

DATED
29.08.2025

COMPETITION AND MARKETS AUTHORITY (CMA)

And

KEYANDCO LTD.

**AGREEMENT FOR THE PROVISION OF CONSULTANCY SERVICES FOR CIVIL
ENGINEERING MARKET STUDY**

AGREEMENT REFERENCE
PROC 087-2025

AGREEMENT FOR THE PROVISION OF CONSULTANCY SERVICES

DATE: 28/08/2025

BETWEEN

(1) **Competition and Markets Authority ("CMA")**, The Cabot, 25 Cabot Square, London, E14 4QZ.

Keyandco Ltd. Registered office: [REDACTED] each a **"Party"** and together the **"Parties"**.

RECITALS

- (A) The CMA set out its requirement for the Services and invited the Consultant to respond.
- (B) On the basis of terms and conditions set out below, the CMA awarded a contract to the Consultant.

NOW IT IS AGREED AS FOLLOWS:

CHAPTER 1 DEFINITIONS AND INTERPRETATION

In this Agreement the following words and expressions shall have the following meanings save where the context provides otherwise:

Affected Party	has the meaning set out in Clause 24.2 (Force Majeure)
Agreement	means any Agreement between the CMA and the Consultant for the provision of Services pursuant to an Award Letter incorporating these terms and Schedules attached to it
Annex	means an annex to the Award Letter
Applicable Laws	means all applicable laws (including case law), legislation, statutes, statutory instruments, rules, regulations, edicts, by-laws or directions or guidance from government or governmental agencies including any rules, regulations, guidelines or other requirements of relevant regulatory authorities which have the force of law together with any industry codes of practice in effect from time to time
Associated Person	has the meaning set out in Clause 15.17(a) (Compliance)
Authority Data	means the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media and which:

	<p>(a) are supplied to the Consultant by or on behalf of the CMA; or</p> <p>(b) the Consultant is required to generate, process, store or transmit pursuant to this Agreement,</p> <p>including any of the CMA's Confidential Information and any Personal Data for which the CMA is the Controller</p>
Award Letter	means the letter sent to the Consultant on 23.06.2025 forming part of this Agreement
Bribery Offence	has the meaning set out in Clause 15.16(a) (Compliance)
Cap	has the meaning set out in Clause 6.6 (Fees and payment)
CMA	means the Competition and Markets Authority
Contracting Authority	means any contracting authority as defined in Part 5, Schedule 1 of the Public Contracts Regulations 2015 other than the CMA
Contract Manager	means the appointed CMA representative Tory Frame
Commencement Date	means the date of signature of the Consultant forming part of this Agreement
Confidential Information	means all information, including any information obtained by the Consultant from the CMA or any department, agency or office of His Majesty's Government relating to and connected with this Agreement, including the terms of this Agreement and commercial, financial, marketing or technical information, know-how, trade secrets or business methods, in all cases whether disclosed orally or in writing before or after the date of this Agreement
Conflict of Interest	a conflict between the financial or personal interests of the Consultant or any Key Personnel and the Consultant's duties owed to the CMA under this Agreement, in each case as assessed in the reasonable opinion of the CMA
Data Protection Legislation	means all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR, the Data Protection Act 2018 (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) and the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority and applicable to a Party

	Controller, Data Subject, Personal Data, Personal Data Breach, Processor and Processing shall each have the meaning given to them in the Data Protection Legislation
Deliverables	means all of the reports, documents, work products, data and other materials which are generated or acquired by the Consultant (or any Key Personnel) in the performance of the Services
DPA 2018	means the Data Protection Act 2018
Employee Liabilities	<p>all claims, actions, proceedings, orders, demands, complaints, investigations (save for any claims for personal injury which are covered by insurance) and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs, expenses and legal costs reasonably incurred in connection with a claim or investigation including in relation to the following:</p> <ul style="list-style-type: none"> a) redundancy payments including contractual or enhanced redundancy costs, termination costs and notice payments b) unfair, wrongful or constructive dismissal compensation c) compensation for discrimination on grounds of sex, race, disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation or claims for equal pay d) compensation for less favourable treatment of part-time workers or fixed term employees e) outstanding debts and unlawful deduction of wages including any PAYE and National Insurance Contributions in relation to payments made by the CMA or the New Supplier to a Transferring Consultant Employee which would have been payable by the Consultant or the Sub-contractor if such payment should have been made prior to the Service Transfer Date and also including any payments arising in respect of pensions f) claims whether in tort, contract or statute or otherwise g) any investigation by the Equality and Human Rights Commission or other enforcement, regulatory or supervisory body and of implementing any requirements which may arise from such investigation

Environmental Policy	means the CMA's environmental policy as updated by the CMA and notified to the Consultant from time to time
EU References	has the meaning set out in Clause 1.2(g)(i) (Definitions and interpretation)
Fees	means the Consultant's fees for the services as set out in Schedule 2 (Payment Schedule)
Force Majeure Event	means any event outside the reasonable control of the Consultant affecting its ability to perform any of its obligations under this Agreement including fires, strikes (excluding strikes by its own employees), floods, war, acts of God, catastrophic or partial failure of any part of the telecommunications or power supply network, insurrection or riots, embargoes, or regulations of any civil or military authority
ICT Environment	means the CMA's IT system and the Consultant's IT system
Independent Controller	means a Party which is Controller of the same Personal Data as the other Party and there is no element of joint control with regards to that Personal Data
Information Commissioner	means the UK's independent authority which deals with ensuring information relating to rights in the public interest and data privacy for individuals is met, whilst promoting openness by public bodies
Intellectual Property Rights	means any patent, copyright, trade mark, service mark or trade name, right in software, right in design, right in databases, image right, moral right, right in an invention, right relating to passing off, domain name, right in confidential information (including trade secrets) or right of privacy, and all similar or equivalent rights in each case whether registered or not and including all applications (or rights to apply) for, or renewal or extension of, such rights which exist now or which will exist in the future in the United Kingdom and all other countries in the world in each case whether registered or not and including any application for registration of the foregoing
Joint Controller	means where two or more Controllers jointly determine the purpose and meaning of processing
Key Personnel	means the Consultant's appointed personnel or Substitute
LED	means the Law Enforcement Directive (Directive (EU) 2016/680)
Malicious Software	means any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application software

	macros, whether or not its operation is immediate or delayed, and whether the malicious software is introduced wilfully, negligently or without knowledge of its existence
MSA Offence	has the meaning set out in Clause 15.20 (Compliance)
New Supplier	means any person that provides services in replacement of any of the Services whether those services are the same as or similar to any or all of the Services
Non-Affected Party	has the meaning set out in Clause 24.2 (Force Majeure)
Order Form	means the order form signed by the CMA and the Consultant printed above these terms
Premises	means The Cabot, 25 Cabot Square, London E14 4QZ or any other Premises that the CMA shall occupy as notified to the Consultant from time to time
Purchase Order Number	means the purchase order number which is required to be included on any invoice which the Consultant provides the CMA
Rate(s)	means the daily / hourly rates for the consultancy services set out at Schedule 2 (Payment Schedule)
Reimbursable Expenses	means those expenses as listed in [the Award Letter / the Order Form / Schedule 2 (Payment Schedule)
Removable Media	means all physical items and devices that can carry and transfer electronic information. Examples include but are not limited to DVDs, CDs, floppy disks, portable hard disk drives, USB memory sticks, flash drives, portable music and video players including mobile phones, hand held devices such as Blackberries and Personal Digital Assistants and laptop computers
Security Policy	means the CMA's security policies as updated from time to time inclusive of the CMA's ICT Acceptable Use and Access Control Policy.
Services	means the services to be provided by the Consultant to the CMA under this agreement as more particularly described in Schedule 1 (Description of the Services) together with any other services which the Consultant provides or agrees to provide to the CMA
Specification	means CMA's specifications or stipulations for the Services notified in writing to the Consultant in Schedule 1 (Description of the Services)

Subcontract	any contract or agreement (or proposed contract or agreement), other than this Agreement, pursuant to which a third party: a) provides the Deliverables (or any part of them); b) provides facilities or services necessary for the provision of the Deliverables (or any part of them); and/or c) is responsible for the management, direction or control of the provision of the Deliverables (or any part of them)
Sub-contractor	any person other than the Consultant, who is a party to a Subcontract.
Substitute	has the meaning set out in Clause 9.6 (Key Personnel and right to provide a Substitute)
Term	means the term of this Agreement as described in Clause 3 (Agreement Term)
Termination Date	has the meaning set out in Clause 3.1 (Agreement Term)
Transfer Regulations	means the Transfer of Undertakings (Protection of Employment) Regulations 2006
Travel Expense Policy	means the CMA's policy on travel expenses as updated from time to time
UK GDPR	has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the DPA 2018
Working Day	means a day which is not a Saturday, a Sunday or a bank or public holiday in England

1.1. The interpretation and construction of this Agreement shall be subject to the following provisions:

- 1.1.1. the headings in this Agreement are for ease of reference only and shall not affect the interpretation or construction of this Agreement;
- 1.1.2. references to Clauses and Schedules are to the clauses and schedules in this Agreement unless stated otherwise;
- 1.1.3. words expressed in the singular shall include the plural and vice versa. Words referring to a particular gender include every gender;
- 1.1.4. references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity;
- 1.1.5. the words "other", "including" and "in particular" shall not limit the generality of any preceding words or be construed as being limited to the same class as any preceding words where a wider construction is possible;

- 1.1.6. references to any legislation or legislative provision shall include (i) any subordinate legislation made under it, (ii) any provision which it has modified or re-enacted (whether with or without modification), and (iii) any provision which subsequently supersedes it or re-enacts it (whether with or without modification);
- 1.1.7. any reference which, immediately before IP Completion Day (or such later date when relevant EU law ceases to have effect pursuant to section 1A of the European Union (Withdrawal) Act 2018), is a reference to (as it has effect from time to time):
- 1.1.7.1. any EU regulation, EU decision, EU tertiary legislation or provision of the EEA agreement (“**EU References**”) which is to form part of domestic law by application of section 3 of the European Union (Withdrawal) Act 2018 and which shall be read on and after IP Completion Day as a reference to the EU References as they form part of domestic law by virtue of section 3 of the European Union (Withdrawal) Act 2018 as modified by domestic law from time to time; and
- 1.1.7.2. any EU institution or EU authority or other such EU body shall be read on and after IP Completion Day as a reference to the UK institution, authority or body to which its functions were transferred.

2. BASIS OF AGREEMENT

- 2.1. The CMA hereby confirms the appointment of the Consultant from the Commencement Date upon the terms and conditions contained in this Agreement.
- 2.2. The Consultant shall appoint Key Personnel to provide the Services under this Agreement in accordance with Clause 9 (Key Personnel and right to provide a Substitute).
- 2.3. The relationship of the Consultant to the CMA will be that of an independent consultant and at no time will the Consultant or its Key Personnel hold itself out as being an employee of the CMA.
- 2.4. Nothing in this Agreement shall prevent the Consultant from being engaged, concerned or having any financial interest in any capacity in any other business, trade, profession or occupation during the Term of this Agreement provided that such activity does not cause a breach of any of the Consultant's obligations under this Agreement.
- 2.5. The Consultant acknowledges that the ability of the CMA to use the services of the Consultant depends on the requirements of the CMA. The purchase of the Services by the CMA is non-exclusive and nothing in this Agreement will place a requirement on the CMA to order Services from the Consultant or prevent it from purchasing similar services from any other person or organisation. Unless otherwise expressly agreed by the CMA in this Agreement, the CMA is not subject to any minimum volume or minimum purchase commitment when engaging the Services of the Consultant from time to time.
- 2.6. The CMA shall not provide any equipment for the Consultant to carry out the Services. When the CMA makes a request for Services, it shall confirm whether the Consultant is required to supply the Key Personnel with any equipment to carry out the Services.

2.7. In the event of a conflict or ambiguity the order of preference for this Agreement and the documents attached to or referred to in this Agreement are as follows:

2.7.1. the Award Letter; then

2.7.2. the Schedules to these terms; then

2.7.3. these terms.

3. AGREEMENT TERM

3.1. This Agreement shall come into force on the Commencement Date and shall (subject to the provisions for earlier termination set out in this Agreement) terminate automatically on the 28th August 2026 ("**Termination Date**").

3.2. This Agreement may only be extended if agreed in writing and signed by both the CMA and the Consultant.

4. CONSULTANTS OBLIGATIONS

4.1. In consideration of the due payment of the Fees by the CMA, the Consultant warrants that it will and (where appropriate) will procure that the Key Personnel shall:

4.1.1. use its best endeavours to perform and observe all its obligations under this Agreement;

4.1.2. provide the Services with reasonable skill and care;

4.1.3. co-operate with the CMA in all matters relating to the Services, and comply with all reasonable instructions of the CMA;

4.1.4. use personnel who are suitably skilled and experienced to perform the tasks assigned to them, and in sufficient number to ensure that the Consultant's obligations are fulfilled in accordance with this Agreement;

4.1.5. remain available to undertake the Services for the duration of this Agreement;

4.1.6. ensure that the Services will conform with the Specification, including all descriptions and performance dates, and that any Deliverables shall be fit for any purpose expressly or impliedly made known to the Consultant by the CMA;

4.1.7. provide all equipment, tools and vehicles and such other items as are required to provide the Services;

4.1.8. use the best quality goods, materials, standards and techniques, and ensure that all goods and materials supplied and used in the Services or transferred to the CMA, will be free from defects in workmanship, installation and design;

4.1.9. obtain and at all times maintain all necessary licences and consents, and comply with all Applicable Laws;

- 4.1.10. comply with any reasonable instructions and guidelines issued by the CMA from time to time;
- 4.1.11. promptly give to the CMA all such information and reports as it may reasonably require in connection with matters relating to the provision of the Services or the business of the CMA; and
- 4.1.12. report to the Contract Manager, or such other person nominated by the CMA, and agree with this person the precise timing of the delivery of the Services.
- 4.2. Time of performance of the Services is of the essence of this Agreement. The Services shall be provided so as to meet the dates set out in Schedule 1 (Description of the Services).
- 4.3. The Consultant will not:
 - 4.3.1. have the authority to commit the CMA to any legally binding agreements;
 - 4.3.2. incur expenditure in the name or for the account of the CMA; or
 - 4.3.3. sign any document, bring any proceedings or make and promise on behalf of the CMA.
- 4.4. The Consultant shall have the right to make any changes to the Services which are necessary to comply with any Applicable Law or safety requirement at no cost to the CMA and the Consultant shall notify the CMA in any such event within 7 days of such change.

5. CMA OBLIGATIONS

- 5.1. The CMA shall:
 - 5.1.1. co-operate with the Consultant in matters relating to the Services and appoint a Contract Manager in relation to the Services, who shall have the authority to contractually bind the CMA on matters relating to the Services;
 - 5.1.2. in a timely manner provide the Consultant with access to the CMA's Premises, office accommodation, Authority Data and other facilities;
 - 5.1.3. prepare and maintain the Premises for the supply of the Services, including identifying, monitoring, removing and disposing of any hazardous materials from any of its Premises in accordance with all Applicable Laws, before and during the supply of the Services at those Premises, and informing the Consultant of all the CMA's obligations under this Clause 5.1(c); and
 - 5.1.4. inform the Consultant of all health and safety rules and regulations and any other reasonable security requirements that apply at any of the CMA's Premises.

6. FEES AND PAYMENT

- 6.1. The Fees will be exclusive of any VAT which may be payable in connection with the supply of the Services by the Consultant and the Consultant will, if applicable, notify the CMA of its registration for VAT and provide VAT invoices in respect of the Services.
- 6.2. In consideration of the Services to be rendered by the Consultant under this Agreement, the CMA will:
 - 6.2.1. pay the Consultant the Fees which will be based on a daily or hourly rates (the “Rate”) as set out in Schedule 2 (Payment Schedule); and
 - 6.2.2. pay for any agreed Reimbursable Expenses as set out in Schedule 2.
7. For the avoidance of doubt, the CMA will not pay more than the Day Rate(s) per day for the provision of the Services.
8. The Rates are not subject to alternation without the prior written consent of the CMA.
9. Any Reimbursable Expense in relation to travel claimed under this Agreement must be consistent with the allowances and restrictions set out in the CMA's Travel Expense Policy.
10. During the Term of this Agreement, the CMA shall pay the Fees up to a maximum cap (the “Cap”) of £15,000 and shall not be liable for any expenditure that exceeds this Cap, unless otherwise agreed in writing between the CMA and the Consultant.
11. The Consultant shall submit electronic itemised invoices within 28 Working Days of supplying the Services to the satisfaction of the CMA, setting out:
 - 11.1.1. the name of the Contract Manager;
 - 11.1.2. all work satisfactorily completed as reviewed by the Contract Manager;
 - 11.1.3. the total amount of Fees and, if applicable, Reimbursable Expenses for such work as detailed in Clause 6.2(b) above;
 - 11.1.4. the VAT payable; and
 - 11.1.5. the relevant Purchase Order Number and Agreement reference number (if applicable).
- 11.2. Electronic invoices must be sent to the CMA Accounts Payable at the following email address: invoices@cma.gov.uk. In the event of a query regarding an outstanding payment the Consultant should contact CMA's Finance Team either by email to Finance.Team@cma.gov.uk or by telephone on 020 3738 6908 / 6284.
- 11.3. The Consultant will provide all relevant documentation required by the CMA to certify and approve any agreed Reimbursable Expense on the same Working Day that electronic invoices are submitted. Such relevant documentation shall be emailed to tory.frame@cma.gov.uk.

- 11.4. Invoices submitted early shall be deemed received on the date of completion of the performance of the Services.
- 11.5. The CMA will pay all undisputed invoices within 30 days of receipt.
- 11.6. All payments shall be in pound sterling by electronic transfer to the Consultant's bank account as set out in this Agreement, or such other bank account as the Consultant may from time to time notify to the CMA with any applicable charges on such payments being at the Consultant's expense.
- 11.7. If the Consultant does not for any reason carry out the Services it has agreed to carry out in accordance with Schedule 1 (Description of the Services, no fee shall be payable by the CMA in respect of those Services.
- 11.8. Wherever under this Agreement any sum of money is recoverable from or payable by the Consultant, that amount may be deducted from any sum then due, or which at any later time may become due, to the Consultant under this Agreement or under any other contract with the CMA or with any agency or office of His Majesty's Government. If sufficient monies are not due to the Consultant then the Consultant will make good the deficit within 30 Working Days of notice being given.
- 11.9. If the Fee is stated in Schedule 2 (Payment Schedule) to be on a "time and materials" or "cost plus" basis or similar the Consultant shall give the CMA access to all documents and information in the Consultant's possession or under its control to enable the CMA to satisfy itself that the amount charged by the Consultant is properly and correctly charged in accordance with this Agreement and in default the CMA shall be entitled to withhold payment in whole or in part until such default is rectified to the satisfaction of the CMA.
- 11.10. If any sum due from the CMA to the Consultant under this Agreement is not paid on or before the due date for payment (and which has not been disputed by the CMA in good faith) then all sums then owing by the CMA to the Consultant shall become due and payable immediately and the Consultant shall be entitled to charge the CMA interest on the overdue amount from the due date until payment is made in full both before and after any judgement at 2% per annum over the Bank of England's base lending rate from time to time (accruing on a daily basis and compounded quarterly).
- 11.11. On termination of this Agreement, the Fee payable by the CMA to the Consultant will become due within 30 days of termination.

12. TAX STATUS AND LIABILITIES

- 12.1. The Consultant shall be responsible for paying any relevant remuneration or fees to the Key Personnel and for the deduction of any payment of all income tax liabilities and national insurance contributions or other similar contributions in respect of the Key Personnel as required by law, including any interest, penalties or costs in respect thereof.
- 12.2. By entering into this Agreement, the Consultant provides assurance to the CMA that they have made appropriate and legitimate arrangements with His Majesty's Revenue and Customs (HMRC) for dealing with income tax and national insurance contribution obligations

of its Key Personnel. Furthermore, the Consultant agrees, as a condition of this Agreement to:

13. provide documentary evidence to this effect should the CMA request it; and
14. provide this evidence to the CMA within 3 Working Days of the request being made.
15. If the Consultant fails to provide this evidence, the CMA may terminate this Agreement with immediate effect.
 - 15.1. The CMA reserves the right to pass relevant information to HMRC or other public bodies about payments under this Agreement.
 - 15.2. The Consultant shall indemnify the CMA against:
 - 15.2.1. any income tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made in connection with the performance of the Services by its personnel, where the recovery is not prohibited by law. The Consultant shall further indemnify the CMA against all reasonable costs, expenses and any penalty, fine or interest incurred or payable by the CMA in connection with or in consequence of any such liability, deduction, contribution, assessment or claim; and any employment related claim or any claim based on worker status (including reasonable costs and expenses) brought by its personnel against the CMA arising out of or in connection with the provision of the Services.

16. INTELLECTUAL PROPERTY RIGHTS

- 16.1. Subject to any pre-existing rights of third parties and of the Consultant, the Intellectual Property Rights (other than copyright) in all reports, documents and other materials which are generated or acquired by the Consultant (or any of its sub-contractors or agents) ("the Consultant's Materials") in the performance of the Services shall belong to and be vested automatically in the CMA.
- 16.2. The Consultant hereby assigns any copyright that it owns in the Consultant's Materials to the CMA.
- 16.3. The Consultant waives all moral rights relating to the Consultant's Materials.
- 16.4. The Consultant warrants to the CMA that all of their staff, agents and sub-contractors are and will be engaged in relation to the Contract on terms which do not entitle any of them to any Intellectual Property Rights in the Consultant's Materials, and which require them to waive all moral rights.
- 16.5. Where, under laws applicable to the Consultant, it is not possible for the Consultant to waive the moral rights referred to in clauses 8.2 and 8.3, the Consultant instead grants to the CMA an exclusive, irrevocable licence for the moral rights relating to the Consultant's Materials in the performance of the Services.

- 16.6. If the Consultant in providing the Services uses any materials in which there are pre-existing Intellectual Property Rights owned by itself, its agents, sub-contractors or third parties, it shall itself provide, or procure from such agent, subcontractor or third party a non-exclusive licence for, or, if the Consultant is itself a licensee of those Intellectual Property Rights, it shall grant a sub-licence to, the CMA to use, reproduce, modify, adapt and enhance the material as the CMA sees fit. Such licence or sub-licence shall be perpetual and irrevocable and granted at no cost to the CMA.
- 16.7. The CMA shall have the sole right to use any information (whether or not it is Confidential Information) collected or collated pursuant to the Contract (excluding any information which in the opinion of the CMA is confidential to the Consultant or which has been communicated to the Consultant under a condition that it shall be confidential to the Consultant), and all original documents in whatever form which contain that information, including any computer tape or disk, any voice recording and any special computer program written to give access to the information, shall on request be deposited with the CMA.
- 16.8. Nothing in this Contract or done under the Contract shall be taken to diminish any copyright, patent rights or any other Intellectual Property Rights which would, apart from this Agreement, vest in the CMA.
- 16.9. The Consultant shall ensure that all royalties licence fees or similar expenses in respect of Intellectual Property Rights in materials used in connection with the Contract have been paid and are included in the Fees.
- 16.10. If the CMA reimburses the Consultant for the cost of any equipment, such equipment shall become the property of the CMA and the Consultant shall on request deliver such equipment to the CMA. The Consultant shall keep a proper inventory of such equipment and shall deliver that inventory to the CMA on request and on completion of the Services.

17. KEY PERSONNEL AND RIGHT TO PROVIDE A SUBSTITUTE

17.1. The Consultant warrants that prior to the execution of this Agreement, it has provided the following personal documentation to the CMA in respect of each of the Key Personnel:

18. full name, home address, email address and telephone numbers;
 19. proof of identification in the form of a copy of the Passport or Driving Licence;
 20. accurate, complete and up-to-date curriculum vitae (CV);
 21. a copy of visa/work permits if required;
 22. a Baseline Personnel Security Standard (BPSS) check at basic level, dated within the past 12 months. If no certificate is available, the Consultant agrees to obtain such a certificate at its own expense.
- 22.1. The Consultant acknowledges that the Key Personnel are essential to the proper provision of the Services to the CMA and will perform the Services as detailed in this Agreement.

- 22.2. The Consultant must provide a list of Key Personnel needing to access the Premises and say why access is required.
- 22.3. The Consultant shall take the steps reasonably required by the CMA to prevent unauthorised persons being admitted to the Premises.
- 22.4. If the CMA gives the Consultant notice that any person is not to be admitted to or is to be removed from its Premises or is not to become involved in or is to be removed from involvement in the performance of this Agreement, the Consultant shall take all reasonable steps to comply with such notice.
- 22.5. The Consultant may at any time, with the prior written approval of the CMA, appoint a substitute with equivalent skill and expertise to perform the Services instead of a previously appointed Key Personnel (the "**Substitute**").
- 22.6. Prior to approval by the CMA of a proposed substitute and on request by the CMA, the Consultant shall provide such evidence as the CMA requests to show that the Consultant has entered into an undertaking with the proposed substitute in the manner required in Clause 20.11 (Confidentiality).
- 22.7. If the CMA accepts a Substitute, the Consultant will provide an overlap period of up to 10 Working Days during which time the Key Personnel will ensure that the Substitute fully understands the requirements of the CMA and the work involved in the provision of the Services. The Consultant will not charge the CMA any extra sum for this overlap period.
- 22.8. The Consultant will continue to invoice the CMA in accordance with the provisions in this Agreement and will be responsible for the remuneration of any Substitute.
- 22.9. Any reference in this Agreement to the Key Personnel will include any Substitute appointed in accordance with this Clause 9, except where stated to the contrary.
- 22.10. The Consultant agrees that the Key Personnel shall not be entitled to any pension, bonus, holiday, sickness or other fringe benefit from the CMA during the Term of this Agreement.
- 22.11. The Consultant indemnifies the CMA against all claims brought by any person employed or engaged by the Consultant caused by an act or omission of the Consultant or any Key Personnel.
- 22.12. During the Term and for so long as the Consultant continues to provide some or all of the Services, all Key Personnel shall at all times be and be deemed to be employed or engaged by the Consultant and not of the CMA. The Consultant shall be responsible for the taking of all disciplinary action and hearing of grievances in respect of the Key Personnel and for paying any salaries, taxes, contributions and charges payable in respect of the Key Personnel.
- 22.13. If the Consultant fails to comply with its obligations under this Clause 9 and the CMA decides that such failure is prejudicial to its interests, the CMA may immediately terminate this Agreement by notice in writing to the Consultant, provided that such termination shall be without prejudice to any accrued rights of, or to any rights that shall accrue thereafter to the CMA.

23. WARRANTIES

23.1. The Consultant warrants and represents that:

23.1.1.it has fully informed itself by all such tests and examinations as are reasonably necessary of any conditions and limitations that might affect its ability to perform the Services in accordance with the terms of this Agreement;

23.1.2.it has the experience, qualifications, staff and capability to and will execute the Services efficiently and expeditiously to the CMA in accordance with the Specification, best professional standards and the terms of this Agreement;

23.1.3.it has the power to enter into and perform its obligations under this Agreement, and its obligations under this Agreement constitute its legal, valid and binding obligations enforceable in accordance with its terms;

24. it will inform the CMA promptly, giving details of the circumstances, reasons and likely duration, in the event it becomes aware of anything of whatsoever nature and whether or not the result of any act or omission on the part of the Consultant or its Key Personnel which may prevent the Consultant fulfilling its obligations in accordance with this Agreement;

25. it will comply with any other reasonable confidentiality or Conflict of Interest obligations imposed on it;

26. it has, will retain and will keep in force all titles, permits, licences, and certificates necessary for it to perform its obligations and duties under this Agreement and shall comply with all Applicable Laws, rules and regulations relating to the Services; and

27. the CMA's use and, if applicable, possession of the Services or any part thereof in accordance with the terms of this Agreement shall not infringe any Intellectual Property Rights of any third party.

27.1. Where: (i) there is any breach of the Consultant's warranty, obligation or requirement imposed by, given or stated in this Agreement in respect of the Services; or (ii) the Services are not performed at the specified time, the CMA shall be entitled at its sole discretion without liability to the Consultant (arising out of such action) and without prejudice to any other right or remedy the CMA may have to take one or more of the following actions to:

27.1.1.cancel this Agreement in whole or in part;

27.1.2.refuse to accept any subsequent performance of the Services;

27.1.3.recover from the Consultant any costs reasonably incurred by the CMA in obtaining substitute services from a New Supplier;

27.1.4.require the Consultant at its sole cost to re-execute the Services in accordance with the Agreement and Specification within 7 days;

27.1.5.treat this Agreement as terminated by the Consultant's breach and:

- 27.1.5.1. delay payment of the Fees for the Services until the requirements of the, Agreement and any Specification are entirely fulfilled;
 - 27.1.5.2. refuse to make payment of the Fee for the Services; or
 - 27.1.5.3. require the repayment of any part of the Fee for the Services which the CMA has paid whether or not the CMA has previously required the Consultant to re-execute the Services; and/or
- 27.1.6.claim such damages as may have been incurred by the CMA as a result of the Consultant's breach of this Agreement.
- 27.2. If the CMA claims that the, Agreement or Specification has not been fulfilled or has been incorrectly fulfilled the Consultant shall be deemed to accept the validity of the claim unless it serves written notice on the CMA disputing the said claim and stating the reasons for its dispute within 7 days of the date of the said claim.
- 27.3. The CMA's rights under these terms are in addition to any statutory remedies available to the CMA

28. INDEMNITY

- 28.1. In addition to any other remedy available to the CMA, the Consultant shall indemnify and defend the CMA and their respective directors, officers and employees in full and on demand, from and against any and all direct or indirect liabilities, claims, demands, damages, losses or expenses (including legal and other professional adviser's fees and disbursements), interest and penalties incurred by them howsoever arising whether wholly or in part resulting directly or indirectly from the matters listed below whether or not such losses or the consequences of the matters listed below were foreseeable at the date of this Agreement:
- 29. any claim made against the CMA by a third party for any other loss, destruction or damage including but not limited to financial losses which are caused, by the breach of contract or breach of duty (whether in negligence, tort, statute or otherwise) of the Consultant or Key Personnel save where such breach is a direct result of a failure of the CMA;
 - 30. wilful misconduct of the Consultant or any of its Key Personnel that impacts this Agreement;
 - 31. non-payment by the Consultant of any tax or National Insurance
 - 32. any claim made against the CMA by a third party arising out of, or in connection with, the supply of the Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of this Agreement by the Consultant or Key Personnel; and
 - 33. any claim made against the CMA for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with the receipt, use or supply of the Services.
- 33.1. Each Party must use all reasonable endeavours to mitigate any loss or damage which it suffers under or in connection with this Agreement, including any indemnities.

33.2. The Consultant shall provide all facilities, assistance and advice required by the CMA or its insurers for the purpose of contesting or dealing with any action, claim or matter arising out of the Consultant's performance, or purported performance of, or failure to perform, this Agreement.

34. LIABILITY

34.1. Nothing in this Agreement excludes or limits either Party's liability for:

34.1.1. death or personal injury caused by either Party's negligence;

34.1.2. fraud or fraudulent misrepresentation; or

34.1.3. any liability which cannot be legally excluded or limited.

34.2. Nothing in this Agreement excludes or limits the Consultant's liability for breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

34.3. Subject to Clause 12.1 each Party's total aggregate liability under or in connection with this Agreement (whether in tort, contract or otherwise) shall be capped at an aggregate amount of one hundred and twenty-five percent (125%) of the Fee under this Agreement.

34.4. Nothing in this Agreement shall impose any liability on any member of the CMA staff or its representatives in their personal capacity.

34.5. All third party indemnities covering the Services must be assigned for the CMA's benefit by the Consultant.

35. INSURANCE

35.1. The Consultant will maintain in force at all times during the Term of this Agreement and for a period of 1 year after the termination or expiry of this Agreement full and comprehensive insurance to cover the Consultant's potential liability to the CMA under, or in connection with the Agreement to include:

35.1.1. professional indemnity insurance for the minimum amount of £150,000 per event; and

35.2. The Consultant will provide to the CMA prior to commencement of this Agreement confirmation of their Insurance Policies and will ensure that on each renewal date of such Insurance Policies the CMA is provided with up to date copies of such documentation.

35.3. The Consultant shall do nothing to invalidate any of the policies maintained in force in accordance with this Clause 13.

36. DATA PROTECTION

36.1. Both Parties will comply with all applicable requirements of the Data Protection Legislation and allow the other Party to comply with the obligations imposed upon it by providing it with

all necessary information. This Clause 14 is in addition to, and does not relieve, remove or replace, a Party's obligations or rights under the Data Protection Legislation. Where the optional Schedule 3 (Data Protection) has been applied in the Agreement, Clauses 14.2 to 14.9 will be disapplied, and the Consultant must Process Personal Data and ensure that Key Personnel Process Personal Data only in accordance with Schedule 3.

36.2. The Parties acknowledge and agree that any data which is provided by the Consultant to the CMA for the purposes of complying with the reporting obligations under this Agreement shall not contain Personal Data.

36.3. The Parties each acknowledge and agree that they may need to Process Personal Data relating to each Party's representatives (in their respective capacities as Independent Controllers) in order to ensure the effective management and performance of this Agreement. The Parties will only provide such Personal Data to each other to the extent necessary to perform their respective obligations under this Agreement.

36.4. For the avoidance of doubt, the scope of Personal Data referred to in Clause 14.3 will be as follows:

36.4.1. **Personal Data:** first and last name, email address, business telephone number, office location and position/job title/role of the Key Personnel (for which the Consultant is the Controller) and of the CMA staff (for which the CMA is the Controller).

36.4.2. **Permitted Purpose:** the performance of this Agreement or compliance with an obligation imposed under Applicable Law.

36.4.3. **Permitted Recipients:** Key Personnel and CMA staff engaged in the performance of this Agreement.

36.5. Each Party shall Process such Personal Data in accordance with its respective privacy policy and Data Protection Legislation. Each Party shall be responsible for its own compliance with Articles 13 and 14 of the UK GDPR in respect of the Processing of Personal Data for the Permitted Purpose.

36.6. The Parties undertake not to:

36.6.1. Process the Personal Data other than in accordance with the Permitted Purpose;

36.6.2. retain or Process Personal Data for longer than is necessary for the Permitted Purpose;

36.6.3. do anything to cause the other Party to be in breach of Data Protection Legislation.

36.7. Where one Party has provided the other Party with Personal Data, the recipient of the Personal Data:

36.7.1. will provide all such relevant documents and information relating to its data protection policies and procedures as the disclosing Party may reasonably require (including its record of Processing activities maintained in accordance with Article 30 of the UK GDPR);

36.7.2. will not transfer Personal Data to a third party located outside of the UK unless it has obtained the prior written consent of the disclosing Party and such transfer:

36.7.2.1. is necessary to achieve the Permitted Purpose;

36.7.2.2. is protected with appropriate supplementary measures; and

36.7.2.3. complies with the transfer restrictions set out under Chapter V of the UK GDPR;

36.7.3. will promptly notify the disclosing Party upon it becoming aware of any Personal Data Breach relating to the Personal Data provided by the disclosing Party and:

36.7.3.1. do all such things as reasonably necessary to assist the disclosing Party in mitigating the effects of the Personal Data Breach;

36.7.3.2. implement any measures necessary to restore the security of any compromised Personal Data;

36.7.3.3. work with the disclosing Party to make any required notifications to the Information Commissioner or any other regulatory authority and affected Data Subjects in accordance with Data Protection Legislation; and

36.7.3.4. not do anything which may damage the reputation of the disclosing Party or that Party's relationship with the relevant Data Subjects, save as required by law.

36.8. Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing, as well as the risk of varying likelihood and severity to the rights and freedoms of natural persons, each Party shall implement and maintain appropriate technical and organisational measures to ensure a level of security appropriate to that risk and the measures shall, at a minimum, comply with the requirements of the Data Protection Legislation, including Article 32 of the UK GDPR.

36.9. Where a Party receives a request by any Data Subject to exercise any of their rights under the Data Protection Legislation in relation to the Personal Data provided to it by the other Party:

36.9.1. the other Party shall provide, at the cost of the request recipient, any information and/or assistance as reasonably requested by the request recipient to help it respond; or

36.9.2. where the request is directed to the other Party and/or relates to that other Party's Processing, the request recipient will promptly (and in any event within 5 Working Days of receipt) forward such request to the other Party and provide any information and/or assistance as reasonably requested by the other Party to help it respond.

37. COMPLIANCE

37.1.1. Environmental requirements

37.2. In performing this Agreement the Consultant shall comply with the CMA's Environmental Policy as updated from time to time, which is to conserve energy, water and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment.

37.3. The paper for all written outputs, including reports, produced in connection with this Agreement shall (unless otherwise specified) be produced on recycled paper containing 100% post-consumer waste and used on both sides where appropriate.

37.3.1. Health and safety

37.4. When working within the boundaries of the CMA's Premises the Consultant shall:

37.4.1. comply with all health and safety rules and regulations;

37.4.2. comply with the CMA's health, safety and security procedures and instructions; and

37.4.3. complete any additional security clearance procedures required by the CMA.

37.4.4. Data handling

37.5. The Consultant shall not store, copy, disclose, or use the Authority Data except as necessary for the performance by the Consultant of its obligations under this Agreement or as otherwise expressly authorised in writing by the CMA.

37.6. To the extent that Authority Data is held and/or processed by the Consultant, the Consultant shall supply that Authority Data to the CMA as requested by the CMA in the format specified.

37.7. Where the Consultant is obligated to provide computer equipment for the provision of the Services, it is a condition of this Agreement that (i) such computer equipment is free of any virus and malware; and (ii) the Consultant will make such equipment available for audit by the CMA.

37.8. Where the Consultant uses Removable Media, this must be encrypted and approved or issued by the CMA when connected to the CMA's IT network and all use must be in strict accordance with the rules about sensitivity and risks of information. In particular, encrypted memory sticks may only be used for data marked up to and including the protective marking of 'Official'.

37.9. Floppy disks must not be used in the delivery of this Agreement.

37.10. The Consultant shall take responsibility for preserving the integrity of Authority Data and preventing the corruption or loss of Authority Data.

37.11. The Consultant shall be responsible for the accuracy of all documentation and information provided to the CMA by the Consultant in connection with the provision of the Services and the CMA shall have no liability for any extra costs occasioned by any discrepancies, errors or omissions therein.

37.12. The Consultant shall perform secure back-ups of all Authority Data and shall ensure that up-to-date back-ups are stored off-site. The Consultant shall ensure that such back-ups are available to the CMA at all times upon request.

37.13. The Consultant shall ensure that any system on which the Consultant holds any Authority Data, including back-up data, is a secure system that complies with HM Government's Minimum Cyber Security Standard or any replacement / updates.

37.14. The Consultant shall, as an enduring obligation throughout the Term, use the latest versions of anti-virus software available from an industry accepted anti-virus software vendor to check for and delete Malicious Software from the ICT Environment.

37.15. If the Authority Data is corrupted, lost or sufficiently degraded as a result of the Consultant's default so as to be unusable, the CMA may:

37.15.1. require the Consultant (at the Consultant's expense) to restore or procure the restoration of Authority Data to the extent required by the CMA and the Consultant shall do so as soon as practicable; and/or

37.15.2. itself restore or procure the restoration of Authority Data, and shall be repaid by the Consultant any reasonable expenses incurred in doing so.

37.16. If at any time the Consultant suspects or has reason to believe that Authority Data has or may become corrupted, lost or sufficiently degraded in any way for any reason, then the Consultant shall notify the CMA immediately and inform the CMA of the remedial action the Consultant proposes to take. Any theft of Removable Media must be reported to the police within 24 hours of becoming aware of the theft and a crime/incident number obtained.

37.16.1. Anti-bribery

37.17. The Consultant undertakes that it:

37.17.1. has not committed an offence under Sections 1, 2, 6 or 7 of the Bribery Act 2010 (a "**Bribery Offence**");

37.17.2. has not been formally notified that it is subject to an investigation relating to alleged Bribery Offences or prosecution under the Bribery Act 2010;

37.17.3. is not aware of any circumstances that could give rise to an investigation relating to an alleged Bribery Offence or prosecution under the Bribery Act 2010.

37.18. The Consultant agrees that it:

37.18.1. has in place, and shall maintain until termination of this Agreement, adequate documented procedures designed to prevent persons associated with the Consultant (including an employee, Sub-contractor or agent or other third party working on behalf of the Consultant) (an "**Associated Person**") from committing a Bribery Offence;

37.18.2. shall comply with the Bribery Act 2010 and shall not, and shall procure that no Associated Person shall, commit any Bribery Offence or any act which would constitute a Bribery Offence;

37.18.3. shall not do or permit anything to be done which would cause the CMA or any of CMA's employees, Sub-contractors or agents to commit a Bribery Offence or incur any liability in relation to the Bribery Act; and

37.18.4. shall notify the CMA immediately in writing if it becomes aware or has reason to believe that it has, or any of its Associated Persons have, breached or potentially breached any of the Consultant's obligations under Clause 15.16 or 15.17. Such notice to set out full details of the circumstances concerning the breach or potential breach of the Consultant's obligations.

37.18.5. **Official Secrets Act**

37.19. The Consultant shall take all reasonable steps to ensure that all persons employed by it or by any Sub-contractor in connection with this Agreement are aware of the Official Secrets Acts 1911 to 1989, and understand that these Acts apply to them during and after performance of any work under or in connection with this Agreement.

37.19.1. Discrimination

37.20. The Consultant shall not unlawfully discriminate either directly or indirectly on such grounds as race, colour, ethnic or national origin, disability, sex or sexual orientation, religion or belief, or age and without prejudice to the generality of the foregoing the Consultant shall not unlawfully discriminate within the meaning and scope of the Equality Act 2010, the Employment Equality (Sexual Orientation) (Religion or Belief) (Age) Regulations 2006, the Employment Equality (Age) Regulations 2006, the Human Rights Act 1998 or other relevant or equivalent legislation, or any statutory modification or re-enactment thereof.

37.20.1. Modern slavery

37.21. The Consultant undertakes, warrants and represents that:

37.21.1. neither the Consultant nor any of its Key Personnel:

37.21.1.1. has committed an offence under the Modern Slavery Act 2015 (an "**MSA Offence**"); or

37.21.1.2. has been notified that it is subject to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015; or

37.21.1.3. is aware if any circumstances within its supply chain that could give rise to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015;

37.21.2. it shall comply with the Modern Slavery Act 2015;

37.21.3. it shall notify the CMA immediately in writing if it becomes aware or has reason to believe that it, or its Key Personnel have, breached or potentially breached any of Consultant's obligations under this Clause 15.20. Such notice to set out full details of the circumstances concerning the breach or potential breach of Consultant's obligations.

37.22. Any breach of this Clause 15.20 by the Consultant shall be deemed a material breach of this Agreement and shall entitle the CMA to terminate this Agreement in accordance with Clause 16 (Termination).

38. TERMINATION

38.1. The CMA may immediately terminate this Agreement either wholly or in part without payment of compensation by giving notice in writing to the Consultant if:

38.1.1.the Consultant commits a material breach of any of its obligations under this Agreement which is incapable of remedy;

38.1.2.the Consultant commits a breach of its obligations under this Agreement which is capable of remedy and fails to remedy it or persists in such breach after 30 days of having been required in writing to remedy or desist;

38.1.3.the Consultant:

38.1.3.1. suspends, or threatens to suspend, payment of its debts (whether principal or interest) or is deemed to be unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986;

38.1.3.2. calls a meeting, gives a notice, passes a resolution or files a petition, or an order is made, in connection with the winding up or dissolution of that Party (save for the sole purpose of a solvent voluntary reconstruction or amalgamation);

38.1.3.3. has an application to appoint an administrator made or a notice of intention to appoint an administrator filed or an administrator is appointed in respect of it or all or any part of its assets;

38.1.3.4. has a receiver or administrative receiver appointed over all or any part of its assets or a person becomes entitled to appoint a receiver or administrative receiver over such assets;

38.1.3.5. calls a meeting, gives a notice, passes a resolution, makes an application or files documents, or an order is made, or any other steps are taken in respect of obtaining a moratorium or a moratorium is obtained for that Party;

38.1.3.6. takes any steps in connection with proposing a reorganisation of the Party (whether by way of voluntary arrangement, company voluntary arrangement, scheme of arrangement, compromise or arrangement or otherwise) or any such reorganisation is effected in relation to it, or it commences negotiations with all or any of its creditors with a view to rescheduling any of its debts;

38.1.3.7. has any steps taken by a secured lender to obtain possession of the property on which it has security or otherwise to enforce its security;

38.1.3.8. has any distress, execution or sequestration or other such process levied or enforced on any of its assets which is not discharged within 14 days of it being levied;

38.1.3.9. has any proceeding taken, with respect to it in any jurisdiction to which it is subject, or any event happens in such jurisdiction that has an effect equivalent or similar to any of the events in this Clause 16.1(c); and/or

38.1.4.the Consultant ceases, or appears in the reasonable opinion of the CMA likely or is threatening to cease, to carry on all or a substantial part of its business.

38.2. In addition to the CMA's rights of termination under Clause 16.1, the CMA shall be entitled to terminate this Agreement by giving to the Consultant not less than 30 days' notice to that effect.

39. BREAK

39.1. The CMA shall at any time have the right to terminate this Agreement or reduce the quantity of Services to be provided by the Consultant in each case by giving to the Consultant one month's written notice. During the period of notice the CMA may direct the Consultant to perform all or any of the work under this Agreement.

40. CONSEQUENCES OF TERMINATION

40.1. The termination of this Agreement shall be without prejudice to the rights and remedies of either Party which may have accrued up to the date of termination.

40.2. Upon termination of this Agreement for any reason whatsoever:

40.2.1.all sums of money that were then due or accruing from the CMA to the Consultant in respect of this Agreement shall cease to be due or accruing to the extent of the termination;

40.2.2.the CMA shall have the right to recover from the Consultant all prices paid in respect of work which has not yet been delivered;

40.2.3.subject to Clause 20.1 (Confidentiality) the relationship of the Parties shall cease save as (and to the extent) expressly provided for in this Clause 18;

40.2.4.the Parties shall immediately return all of the other Party's property and equipment in its possession at the date of termination, including all of its Confidential Information, together with all copies of such Confidential Information, and shall make no further use of such Confidential Information;

- 40.2.5.the Consultant shall co-operate with the CMA and/or any new provider of the Services appointed by the CMA in ensuring the smooth handover and continued running of the Services during such handover;
- 40.2.6.the Consultant is responsible for the CMA's reasonable costs of procuring replacement Services for the rest of the term of this Agreement; and
- 40.2.7.if the Consultant is required by any law, regulation or government or regulatory body to retain any documents or materials which it would otherwise be required to return or destroy by Clause 20.2 (Confidentiality), it shall notify the CMA in writing of such retention, giving details of the documents or materials that it must retain.
- 40.3. Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Agreement including 7 (Tax status and liabilities), 8 (Intellectual Property Rights), 9.1 and 9.12 (Key Personnel and right to provide a substitute), 10 (Warranties), 11 (Indemnity), 12 (Liability), 13 (Insurance), 14 (Data Protection), 15.4-15.15 (Compliance), 18 (Consequences of termination), 20 (Confidentiality), 21 (Freedom of information), 22 (Transparency and publicity), 27 (Rights of third parties), 32 (Entire Agreement) and 34 (Law and Jurisdiction) shall remain in full force and effect.

41. TRANSFER REGULATIONS

- 41.1. This Clause 19 will be disapplied where the optional Schedule 4 (Staff Transfer) is applied.
- 41.2. It is the Parties' intention that neither the commencement nor the termination of this Agreement or of any of the Services will give rise to a relevant transfer pursuant to the Transfer Regulations.
- 41.3. In addition to any other remedy available to the CMA, the Consultant shall indemnify and defend the CMA and any New Supplier and their respective directors, officers and employees in full and on demand, from and against any and all Employee Liabilities howsoever arising whether wholly or in part arising directly or indirectly foreseeable or not, which are or which may be incurred, suffered or paid by the CMA or any New Supplier in relation to any individual who claims that their employment or liabilities in connection with their employment transfer to the CMA, any of CMA's companies or a New Supplier under the Transfer Regulations including any Employee Liabilities relating to the termination of employment of any such individual.

42. CONFIDENTIALITY

- 42.1. The Consultant undertakes to abide by, and procures that all Key Personnel abide by, all of the sections of legislation set out in the CMA's Security Policy.
- 42.2. Except to the extent set out in this Clause 20, or where disclosure is expressly permitted elsewhere in this Agreement, each Party shall:
- 42.2.1.treat all Confidential Information it receives as confidential and safeguard it with appropriate measures accordingly;

- 42.2.2. not disclose, use or exploit the disclosing Party's Confidential Information without the disclosing Party's prior written consent; and
- 42.2.3. immediately notify the disclosing Party if it suspects unauthorised access, copying, use or disclosure of the Confidential Information.
- 42.3. The Consultant may only disclose the CMA's Confidential Information to Key Personnel to the extent necessary for the performance of this Agreement provided such disclosure is subject to obligations equivalent to those set out in this Agreement. The Consultant shall procure that any such Key Personnel complies with such obligations. The Consultant will be responsible to the CMA in respect of any disclosure or use of such Confidential Information by a person to whom disclosure is made.
- 42.4. The Consultant shall procure that the Key Personnel sign a confidentiality undertaking at Schedule 5, prior to commencing any work in accordance with this Agreement.
- 42.5. The obligations of confidentiality in this Clause 20 do not extend to any Confidential Information which the Parties can show:
- 42.5.1. is or becomes generally available to the public other than as a result of a breach of the obligations of confidentiality under this Agreement;
- 42.5.2. was or is disclosed to it by a third party entitled to do so;
- 42.5.3. was independently developed without access to the disclosing Party's Confidential Information;
- 42.5.4. the Parties agree in writing is not Confidential Information or may be disclosed; or
- 42.5.5. is required to be disclosed under any Applicable Law, or by order of a court or governmental body or authority of competent jurisdiction.
- 42.6. Nothing in this Agreement shall prevent the CMA from disclosing the Consultant's Confidential Information:
- 42.6.1. to any Crown Body or any other Contracting Authority. All Crown Bodies or Contracting Authorities receiving such Confidential Information shall be entitled to further disclose the Confidential Information to other Crown Bodies or other Contracting Authorities on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any Crown Body or any Contracting Authority;
- 42.6.2. to any consultant, contractor or other person engaged by a Contracting Authority or any person conducting a Cabinet Office gateway review;
- 42.6.3. for the purpose of the examination and certification of the CMA's accounts; or
- 42.6.4. for any examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the CMA has used its resources.

- 42.7. Either Party may disclose Confidential Information which it receives from the other Party to the Serious Fraud Office where the receiving 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.
- 42.8. The CMA shall use all reasonable endeavours to ensure that any Crown Body or Contracting Authority or relevant person to whom the Consultant's Confidential Information is disclosed pursuant to Clause 20.6 is made aware of the CMA's obligations of confidentiality.
- 42.9. Nothing in this Clause 20 shall prevent either Party from using any techniques, ideas or know-how gained during the performance of this Agreement in the course of its normal business to the extent that this use does not result in a disclosure of the other Party's Confidential Information or an infringement of any Intellectual Property Rights.
- 42.10. The Consultant and any Key Personnel shall not comment on the conclusions of any CMA report, nor on the reasons for those conclusions, contained in any such report, in respect of which the Consultant and any Key Personnel rendered services under a contract with the CMA.
- 42.11. The Consultant shall incorporate conditions in all sub-contracts or other business arrangements into which it may enter in the course of providing the Services so as to ensure that all persons concerned with the provision of the Services are bound by provisions replicating the intent and effect of this Clause 20.
- 42.12. The secrecy and security aspects of the CMA's work are governed by section 5 of the Official Secrets Act 1989, section 101 of the Telecommunications Act 1984, section 206 of the Water Industry Act 1991, section 74 of the Airports Act 1986, section 197 of the Broadcasting Act 1990, section 145 of the Railways Act 1993, Article 49 of the Airports (Northern Ireland) Order 1994, sections 348, 350(5) and 352 of the Financial Services and Markets Act 2000, Schedule 7 of the Postal Services Act 2000, section 105 of the Utilities Act 2000, Schedule 9 of the Transport Act 2000, section 245 of the Enterprise Act 2002, Article 63 of the Energy (Northern Ireland) Order 2003, section 393 of the Communications Act 2003 and Article 265 of The Water and Sewerage Services (Northern Ireland) Order 2006 (the Acts). The Consultant shall be bound by the provisions of the Acts. The Consultant should ensure that they fully understand the serious consequences that which may follow from a breach of any of these confidentiality requirements.
- 42.13. The confidentiality provisions of the Acts constitute a set of general restrictions on the disclosure of information obtained under the Acts in respect of particular businesses except when this is necessary for the purposes of the Act or for certain other prescribed purposes. Criminal prosecution is possible where unauthorised disclosure takes place. Most of the documents handled by the CMA fall within the scope of these statutory restrictions on disclosure and as 'sensitive documents' require the protection of effective security control and of strict observance of security rules. The Consultant shall be expected to follow the CMA's Security Policy.
- 42.14. Part V of the Criminal Justice Act 1993 also applies to information obtained in the course of CMA investigations. It is a criminal offence under that legislation for members of a Consultant's staff, to deal, or to encourage others to deal, in securities about which they hold

inside information (i.e. unpublished price sensitive information relating to particular securities), obtained by virtue of their work for the CMA, or to disclose such information otherwise than in the proper performance of their work.

42.15. The Consultant shall be responsible for ensuring that all staff employed in connection with any aspect of the service do not divulge any information obtained in, or as a result of, their work for the CMA, except in the course of duty. The requirement not to divulge information includes not divulging information to other members of the Consultants' staff. The Consultant shall also be responsible for ensuring that members of their staff are aware of and abide by the confidentiality provisions of the Acts and sign a witnessed declaration form which is set out in Schedule 5, Confidentiality Undertaking. This requirement shall include all support staff who may be involved in administration of contractual obligations or other duties which require them to be given access to any part of the CMA network. A copy of each of these signed declarations shall be sent to the Contract Manager.

43. FREEDOM OF INFORMATION

43.1. The Consultant acknowledges the CMA's responsibilities under the Freedom of Information Act 2000 (FOIA) and Environmental Information Regulations 2004 (EIR) and shall assist and cooperate with the CMA to ensure it complies with its information disclosure obligations.

43.2. The Consultant shall assist the CMA at no additional charge in meeting any requests for information in relation to this Agreement which are made to the CMA in connection with the FOIA/EIR and/or any statutory modification or re-enactment thereof or any related guidelines or codes of practice.

44. TRANSPARENCY AND PUBLICITY

44.1. 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 Agreement (including, but not limited to, any documents subsequently developed to monitor delivery and performance of this Agreement) is not Confidential Information. The CMA shall be responsible for determining in its absolute discretion whether any of the content of this Agreement is exempt from disclosure in accordance with the provisions of the FOIA.

44.2. Notwithstanding any other term of this Agreement, the Consultant hereby gives their consent for the CMA to publish this Agreement (and any documents subsequently produced by either Party as part of management of this Agreement – including, but not limited to, performance against key performance indicators and plans to rectify the same etc.) in their entirety, (but with any information which is exempt from disclosure in accordance with the provisions of the FOIA redacted) including from time to time agreed changes to this Agreement, to the general public.

44.3. The CMA may consult with the Consultant to inform its decision regarding any redactions that may be required to keep information which is exempt from disclosure under the FOIA from being disclosed but the CMA shall have the final decision in its absolute discretion. The Consultant shall assist and cooperate with the CMA to enable the CMA to publish this Agreement.

- 44.4. The Consultant agrees not to disclose the identity of the CMA as a client of the Consultant, nor to use the CMA's name nor refer to the CMA directly or indirectly in any advertisement or other publication without receiving the CMA's prior written approval for such use or reference and to the form and context in which the reference to the CMA is to appear. The Consultant shall abide by any conditions or limitations imposed by the CMA in such approval, if given.
- 44.5. The Consultant further agrees not to disclose the existence of this Agreement, or the nature of the relationship established by this Agreement.

45. CONFLICTS OF INTEREST

- 45.1. The Consultant must take action to ensure that neither the Consultant nor Key Personnel are placed in the position of an actual, potential or perceived Conflict of Interest.
- 45.2. The Consultant must promptly, or within 5 days of becoming aware, notify and provide details to the CMA if an actual, potential or perceived Conflict of Interest happens or is expected to happen.
- 45.3. Where the CMA is of the opinion that the Conflict of Interest notified to it under Clause 23.2 above is capable of being avoided or removed, the CMA may require the Consultant to take such steps as will, in its opinion, avoid, or as the case may be, remove the conflict and if the Consultant fails to comply with the CMA's requirements in this respect, or if, in the opinion of the CMA compliance does not avoid or remove the conflict, the CMA may terminate this Agreement and recover from the Consultant the amount of any loss resulting from such termination.
- 45.4. Where the CMA is of the reasonable opinion that the Conflict of Interest which existed at the time of the award of this Agreement could have been discovered by the Consultant's due diligence and ought to have been disclosed as required prior to the Commencement Date, the CMA may terminate this Agreement immediately for breach of a fundamental condition and, without prejudice to any other rights, recover from the Consultant the amount of any loss resulting from such determination.
- 45.5. Notwithstanding the above, the CMA reserves the right to terminate this Agreement immediately by notice in writing and/or to take such other steps it deems necessary where, in the reasonable opinion of the CMA, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Consultant and the duties owed to the CMA under the provisions of this Agreement. The actions of the CMA pursuant to this Clause 23 shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the CMA.

46. FORCE MAJEURE

- 46.1. Neither Party shall be in breach of this Agreement or otherwise liable for any failure or delay in the performance of its obligations if such delay or failure results from events, circumstances or causes beyond its reasonable control.

- 46.2. A Party suffering a Force Majeure Event (“**Affected Party**”) shall notify the other Party (“**Non-Affected Party**”) in writing as soon as reasonably practicable specifying the cause of the event, the scope of commitments under this Agreement affected by the event, and a good faith estimate of the time required to restore full performance. Except for those commitments identified in the notice of a Force Majeure Event, the Affected Party shall not be relieved of its responsibility to fully perform as to all other commitments in this Agreement.
- 46.3. An Affected Party must use all reasonable measures practical to reduce the impact of the Force Majeure Event.
- 46.4. If the Force Majeure Event continues for a period of more than 30 days from the date of the notice of Force Majeure Event, the Non-Affected Party shall be entitled, at its sole discretion, to terminate this Agreement. Neither Party shall have any liability to the other in respect of the termination of this Agreement as a result of a Force Majeure Event.

47. SUB-CONTRACTING AND ASSIGNMENT

- 47.1. This Agreement is personal to the Consultant. The Consultant shall not assign, delegate, sub-contract, transfer, charge or otherwise dispose of all or any of its rights and responsibilities under this Agreement without the prior written consent of the CMA.
- 47.2. Where the Consultant enters into a contract with a Sub-contractor for the purpose of performing this Agreement or any part of it, it shall cause a term to be included in such contract which requires payment to be made by the Consultant to the Sub-contractor within a period not exceeding 30 days from receipt of a valid invoice as defined by the contract requirements. The CMA reserves the right to ask for information about payment performance and will provide a facility for Sub-contractors to report poor performance to the CMA and the Cabinet Office.
- 47.3. Sub-contracting any portion of this Agreement shall not relieve the Consultant of any obligation or duty attributable to it under this Agreement.
- 47.4. The CMA may assign, delegate, sub-contract, transfer, charge or otherwise dispose of all or any of its rights and responsibilities under this Agreement at any time without the prior written consent of the Consultant.

48. NON-SOLICITATION

- 48.1. Not Used

49. RIGHTS OF THIRD PARTIES

- 49.1. A person who is not a Party to this Agreement has no rights (whether under the Contracts (Right of Third Parties) Act 1999 or otherwise) to enforce any provision of this Agreement.
- 49.2. The rights of the Parties to terminate, rescind or agree any variation, waiver or settlement under this Agreement are not subject to the consent of any person that is not a party to this Agreement.

50. SEVERABILITY OF PROVISIONS

50.1. If at any time any part of this Agreement is held to be or becomes void or otherwise unenforceable for any reason under any Applicable Law, the same shall be deemed omitted from this Agreement and the validity and/or enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired as a result of that omission.

51. WAIVER

51.1. The rights and remedies of either Party in respect of this Agreement shall not be diminished, waived or extinguished by the granting of any indulgence, forbearance or extension of time granted by that Party to the other nor by any failure of, or delay in ascertaining or exercising any such rights or remedies.

51.2. Any waiver of any breach of this Agreement shall be in writing.

51.3. The waiver by either Party of any breach of this Agreement shall not prevent the subsequent enforcement of that provision and shall not be deemed to be a waiver of any subsequent breach of that or any other provision.

52. VARIATION

52.1. No purported alteration or variation of this Agreement shall be effective unless it is in writing, refers specifically to this Agreement and is signed by a duly authorised representative of each of the Parties to this Agreement.

53. NOTICES

53.1. Any notices sent under this Agreement must be in writing. Notice by email is deemed to be in writing.

53.2. Notices may be served in the ways set out below at the relevant Party's registered office (if it is a company) or its principal place of business (in any other case) or at such other address as the relevant Party may give notice to the other Party for the purpose of service of notices under this Agreement and, the following table sets out the respective deemed time and proof of service:

Method of Delivery	Deemed time of delivery	Proof of Service
Personal delivery	On delivery, provided delivery is between 9.00am and 5.00pm on a Working Day	properly addressed and delivered
Prepaid first class recorded delivery domestic postal service	9.00am on the second Working Day after posting or at the time and date	properly addressed prepaid and posted

	recorded by the delivery service	
	9.00am on the first Working Day after sending	despatched in a legible and complete form to the correct email address without any error message provided that a confirmation copy of the email is sent to the recipient by prepaid first class domestic postal service in the manner set out above. Failure to send a confirmation copy will invalidate the service of any email transmission

CHAPTER 2 ENTIRE AGREEMENT

53.3. This Agreement contains the entire agreement between the Parties in relation to its subject matter and supersedes any prior arrangement, understanding, written or oral agreements between the Parties in relation to such subject matter.

CHAPTER 3 GENERAL

53.4. The CMA and the Consultant will each pay their own legal, professional and other costs in connection with the preparation and completion of this Agreement.

53.5. Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between the Parties, constitute either Party the agent of the other, or authorise either Party to make or enter into any commitments for or on behalf of the other Party. Each Party confirms it is acting on its own behalf and not for the benefit of any other person.

53.6. The Consultant shall not exercise any right of lien, general or otherwise and howsoever arising, over any materials relating to the Services or any other property of the CMA's in the Consultant's possession, in respect of any sums owed by the CMA to the Consultant under this Agreement or otherwise.

53.7. This Agreement may be executed in any number of counterparts, each of which when executed shall constitute an original of this Agreement, but all the counterparts together constitute the same Agreement. No counterpart shall be effective until each Party has executed at least one counterpart.

54. LAW AND JURISDICTION

54.1. This Agreement, these terms and any issues, disputes or claims arising out of, or in connection with it (whether contractual or non-contractual in nature such as claims in tort, from breach of

statute or regulation or otherwise) shall be governed by, and construed in accordance with, the laws of England and Wales.

54.2. All disputes or claims arising out of or relating to this Agreement shall be subject to the exclusive jurisdiction of the English and Welsh Courts to which the Parties irrevocably submit

THIS AGREEMENT has been entered into the date of signature of the Award by the Consultant.

SIGNED by



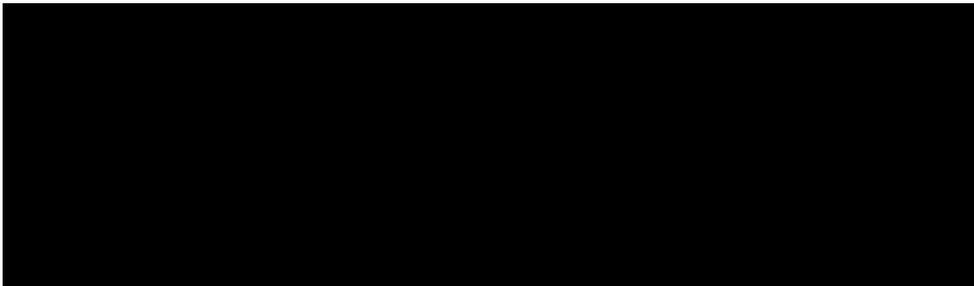
Name: 

Date: 02 September 2025

for and on behalf of

CMA

SIGNED by



Date: 31/8 2025

for and on behalf of

Consultant

SCHEDULE 1

Description of the Services Scope of Services and Service Level Agreement

1. Outputs and Deliverables

Deliverable 1: Ecosystem Mapping

- 2.1 Delivered over a maximum period of up to [REDACTED] support.
- 2.2 Create a clear and structured visual of the road and rail delivery ecosystem, overlaid on the typical project lifecycle (from specification through to delivery and operation).
- 2.3 This will include:
 - a. The key players (e.g. Tier 1, Tier 2) and interdependencies
 - b. The incentives (financial and non-financial) shaping behaviours – we will provide you an initial list of incentives for you to build on/ focus on the interdependencies through the system.
 - c. The barriers and constraints, including structural and non-structural blockers (+ identify what would need to change to make them addressable). We will provide you with an initial list of barriers and constraints for you to build on/ focus on the interdependencies.
 - d. A lens on potential impact on cost and/ or timing — i.e. how changes at one point may ripple through the system.
- 2.4 The output will not be a long-written report - rather readable, visual, and useful as a discussion tool — with the option to expand later (e.g. into good practice cases or international comparisons).

2. Timing

- 3.1 Receive the materials at least 2 hours before the meeting time and the following process:
 - i. We send materials to you before start day 1 on incentives/ barriers – e.g. by EOD 1st September
 - ii. Scoping session start day 2: Qs re scope/ incentives & barriers we sent you – e.g. 3/4th Sep
 - iii. Output session start day 5 (so you have time to incorporate our input) - e.g. 10th/ 11th Sep

3. Deliverable 2: (Optional)

- 4.1 Driver tree / Value Model, which might include integration of case study and international benchmarks.
- 4.2 Estimated x5 days support on prior approval of the Contracting Authority (CMA.)

4. Duration

- 5.1 This contract is anticipated to commence on [c. September 2025] and run for a period of up to 12 months.

5. Availability of The Consultant

- 6.1 The details and timings of individual outputs during the period of the contract will be agreed with the Consultant as the work progresses. The Consultant agrees to keep the CMA updated on progress and notified if any deadlines are not going to be met.
- 6.2 The Consultant will be expected to, and agrees to:
- 6.3 Be available to work for up to [REDACTED] months of the contract.
- 6.4 Be available to offer the required expert advice to the CMA during the contract period.
- 6.5 Be available to meet CMA teams or leadership face-to-face or virtually for meetings, in an independent capacity and as appropriate;
- 6.6 Complete any necessary preparation work in advance of meetings or respond to queries via email in a timely manner; and
- 6.7 Provide advice in the form(s) pre-agreed with the CMA in the contract.

SCHEDULE 2

Payment Schedule

The Fees shall be calculated in accordance with this Schedule:

1. The Daily Rate payable to the Consultant is [REDACTED] 0 Excluding V.A.T.
2. The Hourly Rate payable to the Consultant is [REDACTED] Excluding V.A.T
3. The Daily rate must equate to 8 times the Hourly Rate.

Reimbursable Expenses

Any Reimbursable Expense in relation to travel claimed under this Agreement must be consistent with the allowances and restrictions set out in the CMA's Travel Expense Policy.

SCHEDULE 3
Data Protection

1 Definitions

1.1 In this Schedule, the following words shall have the following meanings and they shall supplement the definitions in the standard terms:

Agreed Purposes	has the meaning given to it in paragraph 2.3 (Status of the Parties)
Business Contact Details	first and last name, business telephone number, email address, office location and position/job title and/or role
Claim Losses	has the meaning given to it in paragraph 7.3 (Liabilities of Data Protection Breach) of Annex 2 (Joint Controller Agreement) to this Schedule
Data Loss Event	means any event that results, or may result, in unauthorised access to Personal Data held by the Processor under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach
Data Protection Impact Assessment	an assessment by the Controller carried out in accordance with section 3 of the UK GDPR and sections 64 and 65 of the DPA 2018
Data Protection Officer	has the meaning given to it in the UK GDPR
Data Subject Request	a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data
Financial Penalties	has the meaning given to it in paragraph 7.1 (Liabilities of Data Protection Breach) of Annex 2 (Joint Controller Agreement) to this Schedule
Joint Control	where two or more Controllers jointly determine the purposes and means of Processing
Lead Controller	has the meaning given to it in paragraph 1.2 (Joint Controller status and allocation of responsibilities) of Annex 2 (Joint Controller Agreement) to this Schedule
Personnel	all directors, officers, employees, agents, consultants and contractors of a Party engaged in the performance of its obligations under this Agreement
Processor Personnel	all directors, officers, employees, agents, consultants and contractors of the Processor and/or of any Subprocessor engaged in the performance of its obligations under this Agreement

Protective Measures	appropriate technical and organisational measures designed to ensure compliance with obligations of the Parties arising under Data Protection Legislation and this Agreement, which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it
Subprocessor	any third party appointed to process Personal Data on behalf of the Processor related to this Agreement

2. Status of the Parties

2.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the nature of the activity carried out by each of them in relation to their respective obligations under this Agreement dictates the status of each Party under the DPA 2018. A Party may act as:

- 2.1.1 “**Controller**” in respect of the other Party who is “Processor”;
- 2.1.2 “**Processor**” in respect of the other Party who is “Controller”;
- 2.1.3 “**Joint Controller**” with the other Party;
- 2.1.4 “**Independent Controller**” of the Personal Data where the other Party is also “Controller”,

in respect of certain Personal Data under this Agreement and will specify in Annex 1 (Processing Personal Data) of this Schedule which scenario they think will apply in each situation.

- 2.2 Each Party must comply with its respective legal obligations under the Data Protection Legislation in accordance with the role it is performing under this Agreement and allow the other Party to comply with its obligations by providing them with all necessary information.
- 2.3 The Parties must Process the Personal Data for the purposes of fulfilling their obligations under this Agreement and pursuant to the terms of this Schedule or in order to comply with an obligation imposed upon them under applicable Law (the “**Agreed Purposes**”).

3. Where one Party is Controller and the other Party its Processor

- 3.1 Where a Party is a Processor, the only Processing that it is authorised to do is listed in the applicable table in Annex 1 (Processing Personal Data) by the Controller and may not be determined by the Processor.
- 3.2 The Processor must notify the Controller immediately if it considers that any of the Controller’s instructions infringe the Data Protection Legislation.
- 3.3 The Processor must, at the Processor’s cost, provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any Processing and must continue to provide reasonable assistance to the Controller to ensure that any such Data Protection Impact Assessment is maintained throughout the duration of this Agreement. Such assistance may, at the discretion of the Controller, include:
 - 3.3.1 a systematic description of the envisaged Processing and the purpose of the Processing;
 - 3.3.2 an assessment of the necessity and proportionality of the Processing in relation to the Deliverables;
 - 3.3.3 an assessment of the risks to the rights and freedoms of Data Subjects; and

- 3.3.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 3.4 The Processor must, in relation to any Personal Data Processed in connection with its obligations under this Agreement:
- 3.4.1 Process that Personal Data only in accordance with Annex 1 (Processing Personal Data), unless the Processor is required to do otherwise by Law. If it is so required the Processor must promptly notify the Controller before Processing the Personal Data unless prohibited by Law;
- 3.4.2 notwithstanding any other provisions in this Agreement relating to (amongst others) security, ensure that it has in place Protective Measures, which are appropriate to protect against a Data Loss Event, which the Controller may reasonably reject. In the event of the Controller reasonably rejecting Protective Measures put in place by the Processor, the Processor must propose alternative Protective Measures to the satisfaction of the Controller. Failure to reject will not amount to approval by the Controller of the adequacy of the Protective Measures. Protective Measures must take account of the:
- a) nature of the data to be protected;
 - b) harm that might result from a Data Loss Event;
 - c) state of technological development; and
 - d) cost of implementing any measures;
- 3.4.3 ensure that:
- a) the Processor Personnel do not Process Personal Data except in accordance with this Agreement (and in particular Annex 1 (Processing Personal Data));
 - b) it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
 - (i) are aware of and comply with the Processor's duties under this Schedule;
 - (ii) are subject to appropriate confidentiality undertakings with the Processor or any Subprocessor;
 - (iii) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Controller or as otherwise permitted by this Agreement; and
 - (iv) have undergone adequate training in the use, care, protection and handling of Personal Data;
- 3.4.4 not transfer Personal Data outside of the UK unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
- a) the destination country has been recognised as adequate by the UK Government in accordance with Article 45 of the UK GDPR or section 74 of the DPA 2018;
 - b) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with Article 46 of the UK GDPR or section 75 of the DPA 2018) as determined by the Controller;
 - c) the Data Subject has enforceable rights and effective legal remedies;
 - d) the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and/or

- e) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the Processing of the Personal Data;
- 3.4.5 at the written direction of the Controller, securely delete or return Personal Data (and any copies of it) to the Controller on termination or expiry of this Agreement, unless the Processor is required by Law to retain the Personal Data.
- 3.5 Subject to paragraph 3.6 of this Schedule, the Processor must notify the Controller immediately if, in relation to Processing Personal Data under or in connection with this Agreement, it:
 - 3.5.1 receives a Data Subject Request (or purported Data Subject Request);
 - 3.5.2 receives a request to rectify, block or erase any Personal Data;
 - 3.5.3 receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
 - 3.5.4 receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data Processed under this Agreement;
 - 3.5.5 receives a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
 - 3.5.6 becomes aware of a Data Loss Event.
- 3.6 The Processor's obligation to notify under paragraph 3.5 of this Schedule includes the provision of further information to the Controller, as details become available.
- 3.7 Taking into account the nature of the Processing, the Processor must (at its own expense) provide the Controller with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under paragraph 3.5 of this Schedule (and insofar as possible within the timescales reasonably required by the Controller) including by promptly providing:
 - 3.7.1 the Controller with full details and copies of the complaint, communication or request;
 - 3.7.2 such assistance as is reasonably requested by the Controller to enable it to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation;
 - 3.7.3 the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
 - 3.7.4 assistance as requested by the Controller following any Data Loss Event; and/or
 - 3.7.5 assistance as requested by the Controller with respect to any request from the Information Commissioner or any other regulatory authority, or any consultation by the Controller with the Information Commissioner's or any other regulatory authority.
- 3.8 The Processor must maintain complete and accurate records and information to demonstrate its compliance with this Schedule. This requirement does not apply where the Processor employs fewer than 250 staff, unless:
 - 3.8.1 the Controller determines that the Processing is not occasional;
 - 3.8.2 the Controller 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; or
 - 3.8.3 the Controller determines that the Processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 3.9 The Processor must allow for audits of its Processing activity by the Controller or the Controller's designated auditor.
- 3.10 Each Party must designate its own Data Protection Officer if required by the Data Protection Legislation.

- 3.11 Before allowing any Subprocessor to Process any Personal Data related to this Agreement, the Processor must:
- 3.11.1 notify the Controller in writing of the intended Subprocessor and Processing;
 - 3.11.2 obtain the written consent of the Controller;
 - 3.11.3 enter into a written agreement with the Subprocessor which gives effect to the terms set out in this Schedule such that they apply to the Subprocessor; and
 - 3.11.4 provide the Controller with such information regarding the Subprocessor as the Controller may reasonably require.
- 3.12 The Processor remains fully liable for all acts or omissions of any of its Subprocessors and the Processor must cease to engage a Subprocessor appointed pursuant to paragraph 3.11 upon the Controller's withdrawal of consent where it has reasonable grounds for doing so including where the Controller has concerns regarding the Subprocessor's ability to Process the Personal Data in a manner contemplated by this paragraph 3.
- 3.13 The CMA may, at any time on not less than thirty (30) Working Days' notice, revise this Schedule 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).
- 3.14 The Parties agree to take account of any guidance issued by the Information Commissioner. The CMA may, on not less than 30 Working Days' notice to the Consultant, amend this Agreement to ensure that it complies with any guidance issued by the Information Commissioner.

4. Where the Parties are Joint Controllers of Personal Data

- 4.1 In the event that the Parties are Joint Controllers in respect of Personal Data under this Agreement, the terms set out in Annex 2 (Joint Controller Agreement) shall apply in respect of such Processing. The Parties must only provide Personal Data to each other as Joint Controllers where it is recorded in the applicable table under Annex 1 (Processing Personal Data).

5. Where the Parties are Independent Controllers of Personal Data

- 5.1 With respect to Personal Data provided by one Party to another Party for which each Party acts as Controller but which is not under the Joint Control of the Parties, each Party undertakes to comply with the applicable Data Protection Legislation in respect of their Processing of such Personal Data as an Independent Controller.
- 5.2 Each Party must Process the Personal Data in compliance with its obligations under the Data Protection Legislation and not do anything to cause the other Party to be in breach of it.
- 5.3 Where a Party has provided Personal Data to the other Party in accordance with paragraph 5.1 above, the recipient of the Personal Data will provide all such relevant documents and information relating to its data protection policies and procedures as the other Party may reasonably require.
- 5.4 The Parties will be responsible for their own compliance with Articles 13 and 14 UK GDPR in respect of the Processing of Personal Data for the purposes of this Agreement.
- 5.5 The Parties must only provide Personal Data to each other:
- 5.5.1 to the extent necessary to perform their respective obligations under this Agreement;
 - 5.5.2 in compliance with the Data Protection Legislation (including by ensuring all required data privacy information has been given to affected Data Subjects to meet the requirements of Articles 13 and 14 of the UK GDPR); and
 - 5.5.3 where it is recorded in the applicable table in Annex 1 (Processing Personal Data).
- 5.6 Subject to paragraph 5.5, the Party receiving Personal Data must not transfer that Personal Data to a third party located outside of the UK unless:
- 5.6.1 it has obtained the prior written consent of the other Party; and

- 5.6.2 such transfer is necessary to achieve the Agreed Purposes, protected with appropriate supplementary measures and complies with the transfer restrictions set out under Chapter V of the UK GDPR.
- 5.7 Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, each Party must, with respect to its Processing of Personal Data as Independent Controller, implement and maintain Protective Measures to ensure a level of security appropriate to that risk. The measures must, at a minimum, comply with the requirements of the Data Protection Legislation, including Article 32 of the UK GDPR.
- 5.8 A Party Processing Personal Data for the purposes of this Agreement must maintain a record of its Processing activities in accordance with Article 30 of the UK GDPR and must make the record available to the other Party upon reasonable request.
- 5.9 Where a Party receives a request by any Data Subject to exercise any of their rights under the Data Protection Legislation in relation to the Personal Data provided to it by the other Party pursuant to this Agreement ("**Request Recipient**"):
- 5.9.1 the other Party must provide any information and/or assistance as reasonably requested by the Request Recipient to help it respond to the request or correspondence, at the cost of the Request Recipient; or
- 5.9.2 where the request or correspondence is directed to the other Party and/or relates to that other Party's Processing of the Personal Data, the Request Recipient will:
- a) promptly, and in any event within 5 Working Days of receipt of the request or correspondence, inform the other Party that it has received the same and shall forward such request or correspondence to the other Party; and
- b) provide any information and/or assistance as reasonably requested by the other Party to help it respond to the request or correspondence in the timeframes specified by Data Protection Legislation.
- 5.10 Each Party must promptly notify the other Party upon it becoming aware of any Personal Data Breach relating to Personal Data provided by the other Party pursuant to this Agreement and must:
- 5.10.1 do all such things as reasonably necessary to assist the other Party in mitigating the effects of the Personal Data Breach;
- 5.10.2 implement any measures necessary to restore the security of any compromised Personal Data;
- 5.10.3 work with the other Party to make any required notifications to the Information Commissioner or any other regulatory authority and affected Data Subjects in accordance with the Data Protection Legislation (including the timeframes set out therein); and
- 5.10.4 not do anything which may damage the reputation of the other Party or that Party's relationship with the relevant Data Subjects, save as required by Law.
- 5.11 Personal Data provided by one Party to the other Party may be used exclusively to exercise rights and obligations under this Agreement as specified in Annex 1 (Processing Personal Data).
- 5.12 Personal Data must not be retained or processed for longer than is necessary to perform each Party's respective obligations under this Agreement which is specified in Annex 1 (Processing Personal Data).

Notwithstanding the general application of paragraphs 3.1 to 3.14 (Where one Party is a Controller and the other Party is a Processor) of this Schedule to Personal Data, where the Consultant is required to exercise its regulatory and/or legal obligations in respect of Personal Data, it shall act as an Independent Controller of that Personal Data in accordance with paragraphs 5.1 to 5.12 of this Schedule.

Annex 1
Processing Personal Data

1. This Annex will be completed by the Controller, who may take account of the view of the Processor, however the final decision as to the content of this Annex will be with the CMA at its absolute discretion.
2. The contact details of the CMA's Data Protection Officer are: dpo@cma.gov.uk.
3. The contact details of the Consultant's Data Protection Officer are: [REDACTED]
4. The Processor must comply with any further written instructions with respect to Processing by the Controller. Any such further instructions will be incorporated into this Annex.

Table 1: The CMA is the Controller and the Consultant is the Processor

Description	Details
Category of Personal Data where the CMA is the Controller and the Consultant is the Processor	<p>The Parties acknowledge that for the purposes of the Data Protection Legislation, the CMA is the Controller and the Consultant is the Processor of the following Personal Data:</p> <p style="padding-left: 40px;">CMA staff's Personal Data (which may include sensitive data for certain agreed services), Personal Information of visitors, Business contact details of any directors, officers, employees, agents, consultants and contractors engaged in the performance of the Authority's duties under the Agreement.</p>
Duration of the Processing	For the duration of the Agreement.
Nature and purposes and subject matter of the Processing	<p>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.</p> <p>The purpose might include the delivery of services for the Agreement and, or statutory obligation to protect consumers</p>
Type of Personal Data	Name, address, telephone number, images, biometric data.
Categories of Data Subject	Staff (including volunteers, agents, and temporary workers), customers/ clients, suppliers, patients, students / pupils, members of the public, users of a particular website etc.
International transfers and legal gateway	Personal data may be geographically stored or accessed from the UK or EEA only (The UK Government has declared that the European Union

	<p>and the European Economic Area are adequate for data protection purposes</p> <p>Likewise, the European Commission has also declared that the UK is adequate for data protection purposes. This means that personal data can flow unfettered between the UK and the EU/EEA. For the performance of this Agreement). Outside of the UK and the EU/EEA or Geographical Jurisdictions where an adequacy decision is not in place, international transfers will be governed by an International Data Transfer Agreement between the Controller and Processor or Sub-processor.</p>
<p>Plan for return and destruction of the data once the Processing is complete</p> <p>UNLESS requirement under Law to preserve that type of data</p>	<p>All personal data should be returned and/or securely destroyed upon the termination of the Agreement.</p>
<p>Protective Measures that the Consultant and, where applicable, its Sub-contractors have implemented to protect Personal Data Processed under this Agreement against a breach of security (insofar as that breach of security relates to data) or a Data Loss Event</p>	<p>Risk Assessment</p> <p>The Supplier should perform a technical information risk assessment on the service supplied and be able to demonstrate what controls are in place to address risks involved in processing the CMA's data in the performance of the Agreement.</p>

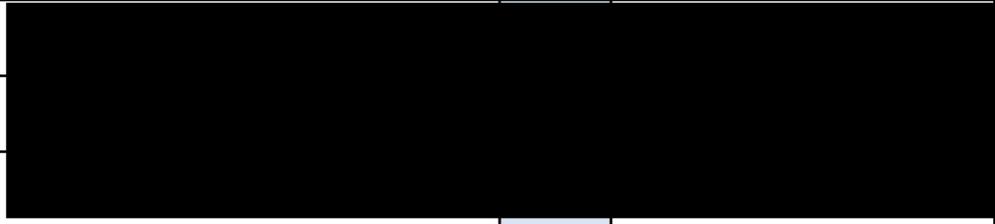
SCHEDULE 5
CONFIDENTIALITY UNDERTAKING

**CONFIDENTIALITY UNDERTAKING, THE COMPETITION AND MARKETS
AUTHORITY**

I, the undersigned, acknowledge and accept that:

1. All information, including facts, matters, data, documents, and any other materials, which comes to my attention as a result of the contract between Keyandco Ltd and the Competition and Markets Authority (“CMA”), reference PROC 087-2025, (“the Contract”) shall be treated as confidential to the CMA both for the duration of the Contract and thereafter.
2. I agree to use any information provided by the CMA solely for the specific purpose for which it was supplied, and not to use or disclose it in any way that benefits other projects, departments, businesses or organisations outside of the intended scope.
3. I agree to not participate or work on any other participants study prior to the CMA publishing its interim report expected to be issued no later than December 2025.
4. I shall not communicate any such information publicly or to any other individual save as permitted under the Contract unless a duly authorised member of the CMA provides written consent or agrees that it has already entered the public domain by other means. I accept that articles of any description prepared for publication or discussion in any written form or for broadcasting are covered by this term.
5. All material supplied to Keyandco Ltd in connection with the Contract, copies of any part of such material, whether in electronic or physical form, and any documents prepared by myself or the CMA which are based on material supplied in connection with the Contract, must be returned to the CMA or otherwise destroyed at the end of the Contract, or sooner if requested.
6. Part 9 of the Enterprise Act 2002 provides for criminal prosecution where unauthorised disclosure takes place, and that on conviction a person may be fined or imprisoned. I am also aware that, in law, I owe duties of confidentiality to the CMA.
7. Nothing here shall prevent me from referring to such information when setting out the substance of my instructions in any report produced under the Contract or as otherwise required by a court of competent jurisdiction.
8. The CMA is able to disclose this Undertaking to the extent that it deems such disclosure necessary or appropriate in the course of carrying out its functions.

Your Acknowledgement

Name	
Signature	
Witness	
PROC ref.	PROC 087-2025