



Foreign, Commonwealth
& Development Office

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www.gov.uk/fcdo

[REDACTED]

25th July 2023

Contract Award Confirmation - Tender Reference: COM/9439/2023

I am pleased to inform you that the Secretary of State for Foreign, Commonwealth and Development Affairs (the Authority) is confirming the award of the contract for provision of office furniture to the British Embassy in Cairo to Flexiform.

Therefore the Contract, reference number COM/9439/2023, is in force between the Authority and yourselves and in accordance with its terms you should proceed accordingly with setting up operations and preparation for the commencement of full operations. The Contractor and the Authority will complete Appendix G of this document within one month of Contract Award.

For the benefit of both parties, the following confirms the constituent elements of the Contract and these are provided with this letter;

- Specification - ATT 4 - BEC - FFE Full Schedule - P5
- Supplier Proposal – ATT 6 – BEC – Flexiform Proposal
- Price Schedule ATT 2 – Schedule of Prices and Rates
- Contract Conditions - LONG 200918 ITT docs V1.2 (Commercial)
- KPIs – ATT 5 – BEC FF&E KPIs Final

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

Please confirm your acceptance of the award of this contract by signing and returning the enclosed copy of this letter to [REDACTED] at the above address or via the Jaggaer portal **within 7** days from the date of this letter. No other form of acknowledgement will be accepted. Please remember to quote the reference number above in any future communications relating to this contract.

Yours faithfully,

Signed for and on behalf of Foreign, Commonwealth and Development Office

Name: **[REDACTED]**

Signature: **[REDACTED]**

Date: 25th July 2023

We accept the terms set out in this letter and the Contract in full, including the Conditions.

Signed for and on behalf of Flexiform.

Name: **[REDACTED]**

Signature: **[REDACTED]**

Date: 25th July 2023

TERMS AND CONDITIONS FOR SUPPLY OF FURNITURE FOR THE BRITISH EMBASSY CAIRO

FCDO JAGGAER REFERENCE Project _9439

FCDO Contract Reference CFP/9439/2023

FRAMEWORK ID: RM6119 FURN-26060-2023

Index of Contract Conditions

A.	<u>General Provisions</u>	F	<u>Control of the Contract</u>
A1	Definitions and Interpretation	F1	Transfer and Sub-Contracting
A2	Initial Contract Period	F2	Waiver
A3	Contractor's Status	F3	Variation
A4	Authority's Obligations	F4	Severability
A5	Notices	F5	Inadequate Performance Remedies
A6	Mistakes in Information	F6	Remedies Cumulative
A7	Conflicts of Interest	F7	Monitoring of Contract Performance
B.	<u>Supply of Services</u>	F8	Entire Agreement
B1	The Services	F9	Subcontract opportunities for SMEs and VCSEs
B2	Provision and Removal of Equipment	F10	Management Changes and Information
B3	Manner of Carrying Out the Services	F11	Financial Distress
B4	Key Personnel	G	<u>Liabilities</u>
B5	Contractor's Staff	G1	Liability, Indemnity and Insurance
B6	Inspection of Premises	G2	Professional Indemnity
B7	Licence to Occupy Premises	G3	Warranties and Representations
B8	Property	H	<u>Default, Disruption and Termination</u>
B9	Offers of Employment	H1	Termination on Insolvency, Change of Control
B10	Meetings and Reports	H2	Termination on Default
B11	Safeguarding	H3	Break
C.	<u>Payment and Contract Price</u>	H4	Consequences of Expiry or Termination
C1	Contract Price	H5	Disruption
C2	Payment and VAT	H6	Recovery upon Termination
C3	Recovery of Sums Due	H7	Force Majeure
C4	Price Adjustment	H8	Exit Management
C5	Euro	I	<u>Disputes and Law</u>
D.	<u>Statutory Obligations and Regulations</u>	I1	Governing Law and Jurisdiction
D1	Prevention of Corruption	I2	Dispute Resolution
D2	Prevention of Fraud	K	<u>Category Specific Questions</u>
D3	Discrimination	K1	Commencement of full operations
D4	The Contracts (Rights of Third Parties) Act 1999	K2	Co-ordination
D5	Environmental Requirements	K3	Responsibility for equipment
D6	Health and Safety	K4	Title and risk
D7	Transfer of Undertakings Regs 2006	K5	Acceptance
E.	<u>Protection of Information</u>	K6	Flexible operations
E1	Data Protection		
E2	Official Secrets Acts 1911, 1989, S182 of the Finance Act 1989		
E3	Confidential Information		
E4	- Not Used -		
E5	Publicity, Media and Official Enquiries		
E6	Security		
E7	Intellectual Property Rights		
E8	Audit		
E9	Authority Data		
E10	Removable Media		
E11	Transparency		

Appendix

A	Variation to contract form
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- B Confidentiality undertaking
- C Key staff
- D Commercially sensitive information
- E Code of conduct for private security companies and private security service providers
- F Call off instruction
- G.1 Schedule of Processing, Personal Data and Data Subjects
- G.2 Joint Controllers Agreement
- H Contractor Code of Conduct (Part A & B)

LONG CONTRACT CONDITIONS

A. GENERAL PROVISIONS

A1. DEFINITIONS AND INTERPRETATION

In these Conditions, unless the context otherwise requires, the following provisions shall have the meanings given to them below:

"ADR Notice" means a notice served under Condition I2 (Dispute Resolution) requesting mediation.

"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.

"Agreement" means this contract

"Approval" and "Approved" refer to the written consent of the Authority's Representative.

"Authority" means the Secretary of State for Foreign, Commonwealth and Development Affairs and includes the Authority's Representative. In this Contract, the Authority is acting as part of the Crown.

"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 Contractor by or on behalf of the Authority; or (ii) which the Contractor is required to generate, process, store or transmit pursuant to this Agreement; or (b) any Personal Data for which the Authority is the Data Controller.

"Authority's Premises" means land or buildings owned or occupied by the Authority where the Services are performed.

"Authority's Property" means any property, other than land and buildings, issued or made available to the Staff by the Authority in connection with the Contract.

"Authority's Representative" means the individual authorised to act on behalf of the Authority for the purposes of the Contract.

"Call-Off Contract" means the legally binding agreement (made pursuant to the provisions of the Framework Agreement) for the provision of Services and/or Goods made between a Contracting Authority and the Contractor comprising:

- (i) The Order Form;
- (ii) The Call-Off Terms and Conditions;
- (iii) Any Special Terms and Conditions; and
- (iv) The Tender

"Call-Off Terms and Conditions" means the terms and conditions including any special terms and conditions;

"Commencement Date" means the date when the period of the duration of the contract commences in accordance with Condition A2 (Initial Contract Period).

"Commercially Sensitive Information" means the subset of Confidential Information listed in Appendix D comprised of information:

- (a) which is provided by the Contractor to the Authority in confidence for the period set out in that schedule; and/or
- (b) that constitutes a trade secret.

"Condition" means a condition or clause within the Contract.

"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, trade secrets, Intellectual Property Rights and know-how of either Party and all personal data and sensitive personal data within the meaning of the DPA. Confidential Information shall not include information which:

- (i) was public knowledge at the time of disclosure (otherwise than by breach of Condition E3 (Confidential Information));
- (ii) was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party;
- (iii) is received from a third party (who lawfully acquired it) without restriction as to its disclosure; or
- (iv) is independently developed without access to the Confidential Information.

"Contract" means this agreement between the Authority and the Contractor consisting of these Conditions, Sections, attached Schedules and Appendices and the Contractor proposal reference FLEXIFORM9439 dated 02/06/2023.

"Contracting Authority" means any contracting authority as defined in Statutory Instrument 2015 No. 102 - Public Procurement - The Public Contracts Regulations 2015.

"Contractor" means Flexiform

"Contractor's Representative" means the individual authorised to act on behalf of the Contractor for the purposes of the Contract.

"Contract Period" means the period of the duration of the Contract in accordance with Condition A2 (Initial Contract Period).

"Contractor Personnel" means all directors, officers, employees, agents, consultants and contractors of the Contractor and/or of any Sub-Contractor engaged in the performance of its obligations under this Agreement

"Contract Price" means the price, exclusive of any applicable Value Added Tax, payable by the Authority to the Contractor, as set out in Condition C1 (Contract price).

"Controller, Processor, Data Subject, Personal Data, Personal Data Breach, Data Protection Officer" take the meaning given in the GDPR.

"Credit transfer" is a payment instruction from the Authority to its bank or payment service provider to transfer an amount of money to another account.

"The Crown" means any central government department of the United Kingdom, or a Devolved Administration, or any other body which is legally defined as a Crown Body.

"DPA 2018" means the Data Protection Act 2018

"Data Protection Legislation" means

- (i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time
- (ii) the DPA 2018 [subject to Royal Assent] to the extent that it relates to processing of personal data and privacy;
- (iii) all applicable Law about the processing of personal data and privacy;

"Data Protection Impact Assessment" an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data.

"Data Loss Event" means any event that results, or may result, in unauthorised access to Personal Data held by the Contractor under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach.

"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.

"DPA 2018" means the Data Protection Act 2018

"Default" means any breach of the obligations of either Party (including but not limited to fundamental breach or breach of a fundamental item) or any default, act, omission, negligence or statement of either Party, its employees, contractors, agents or Sub-Contractors in connection with or in relation to the subject matter of this Contract and in respect of which such Party is liable to the other.

"Effective Date" means the date when the contract legally commences.

"Equality Enactments" means the enactments defined in section 33(1) Equality Act 2006.

"Equipment" means all equipment, materials, consumables and plant and other items supplied, other than Authority's Property, to be used by the Staff in the provision of the Services.

"Environmental Information Regulations" means the Environmental Information Regulations 2004, as the same may be amended or updated 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 regulations.

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

"Force Majeure" has the meaning set out in Condition H7 (Force Majeure).

"Framework" Means the overarching arrangement whereby the Authority seeks to appoint one of more Contractors as a potential supplier of the Goods and/or Services as described in the Invitation to Tender.

"Framework Terms and Conditions" Means the terms and conditions set out in this agreement and all the Schedules to this agreement;

"GDPR" means the General Data Protection Regulation (Regulation (EU) 2016/679)

"Gateway" means a review which may be conducted by or for a government department into whether or not a programme, project or any activity is making progress in line with agreed objectives;

"Good Industry Practice" means at any time the exercise of that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be

expected from a skilled and experienced provider of services similar to the Services seeking in good faith to comply with its contractual obligations and complying with all relevant laws.

"Goods" means anything which the Contractor supplies to the Authority under the Contract including any materials provided as part of the Service;

"Information" has the meaning given under section 84 of the FOIA.

"Intellectual Property Rights" means patents, inventions, trademarks, service marks, logos, design rights (whether registerable or not), applications for any of the above rights, copyright, database rights, domain names, know how, trade or business names, moral rights or other similar rights or obligations whether registerable or not in any country including but not limited to the United Kingdom.

"Joint Controllers" means where two or more Controllers jointly determine the purposes and means of processing

"Key Performance Indicators" means a set of quantifiable measures that the Authority and Contractor will use to measure the performance of the Services provided by the Contractor under the Contract.

"Key Staff" means all persons identified in Appendix C – Key Staff.

"LED" means Law Enforcement Directive (Directive (EU) 2016/680)

"Law" means any 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 Processor is bound to comply;

"Month" means calendar month.

"Notice" means information from either Party to the other Party about a particular action that has been taken;

"Order" means an order for Goods served by the Council on a Contractor in accordance with the Ordering Procedures;

"Order Form" means a document setting out details of an Order in a form to be specified by the Council;

"Ordering Procedures" means the ordering and award procedures specified in Condition 54;

"Original Estimate" means the Contractor's initial estimate of all variable prices under this Contract e.g. those which are not fixed.

"Party" means either the Authority or the Contractor and the "Parties" means the Authority and the Contractor;

"Personnel" means persons directly employed by the Authority.

"Premises" means land or buildings where the Services are performed.

"Price" means a price entered in Attachment 2 Schedule of Prices and Rates

"Processor Personnel" means all directors, officers, employees, agents, consultants and contractors of the Processor and/or of any Sub-Processor engaged in the performance of its obligations under this Agreement

"Proposal" means the Contractor's proposal submitted to the Authority to meet the requirement detailed in the Authority's tender documentation or request for

quotation dated 26th April 2023 and any subsequent clarifications dated 23rd May 2023

"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 such measures adopted by it including those outlined in Schedule (Security).

"Purchase Order" or "PO" means the form, which the Authority sends to the Contractor confirming the contract and facilitating payment via the Authority Purchase to Pay System;

"Rates" means a rate entered in Attachment 3 – Schedule of Prices and Rates

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

"Requests for Information" shall have the meaning set out in the FOIA or any apparent request for information under the FOIA or the Environmental Information Regulations as relevant.

"Services" means all the services (including any works) which the Contractor provides to the Authority under the Contract.

"Site" means the area within the Premises in which the Services are performed.

"Staff" means all persons used by the Contractor to deliver the contract.

"Sub-contractor" means any third party employed by the Contractor in the provision of the Services.

"Sub-processor" any third Party appointed to process Personal Data on behalf of the Contractor related to this Agreement

"Termination Transfer" means the transfer of responsibility for delivery of the Contract from the Contractor to the Authority and/or a Successor Supplier on or following the termination or expiry of this Contract or any part thereof.

"Termination Transfer Date" means the date of a Termination Transfer.

"the Crown" means any central government department of the United Kingdom, including the Devolved Administrations, and other bodies which are legally defined as being Crown Bodies.

"Variation" means a properly executed variation to the Contract in compliance with Condition F3 (Variation).

"Variation to Contract Form" means the form set out in Appendix A - Variation to Contract Form

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

A1.1. FURTHER PROVISIONS

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

- a) a reference to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as subsequently amended or re-enacted;
- b) the headings included in the Contract are for ease of reference only and shall not affect the interpretation or construction of the Contract;
- c) references to Conditions are references to Conditions in the Conditions of the Contract in which they appear, unless otherwise stated;
- d) where the context allows, the masculine includes the feminine and the neuter, and the singular includes the plural and vice versa;
- e) reference to a Condition is a reference to the whole of that Condition unless stated otherwise;
- f) reference to any person shall include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees; and
- g) any words following the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or terms preceding those terms and the words "include", "includes" and "including" are to be construed as if they were immediately followed by the words "without limitation".
- h) These Conditions shall apply to the exclusion of all other terms and conditions including any terms and conditions which the Contractor may seek to apply under any purchase order, confirmation of order, invoice, delivery note or similar document.
- i) The Contractor shall be deemed to have accepted the terms and conditions of the Contract by delivering the Goods and/or Service.
- j) Time for delivery of Goods and/or provision of the Service shall be of the essence of the Contract.
- k) If either Party does not enforce any one or more of the terms or conditions of this Contract this does not mean that the Party has given up the right at any time subsequently to enforce all terms and conditions of this Contract.
- l) The Authority shall in no circumstances be liable for any claim, loss or damage whether arising in contract, tort (including negligence) or otherwise, for consequential, economic, special or other indirect loss and shall not be liable for any losses calculated by reference to profits, contracts, business, goodwill, income, production or accruals whether direct or indirect and whether or not arising out of any liability of the Contractor to any other person.

A2. CONTRACT PERIOD

- A2.1 The Contract period begins on 26th July 2023 and ends on 31st October 2023. Any extensions to the Contract period shall be mutually agreed between Authority and Contractor and confirmed in writing in accordance with Condition F3 of the contract.

A3. CONTRACTOR'S STATUS

- A3.1 At all times during the Contract Period, the Contractor shall be an independent contractor and nothing in this Contract shall create a contract of employment, a relationship of agency or partnership or joint venture between the Parties and accordingly neither Party shall be authorised to act in the name of, or on behalf of, or otherwise bind the other Party save as expressly permitted by the terms of this Contract accordingly:

- a) the Contractor shall not say or do anything that might lead any other Person to believe that the Contractor is acting as the agent of the Authority; and
- b) the Authority shall not incur any contractual liability to any other Person as a result of anything done by the Contractor in connection with the performance of the Contract.

A4. AUTHORITIES OBLIGATIONS

- A4.1 Save as otherwise expressly provided, the obligations of the Authority under the Contract are obligations of the Authority in its capacity as a contracting counterparty and nothing in the Contract shall operate as an obligation upon, or in any other way fetter or constrain the Authority in any other capacity, nor shall the exercise by the Authority of its duties and powers in any other capacity lead to any liability under the Contract (howsoever arising) on the part of the Authority to the Contractor.

A5. NOTICES

- A5.1 Except as otherwise expressly provided within this Contract, no communication from one Party to the other shall have any validity under this Contract unless made in writing by or on behalf of the Party concerned.
- A5.2 Any notice or other communication which is to be given by either Party to the other shall be given by letter, or by facsimile transmission or electronic mail. Such letters shall be addressed to the other Party in the manner referred to in Condition A5.3 (Notices). If the other Party does not acknowledge receipt of any such letter, facsimile transmission or item of electronic mail, and, in the case of a letter, the relevant letter is not returned as undelivered, the notice or communication shall be deemed to have been given 3 Working Days after the day on which the letter was posted.
- A5.3 For the purposes of Condition A5.2 (Notices), the address of each Party shall be:
 - a) The Authority's Representative:

Name	-	[REDACTED]
Telephone Number	-	[REDACTED]
Address	-	King Charles St, London SW1A 2AH
E-Mail Address	-	[REDACTED]
 - b) The Contractor's Representative:

Name	-	[REDACTED]
Telephone Number	-	[REDACTED]
Address	-	1392 Leeds Road, Bradford, BD3 7AE
E-Mail Address	-	[REDACTED]

- A5.4 Either Party may change its address for service by notice given in accordance with this Condition A5 (Notices).

A6. MISTAKES IN INFORMATION

- A6.1 The Contractor shall be responsible for the accuracy of all drawings, documentation and information supplied to the Authority by the Contractor in connection with the supply of the Services and shall pay the Authority any extra costs occasioned by any discrepancies, errors or omissions therein

A7. CONFLICTS OF INTEREST

- A7.1 The Contractor shall establish and maintain appropriate business standards, procedures and controls to ensure that no conflict of interest arises between the Parties, howsoever arising.
- A7.2 The Contractor shall notify the Authority immediately of any circumstances of which it becomes aware which give rise or potentially give rise to a conflict with the Services and shall advise the Authority of how they intend to avoid such a conflict arising or remedy such situation. The Contractor shall subject to any obligations of confidentiality it may have to third parties provide all information and assistance reasonably necessary (at the Contractor's cost) that the Authority may request of the Contractor in order to avoid or resolve a conflict of interest and shall ensure that at all times they work together with the Authority with the aim of avoiding a conflict or remedy a conflict.
- A7.3 The Authority reserves the right to terminate this contract immediately by notice in writing and/or to take such steps it deems necessary 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 Contractor and the duties owed to the Authority under the provisions of this contract. The actions of the Authority pursuant to this Article will not prejudice or affect any right of action or remedy which will have accrued or will thereafter accrue to the Authority.
- A7.4 In addition to its obligations under Condition E5 (Publicity, Media and Official Enquiries), the Contractor shall:
- (a) Avoid expressing views which may prejudice the position of the Authority;
 - (b) Make clear when it is expressing views on behalf of the Authority and/or the Government of the United Kingdom, and when it is expressing personal views;
 - (c) Check with the Authority first if they are unsure whether expressing views might be caught by (a) and (b); and
 - (d) Not carry out any acts on behalf of third parties in the course of performing the Services, without the Authority's permission.
- A7.5 Pursuant to Condition A7.2 (Conflict of Interest), the Authority shall have the right to require that the Contractor puts in place "Ethical Walls" and will ensure and satisfy the Authority that all information relating to the Contract and to the Services and Deliverables completed pursuant to it (to include all working papers, draft reports in both tangible and intangible form) are not shared or made available to other employees, contractors or agents of the Contractor and that such matters are not discussed by the relevant staff with other employees, contractors or agents of the Contractor.
- A7.6 In the event of a failure to maintain the "Ethical Walls" as described above arising during the course of this Contract, the Authority reserves the right to immediately terminate the Contract on giving written notice to the Contractor and to pursue the Contractor for damages.
- A7.7 To the extent that any of the Contractor's staff breach this Conflict of Interest Condition, the Contractor undertakes to keep the Authority fully and effectively indemnified in respect of all costs, losses and liabilities arising from any wrongful disclosure or misuse of the Confidential Information by the Contractor's staff. This indemnity shall be without prejudice to any other rights or remedies, including injunctive or other equitable relief, which the Authority may be entitled to, but for the avoidance of doubt shall be subject to the limitations of liability (including without limitation the cap on liability) set out in this Contract.

B. SUPPLY OF SERVICES AND/OR GOODS

B1. THE GOODS

- B1.1 The Contractor shall supply the Goods specified in the Contract. Goods may be returned at the Contractor's expense if they do not correspond with the Contract and/or any sample provided.
- B1.2 All Goods shall be transported at the Contractor's risk and delivered, carriage paid, in the quantities and at the time and place specified in the Purchase Order. Where no delivery time is stipulated by the Authority the Goods and/or provision of Services shall be made within ten working days of receipt of the order by the Contractor.
- B1.3 The Authority may notify the Contractor of a change in the specified delivery time/date up to 24 hours before delivery.
- B1.4 The Contractor shall provide a delivery note with all deliveries as well as other appropriate documentation and/or copies of proof of deliveries as reasonably requested by the Authority. Such documentation must clearly show the Authority's Purchase Order number and date.
- B1.5 If the Contractor requires packaging to be returned, it will be returned at the Contractor's expense.

B2. NOT USED

B3. MANNER OF CARRYING OUT THE CONTRACT

- B3.1 The Contractor shall at all times comply with the Quality Standards identified in the Furniture GBS document & ATT 4- BEC-ACM-00-ZZ-DR-AR-01431 - FF&E Schedule, and where applicable shall maintain accreditation with the relevant Quality Standards authorisation body. To the extent that the standard of Services has not been specified in the Contract, the Contractor shall agree the relevant standard of the Services with the Authority prior to the supply of the Services and, in any event, the Contractor shall perform its obligations under the Contract in accordance with the Law and Good Industry Practice.
- B3.1.1 On the request of the Authority's Representative, the Contractor shall provide proof to the Authority's satisfaction that the materials and processes used, or proposed to be used, conform to the Quality Standards identified in the Furniture GBS document ATT 4- BEC-ACM-00-ZZ-DR-AR-01431 - FF&E Schedule. The introduction of new methods or systems which impinge on the provision of the Services shall be subject to prior Approval.
- B3.2 The Contractor shall ensure that all Staff supplying the Services shall 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.
- B3.3 The Contract shall be performed by the Contractor on Approved Sites only from the Commencement Date. For the purposes of the Contract, the Approved Sites are:
- Hanslope Park
Milton Keynes
MK19 7BH
- B3.4 The Contractor shall upon the instruction of the Authority's Representative:
- a) remove from the Authority's Premises any packaging materials which are used in the delivery of the Contract.
 - b) remove and properly execute any work which is not in accordance with the Contract, irrespective of any previous testing or payment by the Authority. The Contractor shall at its own expense complete the re-executed work correctly in accordance with the Contract within such reasonable time as the Authority may specify.

- B3.5 The signing by the Authority's Representative of time sheets or other similar documents shall not be construed as implying the Contractor's compliance with the Contract.
- B4. NOT USED
- B5. CONTRACTOR'S STAFF
- B5.1 The Authority may, by written notice to the Contractor, refuse to admit onto, or withdraw permission to remain on, the 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 reasonable opinion of the Authority, be undesirable.
- B5.2 At the Authority's written request, the Contractor shall provide a list of the names and addresses of all persons who may require admission in connection with the Contract to the Premises, specifying the capacities in which they are concerned with the Contract and giving such other particulars as the Authority may reasonably request.
- B5.3 The Contractor's Staff, engaged within the boundaries of the Premises, shall comply with such rules, regulations and requirements (including those relating to security arrangements) as may be in force from time to time for the conduct of personnel when at or outside the Premises.
- B5.4 The Contractor shall comply with Staff Vetting Procedures in respect of all persons employed or engaged in the provision of the Services. The Contractor confirms that all persons employed or engaged by the Contractor were vetted and recruited on a basis that is equivalent to and no less strict than the Staff Vetting Procedures.
- B5.5 The Authority may require the Contractor to ensure that any person employed in the provision of the Services has undertaken a Criminal Records Bureau check as per the Staff Vetting Procedures. The Contractor shall ensure that no person who discloses that he/she has a Relevant Conviction, or is found by the Contractor to have a Relevant Conviction (whether as a result of a police check or through the Criminal Records Bureau check or otherwise) is employed or engaged in the provision of any part of the Services.
- B5.6 If the Contractor fails to comply with Condition B5.2 within 2 Months of the date of the request and in the reasonable opinion of the Authority, such failure may be prejudicial to the interests of the Crown, then the Authority may terminate the Contract, provided always that such termination shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Authority.
- B5.7 The decision of the Authority as to whether any person is to be refused access to the Premises and as to whether the Contractor has failed to comply with Condition B5.2 shall be final and conclusive.
- B5.8 The Contractor shall provide training for all Persons employed or engaged in the provision of the Services to ensure that these Persons understand and adhere to the Authority's Cyber Essentials Policy.
- B5.9 If and when directed by the Authority, the Contractor shall secure that any person employed or engaged by the Contractor or by a Sub-Contractor, who is specified in the direction or is one of a class of persons who may be so specified, shall sign a statement that he understands that the Official Secrets Acts 1911 to 1989 apply to him both during the term of and after the expiry or termination of this Contract.
- B6. NOT USED
- B7. LICENCE TO OCCUPY PREMISES

- B7.6 The Contractor shall submit in writing to the Authority for Approval, before the Commencement of the Contract Period and as necessary from time to time:
- a) a list showing the name and address of every person whom the Contractor wishes to be admitted to the Premises and, where required by the Authority, every other person who is or may be involved in any other way in the performance of the Contract, the capacity in which each person is or may be so involved and any other particulars required by the Authority;
 - b) satisfactory evidence as to the identity of each such person; and
 - c) any other information about each such person, with any supporting evidence required by the Authority, including full details of birthplace and parentage of any such person who is not a citizen of the United Kingdom by birth, or born within the United Kingdom of parents who were citizens of the United Kingdom by birth.
- B7.7 Where Staff are required to have a pass for admission to the Authority's Premises, the Authority's Representative shall, subject to satisfactory completion of approval procedures, arrange for passes to be issued.
- B7.8 Staff who cannot produce a proper pass when required to do so by any appropriate Personnel or agent of the Authority, or who contravene any conditions on the basis of which a pass was issued, may be refused admission to the Authority's Premises or required to leave those Premises if already there.
- B7.9 The Contractor shall promptly return any pass if at any time the Authority's Representative so requires or if the person for whom it was issued ceases to be involved in the performance of the Contract. The Contractor shall promptly return all passes on completion or earlier termination of the Contract.
- B7.10 If the Authority gives the Contractor notice that a specifically named member of Staff shall not be admitted to the Authority's Premises, the Contractor shall ensure that that person shall not seek admission and shall not be admitted.
- B8. PROPERTY
- B8.1 Where the Authority issues Property free of charge to the Contractor such Property shall be and remain the property of the Authority and the Contractor irrevocably licences the Authority and its agents to enter upon any premises of the Contractor during normal business hours on reasonable notice to recover any such Property. The Contractor shall not in any circumstances have a lien or any other interest on the Property and the Contractor shall at all times possess the Property as fiduciary agent and bailee of the Authority. The Contractor shall take all reasonable steps to ensure that the title of the Authority to the Property and the exclusion of any such lien or other interest are brought to the notice of all sub-contractors and other appropriate persons and shall, at the Authority's request, store the Property separately and ensure that it is clearly identifiable as belonging to the Authority.
- B8.2 The Property shall be deemed to be in good condition when received by or on behalf of the Contractor unless the Contractor notifies the Authority otherwise within 5 Working Days of receipt.
- B8.3 The Contractor shall maintain the Property in good order and condition (excluding fair wear and tear), and shall use the Property solely in connection with the Contract and for without prior Approval.
- B8.4 The Contractor shall ensure the security of all the Property whilst in its possession, either on the Premises or elsewhere during the supply of the Services, in accordance with the Authority's reasonable security requirements as required from time to time.

B8.5 The Contractor shall be liable for all loss of, or damage to, the Property (excluding fair wear and tear), unless such loss or damage was caused by the Authority's Default. The Contractor shall inform the Authority within 2 Working Days of becoming aware of any defects appearing in, or losses or damage occurring to, the Property.

B9. OFFERS OF EMPLOYMENT

B9.1 For the duration of the Contract and for a period of 12 months thereafter neither the Authority nor the Contractor shall employ or offer employment to any of the other Party's staff who have been associated with the procurement and/or the contract management of the Services without that other Party's prior written consent.

B10. MEETINGS AND REPORTS

B10.1 The Contractor shall upon receipt of reasonable notice and during normal office hours attend all meetings arranged by the Authority for the discussion of matters connected with the performance of the Services.

B10.2 Without prejudice to any other requirement in this Contract, the Contractor shall provide such reports on the performance of the Services as the Contract Manager may reasonably require.

B11 SAFEGUARDING

B11.1 For the purposes of this Clause B11, "**Reasonable Measures**" shall mean:

all reasonable endeavours expected to be taken by a professional and prudent supplier in the Supplier's industry to eliminate or minimise risk of actual, attempted or threatened exploitation, abuse and harassment (including Sexual Abuse, Sexual Exploitation and Sexual Harassment) and whether or not such conduct would amount to a criminal offence in the United Kingdom or an offence under the laws of the territory in which it takes place (together "**Serious Misconduct**") as is reasonable and proportionate under the circumstances. Such endeavours may include (but shall not be limited to):

- (a) Clear and detailed policies and guidance for Supplier Personnel, Supplier Providers and where appropriate, beneficiaries;
- (b) Developing, implementing and maintaining a safeguarding plan throughout the term (including monitoring);
- (c) Provision of regular training to Supplier Personnel, Supplier Providers and where appropriate, beneficiaries
- (d) Clear reporting lines and whistleblowing policies in place for Supplier Personnel, Supplier Providers and beneficiaries,
- (e) Maintaining detailed records of any allegations of Serious Misconduct and regular reporting to FCDO and the Appropriate Authorities (where relevant) of any such incidents;
- (f) Any other Good Industry Practice measures (including any innovative solutions),

B11.2 The Supplier shall take all Reasonable Measures to prevent Serious Misconduct by the Supplier Personnel or any other persons engaged and controlled by it to perform any activities under this Agreement ("**Supplier Providers**") and shall have in place at all times robust procedures which enable the reporting by Supplier Personnel, Supplier Providers and beneficiaries of any such Serious Misconduct, illegal acts and/or failures by the Supplier or Supplier Personnel to investigate such reports.

B11.3 The Supplier shall take all Reasonable Measures to ensure that the Supplier Personnel and Supplier Providers do not engage in sexual activity with any person under the age of 18, regardless of the local age of majority or age of consent or any mistaken belief held by the Supplier Personnel or Supplier Provider as to the age of the person. Furthermore,

the Supplier shall ensure that the Supplier Personnel and Supplier Providers do not engage in 'transactional sex' which shall include but not be limited to the exchange of money, employment, goods, or services for sex and such reference to sex shall include sexual favours or any form of humiliating, degrading or exploitative behavior on the part of the Supplier Personnel and the Supplier Providers. For the avoidance of doubt, such 'transactional sex' shall be deemed to be Serious Misconduct in accordance with Clause B11.1.

- B11.4 The Supplier shall promptly report in writing any complaints, concerns and incidents regarding Serious Misconduct or any attempted or threatened Serious Misconduct by the Supplier Personnel and Supplier Providers to FCDO, including FCDO's Counter Fraud Section at reportingconcerns@fcdo.gov.uk or +44 (0)1355 843747, and where necessary, the Appropriate Authorities.
- B11.5 The Supplier shall fully investigate and document all cases or potential cases of Serious Misconduct and shall take appropriate corrective action to reduce the risk and/or eliminate Serious Misconduct being committed by the Supplier Personnel and Supplier Providers (which may include disciplinary action, termination of contracts etc.), such investigations and actions to be reported to FCDO as soon as is reasonably practicable.
- B11.6 The Supplier shall not engage as Supplier Personnel or Supplier Provider for the purposes of the Services any person whose previous record or conduct known to the Supplier (or reasonably ought to be known by a diligent supplier which undertakes the appropriate checks) indicates that they are unsuitable to perform the Services and/or where they represent an increased and unacceptable risk of committing Serious Misconduct.
- B11.7 The Supplier shall comply with all applicable laws, legislation, codes of practice and government guidance in the UK and additionally, in the territories where the Services are being performed, relevant to safeguarding and protection of children and vulnerable adults, which the Supplier acknowledges may include vetting of the Supplier Personnel by the UK Disclosure and Barring Service in respect of any regulated activity performed by the Supplier Personnel (as defined by the Safeguarding Vulnerable Groups Act 2006 (as amended)) and/or vetting by a local equivalent service. Where FCDO reasonably believes that there is an increased risk to safeguarding in the performance of the Services, the Supplier shall comply with any reasonable request by FCDO for additional vetting to be undertaken.
- B11.8 Failure by the Supplier to:
- 1) Put in place preventative measures to eliminate and/or reduce the risk of Serious Misconduct; or
 - 2) Fully investigate allegations of Serious Misconduct; or
 - 3) Immediate report any complaints to FCDO and where appropriate, the relevant authorities (including law enforcement)
- shall be a material Default of this Contract and shall entitle FCDO to terminate this Contract with effect.

C. PAYMENT AND CONTRACT PRICE

C1. CONTRACT PRICE

- C1.1 In consideration of the Contractor's performance of its obligations under the Contract, the Authority shall pay via Purchase Order and in accordance with Condition C2 (Payment and VAT) and as set out in Attachment 2 – Schedule of Prices and Rates.
- C1.2 Where the parties have agreed in the Price Schedule that the Services will be provided on a firm price basis, then the firm price shall be paid according to the schedule of payments as detailed in the Attachment 2 – Schedule of Prices and Rates.

C2. PAYMENT AND VAT

- C2.1 The Authority is committed to pay as soon as possible and shall pay all sums due to the Contractor within 30 days of receipt of a valid invoice, submitted monthly in arrears to the invoicing address stipulated by the Authority in the Contract Award Letter.
- C2.2 The Contractor shall ensure that each invoice contains all appropriate references and a detailed breakdown of the Services supplied and that it is supported by any other documentation reasonably required by the Authority to substantiate the invoice.
- C2.3 Where the Contractor enters into a sub-contract with a supplier or contractor for the purpose of performing its obligations under the Contract, it shall ensure that a provision is included in such a subcontract which requires payment to be made of all sums due by the Contractor to the sub-contractor as soon as possible and in any event not exceeding 30 days from the receipt of a valid invoice. The Authority reserves the right to ask for information about payment performance and will provide a facility for sub-contractors to report poor performance to the Authority.
- C2.4 The Contractor shall add VAT to the Contract Price at the prevailing rate as applicable.
- C2.5 The Contractor shall indemnify 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 Contractor's failure to account for or to pay any VAT relating to payments made to the Contractor under the Contract. Any amounts due under this Condition C2.5 shall be paid by the Contractor to the Authority not less than 5 Working Days before the date upon which the tax or other liability is payable by the Authority.
- C2.6 The Contractor shall not suspend the supply of the Services unless the Contractor is entitled to terminate the Contract under Condition H2.3 (Termination on Default) for failure to pay undisputed sums of money. Interest shall be payable by the Authority on the late payment of any undisputed sums of money properly invoiced in accordance with the Late Payment of Commercial Debts (Interest) Act 1998.
- C2.7 If the Authority, acting in good faith, has a dispute in respect of any invoice, the Authority shall be entitled to withhold payment of the disputed amount, provided that it has notified the Contractor of the disputed amount and the nature of the dispute prior to the due date for payment of the invoice, and has paid any undisputed portion of the invoice to the Contractor. The parties will negotiate in good faith to resolve the dispute, and, failing resolution within five working days after receipt by the Contractor of the Authority's notification, the dispute will be referred to dispute resolution in accordance with Condition I2 (Dispute Resolution). In the event of such dispute, the Contractor shall continue to perform all its obligations under this Contract notwithstanding any withholding or reduction in payment by the Authority.
- C2.8 The Authority may elect to pay for the Services by Government Procurement Card or such other method as the Parties may agree.
- If the Authority elects to pay against an invoice, The Authority shall pay the Contractor within 30 days of receipt of an undisputed invoice by payment direct to the Contractors bank account as a credit transfer

C3. RECOVERY OF SUMS DUE

- C3.1 Any sum which is recoverable from or payable by the Contractor may be deducted from or reduced by any sum or sums then due or which may thereafter become due to the Contractor under or in respect of the Contract or any other contract with the Authority or any other government department or the Crown.

- C3.2 Any overpayment by either Party, whether of the Contract Price or of VAT or otherwise, shall be a sum of money recoverable by the Party who made the overpayment from the Party in receipt of the overpayment.
- C3.3 The Contractor shall make all payments due to the Authority without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Contractor has a valid court order requiring an amount equal to such deduction to be paid by the Authority to the Contractor.
- C3.4 All payments due shall be made within a reasonable time unless otherwise specified in the Contract, in cleared funds, to such bank or building society account as the recipient Party may from time to time direct.

D. STATUTORY OBLIGATIONS AND REGULATIONS

D1 PREVENTION OF CORRUPTION

- D1.1 The Contractor shall not offer or give, or agree to give, to the Authority or any other public body or any person employed by or on behalf of the Authority or any other public body any gift or consideration of any kind as an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of the Contract or any other contract with the Authority or any other public body, or for showing or refraining from showing favour or disfavour to any person in relation to the Contract or any such contract.
- D1.2 The Contractor warrants that it has not paid commission or agreed to pay commission to the Authority or any other public body or any person employed by or on behalf of the Authority or any other public body in connection with the Contract.
- D1.3 If the Contractor, its Staff or anyone acting on the Contractor's behalf, engages in conduct prohibited by Conditions D1.1 or D1.2 or commits any offence under the Bribery Act 2010, the Authority may:
- (a) terminate the Contract and recover from the Contractor the amount of any loss suffered by the Authority resulting from the termination, including the cost reasonably incurred by the Authority of making other arrangements for the supply of the Services and any additional expenditure incurred by the Authority throughout the remainder of the Contract Period; or
 - (b) recover in full from the Contractor any other loss sustained by the Authority in consequence of any breach of those Conditions.

D.2 PREVENTION OF FRAUD

- D2.1 The Contractor shall take all reasonable steps, in accordance with Good Industry Practice, to prevent Fraud by Staff and the Contractor (including its shareholders, members, directors) in connection with the receipt of monies from the Authority.
- D2.2 The Contractor shall notify the Authority immediately if it has reason to suspect that any Fraud has occurred or is occurring or is likely to occur.
- D2.3 If the Contractor or its Staff commits Fraud in relation to this or any other contract with the Crown (including the Authority) the Authority may:
- (a) terminate the Contract and recover from the Contractor the amount of any loss suffered by the Authority resulting from the termination, including the cost reasonably incurred by the Authority of making other arrangements for the supply of the Services and any additional expenditure incurred by the Authority throughout the remainder of the Contract Period; or
 - (b) recover in full from the Contractor any other loss sustained by the Authority in consequence of any breach of this Condition.

D.3 DISCRIMINATION

- D3.1 The Contractor shall not unlawfully discriminate either directly or indirectly on protected characteristics such as race, colour, ethnic or national origin, disability, sex or sexual orientation, religion or belief, or age and without prejudice to the generality of the foregoing the Contractor shall not unlawfully discriminate within the meaning and scope of the provisions of all relevant legislation including the Equality Act 2010 or other relevant or equivalent legislation, or any statutory modification or re-enactment thereof.
- D3.2 The Contractor shall adhere to the current relevant codes of practice or recommendations published by the Equality and Human Rights Commission. The Contractor shall take all reasonable steps to secure the observance of these provisions and codes of conduct by all contractors, employees or agents of the Contractor and all suppliers and Sub-contractors employed in the execution of this Contract.
- D3.3 The Contractor will comply with any request by the Authority to assist the Authority in meeting its obligations under the Equality Act 2010 and to allow the Authority to assess the Contractor's compliance with its obligations under the Equality Act 2010.
- D3.4 Where any investigation is concluded or proceedings are brought under the Equality Act 2010 which arise directly or indirectly out of any act or omission of the Contractor, its agents or sub contractors, or Staff, and where there is a finding against the Contractor in such investigation or proceedings, the Contractor will indemnify the Authority with respect to all costs, charges and expenses (including legal and administrative expenses) arising out of or in connection with any such investigation or proceedings and such other financial redress to cover any payment the Authority may have been ordered or required to pay to a third party.
- D3.5 Where in the reasonable opinion of the authority the Contractor has breached its obligations under Condition D3.1 or D3.2 (Discrimination) the Authority may terminate this Contract with immediate effect.

D.4 THE CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

- D4.1 A person who is not a Party to the Contract shall have no right to enforce any of its provisions which, expressly or by implication, confer a benefit on him, without the prior written agreement of both Parties. This Condition does not affect any right or remedy of any person which exists or is available apart from the Contracts (Rights of Third Parties) Act 1999 and does not apply to the Crown.

D.5 ENVIRONMENTAL REQUIREMENTS

- D5.1 The Contractor shall, when working on the Premises, perform its obligations under the Contract in accordance with the Authority's environmental policy, which is to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment.
- D5.2 All written work, including reports, delivered in connection with this Contract shall (unless otherwise specified) be produced on recycled paper containing 100% post consumer waste and used on both sides where appropriate. Paper used for printed publications must contain at least 75% recycled fibre paper in accordance with the UK government's timber procurement policy.
- D5.3 All timber or wood-derived products procured as part of this contract must originate from either legal and sustainable or FLEGT licensed or equivalent sources.
- D5.4 All goods purchased by the Contractor on behalf of the Authority (or which will become the property of the Authority) must comply with the

relevant minimum environmental standards specified in the Government Buying Standards unless otherwise specified or agreed in writing.

D.6 HEALTH AND SAFETY

- D6.1 The Contractor shall promptly notify the Authority of any health and safety hazards which may arise in connection with the performance of its obligations under the Contract. The Authority shall promptly notify the Contractor of any health and safety hazards which may exist or arise at the Premises and which may affect the Contractor in the performance of its obligations under the Contract.
- D6.2 While on the Premises, the Contractor shall comply with any health and safety measures implemented by the Authority in respect of Staff and other persons working there.
- D6.3 The Contractor shall notify the Authority immediately in the event of any incident occurring in the performance of its obligations under the Contract on the Premises where that incident causes any personal injury or damage to property which could give rise to personal injury.
- D6.4 The Contractor shall comply with the requirements of the Health and Safety at Work etc. Act 1974 and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to Staff and other persons working on the Premises in the performance of its obligations under the Contract.
- D6.5 The Contractor shall ensure that its health and safety policy statement (as required by the Health and Safety at Work etc Act 1974) is made available to the Authority on request.

E. PROTECTION OF INFORMATION

E1 DATA PROTECTION

- E1.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Controller and the Contractor is the Processor unless otherwise specified in Appendix G.2 to the Contract (Joint Controller Agreement). The only processing that the Contractor is authorised to do is listed in Appendix G.1 to the Contract (Processing, Personal Data and Data Subjects) by the Customer and may not be determined by the Contractor.
- E1.2 The Contractor shall notify the Customer immediately if it considers that any of the Customer's instructions infringe the Data Protection Legislation.
- E1.3 The Contractor shall provide all reasonable assistance to the Customer in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Customer, include:
- (a) a systematic description of the envisaged processing operations and the purpose of the processing;
 - (b) an assessment of the necessity and proportionality of the processing operations in relation to the Services;
 - (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
 - (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- E1.4 The Processor shall, in relation to any Personal Data processed in connection with its obligations under this Agreement:
- (a) process that Personal Data only in accordance with Appendix G.1 to the Contract (Processing, Personal Data and Data Subjects), unless the Processor is required to do otherwise by Law. If it is so required the Contractor shall promptly notify the

Controller before processing the Personal Data unless prohibited by Law;

- (b) ensure that it has in place Protective Measures, which are appropriate to protect against a Data Loss Event, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures), having taken account of the:
 - (i) nature of the data to be protected;
 - (ii) harm that might result from a Data Loss Event;
 - (iii) state of technological development; and
 - (iv) cost of implementing any measures;
- (c) ensure that:
 - (i) the Processor Personnel do not process Personal Data except in accordance with this Agreement (and in particular Appendix G.1 to the Contract (Processing, Personal Data and Data Subjects);
 - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
 - (A) are aware of and comply with the Processor's duties under this condition;
 - (B) are subject to appropriate confidentiality undertakings with the Processor 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 Controller or as otherwise permitted by this Agreement; and
 - (D) have undergone adequate training in the use, care, protection and handling of Personal Data; and
- (d) not transfer Personal Data outside of the EU unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
 - (i) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Controller;
 - (ii) the Data Subject has enforceable rights and effective legal remedies;
 - (iii) the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and
 - (iv) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the processing of the Personal Data;
- (e) at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Agreement unless the Processor is required by Law to retain the Personal Data.

- E1.5 Subject to Condition E1.6 (Data Protection), the Processor shall notify the Controller immediately if it:
- (a) receives a Data Subject Access Request (or purported Data Subject Access Request);
 - (b) receives a request to rectify, block or erase any Personal Data;
 - (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
 - (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement;
 - (e) 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
- (f) becomes aware of a Data Loss Event.
- E1.6 The Processor's obligation to notify under Condition E1.5 (Data Protection) shall include the provision of further information to the Controller in phases, as details become available.
- E1.7 Taking into account the nature of the processing, the Processor shall provide the Controller with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under Condition E1.5 (Data Protection) (and insofar as possible within the timescales reasonably required by the Controller) including by promptly providing:
- (a) the Controller with full details and copies of the complaint, communication or request;
 - (b) such assistance as is reasonably requested by the Controller to enable the Controller to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
 - (c) the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
 - (d) assistance as requested by the Controller following any Data Loss Event;
 - (e) assistance as requested by the Controller with respect to any request from the Information Commissioner's Office, or any consultation by the Controller with the Information Commissioner's Office.
- E1.8 The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this condition. This requirement does not apply where the Processor employs fewer than 250 staff, unless:
- (a) the Controller determines that the processing is not occasional;
 - (b) the Controller determines the processing 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) the Controller determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- E1.9 The Processor shall allow for audits of its Data Processing activity by the Controller or the Controller's designated auditor.
- E1.10 Each Party shall designate a data protection officer if required by the Data Protection Legislation.

- E1.11 Before allowing any Sub-processor to process any Personal Data related to this Agreement, the Processor must:
- (a) notify the Controller in writing of the intended Sub-processor and processing;
 - (b) obtain the written consent of the Controller;
 - (c) enter into a written agreement with the Sub-processor which give effect to the terms set out in this Condition E1.4 (Data Protection) (such that they apply to the Sub-processor; and
 - (d) provide the Controller with such information regarding the Sub-processor as the Controller may reasonably require.

E1.12 The Processor shall remain fully liable for all acts or omissions of any Sub-processor.

E1.13 The Controller may, at any time on not less than 30 Working Days' notice, revise this condition by replacing it with any applicable controller to processor standard conditions or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement).

E1.14 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Customer may on not less than 30 Working Days' notice to the Contractor amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.

E1.15 Where the Parties include two or more Joint Controllers as identified in Appendix G.1 to the Contract (Processing, Personal Data and Data Subjects) in accordance with GDPR Article 26, those Parties shall enter into a Joint Controller Agreement based on the terms outlined in Appendix G.2 to the Contract (Joint Controller Agreement) in replacement of Conditions 1.1-1.14 for the Personal Data under Joint Control.

E2 OFFICIAL SECRETS ACTS 1911, 1989, S182 OF THE FINANCE ACT 1989

E2.1 The Contractor shall comply with, and shall ensure that its Staff comply with, the provisions of:

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

E2.2 In the event that the Contractor or its Staff fail to comply with this Condition, the Authority reserves the right to terminate the Contract by giving notice in writing to the Contractor.

E3 CONFIDENTIALITY

- E3.1 The parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Contract is not Confidential Information. The Authority shall be responsible for determining in its absolute discretion whether any of the content of the Contract is exempt from disclosure in accordance with the provisions of the FOIA. Notwithstanding any other term of this Contract, the Contractor gives consent to the Authority to publish the Contract in its entirety, (but with any information which is exempt from disclosure in accordance with the provisions of the FOIA redacted) including from time to time agreed changes to the Contract, to the general public.
- E3.2 The Authority may consult with the Contractor to inform its decision regarding any exemptions to FOIA but the Authority shall have the final decision in its absolute discretion.
- E3.3 The Contractor shall assist and cooperate with the Authority to enable the Authority to publish this Agreement.
- E3.4 Condition E3.2 (Confidentiality) shall not apply to the extent that:
- E3.4.1 Such disclosure is a requirement of Law placed upon the party making the disclosure, including any requirements for disclosure under the FOIA, Code of Practice on Access to Government Information or the EIR, save that the Contractor shall not disclose any information relating to the Contract or the Authority's activities without the prior written consent of the Authority, which shall not be unreasonably withheld.
- E3.4.2 Such information was in the possession of the party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;
- E3.4.3 Such information was obtained from a third party without obligation of confidentiality;
- E3.4.4 Such information was already in the public domain at the time of disclosure otherwise than by a breach of this Contract; or
- E3.4.5 It is independently developed without access to the other party's Confidential Information.
- E3.5 The Contractor may only disclose the Authority's Confidential Information to the persons it has employed or engaged who are directly involved in the provision of the Services and who need to know the information, and shall ensure that such persons are aware of and shall comply with these obligations as to confidentiality.
- E3.6 The Contractor shall not, and shall procure that the persons it has employed or engaged do not, use any of the Authority's Confidential Information received otherwise than for the purposes of this Contract.
- E3.7 At the written request of the Authority, the Contractor shall procure that those persons it has employed or engaged identified in the Authority's notice sign a confidentiality undertaking prior to commencing any work in accordance with this Contract.
- E3.8 Nothing in this Contract shall prevent the Authority from disclosing the Contractor's Confidential Information:
- E3.8.1 To any Crown Body or Overseas Governments. All Crown Bodies receiving such Confidential Information shall be entitled to further disclose the Confidential Information to other Crown Bodies on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any Crown Body;
- E3.8.2 To any consultant, contractor or other person engaged by the Authority or any person conducting a Gateway or other assurance review;
- E3.8.3 For the purpose of the examination and certification of the Authority's accounts; or

- E3.8.4 For 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.
- E3.9 The Authority shall use all reasonable endeavours to ensure that any Crown Body, employee, third party or sub-contractor to whom the Contractor's Confidential Information is disclosed pursuant to Condition E3.8 (Confidentiality) is made aware of the Authority's obligations of confidentiality.
- E3.10 Nothing in this Condition E3 (Confidentiality) shall prevent either party from using any techniques, ideas or know-how gained during the performance of this Contract in the course of its normal business to the extent that this use does not result in a disclosure of the other party's Confidential Information or an infringement of Intellectual Property Rights.
- E3.11 In the event that the Contractor fails to comply with this Condition E3 (Confidentiality), the Authority reserves the right to terminate the Contract by notice in writing with immediate effect.
- E3.12 The provisions under this Condition E3 (Confidentiality) are without prejudice to the application of the Official Secrets Acts 1911 to 1989 to any Confidential Information.

E5 PUBLICITY, MEDIA AND OFFICIAL ENQUIRIES

- E5.1 Without prejudice to the Authority's obligations under the FOIA, the Contractor shall not make any press announcement or publicise the Contract or any part thereof in any way, except with the prior written consent of the Authority.
- E5.2 Both Parties shall take reasonable steps to ensure that their servants, employees, agents, sub-contractors, suppliers, professional advisors and consultants comply with Condition E5.1.

E6 SECURITY

- E6.1 The Contractor shall take all measures necessary to comply with the provisions of any enactment relating to security which may be applicable to the Contractor in the performance of the Services.
- E6.2 The Contractor shall take all reasonable measures, by the display of notices or other appropriate means, to ensure that Staff have notice that all provisions referred to in Condition E6.1 (Security) will apply to them and will continue to apply to them, if so applicable, after the expiry or earlier termination of the Contract.
- E6.3 The Contractor shall co-operate with any investigation relating to security which is carried out by the Authority or by any person who is responsible to the Authority for security matters and when required by the Authority's Representative -
- a) shall make any Staff identified by the Authority's Representative available to be interviewed by the Authority's Representative, or by a person who is responsible to the Authority for security matters, for the purposes of the investigation. Staff shall have the right to be accompanied by the Contractor's Representative and to be advised or represented by any other person whose attendance at the interview is acceptable to both the Authority's Representative and the Contractor's Representative; and
 - b) shall provide all documents, records or other material of any kind which may reasonably be required by the Authority or by a person who is responsible to the Authority for security matters, for the purposes of the investigation, so long as the provision of that material does not prevent the Contractor from performing the Services. The Authority shall have the right to retain any such material for use in connection with the investigation and, so far as possible, shall provide the Contractor with a copy of any material retained.

E8 AUDIT

- E8.1 The Contractor shall keep secure and maintain until six years after the final payment of all sums due under the Contract, or such other period as may be agreed between the Parties, full and accurate records of the Services, all expenditure reimbursed by the Authority and all payments made by the Authority.
- E8.2 The Contractor shall grant to the Authority, or its authorised agents, such access to those records as they may reasonably require in order to check the Contractor's compliance with the Contract.
- E8.3 For the purposes of the examination and certification of the Authority's accounts, or any examination under section 6(1) of the National Audit Act 1983 or annual re-enactment thereof as to the economy, efficiency and effectiveness with which the Authority has used its resources, the Comptroller and Auditor General may examine such documents as he may reasonably require which are owned, held or otherwise within the control of the Contractor and may require the Contractor to provide such oral or written explanations as he may reasonably require for those purposes. The Contractor shall give all reasonable assistance to the Comptroller and Auditor General for those purposes.
- E8.4 Condition E8.3 (Right of Audit) applies only in respect of documents relating to the Contract and only for the purpose of the auditing of the Authority. It does not constitute an agreement under section 6(3)(d) of the National Audit Act 1983 such as to make the Contractor the subject of auditing under that Act.
- E8.5 Except where an audit is imposed on the Authority by a Regulatory Body (in which case the Authority may carry out the audit required without prejudice to its other rights) the Authority may conduct an audit:
- a) to review the integrity, confidentiality and security of the Authority Data;
 - b) to review the Contractor's compliance with the Data Protection Act 1998, the Freedom of Information Act 2000 in accordance with Condition E1 (Data Protection Act) and Condition E4 (Freedom of Information Act) and any other legislation applicable to the Services.
- E8.6 Subject to the Authority's obligations of confidentiality, the Contractor shall on demand provide the Authority (and/or its agents or representatives) with all reasonable co-operation and assistance in relation to each audit, including:
- a) all information requested by the Authority within the permitted scope of the audit;
 - b) reasonable access to any Sites controlled by the Contractor and to any equipment used (whether exclusively or non-exclusively) in the performance of the Services;
 - c) access to the Contractor's system; and
 - d) access to the Contractor's Staff.

E9 AUTHORITY DATA

- E9.1 The Contractor shall not delete or remove any proprietary notices contained within or relating to the Authority Data.
- E9.2 The Contractor shall not store, copy, disclose, or use the Authority Data except as necessary for the performance by the Contractor of its obligations under this Contract or as otherwise expressly authorised in writing by the Authority.

- E9.3 To the extent that Authority Data is held and/or processed by the Contractor, the Contractor shall supply that Authority Data to the Authority as requested by the Authority.
- E9.4 The Contractor shall take responsibility for preserving the integrity of Authority Data and preventing the corruption or loss of Authority Data.
- E9.5 The Contractor shall perform secure back-ups of all Authority Data and shall ensure that up-to-date back-ups are stored off. The Contractor shall ensure that such back-ups are available to the Authority at all times upon request and are delivered to the Authority at no less than monthly intervals.
- E9.6 The Contractor shall ensure that any system on which the Contractor holds any Authority Data, including back-up data, is a secure system that complies with The Security Policy at [provided as an Annex post Contract Award].
- E9.7 If the Authority Data is corrupted, lost or sufficiently degraded as a result of the Contractor's Default so as to be unusable, the Authority may:
- a) require the Contractor (at the Contractor's expense) to restore or procure the restoration of Authority Data and the Contractor shall do so as soon as practicable but not later than monthly; and/or
 - b) itself restore or procure the restoration of Authority Data, and shall be repaid by the Contractor any reasonable expenses incurred in doing so. If at any time the Contractor suspects or has reason to believe that Authority Data has or may become corrupted, lost or sufficiently degraded in any way for any reason, then the Contractor shall notify the Authority immediately and inform the Authority of the remedial action the Contractor proposes to take.

E11 TRANSPARENCY

- E11.1 The parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Contract is not Confidential Information. The Authority shall be responsible for determining in its absolute discretion whether any of the content of the Contract is exempt from disclosure in accordance with the provisions of the FOIA.
- E11.2 Notwithstanding any other term of this Contract, the Contractor hereby gives his consent for the Authority to publish the Contract in its entirety, including from time to time agreed changes to the Agreement, to the general public.
- E11.3 The Authority may consult with the Contractor to inform its decision regarding any redactions but the Authority shall have the final decision in its absolute discretion.
- E11.4 The Contractor shall assist and cooperate with the Authority to enable the Authority to publish this Contract.

F. CONTROL OF THE CONTRACT

F1. NOT USED

F2. WAIVER

- F2.1 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 shall not constitute a waiver of that right or remedy and shall not cause a diminution of the obligations established by the Contract.
- F2.2 No waiver shall be effective unless it is expressly stated to be a waiver and communicated to the other Party in writing in accordance with Condition A5 (Notices).

F2.3 A waiver of any right or remedy arising from a breach of the Contract shall not constitute a waiver of any right or remedy arising from any other or subsequent breach of the Contract.

F3 VARIATION

F3.1 Subject to the provisions of this Condition F3, the Authority may request a variation to the Specification provided that such variation does not amount to a material change to the Specification. Such a change is hereinafter called a "Variation".

F3.2 The Authority may request a Variation by notifying the Contractor in writing of the "Variation" and giving the Contractor sufficient information to assess the extent of the Variation and consider whether any change to the Contract Price is required in order to implement the Variation. The Authority shall specify a time limit within which the Contractor shall respond to the request for a Variation. Such time limits shall be reasonable having regard to the nature of the Variation. If the Contractor agrees with the proposed Variation it shall confirm the same in writing.

F3.3 In the event that the Contractor is unable to accept the Variation to the Specification or where the Parties are unable to agree a change to the Contract Price, the Authority may;

- (a) allow the Contractor to fulfil its obligations under the Contract without the variation to the Specification; or
- (b) terminate the Contract with immediate effect, except where the Contractor has already delivered all or part of the Services or where the Contractor 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. Where a resolution cannot be reached, the matter shall be dealt with under the Dispute Resolution procedure detailed at Condition I2.

F4 SEVERABILITY

F4.1 If any provision of the Contract is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions of the Contract shall continue in full force and effect as if the Contract had been executed with the invalid, illegal or unenforceable provision eliminated.

F5 REMEDIES IN THE EVENT OF INADEQUATE PERFORMANCE

F5.1 If the Contractor does not deliver Goods on time the Authority may terminate the Contract and claim losses from the Contractor.

F5.2 If the Contractor delivers faulty Goods to the Authority, the Authority may within a reasonable time period (at least 3 months from the date of delivery):

- (a) notify the Contractor of the defect in such Goods and
- (b) may request the Contractor to replace, repair or reinstate the Goods within such time period as is reasonable in the circumstances (no less than 24 hours).

F5.3 Where the Contractor fails to comply with a request made under Condition F5.2(b) above, the Authority shall be entitled to a full refund and may cancel any further deliveries due at the Contractor's expense.

F6 REMEDIES CUMULATIVE

F6.1 Except as otherwise expressly provided by 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 shall not be deemed an election of such remedy to the exclusion of other remedies.

F7 MONITORING OF CONTRACT PERFORMANCE

F7.1 Prior to the Commencement Date the Authority shall agree in consultation with the Contractor the arrangements for the purpose of monitoring of performance by the Contractor of its obligations under this Contract

F7.2 These arrangements will include without limitation:

- i. random inspections;
- ii. regular meetings;
- iii. the regular delivery of written management reports;
- iv. monthly report on Key Performance Indicators.

F7.3 All such arrangements will be carried out by the Contractor in a timely manner, as reasonably required by the Authority, and in line with Good Industry Practice.

F7.4 Failure to meet the KPIs specified in ATT 5 – BEC FF&E KPIs will entitle the Authority to claim from the Contractor the rebates as set out in the Measurement and Consequences column of ATT 5 – BEC FF&E KPIs.

F8 ENTIRE AGREEMENT

F8.1 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 Condition shall not exclude liability in respect of any Fraud or fraudulent misrepresentation.

F8.2 If there is any conflict between the Sections and the Schedules and/or any appendices or other documents referred to in the Agreement, the following order or precedence shall apply:

- Form of Contract Appendix F of Contract
Conditions
- Conditions of Contract
- Schedule of Prices and Rates ATT – 2 Schedule of Prices and Rates
- Statement of Service Requirements and KPI's ATT – 4 BEC FFE Full Schedule
- ATT – 5 BEC FF&E KPIs

F8.3 In the event and to the extent only of any conflict between the provisions of the Call-Off Specific Terms and Conditions, and the Framework Agreement then, the application of the Conditions shall prevail in the following order:

- Form of Contract Appendix F of Contract
Conditions
- Conditions of Contract
- Statement of Service Requirements and KPI's ATT – 4 BEC FFE Full Schedule
- Schedule of Prices and Rates ATT – 2 Schedule of Prices and Rates
- ATT – 5 BEC FF&E KPIs

F9. NOT USED

F10. NOT USED

F.11 FINANCIAL DISTRESS

- F11.1 The Contractor acknowledges and agrees that the financial stability and solvency of the Contractor and its key Sub-Contractors is critical to the successful delivery of the Services and that any deterioration or potential deterioration of their financial position may have an adverse effect on the performance of the Contract. The Contractor shall monitor its own financial standing and that of its key Sub-Contractors on a regular basis throughout the term using a Financial Monitoring Plan and shall report on this to the Authority.
- F11.2 The Financial Monitoring Plan shall be designed by the Contractor to ensure that the Authority has an early and clear warning indicator of any financial distress of the Contractor and key Sub-Contractors which may affect the Services; such design to be proportionate for the circumstances; taking into account the nature of the Services and the identity of the Contractors.
- F11.3 Except where the Authority has agreed otherwise, the Contractor shall within four (4) weeks of the Commencement Date, prepare and submit via the Project Officer for Approval by the Authority, a Financial Monitoring Plan which shall set out the Contractor's proposals for the monitoring and reporting of its financial stability, and the financial stability of its key Sub-Contractors to the Authority on a regular basis throughout the Term.
- F11.4 The Financial Monitoring Plan may include (but shall not be limited to):
- F11.4.1 A summary of the Contractor's and key Sub-Contractors' financial positions at the date of submission of the Financial Distress Plan and on a regular basis thereafter to the Authority (including credit ratings, financial ratios, details of current liabilities, value of marketable securities, cash in hand and bank, account receivables etc.);
 - F11.4.2 An objective means of measuring the Contractor and key Sub-Contractor's financial standing on a regular basis throughout the Term against historical financial standing to show trend (including use of credit ratings, financial ratios and/or other financial indicators);
 - F11.4.3 The Contractor's proposals for reporting financial standing to the Authority (including the template reporting forms which the Contractor intends to use);
 - F11.4.4 The frequency of monitoring and reporting activity;
 - F11.4.5 Provision of reporting lines for the supply chain to notify the Authority of incidents of non-payment of valid and undisputed invoices;
 - F11.4.6 Any other provisions which in the reasonable opinion of the Contractor may be required by the Authority to assess current financial standing of the Contractor and key Sub-Contractors and which enable quick and easy assessment of any movement in financial standing.
- F11.5 The Contractor shall make any reasonable amendments to the Financial Monitoring Plan as may be requested by the Authority and shall resubmit it for Approval. If Approved by the Authority, the Contractor shall promptly implement the Financial Monitoring Plan throughout the Term.
- F11.6 In addition to its obligations under the Financial Monitoring Plan, the Contractor shall promptly notify the Authority in writing if any of the following "Financial Distress Events" occurs in respect of the Contractor or a key Sub-Contractor:
- F11.6.1 there is a material deterioration of its financial standing;
 - F11.6.2 the appointment of an administrator or receiver;
 - F11.6.3 late filing of statutory accounts with Companies House;

F11.6.4 it issues a profits warning or other similar public announcement about a deterioration in its finances or prospects;

F11.6.5 it is being publicly investigated for improper financial accounting and reporting, fraud or any other financial impropriety;

F11.6.6 it commits a material breach of covenant to its lenders;

F11.6.7 a key Sub-Contractor not being paid any sums properly due under a specified invoice that is not subject to a genuine dispute;

F11.6.8 it is subject to any claims, litigation, investigations, actions or decisions in respect of financial indebtedness;

F11.7 In the event of a Financial Distress Event occurring, then the Contractor shall and shall procure that any affected key Sub-Contractor shall, as soon as reasonably practicable review the effect of the Financial Distress Event on the continued performance of the Services under this Contract and provide a report to the Authority. Where the Authority reasonably believes that the Financial Distress Event is likely to adversely impact on the performance of the Services, the Contractor shall submit to the Authority for Approval a Financial Distress Service Continuity Plan as soon as is reasonably practicable and shall provide any further financial information as the Authority may reasonably require to assess financial standing and risks.

F11.8 If the Authority acting reasonably considers that the Financial Distress Service Continuity Plan is insufficient to remedy the effects of the Financial Distress Event on the Service, then it may require the Contractor (and/or key Sub-Contractor) to redraft and resubmit an improved and updated plan or may require the issue to be escalated via the Dispute Resolution Procedure.

F11.9 If the Authority Approves the Financial Distress Service Continuity Plan, then the Contractor shall execute and continue to review the plan (with submissions to the Authority for Approval where it is updated).

F11.10 Where the Parties agree that the Financial Distress Event no longer adversely affects the delivery of the Services, the Contractor shall be relieved of its obligations in respect of the current Financial Distress Service Continuity Plan.

F11.11 the Authority shall be entitled to terminate this Contract for material Default if:

F11.11.1 The Contractor fails to notify the Authority of a Financial Distress Event in accordance with Clause F11.6;

F11.11.2 the Authority and the Contractor fail to agree a Financial Distress Service Continuity Plan or any updates to a plan within a reasonable timescale (taking into account the effects of the Financial Distress Event on the Services);

F11.11.3 The Contractor fails to comply with the terms of the Financial Distress Service Continuity Plan or any updates to the plan.

G. LIABILITIES

G1 LIABILITY, INDEMNITY AND INSURANCE

G1.1 Neither Party excludes or limits liability to the other Party for:

- (a) Death or personal injury caused by its negligence; or
- (b) Fraud; or
- (c) Fraudulent misrepresentation; or
- (d) Any breach of any obligations implied by Section 2 of the Supply of Goods and Services Act 1982.
- (e) breach of Condition E3 (Confidentiality); or

- (f) breach of Condition E1 (Data Protection Act); or
- (g) breach of Condition E4 (Freedom of Information)

- G1.2 Subject to clauses G1.3 and G1.4, the Contractor shall indemnify the Authority and keep the Authority indemnified fully against all claims, proceedings, actions, damages, costs, expenses and any other liabilities which may arise out of, or in consequence of, the supply, or the late or purported supply, of the Services or the performance or non-performance by the Contractor of its obligations under the Contract or the presence of the Contractor 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 Contractor, or any other loss which is caused directly or indirectly by any act or omission of the Contractor.
- G1.3 The Contractor shall not be responsible for any injury, loss, damage, cost or expense if and to the extent that it is caused by the negligence or wilful misconduct of the Authority or by breach by the Authority of its obligations under the Contract.
- G1.4 Subject always to clause G1.1, the liability of either Party for Defaults shall be subject to the following financial limits:
- (a) the annual aggregate liability of either Party for Default resulting in direct loss of or damage to the property of the other under or in connection with the Contract shall in no event exceed five million pounds (£5,000,000) or twice the contract value (whichever is higher) unless otherwise agreed; and
 - (b) the annual aggregate liability under the Contract of either Party for Default (other than a Default governed by clauses E7.3 (Intellectual Property Rights) or G1.4(a)) shall in no event exceed five Million pounds (£5,000,000) or twice the contract value (whichever is higher) unless otherwise agreed.
- G1.5 Subject always to clause G1.1, in no event shall either Party be liable to the other for any:
- (a) loss of profits, business, revenue or goodwill; and/or
 - (b) loss of savings (whether anticipated or otherwise); and/or
 - (c) indirect or consequential loss or damage.
- G1.6 The Contractor shall not exclude liability for additional operational, administrative costs and/or expenses or wasted expenditure resulting from the direct Default of the Contractor.
- G1.7 The Contractor shall effect 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 Contractor, arising out of the Contractor's performance of its obligations under the Contract, including death or personal injury, loss of or damage to property or any other loss. Such policies shall include cover in respect of any financial loss arising from any advice given or omitted to be given by the Contractor. Such insurance shall be maintained for the duration of the Contract Period [and for a minimum of 6 (six) years following the expiration or earlier termination of the Contract].
- G1.8 The Contractor shall hold employer's liability insurance and public liability insurance in respect of Staff in accordance with any legal requirement from time to time in force.
- G1.9 The Contractor 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, for whatever reason, the Contractor fails to give effect to and maintain the insurances required by the provisions of the Contract the Authority

may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Contractor.

- G1.11 The provisions of any insurance or the amount of cover shall not relieve the Contractor of any liabilities under the Contract. It shall be the responsibility of the Contractor to determine the amount of insurance cover that will be adequate to enable the Contractor to satisfy any liability referred to in clause G1.2.

G2 PROFESSIONAL INDEMNITY

- G2.1 The Contractor shall effect and maintain appropriate professional indemnity insurance cover during the Contract Period and shall ensure that all agents, professional consultants and sub-contractors involved in the supply of the Services do the same. To comply with its obligations under this Condition and as a minimum, the Contractor shall ensure professional indemnity insurance held by the Contractor and by any agent, sub-contractor or consultant involved in the supply of the Services has a limit of indemnity of not less than Five Million pounds (£5,000,000) for each individual claim [or such other limit as the Authority may reasonably require (and as required by law) from time to time]. Such insurance shall be maintained for a minimum of 6 (six) years following the expiration or earlier termination of the Contract.

G3 WARRANTIES AND REPRESENTATIONS

- G3.1 The Contractor warrants and represents that:

- (a) it has full capacity and authority and all necessary consents (including where its procedures so require, the consent of its parent company) to enter into and perform its obligations under the Contract and that the Contract is executed by a duly authorised representative of the Contractor;
- (b) in entering the Contract it has not committed any Fraud;
- (c) as at the Commencement Date, all information contained in the Tender remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Authority prior to execution of the Contract; The Contractor warrants that the Services which it provides under the Contract correspond to the Authority's requirements and is consistent with the standards that are referred to in Condition 3.1 and any other standards which may be implied by statute or common law that apply to this Contract may not be excluded.
- (d) no claim is being asserted and no litigation, arbitration or administrative proceeding is presently 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 a material 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 (nor, to the best of its knowledge, are threatened) for the winding up of the Contractor 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 Contractor's assets or revenue;
- (g) it owns, 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) it has and will continue to hold all necessary (if any) regulatory approvals from the Regulatory Bodies necessary to perform the Contractor's obligations under this Contract;

- (i) in the three 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.

H. DEFAULT, DISRUPTION AND TERMINATION

H1 TERMINATION ON INSOLVENCY AND CHANGE OF CONTROL

H1.1 The Authority may terminate the Contract with immediate effect by notice in writing where the Contractor is a company and in respect of the Contractor:

- (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; or
- (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); or
- (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; or
- (d) a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets; or
- (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; or
- (f) it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986; or
- (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.
- (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

H1.2 The Authority may terminate the Contract with immediate effect by notice in writing where the Contractor 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 Contractor's creditors; or
- (b) a petition is presented and not dismissed within 14 days or order made for the Contractor's bankruptcy; or

- (c) a receiver, or similar officer is appointed over the whole or any part of the Contractor's assets or a person becomes entitled to appoint a receiver, or similar officer over the whole or any part of his assets; or
- (d) the Contractor 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; or
- (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 Contractor's assets and such attachment or process is not discharged within 14 days; or
- (f) he dies or is adjudged incapable of managing his affairs within the meaning of Part VII of the Mental Capacity Act 2005; or
- (g) he suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of his business.

H1.3 The Contractor shall seek the prior Approval of the Authority to any change of control within the meaning of section 416 of the Income and Corporation Taxes Act 1988 ("**change of control**"). Where an Approval has not been granted prior to the change of control the Authority may terminate the Contract by notice in writing with immediate effect within six 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.

H2 TERMINATION ON DEFAULT

H2.1 The Authority may terminate the Contract by written notice to the Contractor with immediate effect if the Contractor commits a Default and if:

- (a) the Contractor has not remedied the Default to the satisfaction of the Authority within 25 Working Days, or such other period as may be specified by the Authority, after issue of a written notice specifying the Default and requesting it to be remedied; or
- (b) the Default is not, in the opinion of the Authority, capable of remedy; or
- (c) the Default is a material breach of the Contract.

H2.2 In the event that through any Default of the Contractor, data transmitted or processed in connection with the Contract is either lost or sufficiently degraded as to be unusable, the Contractor shall be 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 Contractor undisputed sums of money when due, the Contractor shall notify the Authority in writing of such failure to pay. If the Authority fails to pay such undisputed sums within 90 Working Days of the date of such written notice, the Contractor may terminate the Contract in writing 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 C3.1 (Recovery of Sums Due).

H2.4 The Authority reserves the right to terminate the Contract should the Contractor be found to be in breach of any aspect of the law that would, in the opinion of the Authority, bring the Authority into disrepute, including but not limited to, relevant aspects shown in Regulation 57 of Public Contract Regulations 2015 (as amended) relating to rejection criteria.

- H2.5 The Authority shall be entitled to terminate the Contract, or terminate the provision of any part of the Services, by giving a written notice of termination to the Contractor with immediate effect in the event that;
- a) the warranty given by the Contractor pursuant to Condition G3.1 is materially untrue; or
 - b) the Contractor commits a material breach of its obligation to notify the Authority of any Occasion of Tax Non-Compliance as required G3.1; or
 - c) the Contractor fails to provide details of proposed mitigating factors which in the reasonable opinion of the Authority, are acceptable.

H3 BREAK

- H3.1 The Authority shall have the right to terminate the Contract at any time by giving 2 Months' written notice to the Contractor.
- H3.2 The rights to terminate set out in Conditions H1 (Termination on Insolvency or Change of Control), H2 (Termination on Default) and H3 (Break) are the only circumstances in which this Contract may be terminated and the Contractor acknowledges that it shall have no right to terminate or treat itself as discharged at law. Furthermore, in circumstances where the Authority is entitled to terminate this Contract, it may also terminate this Contract in part.

H4 CONSEQUENCES OF EXPIRY OR TERMINATION

- H4.1 Where the Authority terminates the Contract under clause H2 (Termination on Default) and then makes other arrangements for the supply of Services, the Authority may recover from the Contractor the cost reasonably incurred of making those other arrangements and any additional expenditure incurred by the Authority throughout the remainder of the Contract Period. The Authority shall take all reasonable steps to mitigate such additional expenditure. Where the Contract is terminated under clause H2 (Termination on Default), no further payments shall be payable by the Authority to the Contractor (for Services supplied by the Contractor 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.
- H4.2 Subject to clause G1, where the Authority terminates the Contract under clause H3 (Break), the Authority shall indemnify the Contractor against any commitments, liabilities or expenditure which represent an unavoidable direct loss to the Contractor by reason of the termination of the Contract, provided that the Contractor takes all reasonable steps to mitigate such loss. Where the Contractor holds insurance, the Authority shall only indemnify the Contractor for those unavoidable direct costs that are not covered by the insurance available. The Contractor shall submit a fully itemised and costed list of unavoidable direct loss which it is seeking to recover from the Authority, with supporting evidence, of losses reasonably and actually incurred by the Contractor as a result of termination under clause H3 (Break).
- H4.3 The Authority shall not be liable under clause H4.2 to pay any sum which:
- (a) was claimable under insurance held by the Contractor, and the Contractor has failed to make a claim on its insurance, or has failed to make a claim in accordance with the procedural requirements of the insurance policy;
 - (b) when added to any sums paid or due to the Contractor under the Contract, exceeds the total sum that would have been payable to the Contractor if the Contract had not been terminated prior to the expiry of the Contract Period; or

- (c) is a claim by the Contractor for loss of profit, due to early termination of the Contract.

H4.4 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 shall prejudice the right of either Party to recover any amount outstanding at such termination or expiry; and
- (b) termination of the Contract shall not affect the continuing rights, remedies or obligations of the Authority or the Contractor under clauses C2 (Payment and VAT), C3 (Recovery of Sums Due), D1 (Prevention of Corruption), E1 (Data Protection Act), E2 (Official Secrets Acts 1911 to 1989, Section 182 of the Finance Act 1989), E3 (Confidential Information), E4 (Freedom of Information), E7 (Intellectual Property Rights), E8 (Audit), F6 Remedies Cumulative), G1 (Liability, Indemnity and Insurance), G2 (Professional Indemnity), H4 (Consequences of Termination), H6 (Recovery upon Expiry or Termination) and I1 (Governing Law and Jurisdiction).

H5 DISRUPTION

- H5.1 The Contractor 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.
- H5.2 The Contractor shall immediately inform the Authority of any actual or potential industrial action, whether such action be by their own employees or others, which affects or might affect its ability at any time to perform its obligations under the Contract.
- H5.3 In the event of industrial action by the Staff, the Contractor shall seek Approval to its proposals to continue to perform its obligations under the Contract.
- H5.4 If the Contractor's proposals referred to in Condition H5.3 are considered insufficient or unacceptable by the Authority acting reasonably, then the Contract may be terminated with immediate effect by the Authority by notice in writing.
- H5.5 If the Contractor is temporarily unable to fulfil the requirements of the Contract owing to disruption of normal business of the Authority, the Contractor may request a reasonable allowance of time and in addition, the Authority will reimburse any additional expense reasonably incurred by the Contractor as a direct result of such disruption.

H6 RECOVERY UPON TERMINATION

- H6.1 On the termination of the Contract for any reason, the Contractor shall:
 - (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 Services;
 - (b) immediately deliver to the Authority all Property (including materials, documents, information and access keys) provided to the Contractor under clause B8. Such property shall be handed back in good working order (allowance shall be made for reasonable wear and tear);
 - (c) assist and co-operate with the Authority to ensure an orderly transition of the provision of the Services to the Replacement Contractor and/or the completion of any work in progress.

- (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 or for the purpose of allowing the Authority or the Replacement Contractor to conduct due diligence.

H6.2 If the Contractor fails to comply with clause H6.1 (a) and (b), the Authority may recover possession thereof and the Contractor grants a licence to the Authority or its appointed agents to enter (for the purposes of such recovery) any premises of the Contractor or its permitted suppliers or sub-contractors where any such items may be held.

H6.3 Where the end of the Contract Period arises due to the Contractor's Default, the Contractor shall provide all assistance under clause H6(c) and (d) free of charge. Otherwise, the Authority shall pay the Contractor's reasonable costs of providing the assistance and the Contractor shall take all reasonable steps to mitigate such costs.

H7 FORCE MAJEURE

H7.1 For the purposes of this Contract the expression "**Force Majeure**" shall mean any cause outside the reasonable control of either Party affecting its performance of its obligations under this Agreement 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, fire, flood, storm or earthquake, or disaster but excluding any industrial dispute relating to the Contractor or the Contractor Personnel or any other failure in the Contractor's or a Sub-contractor's supply chain;

H7.2 Neither Party shall be liable to the other Party for any delay in performing, or failure to perform, its obligations under the Contract (other than a payment of money) to the extent that such delay or failure is a result of Force Majeure. Notwithstanding the foregoing, each Party shall use all reasonable endeavours to continue to perform its obligations under the Contract for the duration of such Force Majeure. However, if such Force Majeure prevents either Party from performing its material obligations under the Contract for a period in excess of 6 Months, either Party may terminate the Contract with immediate effect by notice in writing.

H7.3 Any failure or delay by the Contractor in performing its obligations under the Contract which results from any failure or delay by an agent, sub-contractor or Supplier shall be regarded as due to Force Majeure only if that agent, sub-contractor or supplier is itself impeded by Force Majeure from complying with an obligation to the Contractor.

H7.4 If either Party becomes aware of Force Majeure which gives rise to, or is likely to give rise to, any failure or delay on its part as described in Condition H7.1 it shall immediately notify the other by the most expeditious method then available and shall inform the other of the period for which it is estimated that such failure or delay shall continue.

H8 EXIT MANAGEMENT

H8.1 On reasonable notice at any point during the Term, the Contractor shall provide to the Authority and/or its potential Replacement Contractors (subject to the potential Replacement Contractors entering into reasonable written confidentiality undertakings), the following material and information in order to facilitate the preparation by the Authority of any invitation to tender and/or to facilitate any potential Replacement Contractors undertaking due diligence:

H8.1.1 details of the Service(s);

H8.1.2 a copy of the Register, updated by the Contractor up to the date of delivery of such Registers;

- H8.1.3 an inventory of the Authority Data in the Contractor's possession or control;
- H8.1.4 details of any key terms of any third party contracts and licences, particularly as regards charges, termination, assignment and novation;
- H8.1.5 a list of on-going and/or threatened disputes in relation to the provision of the Services;
- H8.1.6 all information relating to Transferring Contractor Employees or those who may be Transferring Contractor Employees' required to be provided by the Contractor under any Call-Off Contract pursuant to this Framework Agreement, such information to include the Staffing Information as defined in Schedule 2 (Staff Transfer); and
- H8.1.7 such other material and information as the Authority shall reasonably require;
(together, the "**Exit Information**").
- H8.2 The Contractor acknowledges that the Authority may disclose the Contractor's Confidential Information to an actual or prospective Replacement Contractor or any third party whom the Authority is considering engaging to the extent that such disclosure is necessary in connection with such engagement (except that the Authority may not disclose any Contractor's Confidential Information which is information relating to the Contractor's or its Sub-Contractors' prices or costs).
- H8.3 if the Exit Information materially changes from the Exit Information previously provided and it could reasonably adversely affect:
 - H8.3.1 the provision of the Services; and/or
 - H8.3.2 the delivery of the exit services/exit plan; and/or
 - H8.3.3 any re-tender exercise by the Authority,then the Contractor shall notify the Authority within a reasonable period of time and consult and shall consult with the Authority regarding such proposed material changes and provide complete updates of the Exit Information on an as-requested basis as soon as reasonably practicable and in any event within ten (10) Working Days of a request in writing from the Authority.
- H8.4 The Exit Information shall be accurate and complete in all material respects and the level of detail to be provided by the Contractor shall be such as would be reasonably necessary to enable a third party to:
 - H8.4.1 prepare an informed offer for those Services; and
 - H8.4.2 not be disadvantaged in any subsequent procurement process compared to the Contractor (if the Contractor is invited to participate).
- H8.5 The Contractor shall, within three (3) months after the Commencement Date, deliver to the Authority an Exit Plan which:
 - H8.5.1 sets out the Contractor's proposed methodology for achieving an orderly transition of the Services from the Contractor to the Authority and/or its Replacement Contractor on the expiry or termination of a Call-Off Contract;
 - H8.5.2 complies with the requirements set out in Clause 16.7 below;
 - H8.5.3 is otherwise reasonably satisfactory to the Authority.
- H8.6 The Parties shall use reasonable endeavours to agree the contents of the Exit Plan. If the Parties are unable to agree the contents of the Exit Plan within twenty (20) Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

- H8.7 Unless otherwise specified by the Authority, the Exit Plan shall set out, as a minimum:
- H8.7.1 how the Exit Information is obtained;
 - H8.7.2 the management structure to be employed during both transfer and cessation of the Services;
 - H8.7.3 the management structure to be employed whilst carrying out the activities to be performed by the Contractor as identified in the Exit Plan;
 - H8.7.4 a detailed description of both the transfer and cessation processes, including a timetable;
 - H8.7.5 how the Services will transfer to the Replacement Contractor and/or the Authority, including details of the processes, documentation, data transfer, systems migration, security and the segregation of the Authority's technology components from any technology components operated by the Contractor or its Sub-Contractors (where applicable);
 - H8.7.6 details of contracts (if any) which will be available for transfer to the Authority and/or the Replacement Contractor upon the Expiry Date together with any reasonable costs required to effect such transfer (and the Contractor agrees that all assets and contracts used by the Contractor in connection with the provision of the Services will be available for such transfer);
 - H8.7.7 proposals for the training of key personnel of the Replacement Contractor in connection with the continuation of the provision of the Services following the Expiry Date charged at rates agreed between the Parties at that time;
 - H8.7.8 proposals for providing the Authority or a Replacement Contractor copies of all documentation:
 - (a) used in the provision of the Services and necessarily required for the continued use of the Replacement Services, in which the Intellectual Property Rights are owned by the Contractor; and
 - (b) relating to the use and operation of the Services;
 - H8.7.9 proposals for the assignment or novation of the provision of all services, leases, maintenance agreements and support agreements utilised by the Contractor in connection with the performance of the supply of the Services;
 - H8.7.10 proposals for the identification and return of all Equipment in the possession of and/or control of the Contractor or any third party (including any Sub-Contractor);
 - H8.7.11 proposals for the disposal of any redundant Services and materials;
 - H8.7.12 procedures to:
 - (a) deal with requests made by the Authority and/or a Replacement Contractor for Staffing Information pursuant to Schedule 2 (Staff Transfer);
 - (b) determine which Contractor Personnel are or are likely to become Transferring Contractor Employees; and
 - (c) identify or develop any measures for the purpose of the Employment Regulations envisaged in respect of Transferring Contractor Employees;
 - H8.7.13 how each of the issues set out in this Clause 16 will be addressed to facilitate the transition of the Services from the Contractor to the Replacement Contractor and/or the Authority with the aim of

ensuring that there is no disruption to or degradation of the Services;

H8.7.14 proposals for the supply of any other information or assistance reasonably required by the Authority or a Replacement Contractor in order to effect an orderly handover of the provision of the Services.

I. DISPUTES AND LAW

I1 GOVERNING LAW AND JURISDICTION

I1.1 Subject to the provisions of Condition I2, this Contract will be governed by and construed in accordance with English law and the Contractor hereby irrevocably submits to the jurisdiction of the English courts. The submission to such jurisdiction will not (and will not be construed so as to) limit the right of the Authority to take proceedings against the Contractor in any other court of competent jurisdiction, nor will the taking of proceedings by the Authority in any one or more jurisdictions preclude the taking of proceedings by the Authority in any other jurisdiction, whether concurrently or not.

I2 DISPUTE RESOLUTION

I2.1 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 by use of the following escalation procedure:

Authority

Contractor

Level 1 [REDACTED]

[REDACTED]

Level 2 [REDACTED]

[REDACTED]

I2.2 If the dispute cannot be resolved by the Parties pursuant to Condition I2.1 (Dispute Resolution), the dispute may, by agreement between the Parties, be referred to mediation pursuant to Condition I2.4 (Dispute Resolution).

I2.3 The performance of the Services shall not cease or be delayed by the reference of a dispute to mediation pursuant to Condition I2.2 (Dispute Resolution).

I2.4 The procedure for mediation and consequential provisions relating to mediation are as follows:

- a) If the dispute or difference is not resolved pursuant to the escalation procedure set out above, either Party may (within fourteen (14) days of the last meeting pursuant to the escalation procedure), before resorting to litigation, propose to the other in writing that the dispute be settled by mediation in accordance with the Centre for Effective Dispute Resolution ("CEDR") Model Mediation Procedure (the "Model Procedure").
- b) To initiate mediation, a Party must give notice in writing (an "ADR Notice") to the other Party requesting mediation in accordance with the Model Procedure. A copy of the ADR Notice should be sent to CEDR.
- c) If there is any point on the conduct of the mediation (including as to the nomination of the mediator) upon which the Parties cannot agree within fourteen (14) days from the date of the ADR Notice, CEDR will, at the request of any Party, decide that point for the Parties, having consulted with them.
- d) Mediation will commence no later than twenty-eight (28) days after the date of the ADR Notice.

J NOT USED

K CATEGORY SPECIFIC CONDITIONS

K1 COMMENCEMENT OF FULL OPERATIONS

- K1.1 The Authority shall authorise the Commencement of Full Operations on the date of Contract Award, if the Contractor either:
- a) has complied fully with the requirements set out in the Statement of Service Requirements relating to the Setting up Operations; or
 - b) has otherwise demonstrated to the satisfaction of the Authority his capacity to deliver the Services to be provided following the Commencement of Full Operations.
- K1.2 If the Authority has not authorised the Commencement of Full Operations in accordance with Condition K1.1 (Commencement of Full Operations), the Authority shall have the right, after taking into account all representations made by the Contractor, either:
- a) to extend the Setting up Operations for such period as may be specified by the Authority, during which period the Contractor shall correct the fault or deficiency which caused the Authority to withhold authorisation for the Commencement of Full Operations; or
 - b) to terminate the Contract, or to terminate the provision of any part of the Services, in accordance with Condition H2 (Termination on Default).
- K1.3 Where the Authority has not authorised the Commencement of Full Operations on the expiration of any extension of the Setting up Operations under Condition K1.2(a) (Commencement of Full Operations), the Authority shall have the right to repeat the exercise of the options set out in Condition K1.2 (Commencement of Full Operations).

K2 CO-ORDINATION

- K2.1 The Contractor shall co-ordinate his activities in the provision of the Services with all Personnel and other contractors engaged by the Authority, as required by the Authority.

K3 RESPONSIBILITY FOR EQUIPMENT

- K3.1 The Contractor shall be required to remove all plant, tackle and tools which it brings to the Premises on termination or expiry of this Contract, or at any time at the request of the Authority. The Contractor shall ensure that all such plant, tackle and tools shall meet minimum safety standards required by law.

K4 TITLE AND RISK

- K4.1 The title and risk in any Goods shall pass to the Authority upon acceptance by the Authority, in accordance with Condition K5.

K5 ACCEPTANCE

- K5.1 The Authority shall not be deemed to have accepted the goods until one of its officers has been afforded a reasonable opportunity to examine them.

L1 AFTERCARE AND SUPPORT

- L1.1 The Supplier shall work with the Buyer and, if requested by the Buyer, the Supplier shall arrange face to face or virtual training on all products as identified by the Buyer(s). This may include (but not be limited to) DSE assessors, staff 1-2-1's or group sessions.
- L1.2. The Supplier shall provide operation and maintenance ("O&M") Manuals and Guidance on How to Use Furniture in electronic form and hard copy (upon request).

- L1.3. The Supplier shall provide a comprehensive installation guide in electronic form and hard copy (upon request).
- L1.4. The provision of the above O&M, Installation Guide and training (if requested) shall provide assurance to the Supplier which in turn will validate the Supplier's warranty. If requested by the Supplier the Buyer will send photos of the equipment installed at the BEC to authenticate the Buyer's installation.
- L1.5. In the event the Supplier disputes the Buyers installation and refuses to grant the Buyer with a warranty (per individual item) the Supplier will be entitled to visit the Buyer's site and inspect the item(s). This is subject to the Supplier self funding this visit and the Buyer granting security access.

M1 HANSLOPE PARK SPECIFIC DELIVERY

- M1.1. The Supplier is required to, with the assistance of the Authority, book into Hanslope Park to arrange the delivery slot(s) with Phase 1 Delivery on the 26th July 2023 and Phase 2 Delivery on the 7th October 2023. Securing a delivery slot on the required delivery dates shall be the Supplier's responsibility solely. Delivery slots will need to be secured no later than 48 hours in advance.
- M1.2. The Supplier is required to provide a full packing list for each individual pallet with each delivery. The packing list should contain, but not be limited to, information on the furniture weights, dimensions, 10 digit Commodity codes, make & models.
- M1.3. The Supplier shall offload the Goods in line with the packing list.

VARIATION TO CONTRACT FORM Appendix A

See Condition [F3]

[To be completed according to specific contract and where relevant]

CONTRACT NUMBER: [insert].

CONTRACT TITLE: [insert]

VARIATION NUMBER: [insert]

BETWEEN The Secretary of State for Foreign and Commonwealth Affairs (hereinafter called 'the Authority' and [INSERT CONTRACTOR NAME] (hereinafter called the Contractor')

1. The Contract is varied as follows:

In consideration of [insert] the Parties agree to [insert]

2. Words and expressions in this Variation shall have the meanings given to them in the Contract.

3. The Contract, including any previous Variations, shall remain effective and unaltered except as amended by this Variation.

SIGNED by the Parties in duplicate:

For the Authority

By:

For the Contractor

By:

Full Name:

Title:

Date:

Full Name:

Title:

Date:

SIGNED by the Parties in duplicate

CONFIDENTIALITY UNDERTAKING

Appendix B

See Condition [E3.5]

(To be signed by persons employed in providing the services before being given access to Government information).

This Confidentiality Undertaking is made as a Deed by me, **[REDACTED]** to the Secretary of State for Foreign, Commonwealth and Development Affairs (the "FCDO") in connection with a contract between Flexiform Business Furniture Ltd and the FCDO for the provision of furniture to the British Embassy in Cairo.

I am employed by Flexiform Business Furniture Ltd I have been informed that I may be required to work for my employer in providing services to the Secretary of State for Foreign, Commonwealth and Development Affairs.

I understand that information in the possession of the FCDO or obtained from the FCDO must be treated as confidential, [and my access to this information will be subject to my achieving and retaining the necessary security clearance].

I hereby give a formal undertaking, as a solemn promise to my employer and to the FCDO, that:

1. I will not communicate any of that information, or any other knowledge I acquire about the FCDO in the course of my work, to anyone who is not authorised to receive it in connection with that work; and
2. I will not make use of any of that information or knowledge for any purpose apart from that work;

I acknowledge that this applies to all information that is not already a matter of public knowledge and that it applies to both written and oral information.

I also acknowledge that this undertaking will continue to apply at all times in the future, even when the work has finished and when I have left my employment.

I have also been informed that I will be bound by the provisions of the Official Secrets Acts 1911 to 1989. I am aware that under those provisions it is a criminal offence to disclose information that has been given to me or my employer by the FCDO. I am aware that serious consequences (including criminal sanctions) may follow any breach of those provisions.

EXECUTED AS A DEED by:	[REDACTED]	Contract Reference:
Surname:	[REDACTED]	
Forenames:	[REDACTED]	
Date of Signature:	19/07/2023	
In the presence of (a) (Witness)	[REDACTED]	
In the presence of (b) (Witness)	[REDACTED]	
Contractor's Name:	Flexiform Business Furniture Limited	

See Condition [B4]

Name	Position/Role Held	Period of involvement in the Contract
[REDACTED]	National Sales Director	Tender Stage
[REDACTED]	Senior Bid Manager	Tender Stage
[REDACTED]	Bid Coordinator	Full Involvement
[REDACTED]	Project Manager	Full Involvement
[REDACTED]	Head of Project Management	Full Involvement
[REDACTED]	Sales Support	Full Involvement
[REDACTED]	Sales Support	Full Involvement

See Condition [E4.7]

Note: following condition extracted from 1.1

Note suitability of this Clause - "Commercially Sensitive Information" means the subset of Confidential Information listed in Appendix D comprised of information:

- (a) which is provided by the Contractor to the Authority in confidence for the period set out in that schedule; and/or
- (b) that constitutes a trade secret.

To insert

- 1. Pricing
- 2. Tender response
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

From the Contracting Authority:-

Foreign and Commonwealth Development Office

Officer Authorised to Instruct:

[REDACTED]

[insert signature]

To Framework Contractor:-

Flexiform

On:-

25th July 2023

Reference:-

RM6119

Requirement:-

This Contract is to fulfil the Authority's requirement for office furniture at the British Embassy in Cairo. The furniture will comprise of desks, chairs, lockers and meeting tables with the full quantities, measurements and other details contained within ATT-4. The furniture required is to be delivered to Hanslope Park in two separate phases and then transported to Cairo through the Authority's own means.

Special Terms:

SCHEDULE OF PROCESSING, PERSONAL DATA AND DATA SUBJECTS**Appendix G.1**

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

1. The contact details of the Controller's Data Protection Officer are: *This section will be finalised after the Authority conducts a DPIA*
2. The contact details of the Processor's Data Protection Officer are: *This section will be finalised after the Authority conducts a DPIA*
3. The Processor shall comply with any further written instructions with respect to processing by the Controller.
4. Any such further instructions shall be incorporated into this Schedule.

Description	Details
Identity of the Controller and Processor	The Parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Controller and the Contractor is the Processor in accordance with Condition E1.1. <i>This section will be finalised after the Authority conducts a DPIA</i>
Subject matter of the processing	<i>This section will be finalised after the Authority conducts a DPIA</i>
Duration of the processing	<i>This section will be finalised after the Authority conducts a DPIA</i>
Nature and purposes of the processing	<i>This section will be finalised after the Authority conducts a DPIA</i>
Type of Personal Data being Processed	<i>This section will be finalised after the Authority conducts a DPIA</i>
Categories of Data Subject	<i>This section will be finalised after the Authority conducts a DPIA</i>
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	<i>This section will be finalised after the Authority conducts a DPIA</i>

JOINT CONTROLLER AGREEMENT

Appendix G.2

DN: insert only where Joint Controller applies in Appendix G.1 (Schedule of Processing, Personal Data and Data Subjects)

In this Annex the Parties must outline each party's responsibilities for:

- providing information to data subjects under Article 13 and 14 of the GDPR.
- responding to data subject requests under Articles 15-22 of the GDPR
- notifying the Information Commissioner (and data subjects) where necessary about data breaches
- maintaining records of processing under Article 30 of the GDPR
- carrying out any required Data Protection Impact Assessment
- The agreement must include a statement as to who is the point of contact for data subjects.

The essence of this relationship shall be published.

You may wish to incorporate some Conditions equivalent to those specified in Condition E1.2-E1.14.

You may also wish to include an additional Condition apportioning liability between the parties arising out of data protection; of data that is jointly controlled.

Where there is a Joint Control relationship, but no controller to processor relationship under the contract, this completed Appendix G.2 should be used instead of Condition E1.1-E1.15.

FCDO Supplier Code of Conduct**1. What we expect from our Suppliers**

- 1.1 Version 2 of the [Government Supplier Code of Conduct](#) ("the Code") sets out the standards and behaviours expected of suppliers who work with government.
- 1.2 The FCDO (henceforth known as "the Authority") expects its Suppliers and its Suppliers' Subcontractors to meet the standards set out in the Code. In addition, The FCDO expects its suppliers and its suppliers' subcontractors to comply with the standards set out in this Schedule.
- 1.3 The Supplier acknowledges that the Authority may have additional requirements in relation to corporate social responsibility. The Supplier and the Suppliers' Subcontractors shall comply with such corporate social responsibility requirements as the Authority may notify to the Supplier from time to time.

2. Equality and Accessibility

- 2.1 Without prejudice to the generality of its rights and obligations under each Contract, the Supplier shall support the Authority in fulfilling its public sector equality duty under S149 of the Equality Act 2010 by ensuring, so far as reasonably practicable, that it (the Supplier) fulfils its obligations under each Contract in way that has due regard to the need to:
 - 2.1.1 Eliminate discrimination, harassment or victimisation and any other conducted that is prohibited under the 2010 Act; and
 - 2.1.2 Advance equality of opportunity and foster good relations between those who share a protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, and marriage and civil partnership) and those who do not share it.

3. Modern Slavery, Child Labour and Inhumane Treatment

The "Modern Slavery Helpline" refers to the point of contact for reporting suspicion, seeking help or advice and information on the subject of modern slavery available online at <https://www.modernslaveryhelpline.org/report> or by telephone on 08000 121 700.

3.1 The Supplier:

- 3.1.1 Shall not use, or allow its Subcontractors to use, forced, bonded or involuntary prison labour;
- 3.1.2 Shall not require any Supplier staff or Subcontractor staff to lodge deposits or identify papers with the Employer or deny Supplier staff freedom to leave their employer after reasonable notice;
- 3.1.3 Warrants and represents that it has not been convicted of any slavery or human trafficking offences anywhere around the world.
- 3.1.4 Warrants that to the best of its knowledge it is not currently under investigation, inquiry or enforcement proceedings in relation to any allegation of slavery or human trafficking offenses anywhere around the world.
- 3.1.5 Shall make reasonable enquires to ensure that its officers, employees and Subcontractors have not been convicted of slavery or human trafficking offences anywhere around the World.
- 3.1.6 Shall have and maintain throughout the term of each Contract its own policies and procedures to ensure its compliance with the Modern Slavery Act 2015 and shall include in its contracts with its subcontractors anti-slavery and human trafficking provisions;
- 3.1.7 Shall implement due diligence procedures to ensure that there is no slavery or human trafficking in any part of its supply chain performing obligations under a Contract;
- 3.1.8 Shall prepare and deliver to the FCDO at the commencement of each Contract and updated on a frequency defined by the Authority, a slavery and human trafficking report setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its business;
- 3.1.9 Shall not use, or allow its employees or Subcontractors to use, physical abuse or discipline, the threat of physical abuse, sexual or other harassment and verbal abuse or other forms of intimidation of its employees or Subcontractors;
- 3.1.10 shall not use, or allow its Subcontractors to use, child or slave labour;
- 3.1.11 shall report the discovery or suspicion of any slavery or trafficking by it or its Subcontractors to the Authority and Modern Slavery Helpline.

4. Income Security**4.1 The Supplier shall:**

- 4.1.1 Ensure that that all wages and benefits paid for a standard working week meet, at a minimum, national legal standards in the country of employment;
- 4.1.2 Ensure that all workers are provided with written and understandable information about their terms and conditions of employment, and in particular in respect of wages, before they enter employment, and about the particulars of their wages for the pay period concerned each time that they are paid;
- 4.1.3 Not make deductions from wages as a disciplinary measure except
 - (a) Where permitted by law; and
 - (b) Upon express permission of the worker concerned.
- 4.1.4 Record all disciplinary measures taken against Supplier Staff throughout the term of each contract; and
- 4.1.5 Ensure that Supplier Staff are engaged under a recognised employment relationship established through national law and practice.

5. Working Hours

5.1 The Supplier shall:

- 5.1.1 Ensure that the working hours of Supplier staff comply with national laws, and any collective agreements;
- 5.1.2 Ensure that the working hours of Supplier staff, excluding overtime, are defined by contract, and do not exceed 48 hours per week unless the individual has lawfully agreed so in writing;
- 5.1.3 Ensure that overtime is used responsibly, taking into account:
 - (a) The extent;
 - (b) Frequency; and
 - (c) Hours workedBy reference to individuals and the Supplier staff as a whole;

5.2 The total hours worked by an individual in any seven-day period shall not exceed 60 hours, unless the criteria set out in paragraph 5.3 are satisfied.

5.3 Working hours may exceed 60 hours in any seven-day period only where all of the following are met:

- 5.3.1 This is allowed by national law;
- 5.3.2 This is expressly authorised by a collective agreement freely negotiated with a workers' organisation representing a significant portion of the workforce;
- 5.3.3 Appropriate safeguards are taken to protect the workers' health and safety; and
- 5.3.4 The employer can demonstrate that exceptional circumstances apply.

5.4 All Supplier Staff shall be provided with at least one (1) day off in every seven (7) day period or, where allowed by national law, two (2) days off in every fourteen (14) day period.

6. Sustainability

6.1 The Supplier shall meet the applicable [Government Buying Standards](#) applicable to Deliverables.