



## SHORT FORM CONTRACT FOR THE SUPPLY OF SERVICES

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## II. Cover Letter

55 Whitehall  
London SW1A 2HP

E mercedes.ekanem@energysecurity.gov.uk

Cornwall Insight  
The Atrium, Merchant's Court  
St Georges Street  
Norwich, NR3 1AB

Date: 04 April 2024

Our ref: prj\_3635; con\_6006 - Cornwall Insights Subscription

Dear Sir/Madam,

The attached Order Form, contract Conditions and the Annexes set out the terms of the Contract between The Department for Energy Security & Net Zero (DESNZ) and Cornwall Insight for the provision of the Deliverables set out in the Order Form.

We thank you for your co-operation to date, and look forward to forging a successful working relationship resulting in a smooth and successful Delivery of the Deliverables. Please confirm your acceptance of this Contract by signing the Order Form within seven [7] days from the date of the Order Form. No other form of acknowledgement will be accepted. Please remember to include the reference number(s) above in any future communications relating to this Contract.

We will then arrange for the Order Form to be countersigned which will create a binding contract between Cornwall Insight and DESNZ.

Yours faithfully,



### III. Order Form

<b>1. Contract Reference</b>	con_6006 - Cornwall Insights Subscription
<b>2. Buyer</b>	The Department for Energy Security & Net Zero (DESNZ), 55 Whitehall, London, SW1A 2HP. In entering into this Contract, the Buyer is acting as part of the Crown and the Supplier shall be treated as contracting with the Crown as a whole.
<b>3. Supplier</b>	Cornwall Insight, The Atrium, Merchant's Court, St Georges Street, Norwich, NR3 1AB
<b>4. The Contract</b>	<p>This Contract between the Buyer and the Supplier is for the supply of Deliverables.</p> <p>The Supplier shall supply the Deliverables described below on the terms set out in this Order Form and the attached contract conditions ("<b>Conditions</b>") and Annexes.</p> <p>Unless the context otherwise requires, capitalised expressions used in this Order Form have the same meanings as in the Conditions.</p>
<b>5. Deliverables</b>	The deliverables are set out in Annex 2 – Specification.
<b>6. Specification</b>	The specification of the Deliverables is as set out in Annex 2 – Specification
<b>7. Start Date</b>	08/04/2024
<b>8. Expiry Date</b>	08/04/2026
<b>9. Extension Period</b>	Not applicable
<b>10. Buyer Cause</b>	Any Material Breach of the obligations of the Buyer or any other default, act, omission, negligence or statement of the Buyer, of its employees, servants, agents in connection with or in relation to the subject-matter of the Contract and in respect of which the Buyer is liable to the Supplier.
<b>11. Optional Intellectual Property Rights ("IPR") Clauses</b>	Not applicable



<b>12. Charges</b>	The Charges for the Deliverables shall be as set out in Annex 3 – Charges
<b>13. Payment</b>	<p>Payment of undisputed invoices will be made within 30 days of receipt of invoice, which must be submitted promptly by the Supplier.</p> <p>All invoices must be sent, quoting a valid Purchase Order Number (PO Number) and any other relevant details.</p> <p>Within ten [10] Working Days of receipt of your countersigned copy of this Order Form, we will send you a unique PO Number. You must be in receipt of a valid PO Number before submitting an invoice.</p> <p>To avoid delay in payment it is important that the invoice is compliant and that it includes a valid PO Number, item number (if applicable) and the details (name, email, and telephone number) of your Buyer contact (i.e. Buyer Authorised Representative). Non-compliant invoices may be sent back to you, which may lead to a delay in payment.</p> <p>If you have a query regarding an outstanding payment please contact our Accounts Payable team between 09:00-17:00 Monday to Friday.</p>
<b>14. Data Protection Liability Cap</b>	In accordance with clause 12.6 of the Conditions, the Supplier's total aggregate liability under clause 14.7.5 of the Conditions is no more than the Data Protection Liability Cap, being £500,000.
<b>15. Progress Meetings and Progress Reports</b>	Not applicable
<b>16. Buyer Authorised Representative(s)</b>	<div>██</div> <div>██</div> <div>██</div>
<b>17. Supplier Authorised Representative(s)</b>	<div>██</div> <div>██</div> <div>██</div>
<b>18. Address for notices</b>	<div>██</div> <div>██</div> <div>Cornwall Insight</div>



	<div>[REDACTED]</div> <div>[REDACTED]</div> <div>[REDACTED]</div> <div>[REDACTED]</div> <div>[REDACTED]</div> <div>[REDACTED]</div>
<b>19. Key Staff</b>	<div>[REDACTED]</div> <div>[REDACTED]</div>
<b>20. Procedures and Policies</b>	<p>For the purposes of the Contract the:</p> <p>The Buyer requires the Supplier to ensure that any person employed in the Delivery of the Deliverables has undertaken a disclosure and barring service check.</p>
<b>21. Special Terms</b>	Not applicable
<b>22. Incorporated Terms</b>	<p>The following documents are incorporated into the Contract. If there is any conflict, the following order of precedence applies:</p> <ul style="list-style-type: none"><li>(a) The cover letter from the Buyer to the Supplier dated 04 April 2024</li><li>(b) This Order Form</li><li>(c) Any Special Terms (see row 21 (Special Terms) in this Order Form)</li><li>(d) Conditions</li><li>(e) The following Annexes in equal order of precedence:<ul style="list-style-type: none"><li>i. Annex 1 – Processing Personal Data</li><li>ii. Annex 2 – Specification</li><li>iii. Annex 3 – Charges</li></ul></li></ul>



## IV. Short form Terms (“Conditions”)

### 1 DEFINITIONS USED IN THE CONTRACT

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

<b>“Affiliates”</b>	in relation to a body corporate, any other entity which directly or indirectly Controls (in either of the senses defined in sections 450 and 1124 of the Corporation Tax Act 2010 and “ <b>Controlled</b> ” shall be construed accordingly), is Controlled by, or is under direct or indirect common Control of that body corporate from time to time;
<b>“Audit”</b>	<p>the Buyer’s right to:</p> <ul style="list-style-type: none"><li>(a) verify the accuracy of the Charges and any other amounts payable by the Buyer under the Contract (including proposed or actual variations to them in accordance with the Contract);</li><li>(b) verify the costs of the Supplier (including the costs of all Subcontractors and any third party suppliers) in connection with the provision of the Deliverables;</li><li>(c) verify the Supplier’s and each Subcontractor’s compliance with the applicable Law;</li><li>(d) identify or investigate actual or suspected breach of clauses 4 to 34 (inclusive), impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances the Buyer shall have no obligation to inform the Supplier of the purpose or objective of its investigations;</li><li>(e) identify or investigate any circumstances which may impact upon the financial stability of the Supplier and/or any Subcontractors or their ability to provide the Deliverables;</li><li>(f) obtain such information as is necessary to fulfil the Buyer’s obligations to supply information for parliamentary, ministerial, judicial or administrative purposes including the supply of information to the Comptroller and Auditor General;</li><li>(g) review any books of account and the internal contract management accounts kept by the Supplier in connection with the Contract;</li></ul>



	<p>(h) carry out the Buyer's internal and statutory audits and to prepare, examine and/or certify the Buyer's annual and interim reports and accounts;</p> <p>(i) enable the National Audit Office to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Buyer has used its resources;</p>
<b>"Beneficiary"</b>	A Party having (or claiming to have) the benefit of an indemnity under this Contract;
<b>"Buyer Cause"</b>	has the meaning given to it in the Order Form;
<b>"Buyer"</b>	the person named as Buyer in the Order Form. Where the Buyer is a Crown Body the Supplier shall be treated as contracting with the Crown as a whole;
<b>"Charges"</b>	the charges for the Deliverables as specified in the Order Form;
<b>"Claim"</b>	any claim which it appears that the Buyer is, or may become, entitled to indemnification under this Contract;
<b>"Conditions"</b>	means these short form terms and conditions of contract;
<b>"Confidential Information"</b>	<p>all information, whether written or oral (however recorded), provided by the disclosing Party to the receiving Party and which</p> <p>(a) is known by the receiving Party to be confidential;</p> <p>(b) is marked as or stated to be confidential; or</p> <p>(c) ought reasonably to be considered by the receiving Party to be confidential;</p>
<b>"Conflict of Interest"</b>	a conflict between the financial or personal duties of the Supplier or the Supplier Staff and the duties owed to the Buyer under the Contract, in the reasonable opinion of the Buyer;
<b>"Contract"</b>	the contract between the Buyer and the Supplier which is created by the Supplier's counter signing the Order Form and includes the cover letter (if used), Order Form, these Conditions and the Annexes;
<b>"Controller"</b>	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
<b>"Crown Body"</b>	the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the Welsh Government),



	including, but not limited to, government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;
<b>“Data Loss Event”</b>	any event that results, or may result, in unauthorised access to Personal Data held by the Processor under this Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of this Contract, including any Personal Data Breach;
<b>“Data Protection Impact Assessment”</b>	an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data;
<b>“Data Protection Legislation”</b>	<ul style="list-style-type: none"><li>(a) the UK GDPR,</li><li>(b) the DPA 2018;</li><li>(c) all applicable Law about the processing of personal data and privacy and guidance issued by the Information Commissioner and other regulatory authority; and</li><li>(d) (to the extent that it applies) the EU GDPR (and in the event of conflict, the UK GDPR shall apply);</li></ul>
<b>“Data Protection Liability Cap”</b>	has the meaning given to it in row 14 of the Order Form;
<b>“Data Protection Officer”</b>	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
<b>“Data Subject Access Request”</b>	a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data;
<b>“Data Subject”</b>	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
<b>“Deliver”</b>	handover of the Deliverables to the Buyer at the address and on the date specified in the Order Form, which shall include unloading and stacking and any other specific arrangements agreed in accordance with clause 4.2. “Delivered” and “Delivery” shall be construed accordingly;
<b>“Deliverables”</b>	means the Goods, Services, and/or software to be supplied under the Contract as set out in the Order Form;



<b>“DPA 2018”</b>	the Data Protection Act 2018;
<b>“EU GDPR”</b>	Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) as it has effect in EU law;
<b>“Existing IPR”</b>	any and all intellectual property rights that are owned by or licensed to either Party and which have been developed independently of the Contract (whether prior to the date of the Contract or otherwise);
<b>“Expiry Date”</b>	the date for expiry of the Contract as set out in the Order Form;
<b>“FOIA”</b>	the Freedom of Information Act 2000 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation;
<b>“Force Majeure Event”</b>	<p>any event, circumstance, matter or cause affecting the performance by either the Buyer or the Supplier of its obligations arising from:</p> <ul style="list-style-type: none"><li>(a) acts, events, omissions, happenings or non-happenings beyond the reasonable control of the Party seeking to claim relief in respect of a Force Majeure Event (the <b>“Affected Party”</b>) which prevent or materially delay the Affected Party from performing its obligations under the Contract;</li><li>(b) riots, civil commotion, war or armed conflict, acts of terrorism, nuclear, biological or chemical warfare;</li><li>(c) acts of a Crown Body, local government or regulatory bodies;</li><li>(d) fire, flood or any disaster; or</li><li>(e) an industrial dispute affecting a third party for which a substitute third party is not reasonably available</li></ul> <p>but excluding:</p> <ul style="list-style-type: none"><li>(a) any industrial dispute relating to the Supplier, the Supplier Staff (including any subsets of them) or any other failure in the Supplier or the Subcontractor's supply chain;</li><li>(b) any event, occurrence, circumstance, matter or cause which is attributable to the wilful act, neglect or failure to take reasonable precautions against it by the Party concerned; and</li><li>(c) any failure of delay caused by a lack of funds,</li></ul>



	and which is not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party;
<b>“Good Industry Practice”</b>	standards, practices, methods and procedures conforming to the Law and the exercise of the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged within the relevant industry or business sector;
<b>“Goods”</b>	the goods to be supplied by the Supplier to the Buyer under the Contract;
<b>“Government Data”</b>	<p>(a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, including any of the Buyer's confidential information, and which:</p> <p>(i) are supplied to the Supplier by or on behalf of the Buyer; or</p> <p>(ii) the Supplier is required to generate, process, store or transmit pursuant to the Contract; or</p> <p>(b) any Personal Data for which the Buyer is the Controller;</p>
<b>“Indemnifier”</b>	a Party from whom an indemnity is sought under this Contract;
<b>“Independent Controller”</b>	a party which is Controller of the same Personal Data as the other Party and there is no element of joint control with regards to that Personal Data;
<b>“Information Commissioner”</b>	the UK's independent authority which deals with ensuring information relating to rights in the public interest and data privacy for individuals is met, whilst promoting openness by public bodies;
<b>“Insolvency Event”</b>	<p>in respect of a person:</p> <p>(a) if that person is insolvent;</p> <p>(b) where that person is a company, LLP or a partnership, if an order is made or a resolution is passed for the winding up of the person (other than voluntarily for the purpose of solvent amalgamation or reconstruction);</p> <p>(c) if an administrator or administrative receiver is appointed in respect of the whole or any part of the person's assets or business;</p> <p>(d) if the person makes any composition with its creditors; or</p> <p>(e) takes or suffers any similar or analogous action to any of the actions detailed in this definition as a result of debt in any jurisdiction;</p>



<b>“IP Completion Day”</b>	has the meaning given to it in the European Union (Withdrawal Agreement) Act 2020;
<b>“Joint Controller Agreement”</b>	the agreement (if any) entered into between the Buyer and the Supplier substantially in the form set out in Part B Joint Controller Agreement of Annex 1 – Processing Personal Data;
<b>“Joint Controllers”</b>	Where two or more Controllers jointly determine the purposes and means of processing;
<b>“Key Staff”</b>	any persons specified as such in the Order Form or otherwise notified as such by the Buyer to the Supplier in writing, following agreement to the same by the Supplier;
<b>“Law”</b>	any law, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, bye-law, right within the meaning of the European Union (Withdrawal) Act 2018 as amended by European Union (Withdrawal Agreement) Act 2020, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the Supplier is bound to comply;
<b>“Material Breach”</b>	a single serious breach or a number of breaches or repeated breaches (whether of the same or different obligations and regardless of whether such breaches are remedied)
<b>“National Insurance”</b>	contributions required by the Social Security Contributions and Benefits Act 1992 and made in accordance with the Social Security (Contributions) Regulations 2001 (SI 2001/1004);
<b>“New IPR Items”</b>	means a deliverable, document, product or other item within which New IPR subsists;
<b>“New IPR”</b>	all and intellectual property rights in any materials created or developed by or on behalf of the Supplier pursuant to the Contract but shall not include the Supplier's Existing IPR;
<b>“Open Licence”</b>	means any material that is published for use, with rights to access and modify, by any person for free, under a generally recognised open licence including Open Government Licence as set out at <a href="http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/">http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/</a> as updated from time to time and the Open Standards Principles documented at



	<a href="https://www.gov.uk/government/publications/open-standards-principles/open-standards-principles">https://www.gov.uk/government/publications/open-standards-principles/open-standards-principles</a> as updated from time to time;
<b>“Order Form”</b>	the order form signed by the Buyer and the Supplier printed above these Conditions;
<b>“Party”</b>	the Supplier or the Buyer (as appropriate) and “Parties” shall mean both of them;
<b>“Personal Data Breach”</b>	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires and includes any breach of Data Protection Legislation relevant to Personal Data processed pursuant to the Contract;
<b>“Personal Data”</b>	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
<b>“Prescribed Person”</b>	a legal adviser, an MP or an appropriate body which a whistle-blower may make a disclosure to as detailed in ‘Whistleblowing: list of prescribed people and bodies’, 24 November 2016, available online at: <a href="https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies">https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies</a> as updated from time to time;
<b>“Processor Personnel”</b>	all directors, officers, employees, agents, consultants and suppliers of the Processor and/or of any Subprocessor engaged in the performance of its obligations under the Contract;
<b>“Processor”</b>	has the meaning given to it in the UK GDPR or the EU GDPR as the context requires;
<b>“Protective Measures”</b>	technical and organisational measures which must take account of: <ul style="list-style-type: none"><li>(a) the nature of the data to be protected;</li><li>(b) harm that might result from Data Loss Event;</li><li>(c) state of technological development;</li><li>(d) the cost of implementing any measures;</li></ul> including 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;



<b>“Purchase Order Number” or “PO Number”</b>	the Buyer’s unique number relating to the order for Deliverables to be supplied by the Supplier to the Buyer in accordance with the Contract;
<b>“Rectification Plan”</b>	<p>the Supplier’s plan (or revised plan) to rectify its Material Breach which shall include:</p> <ul style="list-style-type: none"><li>(a) full details of the Material Breach that has occurred, including a root cause analysis;</li><li>(b) the actual or anticipated effect of the Material Breach; and</li><li>(c) the steps which the Supplier proposes to take to rectify the Material Breach (if applicable) and to prevent such Material Breach from recurring, including timescales for such steps and for the rectification of the Material Breach (where applicable);</li></ul>
<b>“Regulations”</b>	the Public Contracts Regulations 2015 and/or the Public Contracts (Scotland) Regulations 2015 (as the context requires) as amended from time to time;
<b>“Request For Information”</b>	has the meaning set out in the FOIA or the Environmental Information Regulations 2004 as relevant (where the meaning set out for the term <b>“request”</b> shall apply);
<b>“Services”</b>	the services to be supplied by the Supplier to the Buyer under the Contract;
<b>“Specification”</b>	the specification for the Deliverables to be supplied by the Supplier to the Buyer (including as to quantity, description and quality) as specified in the Order Form;
<b>“Staff Vetting Procedures”</b>	vetting procedures that accord with Good Industry Practice or, where applicable, the Buyer’s procedures or policies for the vetting of personnel as specified in the Order Form or provided to the Supplier in writing following agreement to the same by the Supplier from time to time;
<b>“Start Date”</b>	the start date of the Contract set out in the Order Form;
<b>“Sub-Contract”</b>	<p>any contract or agreement (or proposed contract or agreement), other than the Contract, pursuant to which a third party:</p> <ul style="list-style-type: none"><li>(a) provides the Deliverables (or any part of them);</li><li>(b) provides facilities or services necessary for the provision of the Deliverables (or any part of them); and/or</li><li>(c) is responsible for the management, direction or control of the provision of the Deliverables (or any part of them);</li></ul>



<b>“Subcontractor”</b>	any person other than the Supplier, who is a party to a Sub-Contract and the servants or agents of that person;
<b>“Subprocessor”</b>	any third party appointed to process Personal Data on behalf of the Processor related to the Contract;
<b>“Supplier Staff”</b>	all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Subcontractor of the Supplier engaged in the performance of the Supplier’s obligations under the Contract;
<b>“Supplier”</b>	the person named as Supplier in the Order Form;
<b>“Term”</b>	the period from the Start Date to the Expiry Date as such period may be extended in accordance with clause 11.2 or terminated in accordance with the Contract;
<b>“Third Party IPR”</b>	intellectual property rights owned by a third party which is or will be used by the Supplier for the purpose of providing the Deliverables;
<b>“Transparency Information”</b>	<p>In relation to Contracts with a value above the relevant threshold set out in Part 2 of the Regulations only, the content of the Contract, including any changes to this Contract agreed from time to time, as well as any information relating to the Deliverables and performance pursuant to the Contract required to be published by the Buyer to comply with its transparency obligations, including those set out in Public Procurement Policy Note 09/21 (update to legal and policy requirements to publish procurement information on Contracts Finder) (<a href="https://www.gov.uk/government/publications/ppn-0921-requirements-to-publish-on-contracts-finder">https://www.gov.uk/government/publications/ppn-0921-requirements-to-publish-on-contracts-finder</a>) as updated from time to time and Public Procurement Policy Note 01/17 (update to transparency principles) where applicable (<a href="https://www.gov.uk/government/publications/procurement-policy-note-0117-update-to-transparency-principles">https://www.gov.uk/government/publications/procurement-policy-note-0117-update-to-transparency-principles</a>) as updated from time to time except for:</p> <p>(a) any information which is exempt from disclosure in accordance with the provisions of the FOIA, which shall be determined by the Buyer; and</p> <p>(b) Confidential Information;</p>
<b>“UK GDPR”</b>	has the meaning as set out in section 3(10) of the DPA 2018, supplemented by section 205(4);
<b>“VAT”</b>	value added tax in accordance with the provisions of the Value Added Tax Act 1994;
<b>“Worker”</b>	any one of the Supplier Staff which the Buyer, in its reasonable opinion, considers is an individual to which Procurement Policy Note 08/15 ( <a href="#">Tax</a>



	<a href="https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees">Arrangements of Public Appointees</a> ( <a href="https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees">https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees</a> ) as updated from time to time applies in respect of the Deliverables; and
<b>“Working Day”</b>	a day (other than a Saturday or Sunday) on which banks are open for business in the City of London.

## 2 UNDERSTANDING THE CONTRACT

2.1 In the Contract, unless the context otherwise requires:

- 2.1.1 references to numbered clauses are references to the relevant clause in these Conditions;
- 2.1.2 any obligation on any Party not to do or omit to do anything shall include an obligation not to allow that thing to be done or omitted to be done;
- 2.1.3 references to “writing” include printing, display on a screen and electronic transmission and other modes of representing or reproducing words in a visible form;
- 2.1.4 a reference to any Law includes a reference to that Law as amended, extended, consolidated, replaced or re-enacted from time to time (including as a consequence of the Retained EU Law (Revocation and Reform) Act) and to any legislation or byelaw made under that Law;
- 2.1.5 the word “including”, “for example” and similar words shall be understood as if they were immediately followed by the words “without limitation”;
- 2.1.6 any reference which, immediately before IP Completion Day (or such later date when relevant EU law ceases to have effect pursuant to section 1A of the European Union (Withdrawal) Act 2018), is a reference to (as it has effect from time to time) any EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement (“**EU References**”) which is to form part of domestic law by application of section 3 of the European Union (Withdrawal) Act 2018 and which shall be read on and after IP Completion Day as a reference to the EU References as they form part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018 as modified by domestic law from time to time.

## 3 HOW THE CONTRACT WORKS

3.1 The Order Form is an offer by the Buyer to purchase the Deliverables subject to and in accordance with the terms and conditions of the Contract.



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- 3.2 The Supplier is deemed to accept the offer in the Order Form when the Buyer receives a copy of the Order Form signed by the Supplier.
- 3.3 The Supplier warrants and represents that its tender (if any) and all statements made and documents submitted as part of the procurement of Deliverables are and remain true and accurate.

## **4 WHAT NEEDS TO BE DELIVERED**

### **4.1 All Deliverables**

- 4.1.1 The Supplier must provide Deliverables:
- 4.1.1.1 in accordance with the Specification, and the Contract;
  - 4.1.1.2 using reasonable skill and care;
  - 4.1.1.3 using Good Industry Practice;
  - 4.1.1.4 using its own policies, processes and internal quality control measures as long as they don't conflict with the Contract;
  - 4.1.1.5 on the dates agreed; and
  - 4.1.1.6 that comply with all Law.
- 4.1.2 The Supplier must provide Deliverables with a warranty of at least 90 days (or longer where the Supplier offers a longer warranty period to its Buyers) from Delivery against all obvious defects.

### **4.2 Goods clauses**

- 4.2.1 All Goods delivered must be new, or as new if recycled, unused and of recent origin.
- 4.2.2 The Supplier transfers ownership of the Goods on completion of Delivery or payment for those Goods, whichever is earlier.
- 4.2.3 Risk in the Goods transfers to the Buyer on Delivery, but remains with the Supplier if the Buyer notices damage following Delivery and lets the Supplier know within 3 Working Days of Delivery.
- 4.2.4 The Supplier warrants that it has full and unrestricted ownership of the Goods at the time of transfer of ownership.
- 4.2.5 The Supplier must Deliver the Goods on the date and to the location specified in the Order Form, during the Buyer's working hours (unless otherwise specified in the Order Form).
- 4.2.6 The Supplier must provide sufficient packaging for the Goods to reach the point of Delivery safely and undamaged.



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- 4.2.7 All deliveries must have a delivery note attached that specifies the order number, type and quantity of Goods.
- 4.2.8 The Supplier must provide all tools, information and instructions the Buyer needs to make use of the Goods.
- 4.2.9 The Supplier will notify the Buyer of any request that Goods are returned to it or the manufacturer after the discovery of safety issues or defects that might endanger health or hinder performance and shall indemnify the Buyer against the costs arising as a result of any such request.
- 4.2.10 The Buyer can cancel any order or part order of Goods which has not been Delivered. If the Buyer gives less than 14 days' notice then it will pay the Supplier's reasonable and proven costs already incurred on the cancelled order as long as the Supplier takes all reasonable endeavours to minimise these costs.
- 4.2.11 The Supplier must at its own cost repair, replace, refund or substitute (at the Buyer's option and request) any Goods that the Buyer rejects because they don't conform with clause 4.2. If the Supplier doesn't do this it will pay the Buyer's costs including repair or re-supply by a third party.
- 4.2.12 The Buyer will not be liable for any actions, claims, costs and expenses incurred by the Supplier or any third party during Delivery of the Goods unless and to the extent that it is caused by negligence or other wrongful act of the Buyer or its servant or agent. If the Buyer suffers or incurs any damage or injury (whether fatal or otherwise) occurring in the course of Delivery or installation then the Supplier shall indemnify the Buyer from any losses, charges, costs or expenses which arise as a result of or in connection with such damage or injury where it is attributable to any act or omission of the Supplier or any of its Subcontractors or Supplier Staff.

### **4.3 Services clauses**

- 4.3.1 Late Delivery of the Services will be a default of the Contract.
- 4.3.2 The Supplier must co-operate with the Buyer and third party suppliers on all aspects connected with the delivery of the Services and ensure that Supplier Staff comply with any reasonable instructions including the security requirements (where any such requirements have been provided).
- 4.3.3 The Buyer must provide the Supplier with reasonable access to its premises at reasonable times for the purpose of supplying the Services
- 4.3.4 The Supplier must at its own risk and expense provide all equipment required to deliver the Services. Any equipment provided by the Buyer to the Supplier for supplying the Services remains the property of the Buyer and is to be returned to the Buyer on expiry or termination of the Contract.



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- 4.3.5 The Supplier must allocate sufficient resources and appropriate expertise to the Contract.
- 4.3.6 The Supplier must take all reasonable care to ensure performance does not disrupt the Buyer's operations, employees or other contractors.
- 4.3.7 On completion of the Services, the Supplier is responsible for leaving the Buyer's premises in a clean, safe and tidy condition and making good any damage that it has caused to the Buyer's premises or property, other than fair wear and tear.
- 4.3.8 The Supplier must ensure all Services, and anything used to deliver the Services, are of good quality and free from defects.
- 4.3.9 The Buyer is entitled to withhold payment for partially or undelivered Services, but doing so does not stop it from using its other rights under the Contract.

## **5 PRICING AND PAYMENTS**

- 5.1 In exchange for the Deliverables, the Supplier must invoice the Buyer for the charges in the Order Form.
- 5.2 All Charges:
  - 5.2.1 exclude VAT, which is payable on provision of a valid VAT invoice; and
  - 5.2.2 include all costs and expenses connected with the supply of Deliverables.
- 5.3 The Buyer must pay the Supplier the charges within 30 days of receipt by the Buyer of a valid, undisputed invoice, in cleared funds to the Supplier's account stated in the invoice or in the Order Form.
- 5.4 A Supplier invoice is only valid if it:
  - 5.4.1 includes all appropriate references including the Purchase Order Number and other details reasonably requested by the Buyer; and
  - 5.4.2 includes a detailed breakdown of Deliverables which have been delivered.
- 5.5 If there is a dispute between the Parties as to the amount invoiced, the Buyer shall pay the undisputed amount. The Supplier shall not suspend the provision of the Deliverables unless the Supplier is entitled to terminate the Contract for a failure to pay undisputed sums in accordance with clause 11.6. Any disputed amounts shall be resolved through the dispute resolution procedure detailed in clause 36.
- 5.6 The Buyer may retain or set-off payment of any amount owed to it by the Supplier under this Contract or any other agreement between the Supplier and the Buyer if notice and reasons are provided.
- 5.7 The Supplier must ensure that all Subcontractors are paid, in full, within 30 days of receipt of a valid, undisputed invoice. If this doesn't happen, the Buyer can publish the details of the late payment or non-payment.



## **6 THE BUYER'S OBLIGATIONS TO THE SUPPLIER**

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

## **7 RECORD KEEPING AND REPORTING**

- 7.1 The Supplier must ensure that suitably qualified representatives attend progress meetings with the Buyer and provide progress reports when specified in the Order Form.
- 7.2 The Supplier must keep and maintain full and accurate records and accounts on everything to do with the Contract for 7 years after the date of expiry or termination of the Contract and in accordance with the UK GDPR or the EU GDPR as the context requires.
- 7.3 The Supplier must allow any auditor appointed by the Buyer access to its premises to verify all contract accounts and records of everything to do with the Contract and provide copies for the Audit.
- 7.4 The Buyer or an auditor can Audit the Supplier.
- 7.5 During an Audit, the Supplier must provide information to the auditor and reasonable co-operation at their request.
- 7.6 The Parties will bear their own costs when an Audit is undertaken unless the Audit identifies a Material Breach by the Supplier, in which case the Supplier will repay the Buyer's reasonable costs in connection with the Audit.
- 7.7 If the Supplier is not providing any of the Deliverables, or is unable to provide them, it must immediately:
- 7.7.1 tell the Buyer and give reasons;
  - 7.7.2 propose corrective action; and
  - 7.7.3 provide a deadline for completing the corrective action.



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- 7.8 If the Buyer, acting reasonably, is concerned as to the financial stability of the Supplier such that it may impact on the continued performance of the Contract then the Buyer may:
- 7.8.1 require that the Supplier provide to the Buyer (for its approval) a plan setting out how the Supplier will ensure continued performance of the Contract and the Supplier will make changes to such plan as reasonably required by the Buyer and once it is agreed then the Supplier shall act in accordance with such plan and report to the Buyer on demand; and
  - 7.8.2 if the Supplier fails to provide a plan or fails to agree any changes which are requested by the Buyer or fails to implement or provide updates on progress with the plan, terminate the Contract immediately for Material Breach (or on such date as the Buyer notifies) and the consequences of termination in Clause 11.5.1 shall apply.
- 7.9 If there is a Material Breach, the Supplier must notify the Buyer within 3 Working Days of the Supplier becoming aware of the Material Breach. The Buyer may request that the Supplier provide a Rectification Plan within 10 Working Days of the Buyer's request alongside any additional documentation that the Buyer requires. Once such Rectification Plan is agreed between the Parties (without the Buyer limiting its rights) the Supplier must immediately start work on the actions in the Rectification Plan at its own cost.

## **8 SUPPLIER STAFF**

- 8.1 The Supplier Staff involved in the performance of the Contract must:
- 8.1.1 be appropriately trained and qualified;
  - 8.1.2 be vetted in accordance with the Staff Vetting Procedures; and
  - 8.1.3 comply with all conduct requirements when on the Buyer's premises.
- 8.2 Where the Buyer decides one of the Supplier's Staff isn't suitable to work on the Contract, the Supplier must replace them with a suitably qualified alternative.
- 8.3 The Supplier must provide a list of Supplier Staff needing to access the Buyer's premises and say why access is required.
- 8.4 The Supplier indemnifies the Buyer against all claims brought by any person employed or engaged by the Supplier caused by an act or omission of the Supplier or any Supplier Staff.
- 8.5 The Buyer indemnifies the Supplier against all claims brought by any person employed or engaged by the Buyer caused by an act or omission of the Buyer or any of the Buyer's employees, agents, consultants and contractors.
- 8.6 The Supplier shall use those persons nominated (if any) as Key Staff in the Order Form or otherwise notified as such by the Buyer to the Supplier in writing, following agreement to the same by the Supplier to provide the Deliverables and shall not remove or replace any of them unless:



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- 8.6.1 requested to do so by the Buyer or the Buyer approves such removal or replacement (not to be unreasonably withheld or delayed);
  - 8.6.2 the person concerned resigns, retires or dies or is on parental or long-term sick leave; or
  - 8.6.3 the person's employment or contractual arrangement with the Supplier or any Subcontractor is terminated for material breach of contract by the employee.
- 8.7 The Supplier shall ensure that no person who discloses that they have a conviction that is relevant to the nature of the Contract, relevant to the work of the Buyer, or is of a type otherwise advised by the Buyer (each such conviction a “**Relevant Conviction**”), or is found by the Supplier to have a Relevant Conviction (whether as a result of a police check, a disclosure and barring service check or otherwise) is employed or engaged in the provision of any part of the Deliverables.

## 9 RIGHTS AND PROTECTION

- 9.1 The Supplier warrants and represents that:
- 9.1.1 it has full capacity and authority to enter into and to perform the Contract;
  - 9.1.2 the Contract is entered into by its authorised representative;
  - 9.1.3 it is a legally valid and existing organisation incorporated in the place it was formed;
  - 9.1.4 there are no known legal or regulatory actions or investigations before any court, administrative body or arbitration tribunal pending or threatened against it or its affiliates that might affect its ability to perform the Contract;
  - 9.1.5 all necessary rights, authorisations, licences and consents (including in relation to IPRs) are in place to enable the Supplier to perform its obligations under the Contract and the Buyer to receive the Deliverables;
  - 9.1.6 it doesn't have any contractual obligations which are likely to have a material adverse effect on its ability to perform the Contract; and
  - 9.1.7 it is not impacted by an Insolvency Event.
- 9.2 The warranties and representations in clause 3.3 and clause 9.1 are repeated each time the Supplier provides Deliverables under the Contract.
- 9.3 The Supplier indemnifies the Buyer against each of the following:
- 9.3.1 wilful misconduct of the Supplier, any of its Subcontractor and/or Supplier Staff that impacts the Contract; and
  - 9.3.2 non-payment by the Supplier of any tax or National Insurance.
- 9.4 If the Supplier becomes aware of a representation or warranty made in relation to the Contract that becomes untrue or misleading, it must immediately notify the Buyer.



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- 9.5 All third party warranties and indemnities covering the Deliverables must be assigned for the Buyer's benefit by the Supplier for free.

## **10 INTELLECTUAL PROPERTY RIGHTS ("IPRS")**

- 10.1 Each Party keeps ownership of its own Existing IPRs. The Supplier gives the Buyer a non-exclusive, perpetual, royalty-free, irrevocable, transferable, sub-licensable worldwide licence to use, copy and adapt the Supplier's Existing IPR to enable the Buyer and its sub-licensees to both:

- 10.1.1 receive and use the Deliverables; and
- 10.1.2 use the New IPR.

The termination or expiry of the Contract does not terminate any licence granted under this clause 10.

- 10.2 Any New IPR created under the Contract is owned by the Buyer. The Buyer gives the Supplier a royalty-free, non-exclusive, non-transferable licence to use, copy, and adapt any Existing IPRs and the New IPR which the Supplier reasonably requires for the purpose of fulfilling its obligations during the Term and commercially exploiting the New IPR developed under the Contract. This licence is sub-licensable to a Subcontractor for the purpose of enabling the Supplier to fulfil its obligations under the Contract, and in that case the Subcontractor must enter into a confidentiality undertaking with the Supplier on the same terms as set out in clause 15 (What you must keep confidential).
- 10.3 Unless otherwise agreed in writing, the Supplier and the Buyer will record any New IPR and keep this record updated throughout the Term.
- 10.4 Where a Party acquires ownership of intellectual property rights incorrectly under this Contract, it must do everything reasonably necessary to complete a transfer assigning them in writing to the other Party on request and at its own cost.
- 10.5 Neither Party has the right to use the other Party's intellectual property rights, including any use of the other Party's names, logos or trademarks, except as provided in this clause 10 or otherwise agreed in writing.
- 10.6 If any claim is made against the Buyer for actual or alleged infringement of a third party's intellectual property arising out of, or in connection with, the supply or use of the Deliverables (an "**IPR Claim**"), then the Supplier indemnifies the Buyer against all losses, damages, costs or expenses (including professional fees and fines) incurred as a result of the IPR Claim.
- 10.7 If an IPR Claim is made or anticipated, the Supplier must at its own option and expense, either:
- 10.7.1 obtain for the Buyer the rights in clause 10.1 without infringing any third party intellectual property rights; and
  - 10.7.2 replace or modify the relevant item with substitutes that don't infringe intellectual property rights without adversely affecting the functionality or performance of the Deliverables.



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10.7.3 If the Supplier is not able to resolve the IPR Claim to the Buyer's reasonable satisfaction within a reasonable time, the Buyer may give written notice that it terminates the Contract from the date set out in the notice, or where no date is given in the notice, the date of the notice. On termination, the consequences of termination in clauses 11.5.1 shall apply.

10.8 The Supplier shall not use in the Delivery of the Deliverables any Third Party IPR unless:

10.8.1 the Buyer gives its approval to do so; and

10.8.2 one of the following conditions applies:

10.8.2.1 the owner or an authorised licensor of the relevant Third Party IPR has granted the Buyer a direct licence that provides the Buyer with the rights in clause 10.1; or

10.8.2.2 if the Supplier cannot, after commercially reasonable endeavours, obtain for the Buyer a direct licence to the Third Party IPR as set out in clause 10.8.2.1:

(a) the Supplier provides the Buyer with details of the licence terms it can obtain and the identity of those licensors;

(b) the Buyer agrees to those licence terms; and

(c) the owner or authorised licensor of the Third Party IPR grants a direct licence to the Buyer on those terms; or

10.8.2.3 the Buyer approves in writing, with reference to the acts authorised and the specific intellectual property rights involved.

10.9 In spite of any other provisions of the Contract and for the avoidance of doubt, award of this Contract by the Buyer and the ordering of any Deliverable under it, does not constitute an authorisation by the Crown under Sections 55 and 56 of the Patents Act 1977, Section 12 of the Registered Designs Act 1949 or Sections 240 – 243 of the Copyright, Designs and Patents Act 1988.

## 11 ENDING THE CONTRACT

11.1 The Contract takes effect on the Start Date and ends on the earlier of the Expiry Date or termination of the Contract, or earlier if required by Law.

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

### 11.3 Ending the Contract without a reason

11.3.1 The Buyer has the right to terminate the Contract at any time without reason or liability by giving the Supplier not less than 90 days' written notice, and if it's terminated clause 11.6.2 applies.



## 11.4 When the Buyer can end the Contract

- 11.4.1 If any of the following events happen, the Buyer has the right to immediately terminate its Contract by issuing a termination notice in writing to the Supplier and the consequences of termination in Clause 11.5.1 shall apply:
- 11.4.1.1 there's a Supplier Insolvency Event;
  - 11.4.1.2 the Supplier is in Material Breach of the Contract;
  - 11.4.1.3 there's a change of control (within the meaning of section 450 of the Corporation Tax Act 2010) of the Supplier which isn't pre-approved by the Buyer in writing;
  - 11.4.1.4 the Buyer discovers that the Supplier was in one of the situations in 57 (1) or 57(2) of the Regulations at the time the Contract was awarded;
  - 11.4.1.5 the Supplier or its affiliates embarrass or bring the Buyer into disrepute or diminish the public trust in them; or
  - 11.4.1.6 the Supplier fails to comply with its legal obligations in the fields of environmental, social, equality or employment Law when providing the Deliverables.
- 11.4.2 If any of the events in 73(1) (a) or (b) of the Regulations happen, the Buyer has the right to immediately terminate the Contract and clauses 11.5.1.2 to 11.5.1.7 apply.

## 11.5 What happens if the Contract ends

- 11.5.1 Where the Buyer terminates the Contract under clause 10.9, 11.4, 7.8.2, 28.4.2, or Paragraph **Error! Reference source not found.** of Part B Joint Controller Agreement or Annex 1 – Processing Personal Data (if used), all of the following apply:
- 11.5.1.1 the Supplier is responsible for the Buyer's reasonable costs of procuring replacement Deliverables for the rest of the term of the Contract;
  - 11.5.1.2 the Buyer's payment obligations under the terminated Contract stop immediately;
  - 11.5.1.3 accumulated rights of the Parties are not affected;
  - 11.5.1.4 the Supplier must promptly delete or return the Government Data except where required to retain copies by Law;
  - 11.5.1.5 the Supplier must promptly return any of the Buyer's property provided under the Contract;
  - 11.5.1.6 the Supplier must, at no cost to the Buyer, give all reasonable assistance to the Buyer and any incoming supplier and co-operate fully in the handover and re-procurement; and



11.5.1.7 the Supplier must repay to the Buyer all the Charges that it has been paid in advance for Deliverables that it has not provided as at the date of termination or expiry.

11.5.2 The following clauses survive the expiry or termination of the Contract: 1, 4.2.9, 5, 7, 8.4, 10, 11.5, 12, 14, 15, 16, 18, 19, 32.2.2, 36 and 37 and any clauses which are expressly or by implication intended to continue.

## **11.6 When the Supplier can end the Contract and what happens when the contract ends (Buyer and Supplier termination)**

11.6.1 The Supplier can issue a reminder notice if the Buyer does not pay an undisputed invoice on time. The Supplier can terminate the Contract if the Buyer fails to pay an undisputed invoiced sum due and worth over 10% of the total Contract value or £1,000, whichever is the lower, within 30 days of the date of the reminder notice.

11.6.2 Where the Buyer terminates the Contract in accordance with clause 11.3 or the Supplier terminates the Contract under clause 11.6 or 23.4:

11.6.2.1 the Buyer must promptly pay all outstanding charges incurred by the Supplier;

11.6.2.2 the Buyer must pay the Supplier reasonable committed and unavoidable losses as long as the Supplier provides a fully itemised and costed schedule with evidence - the maximum value of this payment is limited to the total sum payable to the Supplier if the Contract had not been terminated; and

11.6.2.3 clauses 11.5.1.2 to 11.5.1.7 apply.

11.6.3 The Supplier also has the right to terminate the Contract in accordance with Clauses 20.3 and 23.4.

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

11.7.1 Where the Buyer has the right to terminate the Contract it can terminate or suspend (for any period), all or part of it. If the Buyer suspends the Contract it can provide the Deliverables itself or buy them from a third party.

11.7.2 The Buyer can only partially terminate or suspend the Contract if the remaining parts of it can still be used to effectively deliver the intended purpose.

11.7.3 The Parties must agree (in accordance with clause 25) any necessary variation required by clause 11.7, but the Supplier may not either:

11.7.3.1 reject the variation; or

11.7.3.2 increase the Charges, except where the right to partial termination is under clause 11.3.



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- 11.7.4 The Buyer can still use other rights available, or subsequently available to it if it acts on its rights under clause 11.7.

## **12 HOW MUCH YOU CAN BE HELD RESPONSIBLE FOR**

- 12.1 Each Party's total aggregate liability under or in connection with the Contract (whether in tort, contract or otherwise) is no more than 125% of the Charges paid or payable to the Supplier.
- 12.2 No Party is liable to the other for:
- 12.2.1 any indirect losses; and/or
  - 12.2.2 loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect).
- 12.3 In spite of clause 12.1, neither Party limits or excludes any of the following:
- 12.3.1 its liability for death or personal injury caused by its negligence, or that of its employees, agents or Subcontractors;
  - 12.3.2 its liability for bribery or fraud or fraudulent misrepresentation by it or its employees; or
  - 12.3.3 any liability that cannot be excluded or limited by Law.
- 12.4 In spite of clause 12.1, the Supplier does not limit or exclude its liability for any indemnity given under clauses 8.4, 9.3.2, 10.6, or 32.2.2.
- 12.5 In spite of clause 12.1, the Buyer does not limit or exclude its liability for any indemnity given under clause 8.5.
- 12.6 Notwithstanding clause 12.1, but subject to clauses 12.1 and 12.3, the Supplier's total aggregate liability under clause 14.7.5 shall not exceed the Data Protection Liability Cap.
- 12.7 Each Party must use all reasonable endeavours to mitigate any loss or damage which it suffers under or in connection with the Contract, including any indemnities.
- 12.8 If more than one Supplier is party to the Contract, each Supplier Party is fully responsible for both their own liabilities and the liabilities of the other Suppliers.

## **13 OBEYING THE LAW**

- 13.1 The Supplier, in connection with provision of the Deliverables:
- 13.1.1 is expected to meet and have its Subcontractors meet the standards set out in the Supplier Code of Conduct:  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1163536/Supplier\\_Code\\_of\\_Conduct\\_v3.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1163536/Supplier_Code_of_Conduct_v3.pdf) as such Code of Conduct may be updated from time to time, and such other sustainability requirements as set out in the Order Form. The Buyer also expects to meet this Code of Conduct;



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- 13.1.2 must comply with the provisions of the Official Secrets Acts 1911 to 1989 and section 182 of the Finance Act 1989;
- 13.1.3 must support the Buyer in fulfilling its Public Sector Equality duty under section 149 of the Equality Act 2010;
- 13.1.4 must comply with the model contract terms contained in (a) to (m) of Annex C of the guidance to [PPN 02/23 \(Tackling Modern Slavery in Government Supply Chains\)](#),<sup>1</sup> as such clauses may be amended or updated from time to time; and
- 13.1.5 meet the applicable Government Buying Standards applicable to Deliverables which can be found online at: <https://www.gov.uk/government/collections/sustainable-procurement-the-government-buying-standards-gbs>, as updated from time to time.

- 13.2 The Supplier indemnifies the Buyer against any costs resulting from any default by the Supplier relating to any applicable Law to do with the Contract.
- 13.3 The Supplier must appoint a compliance officer who must be responsible for ensuring that the Supplier complies with Law, clause 13.1 and clauses 27 to 34.

#### **14 DATA PROTECTION AND SECURITY**

- 14.1 The Supplier must not remove any ownership or security notices in or relating to the Government Data.
- 14.2 The Supplier must make accessible back-ups of all Government Data, stored in an agreed off-site location and send the Buyer copies via secure encrypted method upon reasonable request.
- 14.3 The Supplier must ensure that any Supplier, Subcontractor, or Subprocessor system holding any Government Data, including back-up data, is a secure system that complies with the security requirements specified in the Order Form or otherwise in writing by the Buyer (where any such requirements have been provided).
- 14.4 If at any time the Supplier suspects or has reason to believe that the Government Data is corrupted, lost or sufficiently degraded, then the Supplier must immediately notify the Buyer and suggest remedial action.
- 14.5 If the Government Data is corrupted, lost or sufficiently degraded so as to be unusable the Buyer may either or both:
  - 14.5.1 tell the Supplier to restore or get restored Government Data as soon as practical but no later than 5 Working Days from the date that the Buyer receives notice, or the Supplier finds out about the issue, whichever is earlier; and/or
  - 14.5.2 restore the Government Data itself or using a third party.

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<sup>1</sup> <https://www.gov.uk/government/publications/ppn-0223-tackling-modern-slavery-in-government-supply-chains>



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- 14.6 The Supplier must pay each Party's reasonable costs of complying with clause 14.5 unless the Buyer is at fault.
- 14.7 The Supplier:
- 14.7.1 must provide the Buyer with all Government Data in an agreed format (provided it is secure and readable) within 10 Working Days of a written request;
  - 14.7.2 must have documented processes to guarantee prompt availability of Government Data if the Supplier stops trading;
  - 14.7.3 must securely destroy all storage media that has held Government Data at the end of life of that media using Good Industry Practice, other than in relation to Government Data which is owned or licenced by the Supplier or in respect of which the Parties are Independent Controllers or Joint Controllers;
  - 14.7.4 securely erase all Government Data and any copies it holds when asked to do so by the Buyer unless required by Law to retain it, other than in relation to Government Data which is owned or licenced by the Supplier or in respect of which the Parties are Independent Controllers or Joint Controllers; and
  - 14.7.5 indemnifies the Buyer against any and all losses incurred if the Supplier breaches clause 14 or any Data Protection Legislation.
- 14.8 The Parties acknowledge that for the purposes of the Data Protection Legislation, the nature of the activity carried out by each of them in relation to their respective obligations under the Contract dictates the status of each party under the DPA 2018. A Party may act as:
- 14.8.1 "Controller" in respect of the other Party who is "Processor";
  - 14.8.2 "Processor" in respect of the other Party who is "Controller";
  - 14.8.3 "Joint Controller" with the other Party;
  - 14.8.4 "Independent Controller" of the Personal Data where the other Party is also "Controller",
- in respect of certain Personal Data under the Contract and shall specify in Part A Authorised Processing Template of Annex 1 – Processing Personal Data which scenario they think shall apply in each situation.
- 14.9 Where one Party is Controller and the other Party its Processor**
- 14.9.1 Where a Party is a Processor, the only processing that the Processor is authorised to do is listed in Part A Authorised Processing Template of Annex 1 – Processing Personal Data by the Controller and may not be determined by the Processor. The term "processing" and any associated terms are to be read in accordance with Article 4 of the UK GDPR and EU GDPR (as applicable).
  - 14.9.2 The Processor must notify the Controller immediately if it thinks the Controller's instructions breach the Data Protection Legislation.



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- 14.9.3 The Processor must give all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment before starting any processing, which may include, at the discretion of the Controller:
- 14.9.3.1 a systematic description of the expected processing and its purpose;
  - 14.9.3.2 the necessity and proportionality of the processing operations;
  - 14.9.3.3 the risks to the rights and freedoms of Data Subjects; and
  - 14.9.3.4 the intended measures to address the risks, including safeguards, security measures and mechanisms to protect Personal Data.
- 14.9.4 The Processor must, in relation to any Personal Data processed under this Contract:
- 14.9.4.1 process that Personal Data only in accordance with Part A Authorised Processing Template of Annex 1 – Processing Personal Data unless the Processor is required to do otherwise by Law. If lawful to notify the Controller, the Processor must promptly notify the Controller if the Processor is otherwise required to process Personal Data by Law before processing it.
  - 14.9.4.2 put in place appropriate Protective Measures to protect against a Data Loss Event which must be approved by the Controller.
  - 14.9.4.3 Ensure that:
    - (a) the Processor Personnel do not process Personal Data except in accordance with this Contract (and in particular Part A Authorised Processing Template of Annex 1 – Processing Personal Data);
    - (b) it uses best endeavours to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
      - (i) are aware of and comply with the Processor's duties under this clause 14;
      - (ii) are subject to appropriate confidentiality undertakings with the Processor or any Subprocessor;
      - (iii) are informed of the confidential nature of the Personal Data and do not provide any of the Personal Data to any third party unless directed in writing to do so by the Controller or as otherwise allowed by the Contract; and
      - (iv) have undergone adequate training in the use, care, protection and handling of Personal Data.



- (c) the Processor must not transfer Personal Data outside of the UK and/or the EEA unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
- (d) the transfer is in accordance with Article 45 of the UK GDPR (or section 74A of DPA 2018) and/or the transfer is in accordance with Article 45 of the EU GDPR (where applicable); or
- (e) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with UK GDPR Article 46 or section 75 of the DPA 2018) and/or the transfer is in accordance with Article 46 of the EU GDPR (where applicable) as determined by the Controller which could include relevant parties entering into:
  - (i) where the transfer is subject to UK GDPR:
    - (A) the International Data Transfer Agreement (the “**IDTA**”), as published by the Information Commissioner's Office from time to time under section 119A(1) of the DPA 2018 as well as any additional measures determined by the Controller;
    - (B) the European Commission's Standard Contractual Clauses per decision 2021/914/EU or such updated version of such Standard Contractual Clauses as are published by the European Commission from time to time (“**EU SCCs**”), together with the UK International Data Transfer Agreement Addendum to the EU SCCs (the “**Addendum**”) as published by the Information Commissioner's Office from time to time; and/or
  - (ii) where the transfer is subject to EU GDPR, the EU SCCs, as well as any additional measures determined by the Controller being implemented by the importing party;
- (f) the Data Subject has enforceable rights and effective legal remedies when transferred;
- (g) the Processor meets its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
- (h) the Processor complies with the Controller's reasonable prior instructions about the processing of the Personal Data.



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- 14.9.5 The Processor must at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Contract unless the Processor is required by Law to retain the Personal Data.
- 14.9.6 The Processor must notify the Controller immediately if it:
  - 14.9.6.1 receives a Data Subject Access Request (or purported Data Subject Access Request);
  - 14.9.6.2 receives a request to rectify, block or erase any Personal Data;
  - 14.9.6.3 receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
  - 14.9.6.4 receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Contract;
  - 14.9.6.5 receives a request from any third Party for disclosure of Personal Data where compliance with the request is required or claims to be required by Law; and
  - 14.9.6.6 becomes aware of a Data Loss Event.
- 14.9.7 Any requirement to notify under clause 14.9.6 includes the provision of further information to the Controller in stages as details become available.
- 14.9.8 The Processor must promptly provide the Controller with full assistance in relation to any Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 14.9.6. This includes giving the Controller:
  - 14.9.8.1 full details and copies of the complaint, communication or request;
  - 14.9.8.2 reasonably requested assistance so that it can comply with a Data Subject Access Request within the relevant timescales in the Data Protection Legislation;
  - 14.9.8.3 any Personal Data it holds in relation to a Data Subject on request;
  - 14.9.8.4 assistance that it requests following any Data Loss Event; and
  - 14.9.8.5 assistance that it requests relating to a consultation with, or request from, the Information Commissioner's Office or any other regulatory authority.
- 14.9.9 The Processor must maintain full, accurate records and information to show it complies with this clause 14. This requirement does not apply where the Processor employs fewer than 250 staff, unless either the Controller determines that the processing:
  - 14.9.9.1 is not occasional;



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- 14.9.9.2 includes special categories of data as referred to in Article 9(1) of the UK GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the UK GDPR; or
  - 14.9.9.3 is likely to result in a risk to the rights and freedoms of Data Subjects.
- 14.9.10 The Parties shall designate a Data Protection Officer if required by the Data Protection Legislation.
- 14.9.11 Before allowing any Subprocessor to process any Personal Data, the Processor must:
  - 14.9.11.1 notify the Controller in writing of the intended Subprocessor and processing;
  - 14.9.11.2 obtain the written consent of the Controller;
  - 14.9.11.3 enter into a written contract with the Subprocessor so that this clause 14 applies to the Subprocessor; and
  - 14.9.11.4 provide the Controller with any information about the Subprocessor that the Controller reasonably requires.
- 14.9.12 The Processor remains fully liable for all acts or omissions of any Subprocessor.
- 14.9.13 The Parties agree to take account of any guidance issued by the Information Commissioner's Office or any other regulatory authority.

#### **14.10 Joint Controllers of Personal Data**

- 14.10.1 In the event that the Parties are Joint Controllers in respect of Personal Data under the Contract, the Parties shall implement paragraphs that are necessary to comply with UK GDPR Article 26 based on the terms set out in Part B Joint Controller Agreement of Annex 1 – Processing Personal Data.

#### **14.11 Independent Controllers of Personal Data**

- 14.11.1 In the event that the Parties are Independent Controllers in respect of Personal Data under the Contract, the terms set out in Part C Independent Controllers of Annex 1 – Processing Personal Data shall apply to this Contract.

### **15 WHAT YOU MUST KEEP CONFIDENTIAL**

- 15.1 Each Party must:
  - 15.1.1 keep all Confidential Information it receives confidential and secure;
  - 15.1.2 not disclose, use or exploit the disclosing Party's Confidential Information without the disclosing Party's prior written consent, except for the purposes anticipated under the Contract; and
  - 15.1.3 immediately notify the disclosing Party if it suspects unauthorised access, copying, use or disclosure of the Confidential Information.



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- 15.2 In spite of clause 15.1, a Party may disclose Confidential Information which it receives from the disclosing Party in any of the following instances:
- 15.2.1 where disclosure is required by applicable Law if the recipient Party notifies the disclosing Party of the full circumstances, the affected Confidential Information and extent of the disclosure;
  - 15.2.2 if the recipient Party already had the information without obligation of confidentiality before it was disclosed by the disclosing Party;
  - 15.2.3 if the information was given to it by a third party without obligation of confidentiality;
  - 15.2.4 if the information was in the public domain at the time of the disclosure;
  - 15.2.5 if the information was independently developed without access to the disclosing Party's Confidential Information;
  - 15.2.6 on a confidential basis, to its auditors or for the purposes of regulatory requirements;
  - 15.2.7 on a confidential basis, to its professional advisers on a need-to-know basis; and
  - 15.2.8 to the Serious Fraud Office where the recipient Party has reasonable grounds to believe that the disclosing Party is involved in activity that may be a criminal offence under the Bribery Act 2010.
- 15.3 The Supplier may disclose Confidential Information on a confidential basis to Supplier Staff on a need-to-know basis to allow the Supplier to meet its obligations under the Contract. The Supplier shall remain responsible at all times for compliance with the confidentiality obligations set out in this Contract by the persons to whom disclosure has been made.
- 15.4 The Buyer may disclose Confidential Information in any of the following cases:
- 15.4.1 on a confidential basis to the employees, agents, consultants and contractors of the Buyer;
  - 15.4.2 on a confidential basis to any Crown Body, any successor body to a Crown Body or any company that the Buyer transfers or proposes to transfer all or any part of its business to;
  - 15.4.3 if the Buyer (acting reasonably) considers disclosure necessary or appropriate to carry out its public functions;
  - 15.4.4 where requested by Parliament; and
  - 15.4.5 under clauses 5.7 and 16.
- 15.5 For the purposes of clauses 15.2 to 15.4 references to disclosure on a confidential basis means disclosure under a confidentiality agreement or arrangement including terms as strict as those required in clause 15.
- 15.6 Transparency Information, and Information which is exempt from disclosure by clause 16 is not Confidential Information.



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- 15.7 The Supplier must not make any press announcement or publicise the Contract or any part of it in any way, without the prior written consent of the Buyer and must take all reasonable endeavours to ensure that Supplier Staff do not either.

## **16 WHEN YOU CAN SHARE INFORMATION**

- 16.1 The Supplier must tell the Buyer within 48 hours if it receives a Request For Information.
- 16.2 In accordance with a reasonable timetable and in any event within 5 Working Days of a request from the Buyer, the Supplier must give the Buyer full co-operation and information needed so the Buyer can:
- 16.2.1 comply with any Request For Information
  - 16.2.2 if the Contract has a value over the relevant threshold in Part 2 of the Regulations, comply with any of its obligations in relation to publishing Transparency Information.
- 16.3 To the extent that it is allowed and practical to do so, the Buyer will use reasonable endeavours to notify the Supplier of a Request For Information and may talk to the Supplier to help it decide whether to publish information under clause 16. However, the extent, content and format of the disclosure is the Buyer's decision in its absolute discretion.

## **17 INSURANCE**

- 17.1 The Supplier shall ensure it has adequate insurance cover for this Contract.

## **18 INVALID PARTS OF THE CONTRACT**

- 18.1 If any provision or part-provision of this Contract is or becomes invalid, illegal or unenforceable for any reason, such provision or part-provision shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Contract. The provisions incorporated into the Contract are the entire agreement between the Parties. The Contract replaces all previous statements, or agreements whether written or oral. No other provisions apply.

## **19 OTHER PEOPLE'S RIGHTS IN THE CONTRACT**

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

## **20 CIRCUMSTANCES BEYOND YOUR CONTROL**

- 20.1 Any Party affected by a Force Majeure Event is excused from performing its obligations under the Contract while the inability to perform continues, if it both:
- 20.1.1 provides written notice to the other Party; and



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20.1.2 uses all reasonable measures practical to reduce the impact of the Force Majeure Event.

20.2 Any failure or delay by the Supplier to perform its obligations under the Contract that is due to a failure or delay by an agent, Subcontractor and/or Supplier Staff will only be considered a Force Majeure Event if that third party is itself prevented from complying with an obligation to the Supplier due to a Force Majeure Event.

20.3 Either Party can partially or fully terminate the Contract if the provision of the Deliverables is materially affected by a Force Majeure Event which lasts for 90 days continuously and the consequences of termination in Clauses 11.5.1.2 to 11.5.1.7 shall apply.

20.4 Where a Party terminates under clause 20.3:

20.4.1 each Party must cover its own losses; and

20.4.2 clauses 11.5.1.2 to 11.5.1.7 apply.

## **21 RELATIONSHIPS CREATED BY THE CONTRACT**

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

## **22 GIVING UP CONTRACT RIGHTS**

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

## **23 TRANSFERRING RESPONSIBILITIES**

23.1 The Supplier cannot assign, novate or in any other way dispose of the Contract or any part of it without the Buyer's written consent.

23.2 The Buyer can assign, novate or transfer its Contract or any part of it to any Crown Body, public or private sector body which performs the functions of the Buyer.

23.3 When the Buyer uses its rights under clause 23.2 the Supplier must enter into a novation agreement in the form that the Buyer specifies.

23.4 The Supplier can terminate the Contract novated under clause 23.2 to a private sector body that is experiencing an Insolvency Event.

23.5 The Supplier remains responsible for all acts and omissions of the Supplier Staff as if they were its own.



## **24 SUPPLY CHAIN**

- 24.1 The Supplier cannot sub-contract the Contract or any part of it without the Buyer's prior written consent. The Supplier shall provide the Buyer with the name of any Subcontractor the Supplier proposes to engage for the purposes of the Contract. The decision of the Buyer to consent or not will not be unreasonably withheld or delayed. If the Buyer does not communicate a decision to the Supplier within 10 Working Days of the request for consent then its consent will be deemed to have been given. The Buyer may reasonably withhold its consent to the appointment of a Subcontractor if it considers that:
- 24.1.1 the appointment of a proposed Subcontractor may prejudice the provision of the Deliverables or may be contrary to its interests;
  - 24.1.2 the proposed Subcontractor is unreliable and/or has not provided reliable goods and or reasonable services to its other customers; and/or
  - 24.1.3 the proposed Subcontractor employs unfit persons.
- 24.2 If the Buyer asks the Supplier for details about Subcontractors, the Supplier must provide details of all such Subcontractors at all levels of the supply chain including:
- 24.2.1 their name;
  - 24.2.2 the scope of their appointment; and
  - 24.2.3 the duration of their appointment.
- 24.3 The Supplier must exercise due skill and care when it selects and appoints Subcontractors.
- 24.4 For Sub-Contracts in the Supplier's supply chain entered into wholly or substantially for the purpose of performing or contributing to the performance of the whole or any part of this Contract:
- 24.4.1 where such Sub-Contracts are entered into after the Start Date, the Supplier will ensure that they all contain provisions that; or
  - 24.4.2 where such Sub-Contracts are entered into before the Start Date, the Supplier will take all reasonable endeavours to ensure that they all contain provisions that:
    - 24.4.2.1 allow the Supplier to terminate the Sub-Contract if the Subcontractor fails to comply with its obligations in respect of environmental, social, equality or employment Law;
    - 24.4.2.2 require the Supplier to pay all Subcontractors in full, within 30 days of receiving a valid, undisputed invoice; and
    - 24.4.2.3 allow the Buyer to publish the details of the late payment or non-payment if this 30-day limit is exceeded.
- 24.5 At the Buyer's request, the Supplier must terminate any Sub-Contracts in any of the following events:



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- 24.5.1 there is a change of control within the meaning of Section 450 of the Corporation Tax Act 2010 of a Subcontractor which isn't pre-approved by the Buyer in writing;
- 24.5.2 the acts or omissions of the Subcontractor have caused or materially contributed to a right of termination under Clause 11.4;
- 24.5.3 a Subcontractor or its Affiliates embarrasses or brings into disrepute or diminishes the public trust in the Buyer;
- 24.5.4 the Subcontractor fails to comply with its obligations in respect of environmental, social, equality or employment Law; and/or
- 24.5.5 the Buyer has found grounds to exclude the Subcontractor in accordance with Regulation 57 of the Regulations.

24.6 The Supplier is responsible for all acts and omissions of its Subcontractors and those employed or engaged by them as if they were its own.

## **25 CHANGING THE CONTRACT**

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

## **26 HOW TO COMMUNICATE ABOUT THE CONTRACT**

- 26.1 All notices under the Contract must be in writing and are considered effective on the Working Day of delivery as long as they're delivered before 5:00pm on a Working Day. Otherwise the notice is effective on the next Working Day. An email is effective at 9am on the first Working Day after sending unless an error message is received.
- 26.2 Notices to the Buyer or Supplier must be sent to their address or email address in the Order Form.
- 26.3 This clause does not apply to the service of legal proceedings or any documents in any legal action, arbitration or dispute resolution.

## **27 DEALING WITH CLAIMS**

27.1 If a Beneficiary becomes aware of any Claim, then it must notify the Indemnifier as soon as reasonably practical.

27.2 at the Indemnifier's cost the Beneficiary must:

- 27.2.1 allow the Indemnifier to conduct all negotiations and proceedings to do with a Claim;
- 27.2.2 give the Indemnifier reasonable assistance with the Claim if requested; and
- 27.2.3 not make admissions about the Claim without the prior written consent of the Indemnifier which cannot be unreasonably withheld or delayed.



27.3 The Beneficiary must:

- 27.3.1 consider and defend the Claim diligently and in a way that does not damage the Beneficiary's reputation; and
- 27.3.2 not settle or compromise any Claim without the Beneficiary's prior written consent which it must not unreasonably withhold or delay.

## **28 PREVENTING FRAUD, BRIBERY AND CORRUPTION**

28.1 The Supplier shall not:

- 28.1.1 commit any criminal offence referred to in 57(1) and 57(2) of the Regulations; or
- 28.1.2 offer, give, or agree to give anything, to any person (whether working for or engaged by the Buyer or any other public body) an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of the Contract or any other public function or for showing or refraining from showing favour or disfavour to any person in relation to the Contract or any other public function.

28.2 The Supplier shall take all reasonable endeavours (including creating, maintaining and enforcing adequate policies, procedures and records), in accordance with Good Industry Practice, to prevent any matters referred to in clause 28.1 and any fraud by the Supplier Staff and the Supplier (including its shareholders, members and directors) in connection with the Contract and shall notify the Buyer immediately if it has reason to suspect that any such matters have occurred or is occurring or is likely to occur.

28.3 If the Supplier notifies the Buyer as required by clause 28.2, the Supplier must respond promptly to their further enquiries, co-operate with any investigation and allow the Audit of any books, records and relevant documentation.

28.4 If the Supplier or the Supplier Staff engages in conduct prohibited by clause 28.1 or commits fraud in relation to the Contract or any other contract with the Crown (including the Buyer) the Buyer may:

- 28.4.1 require the Supplier to remove any Supplier Staff from providing the Deliverables if their acts or omissions have caused the default; and
- 28.4.2 immediately terminate the Contract and the consequences of termination in Clause 11.5.1 shall apply.

## **29 EQUALITY, DIVERSITY AND HUMAN RIGHTS**

29.1 The Supplier must follow all applicable employment and equality Law when they perform their obligations under the Contract, including:



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29.1.1 protections against discrimination on the grounds of race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise; and

29.1.2 any other requirements and instructions which the Buyer reasonably imposes related to equality Law.

29.2 The Supplier must use all reasonable endeavours, and inform the Buyer of the steps taken, to prevent anything that is considered to be unlawful discrimination by any court or tribunal, or the Equality and Human Rights Commission (or any successor organisation) when working on the Contract.

### **30 HEALTH AND SAFETY**

30.1 The Supplier must perform its obligations meeting the requirements of:

30.1.1 all applicable Law regarding health and safety; and

30.1.2 the Buyer's current health and safety policy while at the Buyer's premises, as provided to the Supplier.

30.2 The Supplier and the Buyer must as soon as possible notify the other of any health and safety incidents or material hazards they're aware of at the Buyer premises that relate to the performance of the Contract.

### **31 ENVIRONMENT AND SUSTAINABILITY**

31.1 In performing its obligations under the Contract, the Supplier shall, to the reasonable satisfaction of the Buyer:

31.1.1 meet, in all material respects, the requirements of all applicable Laws regarding the environment; and

31.1.2 comply with its obligations under the Buyer's current environmental policy, which the Buyer must provide, and make Supplier Staff aware of such policy.

### **32 TAX**

32.1 The Supplier must not breach any tax or social security obligations and must enter into a binding agreement to pay any late contributions due, including where applicable, any interest or any fines. The Buyer cannot terminate the Contract where the Supplier has not paid a minor tax or social security contribution.

32.2 Where the Supplier or any Supplier Staff are liable to be taxed or to pay National Insurance contributions in the UK relating to payment received under the Contract, the Supplier must both:



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32.2.1 comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax, the Social Security Contributions and Benefits Act 1992 (including IR35) and National Insurance contributions; and

32.2.2 indemnify the Buyer against any Income Tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made during or after the Term in connection with the provision of the Deliverables by the Supplier or any of the Supplier Staff.

32.3 If any of the Supplier Staff are Workers who receive payment relating to the Deliverables, then the Supplier must ensure that its contract with the Worker contains requirements that:

32.3.1 the Buyer may, at any time during the term of the Contract, request that the Worker provides information which demonstrates they comply with clause 32.2, or why those requirements do not apply, the Buyer can specify the information the Worker must provide and the deadline for responding;

32.3.2 the Worker's contract may be terminated at the Buyer's request if the Worker fails to provide the information requested by the Buyer within the time specified by the Buyer;

32.3.3 the Worker's contract may be terminated at the Buyer's request if the Worker provides information which the Buyer considers isn't good enough to demonstrate how it complies with clause 32.2 or confirms that the Worker is not complying with those requirements; and

32.3.4 the Buyer may supply any information they receive from the Worker to HMRC for revenue collection and management.

### **33 CONFLICT OF INTEREST**

33.1 The Supplier must take action to ensure that neither the Supplier nor the Supplier Staff are placed in the position of an actual, potential or perceived Conflict of Interest.

33.2 The Supplier must promptly notify and provide details to the Buyer if an actual, potential or perceived Conflict of Interest happens or is expected to happen.

33.3 The Buyer will consider whether there are any appropriate measures that can be put in place to remedy an actual, perceived or potential Conflict of Interest. If, in the reasonable opinion of the Buyer, such measures do not or will not resolve an actual or potential conflict of interest, the Buyer may terminate the Contract immediately by giving notice in writing to the Supplier where there is or may be an actual or potential Conflict of Interest and Clauses 11.5.1.2 to 11.5.1.7 shall apply.

### **34 REPORTING A BREACH OF THE CONTRACT**

34.1 As soon as it is aware of it the Supplier and Supplier Staff must report to the Buyer any actual or suspected breach of Law, clause 13.1, or clauses 27 to 33.



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- 34.2 The Supplier must not retaliate against any of the Supplier Staff who in good faith reports a breach listed in clause 34.1 to the Buyer or a Prescribed Person.

### **35 FURTHER ASSURANCES**

- 35.1 Each Party will, at the request and cost of the other Party, do all things which may be reasonably necessary to give effect to the meaning of this Contract.

### **36 RESOLVING DISPUTES**

- 36.1 If there is a dispute between the Parties, their senior representatives who have authority to settle the dispute will, within 28 days of a written request from the other Party, meet in good faith to resolve the dispute by commercial negotiation.
- 36.2 If the dispute is not resolved at that meeting, the Parties can attempt to settle it by mediation using the Centre for Effective Dispute Resolution (“CEDR”) Model Mediation Procedure current at the time of the dispute. If the Parties cannot agree on a mediator, the mediator will be nominated by CEDR. If either Party does not wish to use, or continue to use mediation, or mediation does not resolve the dispute, the dispute must be resolved using clauses 36.3 to 36.5.
- 36.3 Unless the Buyer refers the dispute to arbitration using clause 36.4, the Parties irrevocably agree that the courts of England and Wales have exclusive jurisdiction. :
- 36.4 The Supplier agrees that the Buyer has the exclusive right to refer any dispute to be finally resolved by arbitration under the London Court of International Arbitration Rules current at the time of the dispute. There will be only one arbitrator. The seat or legal place of the arbitration will be London and the proceedings will be in English.
- 36.5 The Buyer has the right to refer a dispute to arbitration even if the Supplier has started or has attempted to start court proceedings under clause 36.3, unless the Buyer has agreed to the court proceedings or participated in them. Even if court proceedings have started, the Parties must do everything necessary to ensure that the court proceedings are stayed in favour of any arbitration proceedings if they are started under clause 36.4.
- 36.6 The Supplier cannot suspend the performance of the Contract during any dispute.

### **37 WHICH LAW APPLIES**

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



## V. Annex 1 – Processing Personal Data

### Part A Authorised Processing Template

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

[REDACTED]

[REDACTED]

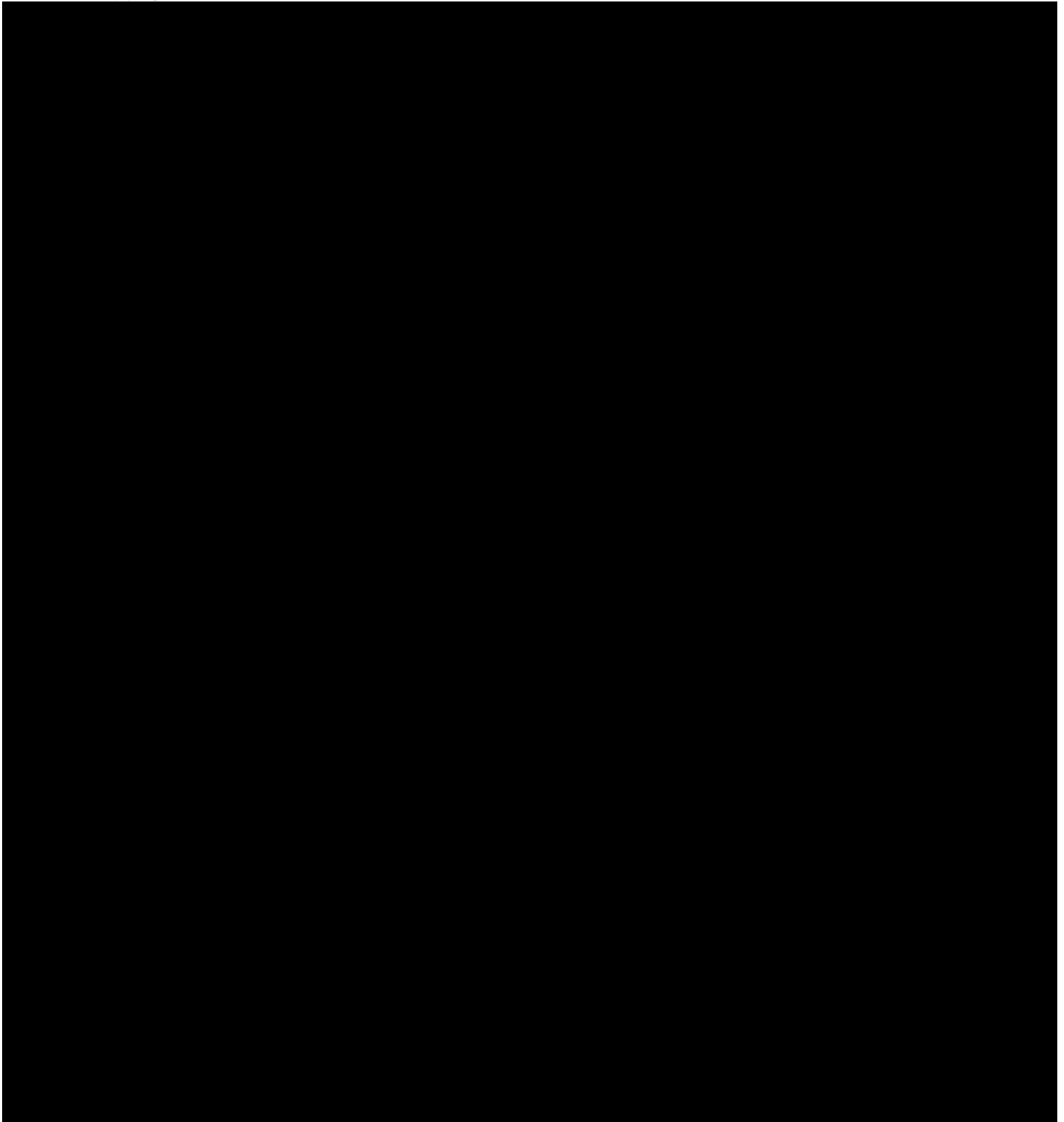
[REDACTED]

The Processor shall comply with any further written instructions with respect to processing by the Controller.

Any such further instructions shall be incorporated into this Annex.

Description of authorised processing	Details
Subject matter of the processing	Subscription with Department for Energy Security, and Net Zero with Cornwall Insights
Duration of the processing	24 months
Nature and purposes of the processing	Personal data within a unique identifier to allow content provision within their platform.

[REDACTED]



Plan for return and destruction of the data once the processing is complete UNLESS requirement under law to preserve that type of data

Cornwall Insights have provided a copy of their data retention policy, which complies with UK GDPR. It includes under section 7 data retention the following: “as required by law, the company shall not retain any personal data for any longer than is necessary in light of the purpose(s) for which that data is collected, held, and processed. Full document is available upon request.



Protective Measures that the Supplier and, where applicable, its Subcontractors have implemented to protect Personal Data processed under this Contract against a breach of security (insofar as that breach of security relates to data) or a Data Loss Event

Cornwall Insights have achieved Cyber essentials plus certification (available on request).

## **Part B    Joint Controller Agreement**

Not Used

## **Part C    Independent Controllers**

Not Used



## **VI. Annex 2 – Specification**

DESNZ are procuring a subscription service for energy market insights and industry expertise from Cornwall Insights to support the development of policy within the department. This subscription service will provide the department with up to date information on the following areas relating to energy markets:

- a) weekly and daily news service on developments in the market
- b) Non-domestic supplier insights, business market share reporting, and SME pricing.
- c) Insights on low carbon transport (specifically electric vehicles)
- d) Domestic Supplier insights, tariff reports, and market share reporting.
- e) A new service related to connect home insights (to be developed with input from DESNZ colleagues)



## **VII.        Annex 3 – Charges**

Subscription charges: £76,500 ex-VAT (per year)

## Cornwall Insight Limited

### Subscriptions – Terms and Conditions

These Terms and Conditions apply to all subscriptions provided, and all publications published, by Cornwall Insight.

#### 1. INTERPRETATION

The following definitions and rules of interpretation apply to these Conditions.

##### 1.1 Definitions:

<b>“Affiliates”</b>	an undertaking which directly or indirectly Controls, or is Controlled by the Subscriber; and (b) a subsidiary undertaking or parent undertaking (each as defined in section 1162 Companies Act 2006) of the Subscriber.	<b>“Digital Subscription Services”:</b>	those Subscription Services distributed or made available by Cornwall Insight to the Subscriber which may be accessed, or interacted with or formatted (in such manner permitted by Cornwall Insight) by the Subscriber through the Portal from time to time as part of the Subscription.
<b>“Agreed Purposes”:</b>	the supply of the Subscription Services by Cornwall Insight to the Subscriber in accordance with the Engagement Letter and these Conditions.	<b>“Engagement Letter”:</b>	the letter which sets out the Subscription Services which are to be provided as part of the Subscription, and which will be provided in writing by Cornwall Insight to the Subscriber.
<b>“Analogue Products”:</b>	those Subscription Services issued or made available by Cornwall Insight to the Subscriber in static or non-editable format from time to time as part of the Subscription, whether through the Portal or otherwise.	<b>“EU GDPR”:</b>	the General Data Protection Regulation ((EU) 2016/679).
<b>“Annual Subscription Fee”:</b>	the annual subscription fee notified by Cornwall Insight to the Subscriber in advance of the Subscription Period, and payable in accordance with clause 5 or as otherwise agreed in writing between the parties during the course of the Contract.	<b>“Force Event”:</b>	<b>Majeure</b> means any circumstance not within a party's reasonable control including, without limitation: (a) acts of God, flood, drought, earthquake or other natural disaster; (b) epidemic or pandemic; (c) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations; (d) nuclear, chemical or biological contamination or sonic boom; (e) any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent; (f) collapse of buildings, fire, explosion or accident; (g) any labour or trade dispute, strikes, industrial action or lockouts; (h) non-performance by suppliers, subcontractors, agents or representatives; and (i) interruption or failure of utility service.
<b>“Authorised Users”:</b>	those employees, agents, and independent contractors of the Subscriber and, subject to clause 4.5, its Affiliates who are authorised by Cornwall Insight to use the Subscription Service.	<b>“Further Subscription Period”:</b>	has the meaning given in clause 5.2.
<b>“Background IP”</b>	any Intellectual Property Rights that (a) are owned by Cornwall Insight or used by Cornwall Insight under a licence from a third party; and/or (b) are or have been developed or created by Cornwall Insight or a third party without contemplation of providing the Subscription to the Subscriber under this Contract, including for the avoidance of doubt, all Intellectual Property Rights in the Training Services, and the Training Programmes.	<b>“Initial Subscription Period”:</b>	has the meaning given in clause 5.1.
<b>“Business Day”:</b>	a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.	<b>“Intellectual Property Rights”:</b>	patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
<b>“Commencement Date”:</b>	has the meaning given to it in clause 2.3.	<b>“Order”:</b>	the Subscriber's order for the Subscription, as is set out in the Subscriber's written acceptance of Cornwall Insight's Engagement Letter signed by the Subscriber, or as is otherwise set out in clause 2.2.
<b>“Conditions”:</b>	these terms and conditions as amended from time to time in accordance with clause 15.4.	<b>“Permitted Recipients”:</b>	the parties to this Contract, the employees of each party and any third parties engaged to perform obligations in connection with this Contract.
<b>“Contract”:</b>	the contract between Cornwall Insight and the Subscriber for the supply of the Subscription Services in accordance with the Engagement Letter and these Conditions.		
<b>“Control”</b>	has the meaning given to it in section 1124 of the Corporation Tax Act 2010 (and Controls and Controlled by shall be construed accordingly).		
<b>“Controller”, “Personal Data”, and “Personal Data Breach”:</b>	has the meaning given to it in the Data Protection Legislation.		
<b>“Cornwall Insight”:</b>	Cornwall Insight Limited, a company registered in England and Wales with company number 05379768.		
<b>“Data Protection Legislation”:</b>	(a) to the extent that the UK GDPR applies, the law of the United Kingdom or of a part of the United Kingdom, which relates to the protection of Personal Data; or		



<b>"Portal"</b>	the URL or website designated by Cornwall Insight from time to time, to the Subscriber for the purpose of accessing the Digital Subscription Services.	2.3
<b>"Shared Personal Data"</b> :	the Personal Data to be shared between the parties under this Contract.	
<b>"Subscriber"</b> :	the person, firm or company who purchases a Subscription from Cornwall Insight in accordance with the Engagement Letter and these Conditions, as more particularly set out in the Engagement Letter.	2.4
<b>"Subscription"</b> :	the annual subscription for the Subscription Services supplied by Cornwall Insight to the Subscriber, as set out in the Engagement Letter and in accordance with these Conditions.	2.5
<b>"Subscription Period"</b> :	the Initial Subscription Period and any Further Subscription Period.	
<b>"Subscription Services"</b> :	the Analogue Products, the Digital Subscription Services and/or the Training Services to be provided to the Subscriber, as is set out in the Engagement Letter.	2.6
<b>"Training Credits"</b>	the number of credits set out in the Engagement Letter which the Subscriber has been allocated annually as part of its Subscription (or the balance thereof during the Initial Subscription Period or each subsequent Further Subscription Period), to use towards booking individuals onto Training Programmes.	3.
<b>"Training Programmes"</b>	means the online learning and development classes, training sessions, seminars, programmes, tutorials or other sessions provided by Cornwall Insight to its customers from time to time.	4.
<b>"Training Services"</b>	means the Training Programmes to be provided by Cornwall Insight to the attendees designated by the Subscriber from time to time, where these are included as part of the Subscription, in accordance with the Engagement Letter.	4.1
<b>"Trial Products"</b> :	has the meaning given in clause 6.2.3.	4.2
<b>"UK GDPR"</b> :	has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.	

### 1.2 Interpretation:

- 1.2.1 A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.
- 1.2.2 Any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression, shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.2.3 A reference to **writing** or **written** includes email.
- 1.2.4 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.2.5 A reference to a party includes its successors and permitted assigns.

### 2. COMMENCEMENT AND BASIS OF CONTRACT

- 2.1 Cornwall Insight shall provide the Subscriber with the Engagement Letter, which shall detail the Subscription Services which will comprise the Subscriber's Subscription, together with these Conditions.
- 2.2 If the Subscriber wishes to proceed on the basis of the Engagement Letter and these Conditions, the Subscriber should confirm this to Cornwall Insight in writing, by signing and dating the Engagement Letter, and returning a signed copy to Cornwall Insight. This confirmation shall be the Subscriber's Order. The Order constitutes an offer by the Subscriber to subscribe for and purchase the

Subscription, in accordance with the terms set out within the Engagement Letter and these Conditions.

The Order shall only be deemed to be accepted when Cornwall Insight:

- 2.3.1 issues written acknowledgment of the Engagement Letter signed by the Subscriber; or
- 2.3.2 begins or undertakes any act consistent with the provision of the Subscription,

at which point and on which date the Contract shall come into existence (**Commencement Date**).

Any images, descriptions, demonstrations, Trial Products or advertising issued by Cornwall Insight are issued or published for the sole purpose of giving an approximate idea of what a Subscriber's Subscription, or what any Trial Products, may offer to the Subscriber. They shall not form part of the Contract, or have any contractual force.

These Conditions, and any terms set out in the Engagement Letter apply to the Contract to the exclusion of any other terms that the Subscriber seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing, including in particular any terms which the Subscriber seeks to impose in any purchase order or any similar documents.

In the event of any conflict or ambiguity between these Conditions and the Engagement Letter, the Engagement Letter shall take precedence over these Conditions to the extent required for such conflict or ambiguity.

### 3. QUOTATIONS

Neither the Engagement Letter, nor any quotation or specification for a Subscription shall constitute an offer, and Cornwall Insight may withdraw or amend any Engagement Letter given to a potential Subscriber at any time prior to Cornwall Insight accepting an Order without any liability to the Subscriber.

### 4. SUBSCRIPTION AND AUTHORISED USERS

Subject to the Subscriber purchasing a Subscription in accordance with the Engagement Letter and these Conditions, Cornwall Insight hereby grants to the Subscriber a non-exclusive, non-transferable right and licence, without the right to grant sub-licences, to permit the Subscriber and its Authorised Users to use the Subscription, and all Subscription Services therein contained during the Term.

In relation to the Authorised Users, the Subscriber undertakes that:

- 4.2.1 each Authorised User will use only their own login details to access the Subscription, and the Subscriber will not allow such details to be used by anyone other than the Authorised User;
- 4.2.2 each Authorised User will keep a secure and confidential password for their use of the Subscription, which will be frequently changed;
- 4.2.3 each Authorised User shall at all times use the Subscription, and each part of the Subscription Services, in strict accordance with any fair usage requirements or policy which are notified by Cornwall Insight to the Subscriber from time to time, whether in writing or otherwise;
- 4.2.4 it will permit Cornwall Insight or its designated auditor to audit the Subscription as it reasonably requires to establish the Subscriber's compliance with the terms of the Contract; and
- 4.2.5 if any of the audits referred to in clause 4.2.4 reveal that any access details have been provided to or used by any individual who is not an Authorised User, then without prejudice to Cornwall Insight's other rights, the Subscriber shall promptly disable such passwords and neither the Subscriber, nor Cornwall Insight shall issue any new passwords to any such individual.

The Subscriber shall not, and shall procure that each of its Authorised Users shall not, access, store, distribute or transmit any viruses, or any material during the Subscription Period that is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing, discriminatory, or racially or ethnically or otherwise offensive or is otherwise (in the reasonable opinion of Cornwall Insight) inappropriate.

The Subscriber shall not, and shall procure that its Authorised



Users shall not:

- 4.4.1 except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under this Contract:
  - (a) attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit or distribute all or any portion of the Subscription Services in any form or media or by any means; or
  - (b) attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human perceivable form all or any part of any Subscription Services or the Portal;
- 4.4.2 access all or any part of the Subscription and/or Subscription Services in order to provide services to third parties, or build a product or service which competes with the Subscription (or any part thereof) or any of the Subscription Services; or
- 4.4.3 licence, sell, rent, lease, transfer, assign, distribute, display, disclose or otherwise commercially exploit, or otherwise make or assist with making the Subscription available to third parties except the Authorised Users and its Affiliates; or
- 4.4.4 do or omit to do anything which may adversely affect the stability, functionality or compatibility of the Subscription Services and/or use by other customers of Cornwall Insight of any services;
- 4.4.5 attempt to obtain access to the Subscription or any of the Subscription Services, other than as provided for under this clause **Error! Reference source not found.**; or
- 4.4.6 introduce or permit the introduction of any virus, trojan or other malware into Cornwall Insight's network and information systems.
- 4.5 The Subscriber may make the Subscription Services available to its Affiliates, on the basis that:
  - 4.5.1 the Subscriber procures that each Affiliate complies with all terms of the Contract as if they were a party; and
  - 4.5.2 the Subscriber shall remain responsible for all acts and omissions of each Affiliate as if they were the actions and/or omissions of the Subscriber.
- 4.6 The Subscriber shall use all reasonable endeavours to prevent unauthorised access to, or use of the Subscription and shall promptly notify Cornwall Insight of any such event.
- 4.7 Cornwall Insight reserves the right, without liability or prejudice to its other rights, to disable the Subscriber's access, and that of its Authorised Users, to the Subscription, or any other services, in the event of a breach of the provisions of this clause 4.
- 4.8 If the Subscriber wishes to disclose the Subscription Services with any other third parties, subject to clause 4.5, the Subscriber can only do so with Cornwall Insight's written consent and any such disclosure shall be subject to a separate written agreement between the parties.
- 4.9 If the Subscriber wishes to purchase additional services at any time during the Initial Subscription Period, then the parties shall enter into a supplementary agreement in respect of those additional, which shall be subject to these Conditions. The Subscriber shall not be entitled to vary the Subscription Services during the Initial Subscription Period.

## 5. CHARGES, PAYMENT AND SUBSCRIPTION PERIOD

- 5.1 The Subscriber shall pay for the Subscription annually in advance by payment of the Annual Subscription Fee, at which point the Subscription shall continue for one year from the date of payment ("Initial Subscription Period"). Any Digital Subscription Services which are included within the Subscription shall be charged by Cornwall Insight on an enterprise basis, unless otherwise expressly agreed between the parties in writing.
- 5.2 At the end of the Initial Subscription Period, the Subscription shall be automatically renewed for successive periods of 12 months (each "Further Subscription Period") unless and until terminated in accordance with clause 12.
- 5.3 The Subscriber shall, on the date of signing the Engagement Letter, provide Cornwall Insight with approved purchase order information

acceptable to Cornwall Insight, and any other relevant valid, up-to-date and complete contract and billing details reasonably required by Cornwall Insight within 30 days of signing the Engagement Letter. In accordance with clause 2.5, any terms that the Subscriber seeks to impose or incorporate by including such terms on any purchase order or accompanying information or documentation, shall be wholly excluded from the Contract.

Cornwall Insight shall invoice the Subscriber:

- 5.4.1 on the Commencement Date for the Annual Subscription Fee and any other fees or charges due and payable in respect of the Initial Subscription Period; and
- 5.4.2 subject to clause 12.1, at least 30 days prior to the anniversary of the Commencement Date for the Annual Subscription Fee, and any other fees or charges due and payable in respect of the next Further Subscription Period.

If Cornwall Insight has not received payment within 30 days after the due date for payment, and without prejudice to any other rights and remedies available to it (including pursuant to clause 5.9), Cornwall Insight may, without liability, disable the Subscriber's password, account and access to all or part of the Subscription and Cornwall Insight shall be under no obligation to provide any or all of the Subscription while the invoice(s) or payment(s) concerned remain unpaid.

The Annual Subscription Fee is payable in full regardless of how much the Subscriber uses the Subscription or any of the Subscription Services during the Subscription Period.

Where the Subscriber is invoiced for any fees (including the Annual Subscription Fee) due in respect of the Subscription, the Subscriber shall pay each invoice submitted by Cornwall Insight:

- 5.7.1 within 30 days of the date of the invoice; and
- 5.7.2 in full and in cleared funds to a bank account nominated in writing by Cornwall Insight, and
- 5.7.3 time for payment shall be of the essence.

All amounts payable by the Subscriber are exclusive of amounts in respect of value added tax chargeable for the time being (VAT). Where any taxable supply for VAT purposes is made by Cornwall Insight to the Subscriber, the Subscriber shall, on receipt of a valid VAT invoice from Cornwall Insight, pay to Cornwall Insight such additional amounts in respect of VAT as are chargeable on the supply of the Subscription at the same time as payment is due for the Subscription.

If the Subscriber fails to make any payment due to Cornwall Insight by the due date for payment, then, without limiting the remedies available to Cornwall Insight under clause 12.4, the Subscriber shall pay interest on the overdue amount at the rate of 4% per cent per annum above Barclays Bank Plc's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Subscriber shall pay the interest together with the overdue amount.

The Subscriber shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). Cornwall Insight may at any time, without limiting its other rights or remedies, set-off any amount owing to it by the Subscriber against any amount payable by Cornwall Insight to the Subscriber.

In addition to the other charges set out in this clause 5, Cornwall Insight reserves the right to charge a one-off administrative fee (at such rate published by Cornwall Insight from time to time) in respect of any payment portal and/or invoicing software which is implemented by the Customer (or a member of the Customer's group of companies) in connection with this Agreement and/or the Subscription Services.

## THE SUBSCRIPTION SERVICES

Cornwall Insight shall provide the Subscription Services which are listed within the Engagement Letter to the Subscriber as part of their Subscription. The Subscription Services may include Analogue Products, Digital Subscription Services, the Training Services or a combination of the same. Such supply of the Subscription Services may be via email delivery at the discretion of Cornwall Insight (to an address as advised by the Subscriber) or via access to the Portal.

Cornwall Insight shall provide the Subscription on the following basis:

- 6.2.1 Cornwall Insight will use all reasonable endeavours to ensure that any Subscription Services are made



available in accordance with their advertised publication and availability schedules, but these schedules are estimates only, and time shall not be of the essence for the making available of any particular Subscription Service.

- 6.2.2 any Subscription Services may be withdrawn by Cornwall Insight at any time, and without notice to the Subscriber. Such Subscription Services may not be reinstated, and the Subscriber shall have no right to access any Subscription Services which have been so withdrawn;
- 6.2.3 Cornwall Insight may offer new services, subscription services, products, training programmes, publications or other items on a trial basis as part of the Subscription from time to time throughout the Subscription Period ("Trial Products"). Such Trial Products may be withdrawn without notice, and shall be provided to the Subscriber without any guarantee, warranty or representation in respect of their suitability or reliability for the Subscriber's needs and requirements;
- 6.2.4 Cornwall Insight shall provide the Subscription Services and any corresponding information (including any forecasts) on the basis of an honest and genuine belief of the facts and circumstances reasonably available at the time, but shall not and cannot guarantee the accuracy of such Subscription Services and information (or any part thereof) or that any forecasts will be realised.
- 6.2.5 where Cornwall Insight has provided or is providing (partly or wholly) the Subscription Services or any other documentation, information or deliverable on the basis of any information provided by the Subscriber, the Subscriber shall ensure that any such information is complete, accurate and not misleading, and:

- (a) Cornwall Insight shall be entitled to rely on such information entirely and not be liable for any part of the Subscription Services, nor any documentation, information or deliverable, to the extent that they were prepared on the basis of such information; and
- (b) the Subscriber shall indemnify Cornwall Insight against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by Cornwall Insight arising out of such use, including any claims made against Cornwall Insight for actual or alleged infringement of a third party's Intellectual Property Rights,

and this clause 6.2.5 shall survive the termination of the Contract;

- 6.2.6 the Subscription Services have been provided on the basis of information available at the time and any assumptions set out in the Engagement Letter. Cornwall Insight shall not be responsible for updating the Subscription Services (or any part thereof) to reflect any information which comes to light following the date on which the Subscription Services (or the relevant part thereof) were prepared or if any assumptions are or become incorrect.
- 6.3 Notwithstanding the restrictions at clause 4.4, the Subscriber shall not be entitled to integrate or otherwise incorporate any of the Subscription Services (in whole or in part) into any of its own products or services, or the products or services of any third party, without the express written consent of Cornwall Insight and may be subject to additional terms set out under a separate agreement.
- 6.4 Cornwall Insight shall have the right to make any changes to the Subscription Services (or any part thereof) which are necessary to comply with any applicable law or regulatory requirement, or which do not materially affect the nature or quality of the Subscription Services.
- 6.5 In the event that access to any part of the Subscription Services is given electronically, all documentation and each part of the Subscription Services may only be downloaded by the Subscriber and its Authorised Users as agreed in writing in advance between Cornwall Insight and the Subscriber.
- 6.6 Cornwall Insight shall supply the Subscription Services to the Subscriber in accordance with the Engagement Letter in all material respects, and such Subscription Services shall be prepared and

provided using reasonable care and skill.

The obligations in clause 6.6 shall not apply to the extent of any non-conformance caused by use of the Subscription Services contrary to Cornwall Insight's instructions, or modification or alteration of the Subscription Services by any other party other than Cornwall Insight, or its duly authorised contractors or agents. If the Subscription Services do not otherwise conform with the foregoing obligations, Cornwall Insight will, at its expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, and such correction constitutes the Subscriber's sole and exclusive remedy for any breach of the obligations set out in clause 6.6.

Cornwall Insight may at any time change how it provides the Subscription, including the method by which any Subscription Services are accessed by the Subscriber;

Where any performance dates or other time specific obligations of Cornwall Insight are set out in the Engagement Letter, Cornwall Insight shall use all reasonable endeavours to meet such dates or time sensitive obligations. However, any such dates or times shall be estimates only, and time shall not be of the essence for the provision of the Subscription Services.

Cornwall Insight shall have no obligation or responsibility to provide any further services, training programmes, publications, products, documentation, deliverables or information as part of the Subscription other than as is set out in the Engagement Letter, and any additional services may result in an increase to the Annual Subscription Fee.

### TRAINING SERVICES

Training Credits:

- 7.1.1 At the beginning of the Initial Subscription Period, and each Further Subscription Period, the Subscriber will be credited with the number of Training Credits as is set out in the Engagement Letter. Upon booking any attendee(s) onto a Training Programme, the Subscriber will be debited the number of Training Credits attributable to each attendee booked onto the selected Training Programme by the Subscriber.
- 7.1.2 If the Subscriber's Training Credit balance is reduced to nil at any time, the Subscriber shall not be entitled to:
- (a) any further Training Credits until the recrediting of its Training Credit balance at the beginning of the next applicable Further Subscription Period in accordance with clause 7.1.1; and
  - (b) book any Training Programmes through the Training Services until their Training Credit balance has been recredited at the beginning of the next applicable Further Subscription Period, or additional Training Credits are purchased to top up the Subscriber's Training Credit balance.
- 7.1.3 At the end of the Initial Subscription Period and each Further Subscription Period, the Subscriber's Training Credit balance will be reset to nil, and all Training Credits not used during the such Initial Subscription Period or Further Subscription Period (as applicable) may no longer be claimed or otherwise used by the Subscriber to book any attendees onto any Training Programmes. No refund or other value shall be offered to any Subscriber at any time in respect of unused Training Credits at the end of the Initial Subscription Period and each Further Subscription Period.
- 7.1.4 Training Credits are at all times non-transferrable in all respects, and the Subscriber must not transfer, resell or assign, nor attempt or otherwise offer to transfer, resell or assign any Training Credits to any other person or entity at any time.
- 7.1.5 Cornwall Insight reserves the right to suspend the Training Services to, or refuse or cancel any bookings made on any Training Programmes by, any Subscriber, or to terminate the Contract with immediate effect, in the event that the Subscriber breaches the provisions of clause 7.1.3, or otherwise seeks to circumvent the prohibition set out in clause 7.1.3 (for example, by using its Training Credits to book an individual onto a Training Programme who is not employed or engaged by the Subscriber).
- 7.2 Cornwall Insight reserves the right to make changes to any Training Programmes, or the Training Services as a whole, including any topic or the format of any Training Programme, where such changes



do not materially affect the nature or quality of the Training Programme and/or the Training Services provided.

- 7.3 Where the Training Services are provided online or remotely, the Subscriber is responsible for ensuring that its technology is compatible with the systems used by Cornwall Insight for the delivery of each Training Programme, and the Training Services overall (details can be provided upon request), prior to placing any Order, and prior to booking any attendees to attend any particular Training Programme. Cornwall Insight shall not be responsible for any disruption which is not within Cornwall Insight's reasonable control, or for the inability of any attendee to attend or fully participate in, any Training Programme or any part of the Training Services due to their technology not being compatible with the requirements for the Training Services or any particular Training Programme.
- 7.4 The Subscriber, and each attendee booked to attend any Training Programme or any part of the Training Services, must comply with any instructions given by or on behalf of Cornwall Insight prior to and during each Training Programme. Cornwall Insight shall not be liable for any losses that arise from any disruption in service following a failure to comply with such instructions.
- 7.5 The Subscriber may send as many attendees to any Training Programme as it requires, subject to:
- 7.5.1 such number not exceeding any cap (if any) as is set out in the Engagement Letter, on the number of attendees from the Subscriber which can participate in any one Training Programme; and
- 7.5.2 the Subscriber having a sufficient balance of Training Credits available at the time of booking to permit the number of attendees it is requesting to send to any specific Training Programme.
- 7.6 Cornwall Insight may cancel or reschedule any Training Programme at any time prior to the Training Programme commencing, and Cornwall Insight's liability and sole obligation to the Subscriber, shall be limited to re-crediting the Subscriber with the Training Credits used in booking its selected attendees to attend the cancelled or rescheduled Training Programme.
- 7.7 The Subscriber shall not, and shall procure that each attendee who is attending any Training Programme by virtue of the Subscriber booking them to attend shall not, do anything or say anything, or insinuate any view which is harmful, threatening, demeaning, defamatory, obscene, infringing, harassing or racially or ethnically offensive, or is otherwise (in the reasonable opinion of Cornwall Insight) inappropriate. Cornwall Insight reserves the right, without liability or prejudice to its other rights, to remove any attendee from any Training Programme, and to refuse access to future Training Programmes (both to the particular attendee or to the Subscriber as a whole), in the event of any breach of this clause 7.7.
- 7.8 Whilst Cornwall Insight will use its reasonable endeavours to ensure that all attendees on Training Programmes act in accordance with their obligations, including those set out in clause 7.7 above, views may be expressed, which the Subscriber or other attendees disagree with. Cornwall Insight shall not be liable for any views or comments by any attendee in any respect, save that Cornwall Insight reserves the right to enforce its rights under these Conditions.

## 8. SUBSCRIBER'S OBLIGATIONS

- 8.1 The Subscriber shall:
- 8.1.1 ensure that the terms of the Order, and any information it provides for the Engagement Letter, are complete and accurate;
- 8.1.2 co-operate with Cornwall Insight in all respects and provide such information and materials as Cornwall Insight may reasonably require in order to provide the Subscription, and ensure that such information is complete and accurate in all material respects;
- 8.1.3 obtain and maintain all necessary licences, permissions and consents which may be required to access and use the Subscription at all times during the Subscription Period;
- 8.1.4 comply with all applicable laws and regulations in respect of the Subscription; and
- 8.1.5 ensure that Authorised Users use the Subscription and the Subscription Services in accordance with this Contract, including any fair usage requirements as notified by Cornwall Insight to the Subscriber in accordance with clause 4.2.3, and be responsible for any Authorised User's breach of this Contract.
- 8.2 If: (i) Cornwall Insight's performance under the Contract is prevented

or delayed by any act, omission or failure of the Subscriber, or by a representative of the Subscriber, or any third-party instructed by the Subscriber; or (ii) Cornwall Insight is unable to provide or is inhibited in providing any subscription, subscription services, or any other products or services to any other customer, due to the actions, omissions or failures of the Subscriber, including but not limited to where the Subscriber, its Authorised Users, representatives or instructed third parties act contrary to the fair usage requirements issued by Cornwall Insight under clause 4.2.3 or in breach of clause 4.4.4 (each a "Subscriber Default"), then:

- 8.2.1 without limiting or affecting any other right or remedy available to it, Cornwall Insight shall have the right to suspend the Subscription until the Subscriber remedies the Subscriber Default, and to rely on the Subscriber Default to relieve it from the performance of any of its obligations in each case to the extent the Subscriber Default prevents or delays Cornwall Insight's performance of any of its obligations;
- 8.2.2 Cornwall Insight shall not be liable for any costs or losses sustained or incurred by the Subscriber arising directly or indirectly from Cornwall Insight's failure or delay to perform any of its obligations under the Contract;
- 8.2.3 Cornwall Insight shall be entitled to payment of any fees charged under the Contract which are then due and payable, despite any such prevention or delay; and
- 8.2.4 the Subscriber shall indemnify Cornwall Insight for any and all liabilities, costs, expenses, damages and losses (including, but not limited to, any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) incurred by Cornwall Insight arising directly or indirectly from the Subscriber Default.

## INTELLECTUAL PROPERTY RIGHTS

All Background IP shall remain vested in Cornwall Insight, including, for the avoidance of doubt, any modifications or amendments made thereto in relation to the Subscription.

Save for as expressly stated herein, this Contract does not grant the Subscriber any right or interest in, or title to, any Intellectual Property Rights in respect of the Subscription.

Cornwall Insight grants to the Subscriber, or shall procure the grant to the Subscriber of, a fully paid-up, royalty-free, non-exclusive, non-transferable, revocable licence to use the Background IP during the Subscription Period, solely to the extent necessary to perform its obligations and exercise its rights under this Contract in connection with the Subscription.

The Subscription Services are provided for the sole internal use of the Subscriber and may not be copied or distributed to any third party without Cornwall Insight's written consent and Cornwall Insight reserves the right to suspend or cancel any Subscription without notice (and without refund) if it has reasonable belief that the Subscriber has breached the terms of this clause or of any other clause limiting the amount of users pursuant to the Contract.

The Subscriber agrees to use its best endeavours, and shall procure that all Authorised Users shall use their best endeavours, to protect Cornwall Insight's Background IP arising as a result of the Contract and to assist Cornwall Insight in protecting those rights upon request.

In particular with reference to clause 9.5, the Subscriber shall immediately notify Cornwall Insight in writing, giving full particulars, if it becomes aware of any actual, suspected or threatened infringement of any of the Background IP or any of the Intellectual Property Rights in any of the Subscription Services. In these circumstances:

- 9.6.1 Cornwall Insight shall at its absolute discretion decide what action to take;
- 9.6.2 Cornwall Insight shall have exclusive control over and conduct all claims and proceedings;
- 9.6.3 the Subscriber shall not make any admissions to any third party, and shall provide Cornwall Insight with any assistance as it may reasonably require in the conduct of any claims or proceedings; and
- 9.6.4 Cornwall Insight shall bear the cost of, and be entitled to retain any sum recovered from, any action for its own account.



### 10. DATA PROTECTION AND DATA PROCESSING

- 10.1 This clause 10 sets out the framework for the sharing of Personal Data between the parties as Controllers. Each party acknowledges that one party (the “**Data Discloser**”) will regularly disclose to the other party (the “**Data Recipient**”) Shared Personal Data collected by the Data Discloser for the Agreed Purposes. **11.**
- 10.2 Each party shall comply with all the obligations imposed on them under the Data Protection Legislation, and acknowledge that this clause is in addition to, and does not relieve, replace or remove a party's obligations or rights under the Data Protection Legislation. **11.1**
- 10.3 Each party shall:
- 10.3.1 ensure that it has all necessary consents and notices in place to enable lawful transfer of the Shared Personal Data to the Data Recipient under this Contract; **11.2**
  - 10.3.2 process the Shared Personal Data only for the Agreed Purposes or on the documented written instructions of the Data Discloser;
  - 10.3.3 not disclose or allow access to the Shared Personal Data to anyone other than the Permitted Recipients;
  - 10.3.4 ensure that all Permitted Recipients are subject to written contractual obligations concerning the Shared Personal Data (including obligations of confidentiality);
  - 10.3.5 ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures; and **11.3**
  - 10.3.6 not transfer any Personal Data outside of the United Kingdom unless the transferor complies with the appropriate provisions of the Data Protection Legislation for such transfer of Personal Data.
- 10.4 Each party shall assist the other in complying with all applicable requirements of the Data Protection Legislation. In particular, each party shall:
- 10.4.1 consult with the other party about any notices given to Data Subjects in relation to the Shared Personal Data;
  - 10.4.2 promptly inform the other party about the receipt of any Data Subject access request;
  - 10.4.3 provide the other party with reasonable assistance in complying with any Data Subject access request; **11.4**
  - 10.4.4 not disclose or release any Shared Personal Data in response to a Data Subject access request without first consulting the other party wherever possible;
  - 10.4.5 assist the other party, at the cost of the other party, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with any Supervisory Authority; **11.5**
  - 10.4.6 notify the other party without undue delay on becoming aware of any breach of the Data Protection Legislation, or a Personal Data Breach;
  - 10.4.7 at the written direction of the Data Discloser, delete or return Shared Personal Data and copies thereof to the Data Discloser on termination of this Contract unless required by law, or there is some other legitimate reason, to store the Personal Data;
  - 10.4.8 use compatible technology for the processing of Shared Personal Data to ensure that there is no lack of accuracy resulting from Personal Data transfers; and **11.6**
  - 10.4.9 maintain complete and accurate records and information to demonstrate its compliance with this clause 10.
- 10.5 The Subscriber shall indemnify Cornwall Insight against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by Cornwall Insight arising out of or in connection with the breach of the Data Protection Legislation or

this clause 10 by the Subscriber, its Authorised Users, or its other employees, agents or sub- contractors.

Cornwall Insight does not consent to the Subscriber appointing any third party processor of Personal Data under this Contract.

### LIMITATION OF LIABILITY:

Nothing in the Contract shall limit or exclude Cornwall Insight's liability for:

- 11.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
- 11.1.2 fraud or fraudulent misrepresentation; or
- 11.1.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) or any other liability which cannot be limited or excluded by applicable law.

Except as expressly and specifically provided in the Contract:

- 11.2.1 the Subscriber assumes sole responsibility for results obtained from the use of the Subscription by the Subscriber, for the conclusions drawn from such use and for any outputs arises from the use of the Subscription. Cornwall Insight shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to Cornwall Insight by the Subscriber in connection with the Subscription, or any actions taken by Cornwall Insight at the Subscriber's direction;
- 11.2.2 all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this Contract.

Subject to clause 11.1, Cornwall Insight shall not be liable to the Subscriber, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with the Contract for:

- 11.3.1 loss of profits;
- 11.3.2 loss of sales or business;
- 11.3.3 loss of agreements or contracts;
- 11.3.4 loss of anticipated savings;
- 11.3.5 loss of use or corruption of software, data or information;
- 11.3.6 loss of damage to goodwill; and
- 11.3.7 any indirect or consequential loss.

All Subscription Services included as part of the Subscription shall be provided on an “as-is” basis, and Cornwall Insight provides no warranty, representation or guarantee that access to each part of the Subscription Services by the Subscriber will be without interruption or disruption.

Cornwall Insight provides no warranty, representation or guarantee that:

- 11.5.1 any of the Subscription Services will be continuously available at all times throughout the Term of the Subscription, and the Subscriber acknowledges that any part of the Subscription Services may be unavailable from time to time;
- 11.5.2 the Subscriber's use of the Subscription Services will be uninterrupted or error free;
- 11.5.3 that the services, information, documentation or other matters obtained through the Subscription Services will meet the Subscriber's requirements; or
- 11.5.4 the Portal, or any of the Subscription Services, will be free from viruses, trojans or other malware.

When providing the Subscription Services, Cornwall Insight makes use of information gathered from a variety of sources that has not been subject to independent verification by Cornwall Insight. No warranty, guarantee or representation can be, or is given as to the accuracy of the same and Cornwall Insight shall subject to clause 11.1, not be responsible for any errors or liabilities arising or losses suffered by the Subscriber as a result of such information being incorrect or inaccurate. The views, teachings and statements of any presenter, teacher, lecturer, seminar leader, or session provider given during any Training Programme are that persons own views, given from their understanding of the material provided and discussed during the Training Programme. No warranty,



representation or guarantee is given as to the accuracy of such views, teachings or statements.

- 11.7 Cornwall Insight makes no warranty, guarantee or representation as to the results to be obtained from the Subscriber's use of the information contained in the Subscription (or any part thereof), or which is delivered during any Training Programme, for any particular purpose.
- 11.8 Cornwall Insight's total liability to the Subscriber, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract shall be limited to the Annual Subscription Fee currently in force for the Subscription Services, and which has actually been paid to Cornwall Insight by the Subscriber.
- 11.9 The terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
- 11.10 Unless the Subscriber notifies Cornwall Insight that it intends to make a claim under the Contract within the notice period, Cornwall Insight shall have no liability for that claim. The notice period for a claim shall start on the day on which the Subscriber became, or ought reasonably to have become, aware of its having grounds to make a claim and shall expire 3 months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.
- 11.11 Nothing in this Contract excludes or limits the liability of the Subscriber for any breach, infringement or misappropriation of Cornwall Insight's Intellectual Property Rights.
- 11.12 This clause 11 shall survive termination of the Contract.

## 12. TERMINATION

- 12.1 As set out in clause 5.1 and clause 5.2, this Contract and the Subscription shall, unless otherwise terminated as provided in this clause 12, commence on the Commencement Date, and shall continue for the Initial Subscription Term, and thereafter, this Contract and the Subscription shall be automatically renewed for successive Further Subscription Terms unless:
- 12.1.1 either party notifies the other party of termination, in writing, at least 30 days' before the end of the Initial Subscription Term or any Further Subscription Term, in which case this Contract and the Subscription shall terminate upon the expiry of the applicable Initial Subscription Term or Further Subscription Term; or
- 12.1.2 otherwise terminated in accordance with the provisions of this Contract.
- 12.2 Cornwall Insight may terminate the Subscription on one month's written notice at any time if for whatever reason it ceases to provide the Subscription Services provided under the Subscription. In those circumstances, the Subscriber shall be entitled to a pro-rata refund for any Annual Subscription Fee paid in advance.
- 12.3 Without limiting its other rights or remedies, either party may terminate the Subscription with immediate effect by giving written notice to the other party if:
- 12.3.1 the other party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 28 days of that party being notified in writing to do so;
- 12.3.2 the other party repeatedly breaches any of the terms of this Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Contract;
- 12.3.3 the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
- 12.3.4 the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business;
- 12.3.5 the other party's financial position deteriorates to such an extent that in the terminating party's opinion, the other

party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

Without limiting its other rights or remedies, Cornwall Insight may suspend the Subscription (or any part of it), or terminate the Subscription with immediate effect by giving notice to the Subscriber if:

- 12.4.1 the Subscriber fails to pay any amount due on the due date for payment;
- 12.4.2 Cornwall Insight believes that the Subscriber is about to become subject to any of the matters set out in clause 12.3;
- 12.4.3 the Subscriber has become involved in or becomes associated with (whether directly or indirectly) any situation or activity (whether caused by Cornwall Insight, the Subscriber or a third party) which in the opinion of Cornwall Insight (in Cornwall Insight's sole discretion) has or may potentially have: (i) a negative effect on the reputation of Cornwall Insight or any aspect of its business; or (ii) reflects unfavourably on the reputation of Cornwall Insight, its brand, products or services; or
- 12.4.4 the Subscriber, or its Authorised Users, employees, agents, sub-contractors, representatives or other instructed third parties fail to comply with the fair usage requirements notified to the Subscriber from time to time by Cornwall Insight under clause 4.2.3, or a Subscriber Default is otherwise deemed to have occurred or be occurring.

## 13. CONSEQUENCES OF TERMINATION

- On termination of the Contract for any reason:
- 13.1.1 the Subscriber shall immediately pay to Cornwall Insight all of Cornwall Insight's outstanding unpaid invoices and interest and, in respect of any Subscription (including parts of a year) supplied but for which no invoice has been submitted, Cornwall Insight shall submit an invoice, which shall be payable by the Subscriber immediately on receipt;
- 13.1.2 the Subscriber's access to all of the Subscription Services shall be rescinded by Cornwall Insight, and any licences granted under the Contract shall immediately terminate, and the Subscriber shall immediately cease to use the Subscription, along with any documentation or information associated or provided with the same;
- 13.1.3 to the extent technically possible, the Subscriber shall delete all parts of the Subscription Services irretrievably, and return all documentation and information associated with the materials to Cornwall Insight, along with any other items which have not been fully paid for, and confirm in writing to Cornwall Insight that it has done so;
- 13.1.4 the Subscriber shall within 30 days of termination of the Contract, certify in writing that it has complied with its obligations in this clause 13.1. If the Subscriber fails to return any information, documentation or other item in accordance with such clauses, Cornwall Insight may enter the Subscriber's premises and take possession of any such materials, information, documentation or items. Until such information, materials, documentation or items are returned to Cornwall Insight, or all parts of the Subscription Services are irretrievably deleted, the Subscriber shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract;
- 13.1.5 the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall be unaffected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
- 13.1.6 clauses which expressly or by implication survive termination shall continue in full force and effect.

## FORCE MAJEURE

Provided it has complied with clause 14.2, and subject to clause 14.3, if a party is prevented, hindered or delayed in or from performing any of its obligations under this Contract by a Force Majeure Event ("Affected Party"), the Affected Party shall not be in breach of this Contract or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.

14.2 The Affected Party shall:



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- 14.2.1 as soon as reasonably practicable after the start of the Force Majeure Event, but no later than 7 days from its start, notify the other party in writing of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the Contract; and
- 14.2.2 use all reasonable endeavours to mitigate the effect of Force Majeure Event on the performance of its obligations.
- 14.3 A Force Majeure Event does not affect any obligation of the Subscriber under this Contract to pay any monies due under this Contract in a timely manner.
- 14.4 If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than 3 months, the party not affected by the Force Majeure Event may terminate this Contract by giving 14 days written notice to the Affected Party.
- 15. GENERAL PROVISIONS**
- 15.1 Assignment and other dealings.
- 15.1.1 Cornwall Insight may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent.
- 15.1.2 The Subscriber shall not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract.
- 15.2 Entire Agreement.
- 15.2.1 The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 15.2.2 Each party agrees that in entering into the Contract it does not rely on and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.
- 15.3 **Variation.** Except as set out in these Conditions, no variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 15.4 **Waiver.** A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A delay or failure by a party to exercise, or the single or partial exercise of, any right or remedy provided under the Contract or by law shall not constitute:
- 15.4.1 a waiver of that or any other right or remedy; or
- 15.4.2 prevent or restrict the further exercise of that or any other right or remedy.
- 15.5 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.
- 15.6 Notices.
- 15.6.1 Any notice or other communication given to a party under or in connection with the Contract shall be in writing, and either:
- (a) be addressed to that party at its registered office or such other address as that party may have specified to the other party in writing in accordance with this clause, and delivered personally or sent by pre-paid first class post or other next working day delivery service, or commercial courier; or
- (b) be sent by email to the email address as notified by each party to the other from time to time.
- 15.6.2 A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 15.6.1; if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or if delivered by email at the time of transmission unless receipt would occur outside business hours in the place of receipt, being 9:00am to 5:00pm Monday to Friday on a day which is not a public holding in the place of receipt, in which case receipt shall be deferred until business hours resume.
- 15.6.3 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.
- Third parties.** No one other than a party to the Contract shall have any right to enforce any of its terms.
- Governing law.** The Contract, and any dispute or claim (including non- contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by, and construed in accordance with the law of England and Wales.
- Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

