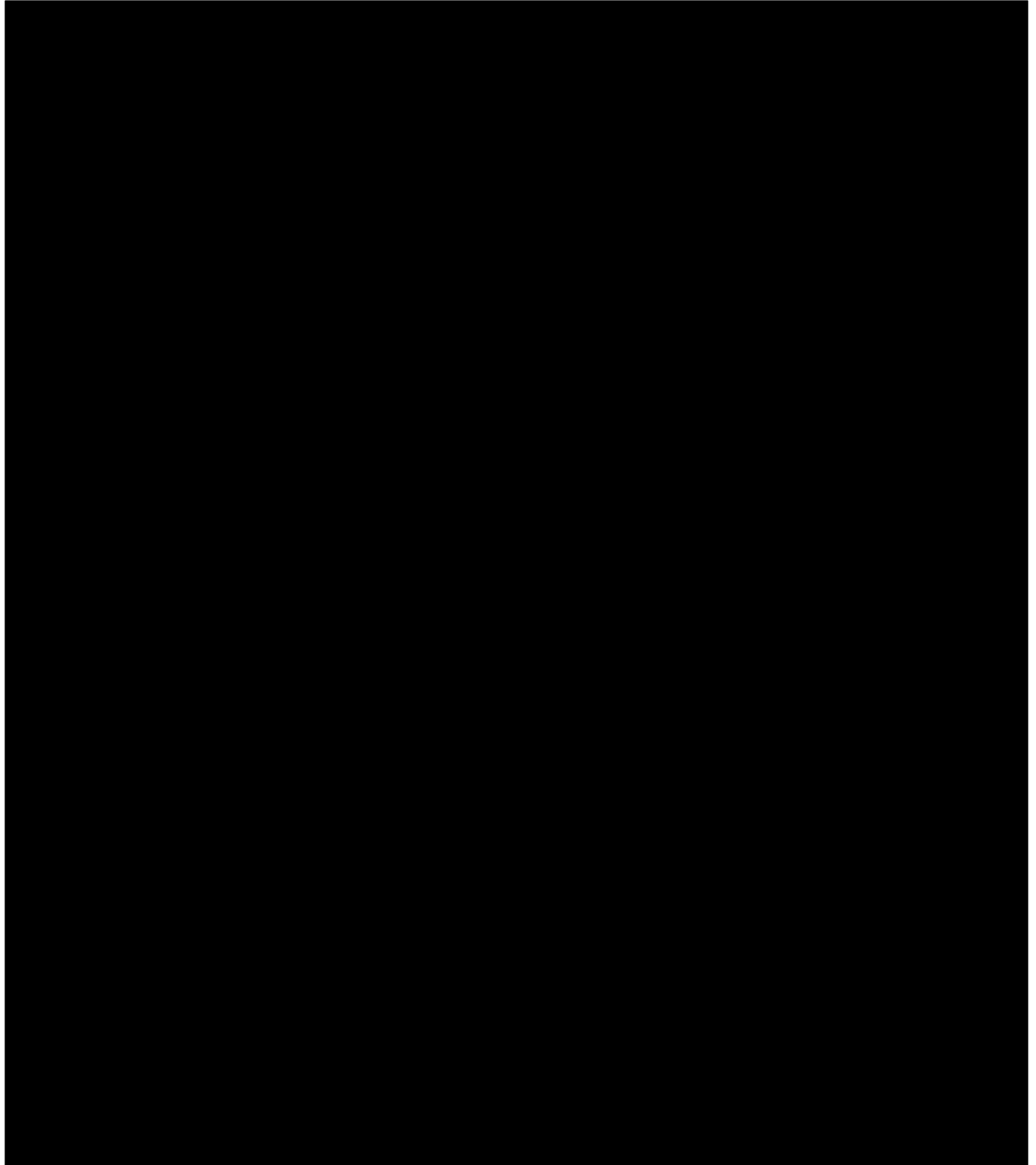
Weighting

Pass/Fail

0%

## Response to 10.1

To ensure that this Contract meets the particular requirements of a publishing agreement, Oxford University Press (OUP) suggests the following amendments to be made to the Contract:



## 11 Inclusion and Diversity Strategy

In line with the MoJ's **Inclusion and Diversity Strategy and its commercial Equality Diversity and Inclusion Policy**, the Ministry of Justice (MoJ), is committed to promoting and advancing social inclusion and mobility. In addition to consideration of the nine protected characteristics under the Equality Act (2010), MoJ has extended its consideration of equality, diversity and inclusion to include socio-economic background.

To fully promote a fair society and create a truly representative workforce, we must also remove the barriers that disproportionately affect those from lower socio-economic backgrounds. MoJ believes that for any level of skill and ambition, regardless of an individual's background, everyone should have an equal chance of getting the job they want or reaching a higher income bracket. All MoJ suppliers are expected to endorse and support our approach by considering how they will promote social mobility when recruiting new staff and/or ensure equal opportunities to individuals from a range of socio-economic backgrounds (SEBs) as well as other groups.

Where the answer is no, this should be, for example, because you are a one-man band, very small enterprise (maximum of 25-30 employees) or in a niche market where the application of social mobility policy is not practicable.

N.B This question is to encourage the promotion of social inclusion only and will NOT be scored for evaluation purposes.

Attachment **ITT\_2214 - Equality Diversity and Inclusion Policy.docx** refers.



**Will you consider social inclusion and work with MoJ by encouraging the offering of opportunities to people from a range of social backgrounds?** (Delete those not applicable)

**Yes. We already do this**

**END**