



CONTRACT FOR SERVICES:
104255 Provenance Research

Contract Reference Number: [10XXXX]
Issue Date: [DD/MM/YYYY]

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Contract Details

Contract Title:	[insert]
Contract Ref No:	10XXXX
Customer:	Department for Culture, Media and Sport (DCMS) Of 100 Parliament Street, London SW1A 2BQ
Supplier:	[Supplier Name] Of [Supplier registered address] Company Registration No: [insert]
Contract Commencement Date:	[date] [month] [year]
Contract Expiry Date:	[date] [month] [year]
Optional extension end date:	[date] [month] [year]
Minimum notice period for extension:	[10 working days] prior to the Expiry Date
Customer Contract Manager:	[insert name and email]
Supplier Contract Manager:	[insert name and email]
Address for notices (Customer):	Department for Culture, Media and Sport, 100 Parliament Street, London SW1A 2BQ
Address for notices (Supplier):	[Supplier trading address or registered address]
Location of the Services:	[insert]
Invoice Address:	All invoices must be sent to: EmailYourInvoices-DCMS@HistoricEngland.org.uk . Invoices must be compliant and include a valid Contract reference number and PO Number, and the details (name and telephone number) of your Supplier Contract Manager. Non-compliant invoices will be sent back to you, which may lead to a delay in payment. If you have a query regarding an outstanding payment please contact Payments-DCMS@HistoricEngland.org.uk or telephone 01793414940.

Order of Precedence:

Save as may be expressly provided or otherwise agreed in writing between the Parties, in the event of any discrepancy, inconsistency or divergence arising between any parts of this Contract, then the order of precedence shall be (i) Annex 1 (Terms and Conditions), (ii) Annex 3 (Specification/Services), (iii) Annex 2 (Charges), (iv) Annex 4 (Supplier Proposal).

Signed for and on behalf of the Customer:

The Department for Culture, Media & Sport (DCMS)

Name:	
Title:	
Signature:	
Date:	

Signed for and on behalf of the Supplier:

[Insert Supplier Name]

We accept the terms set out in this Contract including its **Annexes and Schedules**.

Name:	
Title:	
Signature:	
Date:	

Annex 1

Terms and Conditions of Contract for Services

1 Interpretation

1.1 In these terms and conditions:

"Agreement"	means the contract between (i) the Customer acting as part of the Crown and (ii) the Supplier constituted by the Supplier's signature of this document;
"Central Government Body"	means a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics: (a) Government Department; (b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal); (c) Non-Ministerial Department; or (d) Executive Agency;
"Charges"	means the charges for the Services as specified in Annex 2;
"Confidential Information"	means all information, whether written or oral (however recorded), provided by the disclosing Party to the receiving Party and which (i) is known by the receiving Party to be confidential; (ii) is marked as or stated to be confidential; or (iii) ought reasonably to be considered by the receiving Party to be confidential;
"Contract Amendment"	means a change to the terms and conditions of the Agreement
"Contract Details"	means the information relating to this Agreement as printed above these terms and conditions
"Contract Variation Form"	means a written agreement as set out at Schedule 4 (Variation Form – Part 3), to be agreed and signed by the Parties in the event of an agreed Variation or Contract Amendment
"Contact Data"	means together the Customer Contact Data and the Supplier Contact Data;
"Controller"	takes the meaning given in the UK GDPR;
"Customer"	means the person named as Customer in the Contract Details;
"Customer Contact Data"	means the Personal Data of the Customer's Employees Processed by the Supplier, under, or in connection with, this Agreement;
"Customer Data"	means the Personal Data Processed by the Supplier on behalf of the Customer, under, or in connection with, this Agreement (as may be more particularly described in Schedule 1);
"Cyber Essentials" or "Cyber Essentials Plus"	takes the meaning set out at: https://www.cyberessentials.ncsc.gov.uk/

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"DPA"	means the Data Protection Act 2018.
"Data Loss Event"	means any event that results, or may result, in unauthorised access to Customer Data held by the Supplier under this Agreement, and/or actual or potential loss and/or destruction of Customer Data in breach of this Agreement, including any Personal Data Breach, which for the avoidance of doubt includes a breach of the Protective Measures;
"Data Protection Impact Assessment"	means an assessment by the Controller of the impact of the envisaged Processing on the protection of Personal Data;
"Data Protection Legislation"	means: (i) the UK GDPR and any applicable national implementing Laws as amended from time to time; (ii) the DPA to the extent that it relates to Processing of Personal Data and privacy; and (iii) all applicable Law about the Processing of Personal Data and privacy;
"Data Protection Officer"	takes the meaning given in the UK GDPR;
"Data Subject"	takes the meaning given in the UK GDPR;
"Data Subject Request"	means an actual or purported request, notice or complaint made by, or on behalf of, a Data Subject in accordance with the exercise of rights granted pursuant to the Data Protection Legislation;
"Employees"	means all staff, including directors, officers and employees, as well as the agents and workers of either party together with the directors, officers and employees of such party's sub-contractors or suppliers and further down any contractual chain, and "Employee" shall mean any one of them individually as the context dictates;
"Expiry Date"	means the date for expiry of the Agreement as set out in the Contract Details;
"FOIA"	means the Freedom of Information Act 2000;
"UK GDPR"	means the retained EU law version of the General Data Protection Regulation (Regulation (EU) 2016/679) as transposed into UK Law by the Data Protection, Privacy and electronic communications (Amendments ETC) (EU Exit) Regulations 2019, which applies in the UK from 1 January 2021;
"Government Security Classifications"	takes the meaning as set out at: https://www.gov.uk/government/publications/government-security-classifications
"Information"	has the meaning given under section 84 of the FOIA;
"Key Performance Indicators" or "KPIs"	means the performance measurements and targets in respect of the Supplier's performance of the Agreement as set out in Schedule 2;
"Key Personnel"	means any persons specified as such in Schedule 5 or otherwise notified as such by the Customer to the Supplier in writing;

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"Law"	means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Supplier is bound to comply;
"Losses"	means losses, liabilities, damages, compensation, awards, payments made under settlement arrangements, claims, proceedings, costs and other expenses including fines, interest and penalties, whether arising in contract, tort (including negligence), breach of statutory duty or otherwise, legal and other professional fees and expenses;
"Option"	means scope or Services set out by the Customer and quoted for by the Supplier (e.g. as part of a tender process), which are included within the scope of the Agreement but are not committed to by the Customer under the Agreement until formally activated by the Customer via a Contract Variation;
"Party"	means the Supplier or the Customer (as appropriate) and "Parties" shall mean both of them;
"Personal Data"	means personal data (as defined in the UK GDPR) and for the purposes of this Agreement, includes Sensitive Personal Data;
"Personal Data Breach"	takes the meaning given in the UK GDPR;
"Process", "Processed", "Processor", "Processing"	take the meanings given in the UK GDPR;
"Protective Measures"	means appropriate technical and organisational measures which may include: Cyber Essentials Certification, specific security requirements as specified by the Customer from time to time, and otherwise pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the measures adopted by it;
"Purchase Order Number"	means the Customer's unique number relating to the supply of the Services;
"Regulated Activity"	means in relation to children as defined in Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006, and in relation to vulnerable adults as defined in Part 2 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006;
"Request for Information"	has the meaning set out in the FOIA or the Environmental Information Regulations 2004 as relevant (where the meaning set out for the term "request" shall apply);
"Sensitive Personal Data"	has the meaning set out in the Data Protection Legislation and from 25 May 2018, shall mean the special categories of Personal Data, as described in Article 9 of the UK GDPR;
"Services"	means the services to be supplied by the Supplier to the Customer under the

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	Agreement, as set out at Annex 3 and (where applicable) Annex 4;
"SME"	means Small and Medium sized Enterprise as defined by EU recommendation 2003/361;
"Specification"	means the specification for the Services (including as to quantity, description and quality) as specified in Annex 3;
"Staff"	means all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any sub-contractor of the Supplier engaged in the performance of the Supplier's obligations under the Agreement;
"Staff Vetting Procedures"	means vetting procedures that accord with good industry practice or, where requested by the Customer, the Customer's procedures for the vetting of personnel as provided to the Supplier from time to time;
"Sub-processor"	means any third Party appointed to Process Customer Data on behalf of the Supplier related to this Agreement;
"Supplier"	means the person named as Supplier in the Contract Details;
"Supplier Contact Data"	means the Personal Data of the Supplier's Employees Processed by the Customer, under, or in connection with this Agreement; including any Key Personnel;
"Term"	means the period from the start date of the Agreement set out in the Contract Details to the Expiry Date as such period may be extended in accordance with clause 4.2 or terminated in accordance with the terms and conditions of the Agreement;
"Third Party Request"	means a request from any third party for disclosure of Customer Data where compliance with such request is required or purported to be required by Law;
"Variation"	means a change to the Services or Term, as agreed by execution of a Contract Variation Form;
"Variation Request"	means a request for a Variation in the form set out at Schedule 4 (Variation Form - Part 1);
"Variation Quotation"	means a quotation issued by the Supplier for an amendment to the Charges, in the form set out at Schedule 4 (Variation Form - Part 2), in response to a Variation Request;
"VAT"	means value added tax in accordance with the provisions of the Value Added Tax Act 1994; and
"Working Day"	means a day (other than a Saturday or Sunday) on which banks are open for business in the City of London.

1.2 In these terms and conditions, unless the context otherwise requires:

1.2.1 references to numbered clauses are references to the relevant clause in these terms and conditions;

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- 1.2.2 any obligation on any Party not to do or omit to do anything shall include an obligation not to allow that thing to be done or omitted to be done;
- 1.2.3 the headings to the clauses of these terms and conditions are for information only and do not affect the interpretation of the Agreement;
- 1.2.4 any reference to an enactment includes reference to that enactment as amended or replaced from time to time and to any subordinate legislation or byelaw made under that enactment; and
- 1.2.5 the word 'including' shall be understood as meaning 'including without limitation'.

2 Basis of Agreement

- 2.1 This Agreement constitutes an offer by the Customer to purchase the Services subject to and in accordance with these terms and conditions.
- 2.2 This offer shall be deemed to be accepted by the Supplier on receipt by the Customer of a copy of the Agreement signed by the Supplier.

3 Supply of Services

- 3.1 In consideration of the Customer's agreement to pay the Charges, the Supplier shall supply the Services to the Customer for the Term subject to and in accordance with the terms and conditions of the Agreement.
- 3.2 In supplying the Services, the Supplier shall:
 - 3.2.1 co-operate with the Customer in all matters relating to the Services and comply with all the Customer's instructions;
 - 3.2.2 perform the Services with all reasonable care, skill and diligence in accordance with good industry practice in the Supplier's industry, profession or trade;
 - 3.2.3 use Staff who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Agreement;
 - 3.2.4 ensure that the Services shall conform with all descriptions and specifications set out in the Specification;
 - 3.2.5 comply with all applicable laws; and
 - 3.2.6 provide all equipment, tools and vehicles and other items as are required to provide the Services.

4 Term

- 4.1 The Agreement shall take effect on the commencement date specified in the Contract Details and shall expire on the Expiry Date, unless it is otherwise extended in accordance with clause 4.2 or terminated in accordance with the terms and conditions of the Agreement.
- 4.2 The Customer may extend the expiry date of the Agreement as set out in the Contract Details, by giving notice to the Supplier in accordance with any minimum notice period set out in the Contract Details, and by way of a Contract Variation. The terms and conditions of the Agreement shall apply throughout any extended period.

5 Contract Amendments and Variations

- 5.1 A Contract Amendment may only be made with the written agreement of both Parties.
- 5.2 The Customer may at any time before the Expiry Date or earlier termination of this Agreement, order any Variation to be made to the original Services. Such Variations may include without limitation the following:-
- 5.2.1 the addition, omission or substitution of any Services,
 - 5.2.2 changes in the type, standard or quality of Services
 - 5.2.3 changes to the order, sequence or timing of the provision of the Services or any part of the Services,
 - 5.2.4 the postponement of any part of the Services desired by the Customer,
 - 5.2.5 extension of the Term, and
 - 5.2.6 suspension of the Services or any part of the Services.
- 5.3 Where additional or substitute Services are required, the Customer shall issue a Variation Request (Schedule 4, Variation Form - Part 1) to the Supplier detailing the scope and programme of the additional Services required.
- 5.4 On receipt of a Variation Request, the Supplier shall issue a response for acceptance using a Variation Quotation (Schedule 4, Variation Form - Part 2), to be received by the Customer within 1 week from issue of the Variation Request, or within such timescale as otherwise identified by the Customer. Such response is to include the detail and method of calculation of any additional charges. Charges for additional Services will be calculated in accordance with clause 5.10.
- 5.5 On receipt of a Variation Quotation from the Supplier, the Customer shall assess and either accept or reject the quotation. Where the quotation is accepted, the Customer shall issue a Contract Variation Form (Schedule 4, Variation Form - Part 3) to the Supplier. Where rejected the Customer shall assess the charge in consultation with the Supplier.
- 5.6 Where the Supplier does not respond within the timescales defined in clause 5.4, the Customer shall assess the charges for the additional Services in accordance with clause 5.10 and issue a Contract Variation Form to the Supplier.
- 5.7 The Supplier shall comply with all Contract Variation Forms that have been signed and issued by the Customer.

- 5.8 The Parties acknowledge that a Variation under clause 5 may include the omission of any Services from the Contract, provided that such Services have not been performed on the date that any such omission is ordered. The Customer may contract with another supplier to provide any such omitted Services. The Supplier is not entitled to claim costs, loss of profit or breach of contract for not providing the Services in their entirety regardless of whether or not the Customer engages another supplier to provide the omitted Services. Where Services are to be omitted, the Customer shall issue a Contract Variation Form to the Supplier, calculating any variation to the Charges in accordance with clause 5.10.1
- 5.9 Variations to the Services are only authorised through the issue of a Contract Variation Form that has been signed and approved by the Customer. The Customer is not liable for any charges for additional Services performed for which the Supplier has not received a signed Contract Variation Form.
- 5.10 The valuation of Variations shall be assessed by the Customer after consultation with the Supplier in accordance with the following principles:
- 5.10.1 where Services are, in the opinion of the Customer, of similar character and executed under similar conditions to Services priced in the original Agreement, they shall be valued at such rates and prices contained in the original Charges as may be applicable,
- 5.10.2 where Services are, in the opinion of the Customer, not of a similar character or not executed under similar conditions to Services priced in the original Agreement, then the original Charges shall be used as the basis for valuation so far as may be reasonable failing which a fair valuation shall be made.
- 5.11 Payment in respect of any Variation is made in accordance with clause 7.
- 5.12 Where there are Options set out in Annex 2, Annex 3 and/or Annex 4, such Options shall only be activated by way of a Variation.

6 Contract Management

- 6.1 The Supplier and the Customer shall each appoint a nominated contract manager who shall be the key point of contact for each Party; these individuals shall be named in the Contract Details.
- 6.2 The Supplier shall comply with any contract management and reporting requirements, and Key Performance Indicators set out in Schedule 2, including KPI targets.

7 Charges, Payment and Recovery of Sums Due

- 7.1 The Charges for the Services shall be as set out in Annex 2 and shall be the full and exclusive remuneration of the Supplier in respect of the supply of the Services. Unless otherwise agreed in writing by the Customer, the Charges shall include every cost and expense of the Supplier directly or

indirectly incurred in connection with the performance of the Services.

- 7.2 The Supplier shall invoice the Customer as specified in the Agreement. Each invoice shall include such supporting information required by the Customer to verify the accuracy of the invoice, including the relevant Purchase Order Number and a breakdown of the Services supplied in the invoice period.
- 7.3 In consideration of the supply of the Services by the Supplier, the Customer shall pay the Supplier the invoiced amounts no later than 30 days after receipt of a valid invoice which includes a valid Purchase Order Number. The Customer may, without prejudice to any other rights and remedies under the Agreement, withhold or reduce payments in the event of unsatisfactory performance.
- 7.4 All amounts stated are exclusive of VAT which shall be charged at the prevailing rate. The Customer shall, following the receipt of a valid VAT invoice, pay to the Supplier a sum equal to the VAT chargeable in respect of the Services.
- 7.5 If there is a dispute between the Parties as to the amount invoiced, the Customer shall pay the undisputed amount. The Supplier shall not suspend the supply of the Services unless the Supplier is entitled to terminate the Agreement for a failure to pay undisputed sums in accordance with clause 16.4. Any disputed amounts shall be resolved through the dispute resolution procedure detailed in clause 19.
- 7.6 If a payment of an undisputed amount is not made by the Customer by the due date, then the Customer shall pay the Supplier interest at the interest rate specified in the Late Payment of Commercial Debts (Interest) Act 1998.
- 7.7 If any sum of money is recoverable from or payable by the Supplier under the Agreement (including any sum which the Supplier is liable to pay to the Customer in respect of any breach of the Agreement), that sum may be deducted unilaterally by the Customer from any sum then due, or which may come due, to the Supplier under the Agreement or under any other agreement or contract with the Customer. The Supplier shall not be entitled to assert any credit, set-off or counterclaim against the Customer in order to justify withholding payment of any such amount in whole or in part.

8 Premises and equipment

- 8.1 If necessary, the Customer shall provide the Supplier with reasonable access at reasonable times to its premises for the purpose of supplying the Services. All equipment, tools and vehicles brought onto the Customer's premises by the Supplier or the Staff shall be at the Supplier's risk.
- 8.2 If the Supplier supplies all or any of the Services at or from the Customer's premises, on completion of the Services or termination or expiry of the Agreement (whichever is the earlier) the Supplier shall

vacate the Customer's premises, remove the Supplier's plant, equipment and unused materials and all rubbish arising out of the provision of the Services and leave the Customer's premises in a clean, safe and tidy condition. The Supplier shall be solely responsible for making good any damage to the Customer's premises or any objects contained on the Customer's premises which is caused by the Supplier or any Staff, other than fair wear and tear.

- 8.3 If the Supplier supplies all or any of the Services at or from its premises or the premises of a third party, the Customer may, during normal business hours and on reasonable notice, inspect and examine the manner in which the relevant Services are supplied at or from the relevant premises.
- 8.4 The Customer shall be responsible for maintaining the security of its premises in accordance with its standard security requirements. While on the Customer's premises the Supplier shall, and shall procure that all Staff shall, comply with all the Customer's security requirements.
- 8.5 Where all or any of the Services are supplied from the Supplier's premises, the Supplier shall, at its own cost, comply with all security requirements specified by the Customer in writing.
- 8.6 Without prejudice to clause 3.2.6, any equipment provided by the Customer for the purposes of the Agreement shall remain the property of the Customer and shall be used by the Supplier and the Staff only for the purpose of carrying out the Agreement. Such equipment shall be returned promptly to the Customer on expiry or termination of the Agreement.
- 8.7 The Supplier shall reimburse the Customer for any loss or damage to the equipment (other than deterioration resulting from normal and proper use) caused by the Supplier or any Staff. Equipment supplied by the Customer shall be deemed to be in a good condition when received by the Supplier or relevant Staff unless the Customer is notified otherwise in writing within 5 Working Days.

9 Staff and Key Personnel

- 9.1 If the Customer reasonably believes that any of the Staff are unsuitable to undertake work in respect of the Agreement, it may, by giving written notice to the Supplier:
 - 9.1.1 refuse admission to the relevant person(s) to the Customer's premises;
 - 9.1.2 direct the Supplier to end the involvement in the provision of the Services of the relevant person(s); and/or
 - 9.1.3 require that the Supplier replace any person removed under this clause with another suitably qualified person and procure that any security pass issued by the Customer to the person removed is surrendered,and the Supplier shall comply with any such notice.

9.2 The Supplier shall:

- 9.2.1 ensure that all Staff are vetted in accordance with the Staff Vetting Procedures;
- 9.2.2 if requested, provide the Customer with a list of the names and addresses (and any other relevant information) of all persons who may require admission to the Customer's premises in connection with the Agreement;
- 9.2.3 procure that all Staff comply with any rules, regulations and requirements reasonably specified by the Customer; and
- 9.2.4 ensure fair employment practices and take steps to prevent labour exploitation.

9.3 Any Key Personnel shall not be released from supplying the Services without the agreement of the Customer, except by reason of long-term sickness, maternity leave, paternity leave, termination of employment or other extenuating circumstances.

9.4 Any replacements to the Key Personnel shall be subject to the prior written agreement of the Customer (not to be unreasonably withheld). Such replacements shall be of at least equal status or of equivalent experience and skills to the Key Personnel being replaced and be suitable for the responsibilities of that person in relation to the Services.

Regulated Activity

9.5 Where the Agreement includes a Regulated Activity, the Supplier will put in place safeguards to protect children and vulnerable adults from any risk of significant harm which could arise from the performance of this Agreement.

9.6 In addition, the Supplier will carry out checks with the Disclosure and Barring Service (DBS checks) on all Staff engaged on the Agreement in a Regulated Activity. Suppliers must have a DBS check at least done every three years for each relevant member of Staff for as long as this Agreement applies. The DBS check must be completed before any Staff work with children and/or vulnerable adults in Regulated Activity. This will also apply to any sub-contractors or volunteers who will, in the performance of this Agreement, supervise, care or otherwise have significant direct contact with children or vulnerable adults.

9.7 The Supplier shall immediately notify the Customer of any information that it reasonably requests to enable it to be satisfied that their obligations in relation to Safeguarding children and vulnerable adults have been met.

9.8 Where the Agreement includes a Regulated Activity, the Supplier shall not employ or use the services of any person who is barred from, or whose previous conduct or records indicate that it or she would not be suitable to carry out Regulated Activity or who may otherwise present a risk to children or vulnerable adults.

10 Assignment and sub-contracting

- 10.1 The Supplier shall not without the written consent of the Customer assign, sub-contract, novate or in any way dispose of the benefit and/ or the burden of the Agreement or any part of the Agreement. The Customer may, in the granting of such consent, provide for additional terms and conditions relating to such assignment, sub-contract, novation or disposal. The Supplier shall be responsible for the acts and omissions of its sub-contractors as though those acts and omissions were its own.
- 10.2 Where the Supplier enters into a sub-contract for the purpose of performing its obligations under the Agreement, it shall ensure that a provision is included in such sub-contract which requires payment to be made of all sums due by the Supplier to the sub-contractor within a specified period not exceeding 30 days from the receipt of a valid invoice.
- 10.3 The supplier shall take all reasonable steps to assess modern slavery risks in its sub-contractors' supply chains.
- 10.4 Where the Customer has consented to the placing of sub-contracts, the Supplier shall, at the request of the Customer, send copies of each sub-contract, to the Customer as soon as is reasonably practicable.
- 10.5 The Customer may assign, novate, or otherwise dispose of its rights and obligations under the Agreement without the consent of the Supplier provided that such assignment, novation or disposal shall not increase the burden of the Supplier's obligations under the Agreement.

11 Intellectual Property Rights

- 11.1 All intellectual property rights in any materials provided by the Customer to the Supplier for the purposes of this Agreement shall remain the property of the Customer but the Customer hereby grants the Supplier a royalty-free, non-exclusive and non-transferable licence to use such materials as required until termination or expiry of the Agreement for the sole purpose of enabling the Supplier to perform its obligations under the Agreement.
- 11.2 All intellectual property rights in any materials created or developed by the Supplier pursuant to the Agreement or arising as a result of the provision of the Services shall vest in the Supplier. If, and to the extent, that any intellectual property rights in such materials vest in the Customer by operation of law, the Customer hereby assigns to the Supplier by way of a present assignment of future rights that shall take place immediately on the coming into existence of any such intellectual property rights all its intellectual property rights in such materials (with full title guarantee and free from all third party rights).
- 11.3 The Supplier hereby grants the Customer:

11.3.1 a perpetual, royalty-free, irrevocable, non-exclusive licence (with a right to sub-license) to use all intellectual property rights in the materials created or developed pursuant to the Agreement and any intellectual property rights arising as a result of the provision of the Services; and

11.3.2 a perpetual, a royalty-free, irrevocable and non-exclusive licence (with a right to sub-license) to use:

(a) any intellectual property rights vested in or licensed to the Supplier on the date of the Agreement; and

(b) any intellectual property rights created during the Term but which are neither created or developed pursuant to the Agreement nor arise as a result of the provision of the Services,

(including any modifications to or derivative versions of any such intellectual property rights which the Customer reasonably requires in order to exercise its rights and take the benefit of the Agreement including the Services provided.)

11.4 The Supplier shall indemnify, and keep indemnified, the Customer in full against all costs, expenses, damages and losses (whether direct or indirect), including any interest, penalties, and reasonable legal and other professional fees awarded against or incurred or paid by the Customer as a result of or in connection with any claim made against the Customer 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 Services, to the extent that the claim is attributable to the acts or omission of the Supplier or any Staff.

12 Governance and Records

12.1 The Supplier shall:

12.1.1 attend progress meetings with the Customer at the frequency and times specified by the Customer and shall ensure that its representatives are suitably qualified to attend such meetings; and

12.1.2 submit progress reports to the Customer at the times and in the format specified by the Customer.

12.2 The Supplier shall keep and maintain until 6 years after the end of the Agreement, or as long a period as may be agreed between the Parties, full and accurate records of the Agreement including the Services supplied under it and all payments made by the Customer. The Supplier shall on request afford the Customer or the Customer's representatives such access to those records as may be reasonably requested by the Customer in connection with the Agreement.

13 Confidentiality, Transparency and Publicity

13.1 Subject to clause 13.2, each Party shall:

13.1.1 treat all Confidential Information it receives as confidential, safeguard it accordingly and not disclose it to any other person without the prior written permission of the disclosing Party; and

13.1.2 not use or exploit the disclosing Party's Confidential Information in any way except for the purposes anticipated under the Agreement.

13.2 Notwithstanding clause 13.1, a Party may disclose Confidential Information which it receives from the other Party:

13.2.1 where disclosure is required by applicable law or by a court of competent jurisdiction;

13.2.2 to its auditors or for the purposes of regulatory requirements;

13.2.3 on a confidential basis, to its professional advisers;

13.2.4 to the Serious Fraud Office where the Party has reasonable grounds to believe that the other Party is involved in activity that may constitute a criminal offence under the Bribery Act 2010;

13.2.5 where the receiving Party is the Supplier, to the Staff on a need to know basis to enable performance of the Supplier's obligations under the Agreement provided that the Supplier shall procure that any Staff to whom it discloses Confidential Information pursuant to this clause 13.2.5 shall observe the Supplier's confidentiality obligations under the Agreement; and

13.2.6 where the receiving Party is the Customer:

- (a) on a confidential basis to the employees, agents, consultants and contractors of the Customer;
- (b) on a confidential basis to any other Central Government Body, any successor body to a Central Government Body or any company to which the Customer transfers or proposes to transfer all or any part of its business;
- (c) to the extent that the Customer (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions; or
- (d) in accordance with clause 12.

and for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the Customer under this clause 13.

- 13.3 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of the Agreement is not Confidential Information and the Supplier hereby gives its consent for the Customer to publish this Agreement in its entirety to the general public (but with any information that is exempt from disclosure in accordance with the FOIA redacted) including any changes to the Agreement agreed from time to time. The Customer may consult with the Supplier to inform its decision regarding any redactions but shall have the final decision in its absolute discretion whether any of the content of the Agreement is exempt from disclosure in accordance with the provisions of the FOIA.
- 13.4 The Supplier shall not, and shall take reasonable steps to ensure that the Staff shall not, make any press announcement or publicise the Agreement or any part of the Agreement in any way, except with the prior written consent of the Customer.
- 13.5 The Supplier shall ensure the protective marking and applicable protection of any material passed to, or generated by, the Supplier; in accordance with the relevant Government Security Classifications.

14 Freedom of Information

- 14.1 The Supplier acknowledges that the Customer is subject to the requirements of the FOIA and the Environmental Information Regulations 2004 and shall:
- 14.1.1 provide all necessary assistance and cooperation as reasonably requested by the Customer to enable the Customer to comply with its obligations under the FOIA and the Environmental Information Regulations 2004;
 - 14.1.2 transfer to the Customer all Requests for Information relating to this Agreement that it receives as soon as practicable and in any event within 2 Working Days of receipt;
 - 14.1.3 provide the Customer with a copy of all Information belonging to the Customer requested in the Request for Information which is in its possession or control in the form that the Customer requires within 5 Working Days (or such other period as the Customer may reasonably specify) of the Customer's request for such Information; and
 - 14.1.4 not respond directly to a Request for Information unless authorised in writing to do so by the Customer.

- 14.2 The Supplier acknowledges that the Customer may be required under the FOIA and the Environmental Information Regulations 2004 to disclose Information concerning the Supplier or the Services (including commercially sensitive information) without consulting or obtaining consent from the Supplier. In these circumstances the Customer shall, in accordance with any relevant guidance issued under the FOIA, take reasonable steps, where appropriate, to give the Supplier advance notice, or failing that, to draw the disclosure to the Supplier's attention after any such disclosure.
- 14.3 Notwithstanding any other provision in the Agreement, the Customer shall be responsible for determining in its absolute discretion whether any Information relating to the Supplier or the Services is exempt from disclosure in accordance with the FOIA and/or the Environmental Information Regulations 2004.

15 Protection of Personal Data and Security of Data

- 15.1 The Supplier shall, and shall procure that all Staff shall, comply with any notification requirements under the DPA and both Parties shall duly observe all their obligations under the DPA which arise in connection with the Agreement.
- 15.2 In circumstances where the Supplier shall process Customer Data in its provision of the Services, the Parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Controller and the Supplier is the Processor of any Customer Data made available to the Supplier by the Customer (whether directly or indirectly). The Supplier shall in such circumstances only Process Customer Data for and on behalf of the Customer for the purposes of performing its obligations under this Agreement and only in accordance with the terms of this Agreement and any written instructions from the Customer, including the instructions set out in Schedule 1.
- 15.3 The parties further acknowledge for the purposes of the Data Protection Legislation that:
- 15.3.1 the Customer shall be the Data Controller of (i) the Customer Contact Data for its own internal business purposes and (ii) the Supplier Contact Data where it is Processed by the Customer in accordance with Clause 15.4;
 - 15.3.2 the Supplier shall be the Data Controller of (i) the Supplier Contact Data for its own internal business purposes and (ii) the Customer Contact Data where it is Processed by the Supplier in accordance with Clause 15.4.
- 15.4 Each party shall Process the other party's Contact Data (in its capacity as a Data Controller for that Contact Data) in order to administer this Agreement.
- 15.5 Each party shall Process the other party's Contact Data for the purposes set out in Clause 15.4 in accordance with that party's relevant privacy policy. Each party may be required to share the other party's Contact Data referred to in Clause 15.4 with its affiliates and other relevant parties, within or outside the country of origin, in order to carry out the activities specified in Clause 15.4, but in doing so, each party will ensure that the sharing and use of the Contact

Data complies with the applicable Data Protection Legislation.

Data sharing obligations

- 15.6 Where acting as a Data Controller:
- 15.6.1 for the purposes of the Contact Data, each party shall make available to the other a copy of their applicable privacy policy and the receiving party shall ensure that this policy is provided to the applicable Employees whose Personal Data has been shared with the other party for the purposes set out in this Agreement; and
 - 15.6.2 for the purposes of the Customer Data, the Customer shall ensure that all fair processing notices have been given (and/or, as applicable, consents obtained), including in relation to any Sensitive Personal Data, and are sufficient in scope to allow the Customer to disclose the Customer Data to the Supplier in accordance with the Data Protection Legislation and for the purposes set out in this Agreement.
- 15.7 Each party warrants, represents and undertakes that it is not subject to any prohibition or restriction which would prevent or restrict it from disclosing or transferring either Contact Data or Customer Data (as applicable) to the other party in accordance with the terms of this Agreement.

Data Processing obligations

- 15.8 Where the Supplier is acting as Data Processor in accordance with Clause 15.2 the following clauses shall apply.
- 15.9 The Supplier shall notify the Customer immediately (and prior to any Processing) if it considers that any of the Customer's instructions infringe the Data Protection Legislation.
- 15.10 The Supplier shall provide all reasonable assistance to the Customer in the preparation of any Data Protection Impact Assessment prior to commencing any Processing. Such assistance may, at the discretion of the Customer, include:
- 15.10.1 a systematic description of the envisaged Processing operations and the purpose of the Processing;
 - 15.10.2 an assessment of the necessity and proportionality of the Processing operations in relation to the Services;
 - 15.10.3 an assessment of the risks to the rights and freedoms of Data Subjects; and
 - 15.10.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Customer Data.
- 15.11 The Supplier shall, in relation to any Customer Data Processed in connection with its obligations under this Agreement:
- 15.11.1 Process that Customer Data only in accordance with the terms of this Agreement unless the Supplier is required to do otherwise by Law. If it is so required the Supplier shall promptly notify the Customer before Processing the Customer Data unless prohibited by Law;
 - 15.11.2 ensure that it has in place Protective Measures, which, without limiting the Supplier's

direct responsibility under Article 32 of the UK GDPR, may be reviewed and approved by the Customer at its discretion, to protect against a Data Loss Event having taken account of the:

- 15.11.2.1 nature of the data to be protected;
- 15.11.2.2 harm that might result from a Data Loss Event;
- 15.11.2.3 state of technological development; and
- 15.11.2.4 cost of implementing any measures;

15.11.3 ensure that:

15.11.3.1 the Staff do not Process Customer Data except in accordance with this Agreement (and in particular Schedule 1);

15.11.3.2 it takes all reasonable steps to ensure the reliability and integrity of any Staff who have access to the Customer Data and ensure that they:

- (a) are aware of and comply with the Supplier's duties under this clause;
- (b) are subject to appropriate confidentiality undertakings with the Supplier or any The Rate card (incorporating the same rates as used in the blended rate) **is not used for evaluation** but is to be used in agreeing individual resource rates for CM G&A assurance activities and Other Commercial Assurance activities. Sub-processor;
- (c) are informed of the confidential nature of the Customer Data and do not publish, disclose or divulge any of the Customer Data to any third party unless directed in writing to do so by the Customer or as otherwise permitted by this Agreement; and
- (d) have undergone adequate training in the use, care, protection and handling of Customer Data; and

15.11.4 not transfer Customer Data outside of the UK unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:

15.11.4.1 the Customer or the Supplier has provided appropriate safeguards in relation to the transfer (in accordance with Data Protection Legislation (as applicable)) as determined by the Customer;

15.11.4.2 the Data Subject has enforceable rights and effective legal remedies;

15.11.4.3 the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Customer Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Customer in meeting its obligations); and

15.11.4.4 the Supplier complies with any reasonable instructions notified to it in advance by the Customer with respect to the Processing of the Customer Data;

15.11.5 at the written direction of the Customer, delete or return Customer Data (and any copies of it) to the Customer on termination of the Agreement unless the Supplier is required by Law to retain the Customer Data.

15.12 Subject to clause 15.23, the Supplier shall notify the Customer immediately if it:

15.12.1 receives a Data Subject Request (or purported Data Subject Request);

15.12.2 receives a request to rectify, block or erase any Customer Data;

15.12.3 receives any other request, complaint or communication relating to either Party's

- obligations under the Data Protection Legislation;
- 15.12.4 receives any communication from the Information Commissioner or any other regulatory authority in connection with Customer Data Processed under this Agreement;
- 15.12.5 receives a Third Party Request; or
- 15.12.6 becomes aware of a Data Loss Event.
- 15.13 The Supplier's obligation to notify under clause 15.12 shall include the provision of further information to the Customer in phases, as details become available.
- 15.14 Taking into account the nature of the Processing, the Supplier shall provide the Customer with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 15.12 (and insofar as possible within the timescales reasonably required by the Customer) including by promptly providing:
 - 15.14.1 the Customer with full details and copies of the complaint, communication or request;
 - 15.14.2 such assistance as is reasonably requested by the Customer to enable the Customer to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation;
 - 15.14.3 the Customer, at its request, with any Customer Data it holds in relation to a Data Subject;
 - 15.14.4 assistance as requested by the Customer following any Data Loss Event;
 - 15.14.5 assistance as requested by the Customer following a Third Party Request;
 - 15.14.6 assistance as requested by the Customer with respect to any request from the Information Commissioner's Office, or any consultation by the Customer with the Information Commissioner's Office.
- 15.15 The Supplier shall maintain complete and accurate records and information to demonstrate its compliance with this clause. This requirement does not apply where the Supplier employs fewer than 250 staff, unless:
 - 15.15.1 the Customer determines that the Processing is not occasional;
 - 15.15.2 the Customer determines the Processing 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; and
 - 15.15.3 the Customer determines that the Processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 15.16 The Supplier shall allow for audits of its Data Processing activity by the Customer or the Customer's designated auditor.
- 15.17 The Supplier shall designate a Data Protection Officer if required by the Data Protection Legislation, alternatively a dedicated point of contact for data protection.
- 15.18 Before allowing any Sub-processor to Process any Customer Data related to this Agreement, the Supplier must:
 - 15.18.1 notify the Customer in writing of the intended Sub-processor and Processing;

- 15.18.2 obtain the written consent of the Customer;
 - 15.18.3 enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause 15 such that they apply to the Sub-processor; and
 - 15.18.4 provide the Customer with such information regarding the Sub-processor as the Customer may reasonably require.
- 15.19 The Supplier shall remain fully liable for all acts or omissions of any Sub-processor.
- 15.20 The Customer may, at any time, on not less than 30 Working Days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement).
- 15.21 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Customer may on not less than 30 Working Days' notice to the Supplier amend this Agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.
- 15.22 The Supplier shall obtain Cyber Essentials Certification where any of the following characteristics apply to the Agreement:
- 15.22.1 where personal information of citizens, such as home addresses, bank details, or payment information is handled,
 - 15.22.2 where personal information of HMG employees, Ministers and Special Advisors such as payroll, travel booking or expenses information is handled, or
 - 15.22.3 where ICT systems and services are supplied which are designed to store, or Process, data at the OFFICIAL level of the Government Security Classifications.
- 15.23 Where any or all of 15.22.1– 15.22.3 apply, depending on the nature of the information being handled, the Customer may at its discretion require the Supplier to obtain Cyber Essentials Plus certification.

16 Liability

- 16.1 The Supplier shall not be responsible for any injury, loss, damage, cost or expense suffered by the Customer if and to the extent that it is caused by the negligence or wilful misconduct of the Customer or by breach by the Customer of its obligations under the Agreement.
- 16.2 Subject always to clauses 16.3 and 16.4:
- 16.2.1 the aggregate liability of the Supplier in respect of all Losses howsoever caused, whether arising from breach of the Agreement, the supply or failure to supply of the Services, misrepresentation (whether tortious or statutory), tort (including negligence), breach of statutory duty or otherwise shall in no event exceed a sum equal to 125% of the Charges paid or payable to the Supplier; and

16.2.2 except in the case of claims arising under clauses 11.4 and 20.3, in no event shall the Supplier be liable to the Customer for any:

- (a) loss of profits;
- (b) loss of business;
- (c) loss of revenue;
- (d) loss of or damage to goodwill;
- (e) loss of savings (whether anticipated or otherwise); and/or
- (f) any indirect, special or consequential loss or damage.

16.3 Nothing in the Agreement shall be construed to limit or exclude either Party's liability for:

16.3.1 death or personal injury caused by its negligence or that of its Staff;

16.3.2 fraud or fraudulent misrepresentation by it or that of its Staff;

16.3.3 any other matter which, by law, may not be excluded or limited.

16.4 The Supplier's liability under both (a) the indemnities set out in clause 11.4 and 20.3 and (b) its obligations set out in clause 15 shall be unlimited.

16.5 The Supplier is required to maintain appropriate insurance cover with a reputable insurance company for the term of the Agreement. Appropriate insurance means a policy or policies of insurance providing an adequate level of cover in respect of all risks arising out of the Supplier's performance of its obligations under the Agreement, including as required by Law, and covering death or personal injury, loss of or damage to property or any other loss. The Supplier must provide evidence of such insurances on the Customer's request.

17 Force Majeure

Neither Party shall have any liability under or be deemed to be in breach of the Agreement for any delays or failures in performance of the Agreement which result from circumstances beyond the reasonable control of the Supplier. Each Party shall promptly notify the other Party in writing when such circumstances cause a delay or failure in performance and when they cease to do so. If such circumstances continue for a continuous period of more than two months, either Party may terminate the Agreement by written notice to the other Party.

18 Termination

18.1 The Customer may terminate the Agreement at any time by notice in writing to the Supplier to take

effect on any date falling at least 1 month (or, if the Agreement is less than 3 months in duration, at least 10 Working Days) later than the date of service of the relevant notice.

18.2 Without prejudice to any other right or remedy it might have, the Customer may terminate the Agreement by written notice to the Supplier with immediate effect if the Supplier:

18.2.1 (without prejudice to clause 18.2.5), is in material breach of any obligation under the Agreement which is not capable of remedy;

18.2.2 repeatedly breaches any of the terms and conditions of the Agreement 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 and conditions of the Agreement;

18.2.3 is in material breach of any obligation which is capable of remedy, and that breach is not remedied within 30 days of the Supplier receiving notice specifying the breach and requiring it to be remedied ;

18.2.4 undergoes a change of control within the meaning of section 416 of the Income and Corporation Taxes Act 1988;

18.2.5 breaches any of the provisions of clauses 9.2, 13, 14, 15 and 19; or

18.2.6 becomes insolvent, or if an order is made or a resolution is passed for the winding up of the Supplier (other than voluntarily for the purpose of solvent amalgamation or reconstruction), or if an administrator or administrative receiver is appointed in respect of the whole or any part of the Supplier's assets or business, or if the Supplier makes any composition with its creditors or takes or suffers any similar or analogous action (to any of the actions detailed in this clause 18.2.6) in consequence of debt in any jurisdiction.

18.3 The Supplier shall notify the Customer as soon as practicable of any change of control as referred to in clause 18.2.4 or any potential such change of control.

18.4 The Supplier may terminate the Agreement by written notice to the Customer if the Customer has not paid any undisputed amounts within 90 days of them falling due.

18.5 Termination or expiry of the Agreement shall be without prejudice to the rights of either Party accrued prior to termination or expiry and shall not affect the continuing rights of the Parties under this clause and clauses 2, 3.2, 8.1, 8.2, 8.6, 8.7, 9, 11, 12.2, 13, 14, 15, 16, 18.6, 19.4, 20.3, 21 and 22.7 or any other provision of the Agreement that either expressly or by implication has effect after termination.

18.6 Upon termination or expiry of the Agreement, or as notified by the Customer in advance of expiry of the Agreement, the Supplier shall:

18.6.1 give all reasonable assistance to the Customer and any incoming supplier of the Services;
and

18.6.2 return all requested documents, information and data to the Customer as soon as reasonably practicable.

18.6.3 comply with any requirements specified in Schedule 3 (Exit Management).

19 Compliance

19.1 The Supplier shall promptly notify the Customer of any health and safety hazards which may arise in connection with the performance of its obligations under the Agreement. The Customer shall promptly notify the Supplier of any health and safety hazards which may exist or arise at the Customer's premises and which may affect the Supplier in the performance of its obligations under the Agreement.

19.2 The Supplier shall:

19.2.1 comply with all the Customer's health and safety measures while on the Customer's premises; and

19.2.2 notify the Customer immediately in the event of any incident occurring in the performance of its obligations under the Agreement on the Customer's premises where that incident causes any personal injury or damage to property which could give rise to personal injury.

19.3 The Supplier shall:

19.3.1 perform its obligations under the Agreement in accordance with all applicable equality Law and the Customer's equality and diversity policy as provided to the Supplier from time to time; and

19.3.2 take all reasonable steps to secure the observance of clause 19.3.1 by all Staff.

19.4 The Supplier shall supply the Services in accordance with the Customer's environmental policy as provided to the Supplier from time to time.

19.5 The Supplier shall perform its obligations in accordance with Modern Slavery legislation and the Customer's modern slavery policy as provided to the Supplier from time to time. If deemed necessary, the Supplier will work with the Customer to identify and mitigate the risk of modern slavery, human trafficking, forced and bonded labour and human rights violations in its supply chain.

19.6 The Supplier shall comply with, and shall ensure that its Staff shall comply with, the provisions of:

19.6.1 the Official Secrets Acts 1911 to 1989; and

19.6.2 section 182 of the Finance Act 1989.

20 Prevention of Fraud and Corruption

20.1 The Supplier shall not offer, give, or agree to give anything, to any person 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 Agreement or for showing or refraining from showing favour or disfavour to any person in relation to the Agreement.

20.2 The Supplier shall take all reasonable steps, in accordance with good industry practice, to prevent fraud by the Staff and the Supplier (including its shareholders, members and directors) in connection with the Agreement and shall notify the Customer immediately if it has reason to suspect that any fraud has occurred or is occurring or is likely to occur.

20.3 If the Supplier or the Staff engages in conduct prohibited by clause 20.1 or commits fraud in relation to the Agreement or any other contract with the Crown (including the Customer) the Customer may:

20.3.1 terminate the Agreement and recover from the Supplier the amount of any loss suffered by the Customer resulting from the termination, including the cost reasonably incurred by the Customer of making other arrangements for the supply of the Services and any additional expenditure incurred by the Customer throughout the remainder of the Agreement; or

20.3.2 recover in full from the Supplier any other loss sustained by the Customer in consequence of any breach of this clause.

21 Dispute Resolution

21.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Agreement and such efforts shall involve the escalation of the dispute to an appropriately senior representative of each Party.

21.2 If the dispute cannot be resolved by the Parties within one month of being escalated as referred to in clause 21.1, the dispute may by agreement between the Parties be referred to a neutral adviser or mediator (the “**Mediator**”) chosen by agreement between the Parties. All negotiations connected with the dispute shall be conducted in confidence and without prejudice to the rights of the Parties in any further proceedings.

21.3 If the Parties fail to appoint a Mediator within one month, or fail to enter into a written agreement resolving the dispute within one month of the Mediator being appointed, either Party may exercise any remedy it has under applicable law.

22 General

22.1 Each of the Parties represents and warrants to the other that it has full capacity and authority, and all necessary consents, licences and permissions to enter into and perform its obligations under the Agreement, and that the Agreement is executed by its duly authorised representative.

- 22.2 A person who is not a party to the Agreement shall have no right to enforce any of its provisions which, expressly or by implication, confer a benefit on him, without the prior written agreement of the Parties.
- 22.3 The Agreement cannot be varied except in writing signed by a duly authorised representative of both the Parties.
- 22.4 The Agreement contains the entire agreement between the Parties and supersedes and replaces any prior written or oral agreements, representations or understandings between them. The Parties confirm that they have not entered into the Agreement on the basis of any representation that is not expressly incorporated into the Agreement. Nothing in this clause shall exclude liability for fraud or fraudulent misrepresentation.
- 22.5 Any waiver or relaxation either partly, or wholly of any of the terms and conditions of the Agreement shall be valid only if it is communicated to the other Party in writing and expressly stated to be a waiver. A waiver of any right or remedy arising from a breach of contract shall not constitute a waiver of any right or remedy arising from any other breach of the Agreement.
- 22.6 The Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Parties other than the contractual relationship expressly provided for in the Agreement. Neither Party shall have, nor represent that it has, any authority to make any commitments on the other Party's behalf.
- 22.7 Except as otherwise expressly provided by the Agreement, all remedies available to either Party for breach of the Agreement (whether under the Agreement, statute or common law) are cumulative and may be exercised concurrently or separately, and the exercise of one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.
- 22.8 If any provision of the Agreement is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from the Agreement and rendered ineffective as far as possible without modifying the remaining provisions of the Agreement, and shall not in any way affect any other circumstances of or the validity or enforcement of the Agreement.
- 22.9 If the Supplier's SME status changes over the duration of the Agreement they shall notify the Customer in writing.

23 Notices

- 23.1 Any notice to be given under the Agreement shall be in writing and may be served by personal delivery, first class recorded or, subject to clause 23.3, e-mail to the address of the relevant Party set

out in the Contract Details, or such other address as that Party may from time to time notify to the other Party in accordance with this clause:

23.2 Notices served as above shall be deemed served on the Working Day of delivery provided delivery is before 5.00pm on a Working Day. Otherwise delivery shall be deemed to occur on the next Working Day. An email shall be deemed delivered when sent unless an error message is received.

23.3 Notices under clauses 17 (Force Majeure) and 18 (Termination) may be served by email only if the original notice is then sent to the recipient by personal delivery or recorded delivery in the manner set out in clause 23.1.

24 Governing Law and Jurisdiction

24.1 The validity, construction and performance of the Agreement, and all contractual and non contractual matters arising out of it, shall be governed by English law and shall be subject to the exclusive jurisdiction of the English courts to which the Parties submit.

Annex 2

Charges

Guidance notes (please delete):

- Insert pricing detail from ITT (i.e. whether the Supplier will be paid on a 'Fixed Price', or 'Time & Materials' basis, plus any notes about what the pricing does / does not include).
- Insert the Supplier's pricing quote including any supporting notes/pricing breakdowns. These should usually be in a table format.
- Pricing should correspond with the milestones/details of the Specification.
- If we asked for costed future Options in the ITT, include details, including the Supplier's quotation for those Options and whether it is a fixed or indicative price.

Example 1:

Activity / Milestone Description	Fixed Price:
[Milestone 1]	£
[Milestone 2]	£
[Milestone 3]	£
Total Fixed Price	£

Example 2 (can also be used as a breakdown of the above table):

Job Title:	Role 1 [Job Title]	Role 2 [Job Title]	Role 3 [Job Title]	Role 4 [Job Title]	Total days per activity:	Total price per activity:
Day Rate:	£	£	£	£		
[Activity description]						£
[Activity description]						£
[Activity description]						£
[Activity description]						£
[Expenses]						£
Total days per role:						
Total Price per role:	£	£	£	£		

Example wording to include in this Annex (please align with any wording in the ITT):

All pricing shall be exclusive of VAT.

Pricing shall not be subject to any indexation or inflationary uplift.

Day rates shall be fixed prices and shall [include expenses. These day rates shall] provide a baseline for any Variations.

Day Rates

Name/Title	Grade	Day rate:
[Name]		£
[Name]		£
[Name]		£

Pricing shall be a fixed price for delivering the full scope of work, including all fees, costs and expenses. This shall include incorporating comments and feedback from the Customer and its stakeholders into the deliverables, as requested.

OR

The Charges shall be based on the Pricing Schedule set out in this Annex 2. The Supplier shall be paid on the basis of the time and materials required to undertake the Services, as agreed in advance in writing by the Customer and in accordance with the Pricing Schedule.

Optional if costed future Options are included:

The following Options may be activated at the discretion of the Customer, in line with the specification at Annex 3 and clause 5.12 of Annex 1 (Terms and Conditions).

Where these Options are activated, the following fixed prices shall apply: **OR**

Where these Options are activated, the following indicative prices may be adjusted, subject to agreement by both Parties. Where any adjustments are made, the below pricing (including any supporting breakdowns) shall be used as a basis for the agreement, and the Customer may require further breakdowns and supporting evidence of costs.

Options	Fixed[/Indicative] Price:
[Option 1]	£
[Option 2]	£
[Option 3]	£

Optional if using open book contract management and/or cost reimbursement: The Customer reserves the right to require evidence of costs incurred to support open book contract management and/or cost reimbursement.

Payment Schedule

Payment shall be in arrears, on completion of relevant deliverables to the satisfaction of the Customer.

Activity / Milestone Description	Fixed Price	Expected Payment Date
[Milestone 1]	£	
[Milestone 2]	£	
[Milestone 3]	£	

Annex 3
Specification

Guidance notes (please delete):

Insert Specification from ITT and amend terminology etc as relevant for contract purposes e.g. replaces references to 'Tenderer' or 'successful supplier' with 'Supplier'.

Please ensure you include everything you expect the Supplier to do under the Contract. This sets out what the Supplier will be contractually obliged to deliver.

Please include milestones as applicable, which link to the charges at Annex 2.

Guidance on specifications can be found [here](#).

Please include any **implementation / mobilisation requirements**, including handover from incumbent supplier if appropriate, and indicate if these activities must be completed and signed off prior to 'service commencement'.

If any **costed future Options** are included, please provide details here of what the Options are and what services are included in each. This should link to Annex 2 (to specify what is included in the priced Options).

Annex 4

Supplier Proposal (optional)

Supplier name (the Supplier) is engaged to deliver the Specification in accordance with the Proposal it submitted on [date], and the subsequent clarifications it submitted on [date] (if relevant). This document / Excerpts from these documents are provided below.

Guidance note (please delete):

Note: You only need to do this if they said they would do things in their proposal which are above and beyond the ITT specification in Annex 3. And also if you want to contractually hold them to methodology / 'how' they would do it. For example you might want to include any project plans they provided, risk management, project team, additional value-add, anything agreed as out of scope, etc. You can include their full proposal, or pull out the elements of the proposal which are relevant to how we want them to deliver the contract. We need to ensure there are no conflicts between the Specification at Annex 3 and their proposal at Annex 4. If you are aware of any changes i.e. we have agreed they can deliver something different to what we originally specified, then this should be made clear.

Part 1: Supplier Proposal: [date]

Part 2: Supplier Clarifications: [date]

Note: You only need to do this if there were any clarifications which affect how they will deliver the contract. If they relate to pricing only this should be reflected in Annex 2 rather than here.

Schedule 1: Processing, Personal Data and Data Subjects

1. The Supplier shall comply with any further written instructions with respect to

Processing by the Customer.

2. Any such further instructions shall be incorporated into this Schedule.

Description	Details
Subject matter of the Processing	<p><i>[This should be a high level, short description of what the processing is about i.e. its subject matter]</i></p> <p>Example:</p> <p><i>The Supplier will be collecting Personal Data in order to carry out the Services, which involves a national survey of members of the public and their views on X.</i></p>
Duration of the Processing	<p><i>[Clearly set out the duration of the processing including dates]</i></p> <p>Example:</p> <p><i>This will be the duration of the Agreement (including any extensions): XXX 20XX – XXX 20XX (or as otherwise extended). Customer Data shall also be handled appropriately for the duration it is held on file after the Agreement has ended (in accordance with the Customer's retention schedule as noted below).</i></p>
Nature and purposes of the Processing	<p><i>[Please be as specific as possible, but make sure that you cover all intended purposes.]</i></p> <p><i>The nature of the processing means any operation such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means) etc.</i></p> <p><i>The purpose might include: employment processing, statutory obligation, recruitment assessment etc]</i></p> <p>Example:</p> <p><i>The Supplier will be responsible for collecting, reviewing and analysing information which may/will contain Personal Data. This will be for the purposes of providing XXXX services/ advice and support. They will be also drafting documents which may contain personal data, storing this documentation and sharing it with stakeholders. This includes both hard copies and electronic versions. This data will be used to inform policy and government objectives / measure the success of X programme.</i></p>
Type of Personal Data	<p><i>[Examples here include: name, address, date of birth, NI number, telephone number, pay, images, biometric data racial or ethnic origin, political opinions, religious or</i></p>

	<p><i>philosophical beliefs, or trade union membership, genetic data, biometric data for the purpose of uniquely identifying a natural person, data concerning health or data concerning a natural person's sex life or sexual orientation personal data relating to criminal convictions and offences or related security measures etc]</i></p> <p>Example:</p> <p><i>Name, address, email address, work and personal phone number, job title, job descriptions, day rates, photographs, opinions, lifestyle habits, age, etc.</i></p>
Categories of Data Subject	<p><i>[Examples include: Staff (including volunteers, agents, and temporary workers), customers/ clients, suppliers, patients, students / pupils, members of the public, users of a particular website etc]</i></p> <p>Example:</p> <p><i>Employees (Customer and Supplier), stakeholders (including but not limited to: XXXX), members of the public. This may include individuals under the age of 18 and/or vulnerable adults.</i></p>
Data Storage and Flow	<p><i>[Note whether the data is stored / processed inside or outside the UK, and if outside whether this is within or outside of the EEA (European Economic Area). In what direction does the data flow? Note whether any processing of data is sub-contracted out and the storage / processing mechanisms for this data if so.]</i></p> <p>Example:</p> <p><i>The Supplier stores data in the UK, but will send data to subcontractors in Belgium (inside EEA) and the USA (outside of EEA). Data will be sent from the Supplier to the Customer, as well as from the Supplier to the subcontractors and back.</i></p>
Plan for return and destruction of the data once the Processing is complete UNLESS requirement under Law to preserve that type of data	<p><i>[Describe how long the data will be retained for, how it will be returned or destroyed]</i></p> <p>Example:</p> <p><i>At the end of the Contract all data will be returned to the Customer. The Customer will dispose of the data in line with our retention schedule and will also require the Supplier to dispose of the data in line with our retention schedule, as set out below / as notified to the Supplier in writing / as per the terms of the Agreement.</i></p> <p><i>[Insert relevant detail from retention schedule which can be found at https://intranet.culture.gov.uk/wp-content/uploads/DCMS-Record-Retention-Schedule.pdf e.g.] The retention schedule states that where the data relates to contracts under 10 years, it must be destroyed after six years. Legal documents including, but not limited to, leases, subletting agreements, landlords' consents, licenses and planning consents must be kept for up to 15 years</i></p>

	<i>after expiry and destroyed.</i>
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Schedule 2: Performance & Contract Management

- 1.1 The purpose of this Schedule is to set out the contract management requirements.
- 1.2 The Customer reserves the right to adjust, introduce new, or remove KPIs or reporting requirements throughout the Term, however any significant changes shall be agreed between the Customer and the Supplier in writing via a Contract Variation Form.
- 1.3 The below table sets out the **Key Performance Indicators (KPIs)** by which the Supplier's overall performance under this Agreement shall be monitored and managed.
- 1.4 The Supplier shall use all reasonable endeavours to meet the KPI targets identified in the table below.

[EXAMPLES PROVIDED – PLEASE ADAPT AS APPROPRIATE FOR YOUR CONTRACT]

KPI	KPI target
% of milestones delivered on time	100%
Availability of helpdesk	09:00 – 17:00 Mon-Fri excluding public holidays
Speed of answering helpdesk calls	80% of calls answered within 30 seconds
Accuracy of invoicing	100% accuracy

- 1.5 The Supplier shall provide **contract management reporting** as set out in the table below.

REPORT TITLE	CONTENT	FORMAT	FREQUENCY
Indirect SME Spend	<ul style="list-style-type: none"> Value of Supplier's spend with SMEs in relation to this Agreement (e.g. spend with sub-contractors who are SMEs) Percentage of sub-contracted work in relation to this Agreement which is with SMEs (e.g. 20% of the contract price is subcontracted and of this, 10% is with SMEs) 	Excel (to include SME supplier names and a breakdown of spend for each)	Quarterly to commercial@culture.gov.uk
Work in progress	Outline of work completed over the relevant period by reference to xxx	Word or PDF	Every week unless agreed otherwise
[Call Off Contract Charges]	[]	[]	[]
[Key Sub-Contractors]	[]	[]	[]
[Technical]			

	[]	[]	[]
[Performance management]	Report on KPIs and levels achieved against target	Excel	Monthly

1.6 The Parties shall hold **contract management meetings** as set out in the table below.

MEETING TITLE	CONTENT	LOCATION	FREQUENCY	ADMIN RESPONSIBILITY	ATTENDEES

Schedule 3: Exit Management

1. The Supplier shall comply with the below requirements, upon expiry or termination of the Agreement, or upon notice thereof.
2. The Supplier shall comply with any further written instructions with respect to exit management reasonably requested by the Customer.
3. Any such further instructions shall be incorporated into this Schedule via execution of a Contract Variation Form.

[EXAMPLES PROVIDED – PLEASE ADAPT AS APPROPRIATE FOR YOUR CONTRACT]

Responsibilities of the Customer:

e.g. The Customer shall notify the Supplier with X days of any information being required, and shall provide details of the information required to be provided by the Supplier and the required format, dates, process, means, and recipient for transfer of information.

Responsibilities of the Supplier:

e.g. The Supplier shall provide the data and/or information requested by the Customer within X days of their request, and complying with the details of the request.

Hand over of data / Confidential Information / other [provide details]

Destroy data / Personal Data / Confidential Information / other [provide details]

Provide knowledge transfer / training sessions to Customer staff as follows: [provide details]

Provide a lessons learned report. [provide details]

Return equipment / information to the Customer [provide details]

Work as reasonably required with any new supplier taking over the Service to ensure a smooth transition [provide details]

Schedule 4: Variation Form



Department for
Digital, Culture
Media & Sport

CONTRACT TITLE: [insert]

CONTRACT REF NUMBER: [10XXXX]

VARIATION NUMBER: [1]

AGREEMENT (CONTRACT) DATE: [DD/MM/YYYY]

DCMS Requestor details: [name, title, email]

PARTIES:

Customer: Department for Culture, Media & Sport (DCMS) Supplier: [Supplier Name]

Words and expressions in this Variation shall have the meaning given to them in the Agreement.

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

PART 1: SCOPE OF REQUEST:

REQUEST DATE: [insert]

Background and substantiation for request: [insert]

Outline Scope of request: [insert]

Assumptions & Exclusions: [insert]

Activity Start date(s) / Finish date(s): [insert]

PART 1 APPROVAL:

Customer Contract Manager:

Signature:

Full Name:

Title:

Date:

Customer Commercial Lead:

Signature:

Full Name:

Title:

Date:

PART 2: QUOTATION DETAILS:
QUOTATION DATE: [insert]
Assumptions & Exclusions: [insert]
Activity Start date(s) / Finish date(s): [insert]
Resources: [insert]
Quotation: [insert]
PART 2 APPROVAL:
Supplier: Signature: Full Name: Title: Date:

PART 3: VARIATION DETAILS:
VARIATION EFFECTIVE DATE: [insert]
Deliverable(s)/Activity: [insert]
Resources: [insert]
Authorised Charges: [insert]
PART 3 APPROVAL:

Customer Contract Manager / Budget Holder:	Customer Commercial Director:
Signature:	Signature:
Full Name:	Full Name:
Title:	Title:

Date:	Date:
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Schedule 5: Key Personnel

Name	Title	Email