

General Terms and Conditions for the Supply of Services

1. Interpretation

In these Conditions:

- 1.1 “Authority” means the Secretary of State for Work and Pensions;
- 1.2 “Charging Rates” shall be construed as those excluding Value Added Tax;
- 1.3 “Confidential Information” means any information which has been designated as confidential by either party in writing or that ought reasonably to be considered as confidential however it is conveyed, including information that relates to the business, affairs, developments, trade secrets, know-how, personnel and suppliers of the Contractor, including IPRs, together with all information derived from the above, and any other information clearly designated as being confidential or which ought reasonably to be considered to be confidential;
- 1.4 “the Contract” means the agreement concluded between the Authority and the Contractor, for the supply of the services and related goods (if any);
- 1.5 “the Contractor” means the person who undertakes to render the services specified on the Contract;
- 1.6 “the Contract Price” means the price exclusive of Value Added Tax, payable to the Contractor by the Authority under the Contract for the full and proper performance by the Contractor of its part of the Contract;
- 1.7 “Customer Data” means:
- a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, including any Customer’s Confidential Information, and which:
 - i) are supplied to the Supplier by or on behalf of the Customer; or
 - ii) the Supplier is required to generate, process, store or transmit pursuant to this Call Off Contract; or
 - iii) any Personal Data for which the Customer is the Data Controller
- 1.8 “Customer Background IPR” means:
- a) IPRs owned by the Customer before the Call Off Commencement Date, including IPRs contained in any of the Customer’s Know-How, documentation, software, processes and procedures;
 - b) IPRs created by the Customer independently of this Call Off Contract; and/or
 - c) Crown Copyright which is not available to the Supplier otherwise than under this Call Off Contract;
- 1.9 “Default” means any breach of the obligations of the relevant party or any other default, act, omission, negligence or statement of the relevant Party or the Staff in connection with or in relation to this Contract.
- 1.10 “FOIA” means the Freedom of Information Act 2000 and any subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation;
- 1.11 “Government Property” means anything issued or otherwise furnished in connection with the Contract by or on behalf of the Authority or its authorised representative;
- 1.12 “Month” means calendar month;
- 1.13 “Project Specific IPRs” means any materials, reports or information developed as part of the Work performed under the Contract;
- 1.14 “Person” includes a corporation;
- 1.15 “Representative of the Authority” in any provision of the Contract means the person duly authorised by the Authority to act for the purposes of the provision;
- 1.16 “Staff” means anyone acting on the Contractor’s behalf employed in the execution of the Contract;
- 1.17 “Supplier Background IPR” means
- a) Intellectual Property Rights owned by the Supplier before the Contract commencement

date, for example those subsisting in the Supplier's standard development tools, program components or standard code used in computer programming or in physical or electronic media containing the Supplier's Know-How or generic business methodologies; and/or

- b) Intellectual Property Rights created by the Supplier independently of this Call Off Contract,

1.18 "Third Party IPR" means Intellectual Property Rights owned by a third party which is or will be used by the Supplier for the purpose of providing the Services;

1.19 "VAT" means value added tax in accordance with the provisions of the Value Added Tax Act 1994;

1.20 "the Work" includes all work to be performed and services to be rendered, and other obligations to be fulfilled by the Contractor.

2. Acts by the "Authority"

Any decision, act or thing which the Authority is required or authorised to take or do under the Contract may be taken or done by any person authorised, either generally or specifically, by the Authority to take or do that decision, act or thing.

3. Service of Notice

Any notice or other communication, which the Authority is required to give under the Contract will be sufficiently given if sent either by recorded delivery, registered post or electronically to the last known address or email address of the Contractor.

4. Amendments and Variations

No amendment or variation in the terms and conditions of the Contract will be valid unless previously agreed in writing between the Authority and the Contractor and no payment will be made for unauthorised work.

5. Transfer and Sub-letting

5.1 The Contractor shall not without the written consent of the Authority assign, sub-contract, novate or any way dispose of the benefit and/ or burden of the Agreement or any part of the Agreement.

6. Payment

6.1 On presentation of a "valid" invoice quoting the Authority contract and/or purchase number and confirming that the Work has been performed, the Authority shall pay the Contract Price to the Contractor. Payment will be made within 30

Working Days of receipt of the invoice by the Authority.

6.2 Invoices will show the period and the amount of the Work for which the payment is claimed together with the agreed Charging Rates.

6.3 Invoices for the Work performed shall be rendered at the time and in the manner specified by the Authority.

6.4 The Authority shall pay all sums by direct credit transfer into a suitable bank account or by other electronic payment methods as appropriate.

6.5 If, for the purpose of performing the Contract, the Contractor enters into a contract for the supply of goods or services to the Contractor by a third party, the Contractor shall include in that contract a provision which requires the Contractor to pay for those goods or services within 30 working days of the Contractor receiving a "valid" invoice from that third party.

7. Recovery of Sums Due

7.1 Whenever under the Contract any sum of money shall be recoverable from or payable by the Contractor, the same may be deducted from any sum then due, or which at any time thereafter may become due to the Contractor under any contract with the Authority or with any other department or office of Her Majesty's Government.

7.2 Any over-payment by the Authority to the Contractor whether of charges or of Value Added Tax shall be a sum of money recoverable from the Contractor.

8. Value Added Tax

8.1 Without prejudice to Clause C2.6, for the avoidance of doubt, it shall at all times remain the sole responsibility of the Contractor to:

8.1.1 assess the VAT rate(s) and tax liability arising out of or in connection with the Contract; and

8.1.2 account for or pay any VAT (and any other tax liability) relating to payments made to the Contractor under the Contract to HM Revenue & Customs ("HMRC").

8.2 Where the Contractor does not include VAT on an invoice, the Authority will not be liable to pay any VAT for that invoice either when it falls due, or at any later date.

8.3 Any overpayments of VAT by the Authority to the Contractor shall be a sum of money recoverable from the Contractor for the purposes of Condition 7.

9. Insolvency

9.1 The Authority may at any time by notice in writing terminate the Contract without compensation to the Contractor if:

9.1.1 the Contractor, being an individual or where the Contractor is a company, any partner in that company at any time becomes bankrupt or has a receiving order or administration order made against him or makes any composition or agreement with or for the benefit of his creditors, or makes any conveyance or assignment for the benefit of his creditors, or purports to do so or if in Scotland he becomes insolvent or not our bankrupt, or any application is made under any bankruptcy act for the time being in force for sequestration of his estate, or a trust deed is granted by him for benefit of his creditors; or

9.1.2 the Contractor, being a company, is the subject of a proposal for a voluntary arrangement; or has a petition for an administration order or a petition for a winding-up order brought against it; or passes a resolution for a winding-up order; or makes any composition, arrangement, conveyance or assignment for the benefit of its creditors; or purports to do so; or a receiver or any other person is appointed in respect of its undertaking or of all or any of its property.

Provided always that such termination shall not prejudice or affect any right of action or remedy which shall have accrued or shall accrue thereafter to the Authority.

10. Termination on Default

Either party shall have the right to terminate the Contract if the other party is in default of any of the conditions of the Contract and such Default shall not have been remedied to the satisfaction of the injured party within a period of thirty days of written notification of such default to the other party. Notice of termination shall be given to the offending party in writing with immediate effect and such termination shall be without prejudice to the rights of the parties accrued to the date of termination.

11. Arbitration

11.1 All disputes, differences or questions between the parties to the Contract with respect to any matter arising out of or relating to the Contract, except where the decision of the Authority or of any other person is by the Contract expressed to be final and conclusive, shall after 14 days written notice by either party to the Contract to

the other be referred in writing to a single arbitrator agreed for the purpose, or in default of such agreement to be appointed at the request of either party by the London Court of Arbitration..

11.2 Such reference shall be deemed to be a submission to arbitration under the Arbitration Act 1996 as amended or any statutory modification or re-enactment thereof.

12. Break

12.1 The Authority shall, in addition to its power under any other provision of the Contract, be entitled to terminate the Contract at any time by giving the Contractor written notice to expire at the end of the period of notice specified for the purpose of this Condition in the Contract. If no such period is specified at the end of one month and upon expiration of the notice the Contract shall be terminated without prejudice to rights of the parties accrued to the date of termination but subject to the operation of the following provisions:

12.1.1 if such notice is given the Authority shall indemnify the Contractor against commitments, liabilities or expenditure which would otherwise represent an unavoidable loss by the Contractor by reason of the termination of the Contract;

12.1.2 the Authority shall not be liable to pay under the provisions of condition 12.1 and 12.1.1 any sum which, when taken together with any sums paid or due or becoming due to the Contractor under the Contract, shall exceed such total sum as would have been payable under the Contract if the work had been completed in accordance with the requirements of the Contract.

12.2 If hardship to the Contractor should arise from the operation of condition 12.1.2 it shall be open to the Contractor to refer the circumstances to the Authority who, on being satisfied that such hardship exists, shall make such allowance, if any, as in its opinion is reasonable, and the decision of the Authority on any matter or thing arising out of this Condition shall be final and conclusive.

13. Official Secrets Act

13.1 The Contractor shall comply with, and shall ensure that its staff comply with (including any statutory amendment or re-enactment), the provisions of:
a) the Official Secrets Act 1911 to 1989; and
b) Section 182 of the Finance Act 1989.

13.2 In the event that the Contractor or its staff fail to comply with this clause, the Authority reserves the right to terminate the Contract by giving notice in writing to the Contractor.

14. Confidentiality

14.1 The Contractor undertakes:

14.1.1 to treat as confidential all information which may be derived from or obtained in the course of the Contract; and

14.1.2 to take all necessary precautions to ensure that all such information is treated as confidential by the Contractor, its staff, agents and sub-contractors.

15. Transparency

15.1 The parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Contract is not Confidential Information. The Authority shall be responsible for determining in its absolute discretion whether any of the content of the Contract is exempt from disclosure in accordance with the provisions of the FOIA.

15.2 Notwithstanding any other term of this Contract, the Contractor hereby gives its consent for the Authority to publish the Contract in its entirety, including from time to time agreed changes to the Contract, to the general public.

16. Prevention of Fraud and Corruption

16.1 The Contractor 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 this Contract or for showing or refraining from showing favour or disfavour to any person in relation to this Agreement.

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

16.3 If the Contractor or the Staff engages in conduct prohibited by clause 16.1 or commits fraud in relation to the order or any other contract with the Crown the Authority may:

- a) Terminate the Agreement and recover from the Contractor the amount of any loss suffered by the Authority resulting from termination, including the cost reasonably incurred by the Authority of making other arrangements for the supply of the Services and any additional expenditure incurred by the Customer

throughout the remainder of the Agreement; or

- b) Recover in full from the Supplier any other loss sustained by the Authority in consequence of any Default of this clause.

17. Issued Government Property

17.1 All Government Property issued in connection with the Contract shall remain the property of the Authority and shall be used in the execution of the Contract and for no other purpose whatsoever save with the prior approval in writing of the Authority.

17.2 All such property shall be deemed to be in good condition when received by or on behalf of the Contractor unless it notifies the Authority to the contrary within 14 days or such other time as is specified in the Contract.

17.3 The Contractor shall undertake to return all such property so issued and will be responsible for all loss thereof or damage thereto from whatever cause to the full amount of such loss or damage.

18. Liability

18.1 The Contractor shall not be responsible for any injury, loss, cost or expense suffered by the Authority if and to the extent that it is caused by the negligence or wilful misconduct of the Authority or by Default by the Authority of its obligations under this Contract.

18.2 Subject always to clauses 18.3 and 18.4

18.2.1 the aggregate liability of the Contractor in respect of all defaults, claims, losses or damages howsoever caused, whether arising from breach of the Contract, the supply or failure to supply 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 Contractor; and

18.2.2 except in the case of claims arising under clauses 16 and 27 in no event shall the Contractor be liable to the Authority for any loss of profits, loss of business, loss of revenue, loss of or damage to goodwill, loss of savings (whether anticipated or otherwise) and/or any indirect, special or consequential loss or damage.

18.3 Nothing in the Contract shall be construed to limit or exclude either party's liability for:

18.3.1 death or personal injury caused by its negligence or that of its staff;

18.3.2 fraud or fraudulent misrepresentation by it or that of its staff; or

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

18.4 The Contractors liability under Clause 16 shall be unlimited.

19. Indemnities

19.1 The Contractor shall indemnify the Authority against all actions, claims, demands, costs, charges and expenses arising from or incurred by reason of any infringement or alleged infringement of copyright, patent, registered design or other property right used by or on behalf of the Contractor for the purpose of the Contract, providing that any such infringement is not knowingly caused by, or contributed to, by any act of the Authority.

19.2 The Authority shall indemnify the Contractor against all actions, claims, demands, costs, charges and expenses arising from or incurred by reason of any infringement or alleged infringement of copyright, patent, registered design or other property right used at the request of the Authority by the Contractor in the course of performing the Contract.

20. Law

The Contract shall be considered as a contract made in England and shall be governed by, and construed in accordance with the provisions of English Law.

21. Waiver

The failure of either party at any time to enforce any provision of the Contract shall in no way affect its rights thereafter to require complete performance by the other party, nor shall the waiver of any default of any provision be taken or held to be a waiver of any subsequent default of any such provision or be a waiver of the provision itself.

22. Severability

If any condition or provision of the Contract not being of a fundamental nature is held to be illegal or unenforceable, the validity or enforceability of the remainder of the Contract shall not be affected thereby.

23. Discrimination

23.1 The Contractor shall not unlawfully discriminate either directly or indirectly on such grounds as age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex or sexual orientation and without prejudice to the generality of the foregoing the Contractor shall not unlawfully discriminate within the meaning and scope of the Equality Act 2010 or other relevant or

equivalent legislation, or any statutory modification or re-enactment thereof.

23.2 The Contractor shall take all reasonable steps to secure the observance of the provisions of condition 23.1 by all Staff or agents of the Contractor and all sub-contractors employed in the execution of the Contract.

24. Special Provisions

In the event of any conflict or inconsistency between these general Conditions and any special conditions contained within the Contract, such special conditions shall prevail.

25. Performance

25.1 The Work shall be carried out in accordance with the Contract to the satisfaction of the Authority or its authorised representatives. During the course of the Contract the Authority or its authorised representative shall have the power to inspect and examine the Work being performed on Authority premises at any reasonable time or where any part of the Work is being performed on premises other than Authority premises; reasonable notice shall be given to the Contractor of its intention to do so. The Contractor shall give and procure all such facilities as the Authority or its authorised representatives may reasonably require for such inspection and examination.

25.2 If any part of the Work is found to be unsatisfactory or not in accordance with the Contract, other than as a result of negligence on the part of the Authority or its authorised representative, the Contractor shall at his own expense re-schedule and perform the Work correctly within such reasonable time as may be specified.

25.3 If the Work or any part thereof is suspended by the Authority or its authorised representative (otherwise than in consequence of default or negligence on the part of the Contractor) or if the Contractor is delayed in proceeding with the Work by the Authority or its authorised representative, the Authority shall be responsible for any loss incurred by the Contractor as a result of such suspension or delay.

25.4 If the performance of the Contract by the Contractor is delayed by causes mentioned in condition 25.3 or by reason of any act on the part of the Authority, or by industrial dispute or any other cause which the Contractor could not have prevented and for which it was not responsible then the Contractor shall be allowed a reasonable extension of time for completion.

25.5 The time of commencement shall be of the essence and failure to commence the Work within the time promised or specified shall enable the

Authority (at its option) to be released from any obligation to accept and pay for the Work and/or cancel any, all or part of the Work, in either case without prejudice to the other rights and remedies of the Authority.

26. Progress reports

26.1 Where formal progress reports are specified in the Contract, the Contractor shall render such reports at such time and in such form as may be specified or as otherwise agreed between the Contractor and the Authority or its authorised representative.

26.2 The submission and the acceptance of progress reports shall not prejudice the rights of the Authority under any other condition of the Contract.

27. Rights to the Results of Work

27.1 Copyright, and rights in the nature of copyrights, in the material produced in the performance, and during the currency of the Contract, and in all reports submitted under the terms of the Contract, and in all reports submitted under the terms of the Contract, are hereby assigned by the Contractor to the Crown. Such material or report shall not be reproduced, or disseminated for any other purpose, without the prior written permission of the Authority. All applications for such permission shall be submitted in the first instance to the Authority.

27.2 The Contractor shall not use any data, reports, drawings, specifications, designs, inventions, plans, programmes or other material produced in the course or the purpose of the Work without first obtaining written permission from the Authority.

27.3 All moral rights relating to the Work shall be waived by the Contractor. Subject to Condition 5, the Contractor shall undertake to obtain a waiver of such rights from any sub-contractor engaged by him for the purposes of the Work.

28. Publicity concerning the Work

28.1 The Contractor shall not:

28.1.1 make any press announcements or publicise this Contract or its contents in any way; or

28.1.2 use the Authority's name or brand in any promotion or marketing or announcement of orders;

without the prior written consent of the Authority, which shall not be unreasonably withheld or delayed

29. Contractor's Staff

29.1 The Authority reserves the right to refuse to admit to premises occupied by or on behalf of the Authority any person employed by the Contractor, or by a sub-contractor, whose admission would be, in the opinion of the Authority, undesirable.

29.2 If and when directed by the Authority, the Contractor shall provide a list of names and business addresses of all persons who may at any time require admission in connection with the performance of the Contract, to any premises occupied by or on behalf of the Authority, specifying the capacities in which they are concerned with the Contractor and giving such other particulars as the Authority may require.

29.3 If and when directed by the Authority, the Contractor shall secure that any person employed by it, or by a sub-contractor, who is specified in the direction, or is one of a class of persons who may be so specified, shall sign a statement that he understands that the Official Secrets Acts 1911 to 1989 apply to the person signing the statement both during the carrying out and after completion or termination of the Contract.

29.4 The Contractor shall comply with all applicable legislation relating to safeguarding and protecting vulnerable groups, including the Safeguarding Vulnerable Groups Act 2006, the Safeguarding Vulnerable Groups Order (Northern Ireland) 2007 and the Protecting Vulnerable Groups Act 2007 or other relevant or equivalent legislation, or any statutory modification or re-enactment thereof.

29.5 If the Contractor shall fail to comply with condition 29.2 and if the Authority (whose decision shall be final and conclusive) decides that such failure is prejudicial to its interests, then the Authority may terminate the contract by notice in writing to the Contractor always providing that such termination shall not prejudice or affect any right of action or remedy which shall have accrued, or shall accrue thereafter, to the Authority.

29.6 The decision of the Authority as to whether any person is to be refused admission to official premises and as to whether the Contractor has failed to comply with conditions 29.2 or 29.3 shall be final and conclusive.

30. Data Protection

30.1 The Contractor shall not disclose or allow access to any personal data provided by the Authority or acquired by the Contractor during the course of tendering for or executing the Contract, other than to a person employed or engaged by the Contractor or any sub-contractor, agent or other person concerned with the same.

30.2 Any disclosure of or access to personal data allowed under condition 30.1 shall be made in

confidence and shall extend only so far as that which is specifically necessary for the purpose of the Contract.

Intellectual Property Rights of the Supplier or its licensors, namely:

30.3 The Contractor shall store or process such personal data only at sites specifically agreed in writing, in advance, with the Authority.

- (i) the Supplier Background IPR; and
- (ii) the Third Party IPR.

30.4 The Contractor shall implement appropriate technical and organisational measures to protect the personal data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure. These measures shall be appropriate to the harm which might result from any unauthorised or unlawful processing, accidental loss, destruction or damage to the personal data and having regard to the nature of the personal data which is to be protected.

(b) the Supplier shall not acquire any right, title or interest in or to the Intellectual Property Rights of the Customer or its licensors, including the:

- (i) Customer Background IPR;
- (ii) Customer Data; and
- (iii) Project Specific IPRs.

31. HMG Baseline Personnel Security

31.1 HMG Baseline Personnel Security Standard is a staff vetting procedure and requires that a number of checks are made on persons who are to be given access to Government Assets (premises, systems, information or data). This is mandatory and applies to all Authority commercial arrangements, where the contractors (and any of their sub-contractors) staff require access to Departmental Assets in the course of their duties.

32.2 Where either Party acquires, by operation of Law, title to Intellectual Property Rights that is inconsistent with the allocation of title set out in Clause 32.1, it shall assign in writing such Intellectual Property Rights as it has acquired to the other Party on the request of the other Party (whenever made).

32.3 Neither Party shall have any right to use any of the other Party's names, logos or trade marks on any of its products or services without the other Party's prior written consent.

31.2 The Contractor shall be required to undertake pre recruitment checks prior to commencement of the Contract to verify the four elements outlined below, in respect of each member of their staff to be given access to Departmental Assets:

32.4 Unless the Customer otherwise agrees in advance in writing:

- Identity;
- Employment History (for a minimum of past 3 years);
- Nationality and Immigration Status;
- Criminal Record (unspent convictions only).

(a) Project Specific IPR Items shall be created in a format, or able to be converted into a format, which is:

- (i) suitable for publication by the Customer as Open Source; and
- (ii) based on Open Standards (where applicable);

(b) where the Project Specific IPR Items are written in a format that requires conversion before publication as Open Source or before complying with Open Standards, the Supplier shall also provide the converted format to the Customer.

Full details of the Contractors obligations are outlined in the document 'HMG Baseline Personnel Security Standard – A guide for Authority Contractors' which can be found on ["Supplying Authority"](#).

32.5 Assignments granted by the Supplier: Project Specific IPR

32.6 The Supplier hereby assigns to the Customer with full guarantee (or shall procure from the first owner the assignment to the Customer), title to and all rights and interest in the Project Specific IPRs. The assignment under this Clause 32.6 shall take effect as a present assignment of future rights that will take effect immediately on the coming into existence of the relevant Project Specific IPRs.

32. Intellectual Property Rights

32.1 Allocation of title to IPR.

Save as expressly granted elsewhere under this Call Off Contract:

- (a) the Customer shall not acquire any right, title or interest in or to the

32.7 The Supplier shall promptly execute all such assignments as are required to ensure that any rights in the Project Specific IPRs are properly transferred to the Customer.

32.8 To the extent that it is necessary to enable the Customer to obtain the full benefits of ownership of the Project Specific IPRs, the Supplier hereby grants to the Customer and shall procure that any relevant third party licensor shall grant to the Customer a perpetual, irrevocable, non-exclusive, assignable, royalty-free licence to use, sub-license and/or commercially exploit any Supplier Background IPRs or Third Party IPRs that are embedded in or which are an integral part of the Project Specific IPR Items.