

**Social Finance Ltd**  
**87 Vauxhall Walk, London, SE11 5HJ**  
Attn: [REDACTED]  
By email to: [REDACTED]

Date: **06/01/22**

Dear Sirs,

**Supply of Feasibility, design and outcome specification for a Reducing Reoffending Social Outcome Fund**

Following your tender/ proposal for the supply of a **Feasibility, design and outcome specification for a Reducing Reoffending Social Outcome Fund** to the **Ministry of Justice**, we are pleased confirm our intention to award this contract to you.

The attached contract details ("**Order Form**"), contract conditions and the **Annexes** set out the terms of the contract between **the Ministry of Justice** for the provision of the deliverables set out in the Order Form.

We thank you for your co-operation to date and look forward to forging a successful working relationship resulting in a smooth and successful delivery of the deliverables. Please confirm your acceptance of the Conditions by signing and returning the Order Form to [REDACTED] at the above address within 7 days from the date of this Order Form. No other form of acknowledgement will be accepted. Please remember to include the reference number above in any future communications relating to this contract.

[We will then arrange for Order Form to be countersigned which will create a binding contract between us.]

Yours faithfully,

## Order Form

<b>1. Contract Reference</b>	prj_7508	
<b>2. Date</b>	06/01/2022	
<b>3. Buyer</b>	Ministry of Justice 102 Petty France, Westminster, London, SW1H 9AJ	
<b>4. Supplier</b>	Social Finance Limited 87 Vauxhall Walk, London, SE11 5HJ registration number 6402143	
<b>5. The Contract</b>	<p>The Supplier shall supply the deliverables described below on the terms set out in this Order Form and the attached contract conditions ("<b>Conditions</b>") and any [<b>Annex/Annexes</b>].</p> <p>Unless the context otherwise requires, capitalised expressions used in this Order Form have the same meanings as in Conditions.</p> <p>In the event of any conflict between this Order Form and the Conditions, this Order Form shall prevail.</p> <p>Please do not attach any Supplier terms and conditions to this Order Form as they will not be accepted by the Buyer and may delay conclusion of the Contract.</p>	
<b>6. Deliverables</b>	<b>Goods</b>	[None]
	<b>Services</b>	To be supplied as outlined in Annex 2.
<b>7. Specification</b>	The specification of the Deliverables is as set out below in Annex 2.	
<b>8. Term</b>	<p>The Term shall commence on 04/01/22 and the Expiry Date shall be 31/03/22 unless it is otherwise extended or terminated in accordance with the terms and conditions of the Contract.</p> <p>The Buyer may extend the Contract for a period of up to 1 month by giving not less than 10 Working Days' notice in writing to the Supplier prior to the Expiry Date. The terms and conditions of the Contract shall apply throughout any such extended period.</p>	
<b>9. Charges</b>	The Charges for the Deliverables shall be as set out below in Annex 3.	

## The Short form Contract

<b>10. Payment</b>	<p>All invoices must be sent, quoting a valid purchase order number (PO Number), to:</p> <p>SSCL – National Offender Management Service</p> <p>PO Box 741</p> <p>Newport</p> <p>Gwent</p> <p>NP10 8FZ</p> <p>APinvoices-NMS-U@gov.sscl.com</p> <p>Within [10] Working Days of receipt of your countersigned copy of this letter, we will send you a unique PO Number. You must be in receipt of a valid PO Number before submitting an invoice.</p> <p>To avoid delay in payment it is important that the invoice is compliant and that it includes a valid PO Number, PO Number item number (if applicable) and the details (name and telephone number) of your Buyer contact (i.e. Contract Manager). Non-compliant invoices will be sent back to you, which may lead to a delay in payment.</p> <p>If you have a query regarding an outstanding payment please contact our Accounts Payable section either by email to</p> <p>APinvoices-NMS-U@gov.sscl.com</p>		
<b>11. Buyer Authorised Representative(s)</b>	<p>For general liaison your contact will continue to be</p> <p><b>[REDACTED]</b></p>		
<b>12. Address notices for</b>	<table border="0"> <tr> <td data-bbox="549 1697 1037 2029"> <b>Buyer:</b>   Ministry of Justice  102 Petty France, Westminster,  London, SW1H 9AJ   Attention: <b>[REDACTED]</b> </td><td data-bbox="1037 1697 1541 2029"> <b>Supplier:</b>   Social Finance Limited  87 Vauxhall Walk, London, SE11 5HJ   Attention: <b>[REDACTED]</b> </td></tr> </table>	<b>Buyer:</b>  Ministry of Justice 102 Petty France, Westminster, London, SW1H 9AJ  Attention: <b>[REDACTED]</b>	<b>Supplier:</b>  Social Finance Limited 87 Vauxhall Walk, London, SE11 5HJ  Attention: <b>[REDACTED]</b>
<b>Buyer:</b>  Ministry of Justice 102 Petty France, Westminster, London, SW1H 9AJ  Attention: <b>[REDACTED]</b>	<b>Supplier:</b>  Social Finance Limited 87 Vauxhall Walk, London, SE11 5HJ  Attention: <b>[REDACTED]</b>		

## The Short form Contract

<b>13. Key Personnel</b>	<table border="0"> <tr> <td><b>Buyer:</b></td><td><b>Supplier:</b></td></tr> <tr> <td>Ministry of Justice 102 Petty France, Westminster, London, SW1H 9AJ</td><td>Social Finance Limited 87 Vauxhall Walk, London, SE11 5HJ</td></tr> <tr> <td>Attention: [REDACTED]</td><td>Attention: [REDACTED]</td></tr> <tr> <td>Email: [REDACTED]</td><td>[D] Email: [REDACTED]</td></tr> </table>	<b>Buyer:</b>	<b>Supplier:</b>	Ministry of Justice 102 Petty France, Westminster, London, SW1H 9AJ	Social Finance Limited 87 Vauxhall Walk, London, SE11 5HJ	Attention: [REDACTED]	Attention: [REDACTED]	Email: [REDACTED]	[D] Email: [REDACTED]
<b>Buyer:</b>	<b>Supplier:</b>								
Ministry of Justice 102 Petty France, Westminster, London, SW1H 9AJ	Social Finance Limited 87 Vauxhall Walk, London, SE11 5HJ								
Attention: [REDACTED]	Attention: [REDACTED]								
Email: [REDACTED]	[D] Email: [REDACTED]								
<b>14. Procedures and Policies</b>	<p>The Buyer may require the Supplier to ensure that any person employed in the delivery of the Deliverables has undertaken a Disclosure and Barring Service check.</p> <p>The Supplier shall ensure that no person who discloses that he/she has a conviction that is relevant to the nature of the Contract, relevant to the work of the Buyer, or is of a type otherwise advised by the Buyer (each such conviction a "<b>Relevant Conviction</b>"), or is found by the Supplier to have a Relevant Conviction (whether as a result of a police check, a Disclosure and Barring Service check or otherwise) is employed or engaged in the provision of any part of the Deliverables.</p>								

Signed for and on behalf of the <b>Supplier</b>	Signed for and on behalf of the <b>Buyer</b>
Name: [REDACTED]	Name: [REDACTED]
Date: [REDACTED]	Date: [REDACTED]
Signature: [REDACTED]	Signature: [REDACTED]

## Annex 1 – Authorised Processing Template

<b>Contract:</b>	<b>Prj_7508</b>
<b>Date:</b>	06/01/22
<b>Description Of Authorised Processing</b>	<b>Details All material as deemed necessary by the requirement project owner</b>
Subject matter of the processing	Personal and business-related confidential information
Duration of the processing	The period in which this contract is active. Please ensure all personal and confidential data is destroyed at the end of this contract.
Nature and purposes of the processing	To be used to inform the requirement output
Type of Personal Data	Names, emails, contact information and addresses.
Categories of Data Subject	

## [Annex 2 – Specification]

### Consultancy Specification Document

<b>Title of Request:</b>	<b>Feasibility, design and outcome specification for a Reducing Reoffending Social Outcome Fund</b>
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<b>Estimated Total Value:</b>	<b>TBC</b>
<b>Duration of Engagement:</b>	<b>3 months</b>
<b>Required Commencement Date:</b>	<b>TBC</b>

## 1. Introduction

Should give a brief introduction to your organisation, including an explanation of where your organisation sits within the MoJ and the role it performs in delivering the Secretary of State's Priorities and MoJ's Strategic Outcomes & Objectives.

Rates of reoffending have remained high across England and Wales for too long. The same individuals are repeatedly causing harm to their community and undermining confidence in the criminal justice system with 80% of crime reported being committed by individuals with previous convictions.

The Prime Minister has set out clear priorities to tackle reoffending and crime with a specific focus on employment, substance misuse and accommodation. As a result, the MoJ and HMPPS have recognised this as a strategic priority and established the Reducing Reoffending Portfolio (RRP) to deliver a range of interventions across employment, substance misuse and accommodation to improve life chances for offenders and to support the reduction of reoffending.

The MoJ is committed to reducing the Proven Reoffending rate, as defined [here](#). With the time lag involved in measuring this outcome, the MoJ is also focused on three intermediate outcomes – which have the strongest evidence base linking them to the primary outcome – these are:

1. Proportion of leavers in settled accommodation 3 months post release
2. Proportion of identified users in treatment 3 weeks post release
3. Proportion of prison leavers in employment 6 months post release

The Reducing Reoffending Partnerships and Accommodation Directorate sits within HM Prisons and Probation Service and is focused on putting in place interventions to help reduce the rate of reoffending to help us achieve these outcomes. It has been established to galvanise efforts across HMPPS, Whitehall and partner organisations to cut

crime and reduce reoffending by helping prison leavers to make a success of their lives. Within the Directorate, the Interventions, Investment and Operations Division has been established to improve the efficiency, effectiveness and delivery of reducing reoffending activity across the Agency, driving innovation in reducing reoffending approaches and investment models.

That need to drive innovation in investment models means that there is a need for the MoJ/HMPPS to explore new ways to stimulate new interventions, including through a fund and outcome-based commissioning approach.

You can find existing plans for tackling reoffending here:

<https://www.gov.uk/government/publications/regional-reducing-reoffending-plans>

## 2. Background to the Requirement

Provide background information to the requirement to help the contractor understand how the work you want them to undertake fits in with your organisation's objectives. Consider including issues such as:

- any history relevant to the procurement;
- recent developments that the contractor should be aware of;
- a description of the business activities, functions & processes in your area that will have an impact on, or be impacted by the services being to the procured;
- a organisation/staffing chart;
- any specific roles & responsibilities that may have a bearing on how the contractor delivers the services.

The MoJ is committed to reducing the Proven Reoffending rate, as defined [here](#). With the time lag involved in measuring this outcome, the MoJ is also focused on three intermediate outcomes – which have the strongest evidence base linking them to the primary outcome – these are:

1. Proportion of leavers in settled accommodation 3 months post release
2. Proportion of identified users in treatment 3 weeks post release

### 3. Proportion of prison leavers in employment 6 months post release

To help deliver change in these three areas, as a department the MoJ is interested in promoting and supporting innovation within the reoffending field. This is likely to mean one or more of the following:

- Supporting new interventions, or combination of interventions, where there is a plausible rationale and evidence base, which has not been tested in actuality.
- Deploying existing interventions at a larger scale, for example, where an intervention has been previously trialled at a small scale but has insufficient evaluation to reach a conclusion about its efficacy.
- Implementing or testing new service delivery models, for example where existing interventions are provided in a different setting or through a different provider in a way that could improve their impact or value.
- Implementing or trialling new data and analysis techniques to improve the efficacy of interventions in a given cohort, for example through better targeting or management.

To better enable MoJ to support innovation within this field, the Department wants to explore the feasibility of taking a social fund and outcome-based commissioning approach. As a result, the Department is seeking an expert partner to carry out feasibility, design and outcome definition for a Reducing Reoffending Social Outcome Fund – this is being referred to as Phase 1.

#### Note:

- The work taking place to reduce overall reoffending rates is far reaching, a Social Outcome Fund would form just a small part of this overall landscape. Any fund and outcome-based commissioning approach should have a relatively narrow focus and look specifically at ways to impact three intermediate outcomes outlined above rather than looking at the whole spectrum of activity within reoffending.
- Phase 2 – implementing the preferred approach and creating new interventions to reduce reoffending – is out of scope of this work. It is subject to Phase 1 findings and Ministerial review.
- This is jointly sponsored piece of work between HMPPS and MoJ. It is expected that the supplier will act autonomously but in collaboration with the Department to deliver the report. This is a standalone exercise.
- Sponsorship of the work will be by Matt Grey, Executive Director for Reducing Reoffending, Partnerships and Accommodation (HMPPS) and Ross Gribben, Strategy Director (MoJ).

## 3. Requirement

This is a statement of what is to be delivered by the contractor under the terms of the contracts and forms the main body of the specification. The 'golden rule' is that specifications need to be Clear, Concise and Unambiguous. It sets out:



- what will be expected of the contractor under the contract;
- how you see the contract operating to ensure your aims and objectives (see sections 4 & 5) are met;
- any specific tasks that the contractor will be required to perform and gives an indication of your expectations in relation to how they are performed.

Specify requirements as:

- *Mandatory* -essential requirements that must be met;
- *Desirable* – requirements that whilst bringing benefits are not essential;
- *Information* – requirements that request supplementary detail that may be helpful to the overall picture

**Note:** As a general rule, no information should be provided about the proposed budget availability. The requirement should provide enough detail about the scope of the work to enable the contractor to gauge for themselves the size of the task and the risks involved, given their detailed and specialist knowledge.

**Other tips:** List the important elements of the requirements first, and work through to least important and avoid embedding critical requirements in background information – contractors may miss them

The outputs of Phase 1 - feasibility, design and outcome definition for a Reducing Reoffending Social Outcome Fund – should be delivered through a written report to the MoJ which covers:

1. A review of whether taking a fund and outcome-based commissioning approach would be suitable for, and add value to, the Reducing Reoffending agenda. The review should consider existing funding and commissioning investment approaches in the justice sector and beyond with relevance to our aims. It should also focus on the practical lessons that could improve the design and outcome of a Reducing Reoffending Social Outcome Fund – if deemed beneficial – and cover best practice for governance, risk management and de-risking investment with real life tangible examples. – **Mandatory**
2. Assessment of the feasibility of setting up a Reducing Reoffending Social Outcome Fund that contributes to reducing the rate of proven reoffending, by tackling issues related to accommodation, employment, and substance misuse – **Mandatory**  
It should consider:
  - a. Plausibility given the broader landscape and evaluation of the potential levels of interest from providers of interventions. Despite being preliminary, the report should consider:
    - Internal and external perceptions of the fund
    - Whether there are enough potential providers to make a fund and outcomes-based commissioning approach viable

- Whether there are enough potential providers willing to participate in this type of approach
  - Whether the sorts of innovative approach/ ideas in the market will support our aims
  - b. Interest from social investors with guidance on the best way to select and approach partners
  - c. Challenges/ risks which could occur including best practice for mitigating them
  - d. MoJ's ability to attribute impact in a crowded innovation landscape
3. Advice on setting the appropriate level and structure of outcome payments and the feasibility of setting up a Social Outcome Fund using this approach. – **Mandatory**  
Any proposal to set outcomes based on savings should differentiate between:
- a. The value ('cashable' savings) vs. the value of potential reductions in public spending where these are fixed in the short-term ('non-cashable' savings)
  - b. The social value of interventions through an appropriate recognised methodology
4. A proposed design and structure for financing and operating a fund approach including its governance structure, finance controls and oversight, risk management, impact evaluation. This should include the identification of external funding sources that could enhance and expand the MoJ's core approach, either as a supplement to our core outcome payments or where there is willingness to co-fund the integrator function or individual providers (e.g. Big Society Capital, philanthropy, grants etc.). – **Mandatory**
5. A procurement and next step timeline, with suggested milestones, for Phase 2 of this work which is subject to Ministerial sign-off and will focus on setting up and embedding the preferred approach. It should be developed in partnership with the MoJ's commercial team who will advise on our procurement policy and requirements. – **Mandatory**  
The advice should cover: - **Information**
- a. The next steps and selection of the social investors
  - b. The mechanisms by which the end providers may be selected depending on the proposed structure

#### 4. Aims

Explain here what you are aiming to achieve by engaging external contractors to undertake the work described in section 3 – this is the "Outcome" you are seeking.

The ultimate aim of taking a fund and outcome-based commissioning approach is to improve outcomes in reoffending, primarily in relation to the three interim outcomes of accommodation, substance misuse, and employment.

By engaging external contractors to undertake the work in Phase 1 – as described in Section 3 of this document – we are looking to use expert knowledge on Social Outcome Funds to:

- Understand whether a taking a fund and outcomes-based commissioning approach is a viable approach for this topic area
- Learn from real life examples about how best to structure a Social Outcome Fund in theory
- Design an approach to setting up, delivering and managing a Social Outcome Fund which is based on expert knowledge and best practice
- Make the case for implementation of a Social Outcome Fund that contributes towards reduction of the rate of proven reoffending specifically by targeting accommodation, substance misuse, and employment.

## 6. Objectives (Measurable Outputs)

In this section you will need to describe:

- a. the specific outputs that you require the contractor to deliver (this could be a report, an improvement in performance, successful implementation of a process or business change – the key element being that the output can be measured);
- b. how and when you expect the outputs to be delivered and how these outputs will be measured during the life of the contract?

The immediate measurable output is a written report covering the specifications outlined in Section 3 of this document. This should be delivered within three months of the contract start date. Supporting materials which show background, evidence and rationale for thinking should also be shared.

During over the course of this three-month contract, MoJ would expect regular updates on the progress made to deliver this report on time and to its full scope. This should be in the form of either written or verbal updates and should be provided at regular intervals.

## 7. In Scope, Out of Scope

- be specific on what is to be included
- what is excluded
- what is optional

Phase 1, feasibility, design and outcome definition, is in scope.

The report and the proposed design should focus specifically on how best to impact the three intermediate outcomes – which have the strongest evidence base linking them to the primary outcome – outlined in Section 3 of this document:

1. Proportion of leavers in settled accommodation 3 months post release
2. Proportion of identified users in treatment 3 weeks post release
3. Proportion of prison leavers in employment 6 months post release

Given the significant work occurring in the wide reoffending landscape, outcomes outside of these three areas are out of scope e.g. changes to cognitive behaviours or building communities.

Any data analysis should focus specifically on the outcome-based commissioning landscape, potential providers, provider behaviours, market levels and financing. Analysis of the reoffending landscape is out of scope as this has already been explored in detail by internal resources.

Phase 2 – implementing the preferred approach and creating new interventions to reduce reoffending – is out of scope of this work. It is subject to Phase 1 findings and Ministerial review, however as set out in the Requirements Section, the aim of the work is to provide plans on how that implementation would take place.

## 8. Location of Assignment

- Give address where services are to be carried out (Businesses, Suppliers or both)
- Can any or all of the requirement be delivered remotely

For the most part, requirements should be delivered remotely, and so resource should work in alignment to the supplier's working practices. It is not anticipated that frequent attendance at MoJ premises will be required. However, when appropriate, arrangements will be made to host discussions or meetings either virtually or in-person at Ministry of Justice London offices – this includes during project initiation and project handover.

## 9. Regulatory requirements

Are there any regulatory requirements that need to be considered? If so please list them here.

The outputs should take account of the overall regulatory environment, including engagement with MoJ legal to test legal feasibility of the proposals.

The report should include an assessment of financial controls.

## 10. Service Levels

- What levels of service do you require;
- How will these be measured over the life of the contract;
- In the event of a service issue or concerns with the performance by the contractor, do you have any specific requirements for escalation.

The successful consultancy is expected to provide the service levels required to deliver the desired output outlined in Section 3 of this document within the three month period. This should be in alignment with appropriate working practices.

Regular reports should be made by the provider to the Authority to set out progress to delivering the report against each requirement. Any risk to delivery or delay should be escalated to the Authority.

## 11. Security arrangements for Consultants

- Baseline Personnel Security Standards (of which Disclosure Scotland is a part) are a default requirement in any Consultancy contract.

<https://www.gov.uk/government/publications/government-baseline-personnel-security-standard>

- Please indicate here if you require the contractor's personnel to hold any additional/higher level security clearances

Baseline Personnel Security Standards (of which Disclosure Scotland is a part) are a default requirement in any Consultancy contract. No additional level of security clearances will be required.

## 12. Timetable

- Lists key targets and/or milestones expected to be achieved
- can act as a performance indicator to enable stage or interim payments to be made against measurable deliverables.
- be specific on when you expect the outputs to be delivered
- if the completion date is fundamental to the success of the project, then say so

Timescales are illustrative rather than fixed

[REDACTED]

Throughout the project MoJ wants to have clarity on progress and an opportunity to comment and direct the work that is being produced to ensure exact requirements outlined in Section 3 are being delivered. As the project progresses through contract management there could be the opportunity to focus in on or deprioritise areas.

### 13. Exit Arrangements

- What is your exit strategy for this contract;
- How do you want the contractor to deliver skills & knowledge transfer to your permanent staff throughout and at the end of the contract.

By the end of the three-month contract period, it is expected that a full report handover will have taken place – both verbal and written. The ambition is that this will take place before the end of the financial year/.

By the end of the three-month contract period permanent MoJ staff should be fully briefed on the content of the report and be confident in their understanding of the proposed approach.

### 14. Any other points

Please note down any other key features that need to be considered.

The following guidelines to be considered during design of the proposed approach:

- We are open to interventions being provided by a combination of private, public and third sector organisations or a partnership involving a mixture.
- We expect outcome payments to be capped at a certain percentage above the base cost of interventions to protect value for money. We are also open to the possibility of there being a 'floor' on payments if this is necessary to meet our aims provided there is genuine risk transfer to the social investors.
- We expect the structure of the social outcome approach to be as simple as possible to ensure transparency and value for money.
- We expect to see interventions commence within one year of the creation of the fund although we are open to advice on the best time horizon to set to meet our aims.
- Choice of interventions and providers should be made by the social investor or the integrator on their behalf. MoJ should be consulted on the choices being made and retain the ultimate right to reject any that do not meet the standards we would expect for the use of public funds.

The successful consultancy will have access to datasets which help to appropriately set the scene for our reoffending landscape. They are not being asked to carry out analysis on these datasets, they will be made available to help support context setting

## **1. FEASIBILITY, DESIGN AND OUTCOME SPECIFICATION FOR A REDUCING REOFFENDING SOCIAL OUTCOME FUND**

### **1.1 Proposal from Social Finance | December 2021**

**[REDACTED]**



[REDACTED]

## [Annex 3 – Charges]

[REDACTED]

# Short form Terms

## 2. Definitions used in the Contract

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

<b>"Central Government Body"</b>	means a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics: a) Government Department; b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal); c) Non-Ministerial Department; or d) Executive Agency;
<b>"Charges"</b>	means the charges for the Deliverables as specified in the Order Form;
<b>"Confidential Information"</b>	means all information, whether written or oral (however recorded), provided by the disclosing Party to the receiving Party and which (i) is known by the receiving Party to be confidential; (ii) is marked as or stated to be confidential; or (iii) ought reasonably to be considered by the receiving Party to be confidential;
<b>"Contract"</b>	means the contract between (i) the Buyer and (ii) the Supplier which is created by the Supplier's counter signing the Order Form and includes the Order Form and Annexes;
<b>"Controller"</b>	has the meaning given to it in the GDPR;

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<b>"Buyer"</b>		means the person identified in the letterhead of the Order Form;
<b>"Date of Delivery"</b>	<b>of</b>	means that date by which the Deliverables must be delivered to the Buyer, as specified in the Order Form;
<b>"Buyer Cause"</b>		any breach of the obligations of the Buyer or any other default, act, omission, negligence or statement of the Buyer, of its employees, servants, agents in connection with or in relation to the subject-matter of the Contract and in respect of which the Buyer is liable to the Supplier;
<b>"Data Protection Legislation"</b>		(i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the Data Protection Act 2018 to the extent that it relates to processing

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<b>"Data Protection Impact Assessment"</b>	of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy; an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data;
<b>"Data Protection Officer"</b>	has the meaning given to it in the GDPR;
<b>"Data Subject"</b>	has the meaning given to it in the GDPR;
<b>"Data Loss Event"</b>	any event that results, or may result, in unauthorised access to Personal Data held by the Supplier under this Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of this Contract, including any Personal Data Breach;
<b>"Data Subject Access Request"</b>	a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data;
<b>"Deliver"</b>	means hand over the Deliverables to the Buyer at the address and on the date specified in the Order Form, which shall include unloading and any other specific arrangements agreed in accordance with Clause [ ]. Delivered and Delivery shall be construed accordingly;
<b>"Existing IPR"</b>	any and all intellectual property rights that are owned by or licensed to either Party and which have been developed independently of the Contract (whether prior to the date of the Contract or otherwise);
<b>"Expiry Date"</b>	means the date for expiry of the Contract as set out in the Order Form;
<b>"FOIA"</b>	means the Freedom of Information Act 2000 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation;
<b>"Force Majeure Event"</b>	any event, occurrence, circumstance, matter or cause affecting the performance by either Party of its obligations under the Contract arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control which prevent or materially delay it from performing its obligations under the Contract but excluding: i) any industrial dispute relating to the Supplier, the Supplier Staff (including any subsets of them) or any other failure in the Supplier or the Subcontractor's supply chain; ii) any event, occurrence, circumstance, matter or cause which is attributable to the wilful act, neglect or failure to take reasonable precautions against it by the Party concerned; and iii) any failure of delay caused by a lack of funds;

<b>"GDPR"</b>	the General Data Protection Regulation (Regulation (EU) 2016/679);
<b>"Goods"</b>	means the goods to be supplied by the Supplier to the Buyer under the Contract;
<b>"Good Industry Practice"</b>	standards, practices, methods and procedures conforming to the law and the exercise of the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged within the relevant industry or business sector;
<b>"Government Data"</b>	a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, including any of the Buyer's confidential information, and which: i) are supplied to the Supplier by or on behalf of the Buyer; or ii) the Supplier is required to generate, process, store or transmit pursuant to the Contract; or b) any Personal Data for which the Buyer is the Data Controller;
<b>"Information"</b>	has the meaning given under section 84 of the FOIA;
<b>"Information Commissioner"</b>	the UK's independent authority which deals with ensuring information relating to rights in the public interest and data privacy for individuals is met, whilst promoting openness by public bodies;
<b>"Insolvency Event"</b>	in respect of a person: a) if that person is insolvent; ii) if an order is made or a resolution is passed for the winding up of the person (other than voluntarily for the purpose of solvent amalgamation or reconstruction); iii) if an administrator or administrative receiver is appointed in respect of the whole or any part of the persons assets or business; iv) if the person makes any composition with its creditors or takes or suffers any similar or analogous action to any of the actions detailed in this definition as a result of debt in any jurisdiction;
<b>"Key Personnel"</b>	means any persons specified as such in the Order Form or otherwise notified as such by the Buyer to the Supplier in writing;
<b>"LED"</b>	Law Enforcement Directive (Directive (EU) 2016/680);
<b>"New IPR"</b>	all and intellectual property rights in any materials created or developed by or on behalf of the Supplier pursuant to the Contract but shall not include the Supplier's Existing IPR;
<b>"Order Form"</b>	means the letter from the Buyer to the Supplier printed above these terms and conditions;
<b>"Party"</b>	the Supplier or the Buyer (as appropriate) and "Parties" shall mean both of them;
<b>"Personal Data"</b>	has the meaning given to it in the GDPR;

## The Short form Contract

<b>"Personal Data Breach"</b>	has the meaning given to it in the GDPR;
<b>"Processor"</b>	has the meaning given to it in the GDPR;
<b>"Purchase Order Number"</b>	means the Buyer's unique number relating to the order for Deliverables to be supplied by the Supplier to the Buyer in accordance with the terms of the Contract;
<b>"Regulations"</b>	the Public Contracts Regulations 2015 and/or the Public Contracts (Scotland) Regulations 2015 (as the context requires) as amended from time to time;
<b>"Request for Information"</b>	has the meaning set out in the FOIA or the Environmental Information Regulations 2004 as relevant (where the meaning set out for the term "request" shall apply);
<b>"Services"</b>	means the services to be supplied by the Supplier to the Buyer under the Contract;
<b>"Specification"</b>	means the specification for the Deliverables to be supplied by the Supplier to the Buyer (including as to quantity, description and quality) as specified in the Order Form;
<b>"Staff"</b>	means all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any sub-contractor of the Supplier engaged in the performance of the Supplier's obligations under the Contract;
<b>"Staff Vetting Procedures"</b>	means vetting procedures that accord with good industry practice or, where applicable, the Buyer's procedures for the vetting of personnel as provided to the Supplier from time to time;
<b>"Subprocessor"</b>	any third Party appointed to process Personal Data on behalf of the Supplier related to the Contract;
<b>"Supplier Staff"</b>	all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Subcontractor engaged in the performance of the Supplier's obligations under a Contract;
<b>"Supplier"</b>	means the person named as Supplier in the Order Form;
<b>"Term"</b>	means the period from the start date of the Contract set out in the Order Form to the Expiry Date as such period may be extended in accordance with clause [ ] or terminated in accordance with the terms and conditions of the Contract;
<b>"US-EU Privacy Shield Register"</b>	a list of companies maintained by the United States of America Department for Commerce that have self-certified their commitment to adhere to the European legislation relating to the processing of personal data to non-EU countries which is available online at: <a href="https://www.privacyshield.gov/list">https://www.privacyshield.gov/list</a> ;

<b>"VAT"</b>	means value added tax in accordance with the provisions of the Value Added Tax Act 1994;
<b>"Workers"</b>	any one of the Supplier Staff which the Buyer, in its reasonable opinion, considers is an individual to which Procurement Policy Note 08/15 (Tax Arrangements of Public Appointees) ( <a href="https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees">https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees</a> ) applies in respect of the Deliverables;
<b>"Working Day"</b>	means a day (other than a Saturday or Sunday) on which banks are open for business in the City of London.

### 3. Understanding the Contract

In the Contract, unless the context otherwise requires:

- 3.1 references to numbered clauses are references to the relevant clause in these terms and conditions;
- 3.2 any obligation on any Party not to do or omit to do anything shall include an obligation not to allow that thing to be done or omitted to be done;
- 3.3 the headings in this Contract are for information only and do not affect the interpretation of the Contract;
- 3.4 references to "writing" include printing, display on a screen and electronic transmission and other modes of representing or reproducing words in a visible form;
- 3.5 the singular includes the plural and vice versa;
- 3.6 a reference to any law includes a reference to that law as amended, extended, consolidated or re-enacted from time to time and to any legislation or byelaw made under that law; and
- 3.7 the word 'including', "for example" and similar words shall be understood as if they were immediately followed by the words "without limitation".

### 4. How the Contract works

- 4.1 The Order Form is an offer by the Buyer to purchase the Deliverables subject to and in accordance with the terms and conditions of the Contract.
- 4.2 The Supplier is deemed to accept the offer in the Order Form when the Buyer receives a copy of the Order Form signed by the Supplier.
- 4.3 The Supplier warrants and represents that its tender and all statements made and documents submitted as part of the procurement of Deliverables are and remain true and accurate.

## **5. What needs to be delivered**

### **5.1 All Deliverables**

- (a) The Supplier must provide Deliverables: (i) in accordance with the Specification; (ii) to a professional standard; (iii) using reasonable skill and care; (iv) using Good Industry Practice; (v) using its own policies, processes and internal quality control measures as long as they don't conflict with the Contract; (vi) on the dates agreed; and (vii) that comply with all law.
- (b) The Supplier must provide Deliverables with a warranty of at least 90 days (or longer where the Supplier offers a longer warranty period to its Buyers) from Delivery against all obvious defects.

### **5.2 Goods clauses**

- (a) All Goods delivered must be new, or as new if recycled, unused and of recent origin.
- (b) All manufacturer warranties covering the Goods must be assignable to the Buyer on request and for free.
- (c) The Supplier transfers ownership of the Goods on completion of delivery (including off-loading and stacking) or payment for those Goods, whichever is earlier.
- (d) Risk in the Goods transfers to the Buyer on delivery, but remains with the Supplier if the Buyer notices damage following delivery and lets the Supplier know within three Working Days of delivery.
- (e) The Supplier warrants that it has full and unrestricted ownership of the Goods at the time of transfer of ownership.
- (f) The Supplier must deliver the Goods on the date and to the specified location during the Buyer's working hours.
- (g) The Supplier must provide sufficient packaging for the Goods to reach the point of delivery safely and undamaged.
- (h) All deliveries must have a delivery note attached that specifies the order number, type and quantity of Goods.
- (i) The Supplier must provide all tools, information and instructions the Buyer needs to make use of the Goods.
- (j) The Supplier will notify the Buyer of any request that Goods are returned to it or the manufacturer after the discovery of safety issues or defects that might endanger health or hinder performance and shall indemnify the Buyer against the costs arising as a result of any such request.
- (k) The Buyer can cancel any order or part order of Goods which has not been delivered. If the Buyer gives less than 14 days' notice then it will pay the Supplier's reasonable and proven costs already incurred on the cancelled order as long as the Supplier takes all reasonable steps to minimise these costs.
- (l) The Supplier must at its own cost repair, replace, refund or substitute (at the Buyer's option and request) any Goods that the Buyer rejects because they don't conform with clause 4.2. If the Supplier doesn't do this it will pay the Buyer's costs including repair or re-supply by a third party.
- (m) The Buyer will not be liable for any actions, claims, costs and expenses incurred by the Supplier or any third party during delivery of the Goods unless and to the extent that it is caused by negligence or other wrongful act of the Buyer or its servant or agent. If the Buyer suffers or incurs any damage or injury (whether fatal or otherwise) occurring in the course of delivery or installation then the Supplier shall indemnify from any losses, charges costs or expenses which arise as a result of or in connection with such damage or injury

where it is attributable to any act or omission of the Supplier or any of its [sub-suppliers].

### 5.3 Services clauses

- (a) Late delivery of the Services will be a default of the Contract.
- (b) The Supplier must co-operate with the Buyer and third party suppliers on all aspects connected with the delivery of the Services and ensure that Supplier Staff comply with any reasonable instructions including any security requirements.
- (c) The Buyer must provide the Supplier with reasonable access to its premises at reasonable times for the purpose of supplying the Services
- (d) The Supplier must at its own risk and expense provide all equipment required to deliver the Services. Any equipment provided by the Buyer to the Supplier for supplying the Services remains the property of the Buyer and is to be returned to the Buyer on expiry or termination of the Contract.
- (e) The Supplier must allocate sufficient resources and appropriate expertise to the Contract.
- (f) The Supplier must take all reasonable care to ensure performance does not disrupt the Buyer's operations, employees or other contractors.
- (g) On completion of the Services, the Supplier is responsible for leaving the Buyer's premises in a clean, safe and tidy condition and making good any damage that it has caused to the Buyer's premises or property, other than fair wear and tear.
- (h) The Supplier must ensure all Services, and anything used to deliver the Services, are of good quality [and free from defects].
- (i) The Buyer is entitled to withhold payment for partially or undelivered Services, but doing so does not stop it from using its other rights under the Contract.

## 6. Pricing and payments

- 6.1 In exchange for the Deliverables, the Supplier shall be entitled to invoice the Buyer for the charges in the Order Form. The Supplier shall raise invoices promptly and in any event within 90 days from when the charges are due.
- 6.2 All Charges:
  - (a) exclude VAT, which is payable on provision of a valid VAT invoice;
  - (b) include all costs connected with the supply of Deliverables.
- 6.3 The Buyer must pay the Supplier the charges within 30 days of receipt by the Buyer of a valid, undisputed invoice, in cleared funds to the Supplier's account stated in the Order Form.
- 6.4 A Supplier invoice is only valid if it:
  - (a) includes all appropriate references including the Purchase Order Number and other details reasonably requested by the Buyer;
  - (b) includes a detailed breakdown of Deliverables which have been delivered (if any).
- 6.5 If there is a dispute between the Parties as to the amount invoiced, the Buyer shall pay the undisputed amount. The Supplier shall not suspend the provision of the Deliverables unless the Supplier is entitled to terminate the Contract for a failure to



pay undisputed sums in accordance with clause 12.6. Any disputed amounts shall be resolved through the dispute resolution procedure detailed in clause 34.

- 6.6 The Buyer may retain or set-off payment of any amount owed to it by the Supplier if notice and reasons are provided.
- 6.7 The Supplier must ensure that all subcontractors are paid, in full, within 30 days of receipt of a valid, undisputed invoice. If this doesn't happen, the Buyer can publish the details of the late payment or non-payment.

## **7. The Buyer's obligations to the Supplier**

- 7.1 If Supplier fails to comply with the Contract as a result of a Buyer Cause:
- (a) the Buyer cannot terminate the Contract under clause 11;
  - (b) the Supplier is entitled to reasonable and proven additional expenses and to relief from liability under this Contract;
  - (c) the Supplier is entitled to additional time needed to deliver the Deliverables;
  - (d) the Supplier cannot suspend the ongoing supply of Deliverables.
- 7.2 Clause 7.1 only applies if the Supplier:
- (a) gives notice to the Buyer within 10 Working Days of becoming aware;
  - (b) demonstrates that the failure only happened because of the Buyer Cause;
  - (c) mitigated the impact of the Buyer Cause.

## **8. Record keeping and reporting**

- 8.1 The Supplier must ensure that suitably qualified representatives attend progress meetings with the Buyer and provide progress reports when specified in the Order Form.
- 8.2 The Supplier must keep and maintain full and accurate records and accounts on everything to do with the Contract for seven years after the date of expiry or termination of the Contract.
- 8.3 The Supplier must allow any auditor appointed by the Buyer access to their premises to verify all contract accounts and records of everything to do with the Contract and provide copies for the audit.
- 8.4 The Supplier must provide information to the auditor and reasonable co-operation at their request.
- 8.5 If the Supplier is not providing any of the Deliverables, or is unable to provide them, it must immediately:
- (a) tell the Buyer and give reasons;
  - (b) propose corrective action;
  - (c) provide a deadline for completing the corrective action.
- 8.6 If the Buyer, acting reasonably, is concerned as to the financial stability of the Supplier such that it may impact on the continued performance of the Contract then the Buyer may:

- (a) require that the Supplier provide to the Buyer (for its approval) a plan setting out how the Supplier will ensure continued performance of the Contract and the Supplier will make changes to such plan as reasonably required by the Buyer and once it is agreed then the Supplier shall act in accordance with such plan and report to the Buyer on demand
- (b) if the Supplier fails to provide a plan or fails to agree any changes which are requested by the Buyer or fails to implement or provide updates on progress with the plan, terminate the Contract immediately for material breach (or on such date as the Buyer notifies).

## 9. Supplier staff

9.1 The Supplier Staff involved in the performance of the Contract must:

- (a) be appropriately trained and qualified;
- (b) be vetted using Good Industry Practice and in accordance with the [instructions issued by the Buyer in the Order Form] [Staff Vetting Procedures];
- (c) comply with all conduct requirements when on the Buyer's premises.

9.2 Where a Buyer decides one of the Supplier's Staff isn't suitable to work on the Contract, the Supplier must replace them with a suitably qualified alternative.

9.3 If requested, the Supplier must replace any person whose acts or omissions have caused the Supplier to breach clause 8.

9.4 The Supplier must provide a list of Supplier Staff needing to access the Buyer's premises and say why access is required.

9.5 The Supplier indemnifies the Buyer against all claims brought by any person employed by the Supplier caused by an act or omission of the Supplier or any Supplier Staff.

9.6 The Supplier shall use those persons nominated in the Order Form (if any) to provide the Deliverables and shall not remove or replace any of them unless:

- (a) requested to do so by the Buyer (not to be unreasonably withheld or delayed);
- (b) the person concerned resigns, retires or dies or is on maternity or long-term sick leave; or
- (c) the person's employment or contractual arrangement with the Supplier or any subcontractor is terminated for material breach of contract by the employee.

## 10. Rights and protection

10.1 The Supplier warrants and represents that:

- (a) it has full capacity and authority to enter into and to perform the Contract;
- (b) the Contract is executed by its authorised representative;
- (c) it is a legally valid and existing organisation incorporated in the place it was formed;
- (d) there are no known legal or regulatory actions or investigations before any court, administrative body or arbitration tribunal pending or threatened against it or its affiliates that might affect its ability to perform the Contract;
- (e) it maintains all necessary rights, authorisations, licences and consents to perform its obligations under the Contract;

- (f) it doesn't have any contractual obligations which are likely to have a material adverse effect on its ability to perform the Contract; and
  - (g) it is not impacted by an Insolvency Event.
- 10.2 The warranties and representations in clause 10.1 are repeated each time the Supplier provides Deliverables under the Contract.
- 10.3 The Supplier indemnifies the Buyer against each of the following:
  - (a) wilful misconduct of the Supplier, any of its subcontractor and/or Supplier Staff that impacts the Contract;
  - (b) non-payment by the Supplier of any tax or National Insurance.
- 10.4 If the Supplier becomes aware of a representation or warranty that becomes untrue or misleading, it must immediately notify the Buyer.
- 10.5 All third party warranties and indemnities covering the Deliverables must be assigned for the Buyer's benefit by the Supplier.

## 11. Intellectual Property Rights (IPRs)

- 11.1 Each Party keeps ownership of its own Existing IPRs. The Supplier gives the Buyer a non-exclusive, perpetual, royalty-free, irrevocable, transferable worldwide licence to use, change and sub-license the Supplier's Existing IPR to enable it and its sub-licensees to both:
  - (a) receive and use the Deliverables;
  - (b) use the New IPR.
- 11.2 Any New IPR created under the Contract is owned by the Buyer. The Buyer gives the Supplier a licence to use any Existing IPRs for the purpose of fulfilling its obligations under the Contract and a perpetual, royalty-free, non-exclusive licence to use any New IPRs.
- 11.3 Where a Party acquires ownership of intellectual property rights incorrectly under this Contract it must do everything reasonably necessary to complete a transfer assigning them in writing to the other Party on request and at its own cost.
- 11.4 Neither Party has the right to use the other Party's intellectual property rights, including any use of the other Party's names, logos or trademarks, except as provided in clause 11 or otherwise agreed in writing.
- 11.5 If any claim is made against the Buyer for actual or alleged infringement of a third party's intellectual property arising out of, or in connection with, the supply or use of the Deliverables (an "**IPR Claim**"), then the Supplier indemnifies the Buyer against all losses, damages, costs or expenses (including professional fees and fines) incurred as a result of the IPR Claim.
- 11.6 If an IPR Claim is made or anticipated the Supplier must at its own expense and the Buyer's sole option, either:
  - (a) obtain for the Buyer the rights in clauses 11.1 and 11.2 without infringing any third party intellectual property rights;

- (b) replace or modify the relevant item with substitutes that don't infringe intellectual property rights without adversely affecting the functionality or performance of the Deliverables.

## **12. Ending the contract**

12.1 The Contract takes effect on the date of or (if different) the date specified in the Order Form and ends on the earlier of the date of expiry or termination of the Contract or earlier if required by Law.

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

### **12.3 Ending the Contract without a reason**

The Buyer has the right to terminate the Contract at any time without reason or liability by giving the Supplier not less than 90 days' written notice and if it's terminated clause 12.5(b) to 12.5(g) applies.

### **12.4 When the Buyer can end the Contract**

- (a) If any of the following events happen, the Buyer has the right to immediately terminate its Contract by issuing a termination notice in writing to the Supplier:
  - (i) there's a Supplier Insolvency Event;
  - (ii) if the Supplier repeatedly breaches the Contract in a way to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms and conditions of the Contract;
  - (iii) if the Supplier is in material breach of any obligation which is capable of remedy, and that breach is not remedied within 30 days of the Supplier receiving notice specifying the breach and requiring it to be remedied;
  - (iv) there's a change of control (within the meaning of section 450 of the Corporation Tax Act 2010) of the Supplier which isn't pre-approved by the Buyer in writing;
  - (v) if the Buyer discovers that the Supplier was in one of the situations in 57(1) or 57(2) of the Regulations at the time the Contract was awarded;
  - (vi) the Court of Justice of the European Union uses Article 258 of the Treaty on the Functioning of the European Union (TFEU) to declare that the Contract should not have been awarded to the Supplier because of a serious breach of the TFEU or the Regulations;
  - (vii) the Supplier or its affiliates embarrass or bring the Buyer into disrepute or diminish the public trust in them.
- (b) If any of the events in 73(1) (a) to (c) of the Regulations (substantial modification, exclusion of the Supplier, procurement infringement) happen, the Buyer has the right to immediately terminate the Contract and clause 12.5(b) to 12.5(g) applies.

### **12.5 What happens if the Contract ends**

Where the Buyer terminates the Contract under clause 12.4(a) all of the following apply:

- (a) the Supplier is responsible for the Buyer's reasonable costs of procuring replacement deliverables for the rest of the term of the Contract;

- (b) the Buyer's payment obligations under the terminated Contract stop immediately;
- (c) accumulated rights of the Parties are not affected;
- (d) the Supplier must promptly delete or return the Government Data except where required to retain copies by law;
- (e) the Supplier must promptly return any of the Buyer's property provided under the Contract;
- (f) the Supplier must, at no cost to the Buyer, give all reasonable assistance to the Buyer and any incoming supplier and co-operate fully in the handover and re-procurement;
- (g) the following clauses survive the termination of the Contract: [3.2.10, 6, 7.2, 9, 11, 14, 15, 16, 17, 18, 34, 35] and any clauses which are expressly or by implication intended to continue.

## **12.6 When the Supplier can end the Contract**

- (a) The Supplier can issue a reminder notice if the Buyer does not pay an undisputed invoice on time. The Supplier can terminate the Contract if the Buyer fails to pay an undisputed invoiced sum due and worth over 10% of the total Contract value or £1,000, whichever is the lower, within 30 days of the date of the reminder notice.
- (b) If a Supplier terminates the Contract under clause 12.6(a):
  - (i) the Buyer must promptly pay all outstanding charges incurred to the Supplier;
  - (ii) the Buyer must pay the Supplier reasonable committed and unavoidable losses as long as the Supplier provides a fully itemised and costed schedule with evidence - the maximum value of this payment is limited to the total sum payable to the Supplier if the Contract had not been terminated;
  - (iii) clauses 12.5(d) to 12.5(g) apply.

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

- (a) Where the Buyer has the right to terminate the Contract it can terminate or suspend (for any period), all or part of it. If the Buyer suspends the Contract it can provide the Deliverables itself or buy them from a third party.
- (b) The Buyer can only partially terminate or suspend the Contract if the remaining parts of it can still be used to effectively deliver the intended purpose.
- (c) The Parties must agree (in accordance with clause 25) any necessary variation required by clause 12.7, but the Supplier may not either:
  - (i) reject the variation;
  - (ii) increase the Charges, except where the right to partial termination is under clause 12.3.
- (d) The Buyer can still use other rights available, or subsequently available to it if it acts on its rights under clause 12.7.

## **13. How much you can be held responsible for**

**13.1** Each Party's total aggregate liability under or in connection with the Contract (whether in tort, contract or otherwise) is no more than 125% of the Charges paid or payable to the Supplier.

**13.2** No Party is liable to the other for:

- (a) any indirect losses;
  - (b) loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect).
- 13.3 In spite of clause 13.1, neither Party limits or excludes any of the following:
- (a) its liability for death or personal injury caused by its negligence, or that of its employees, agents or subcontractors;
  - (b) its liability for bribery or fraud or fraudulent misrepresentation by it or its employees;
  - (c) any liability that cannot be excluded or limited by law.
- 13.4 In spite of clause 13.1, the Supplier does not limit or exclude its liability for any indemnity given under clauses 7.5, 8.3, 9.5, 12.2 or 14.9.
- 13.5 Each Party must use all reasonable endeavours to mitigate any loss or damage which it suffers under or in connection with the Contract, including any indemnities.
- 13.6 If more than one Supplier is party to the Contract, each Supplier Party is fully responsible for both their own liabilities and the liabilities of the other Suppliers.
- 14. Obeying the law**
- 14.1 The Supplier must, in connection with provision of the Deliverables, use reasonable endeavours to:
- (a) comply and procure that its subcontractors comply with the Supplier Code of Conduct appearing at ([https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/646497/2017-09-13\\_Official\\_Sensitive\\_Supplier\\_Code\\_of\\_Conduct\\_September\\_2017.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/646497/2017-09-13_Official_Sensitive_Supplier_Code_of_Conduct_September_2017.pdf)) and such other corporate social responsibility requirements as the Buyer may notify to the Supplier from time to time;
  - (b) support the Buyer in fulfilling its Public Sector Equality duty under S149 of the Equality Act 2010;
  - (c) not use nor allow its subcontractors to use modern slavery, child labour or inhumane treatment;
  - (d) meet the applicable Government Buying Standards applicable to Deliverables which can be found online at: <https://www.gov.uk/government/collections/sustainable-procurement-thegovernment-buying-standards-gbs>
- 14.2 The Supplier indemnifies the Buyer against any costs resulting from any default by the Supplier relating to any applicable law to do with the Contract.
- 14.3 The Supplier must appoint a Compliance Officer who must be responsible for ensuring that the Supplier complies with Law, Clause 12.1 and Clauses 27 to 32
- 14.4 "Compliance Officer" the person(s) appointed by the Supplier who is responsible for ensuring that the Supplier complies with its legal obligations;

**15. Data protection**

- 15.1 The Buyer is the Controller and the Supplier is the Processor for the purposes of the Data Protection Legislation.
- 15.2 The Supplier must process Personal Data and ensure that Supplier Staff process Personal Data only in accordance with this Contract.
- 15.3 The Supplier must not remove any ownership or security notices in or relating to the Government Data.
- 15.4 The Supplier must make accessible back-ups of all Government Data, stored in an agreed off-site location and send the Buyer copies every six Months.
- 15.5 The Supplier must ensure that any Supplier system holding any Government Data, including back-up data, is a secure system that complies with the security requirements specified [in writing] by the Buyer.
- 15.6 If at any time the Supplier suspects or has reason to believe that the Government Data provided under the Contract is corrupted, lost or sufficiently degraded, then the Supplier must notify the Buyer and immediately suggest remedial action.
- 15.7 If the Government Data is corrupted, lost or sufficiently degraded so as to be unusable the Buyer may either or both:
- (a) tell the Supplier to restore or get restored Government Data as soon as practical but no later than five Working Days from the date that the Buyer receives notice, or the Supplier finds out about the issue, whichever is earlier;
  - (b) restore the Government Data itself or using a third party.
- 15.8 The Supplier must pay each Party's reasonable costs of complying with clause 15.7 unless the Buyer is at fault.
- 15.9 Only the Buyer can decide what processing of Personal Data a Supplier can do under the Contract and must specify it for the Contract using the template in Annex 1 of the Order Form (*Authorised Processing*).
- 15.10 The Supplier must only process Personal Data if authorised to do so in the Annex to the Order Form (*Authorised Processing*) by the Buyer. Any further written instructions relating to the processing of Personal Data are incorporated into Annex 1 of the Order Form.
- 15.11 The Supplier must give all reasonable assistance to the Buyer in the preparation of any Data Protection Impact Assessment before starting any processing, including:
- (a) a systematic description of the expected processing and its purpose;
  - (b) the necessity and proportionality of the processing operations;
  - (c) the risks to the rights and freedoms of Data Subjects;
  - (d) the intended measures to address the risks, including safeguards, security measures and mechanisms to protect Personal Data.
- 15.12 The Supplier must notify the Buyer immediately if it thinks the Buyer's instructions breach the Data Protection Legislation.

- 15.13 The Supplier must put in place appropriate Protective Measures to protect against a Data Loss Event which must be approved by the Buyer.
- 15.14 If lawful to notify the Buyer, the Supplier must notify it if the Supplier is required to process Personal Data by Law promptly and before processing it.
- 15.15 The Supplier must take all reasonable steps to ensure the reliability and integrity of any Supplier Staff who have access to the Personal Data and ensure that they:
- (a) are aware of and comply with the Supplier's duties under this clause **Error! Reference source not found.**;
  - (b) are subject to appropriate confidentiality undertakings with the Supplier or any Subprocessor;
  - (c) are informed of the confidential nature of the Personal Data and do not provide any of the Personal Data to any third Party unless directed in writing to do so by the Buyer or as otherwise allowed by the Contract;
  - (d) have undergone adequate training in the use, care, protection and handling of Personal Data.
- 15.16 The Supplier must not transfer Personal Data outside of the EU unless all of the following are true:
- (a) it has obtained prior written consent of the Buyer;
  - (b) the Buyer has decided that there are appropriate safeguards (in accordance with Article 46 of the GDPR);
  - (c) the Data Subject has enforceable rights and effective legal remedies when transferred;
  - (d) the Supplier meets its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred;
  - (e) where the Supplier is not bound by Data Protection Legislation it must use its best endeavours to help the Buyer meet its own obligations under Data Protection Legislation; and
  - (f) the Supplier complies with the Buyer's reasonable prior instructions about the processing of the Personal Data.
- 15.17 The Supplier must notify the Buyer immediately if it:
- (a) receives a Data Subject Access Request (or purported Data Subject Access Request);
  - (b) receives a request to rectify, block or erase any Personal Data;
  - (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
  - (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Contract;
  - (e) receives a request from any third Party for disclosure of Personal Data where compliance with the request is required or claims to be required by Law;
  - (f) becomes aware of a Data Loss Event.
- 15.18 Any requirement to notify under clause 15.17 includes the provision of further information to the Buyer in stages as details become available.



- 15.19 The Supplier must promptly provide the Buyer with full assistance in relation to any Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 15.17. This includes giving the Buyer:
- (a) full details and copies of the complaint, communication or request;
  - (b) reasonably requested assistance so that it can comply with a Data Subject Access Request within the relevant timescales in the Data Protection Legislation;
  - (c) any Personal Data it holds in relation to a Data Subject on request;
  - (d) assistance that it requests following any Data Loss Event;
  - (e) assistance that it requests relating to a consultation with, or request from, the Information Commissioner's Office.
- 15.20 The Supplier must maintain full, accurate records and information to show it complies with this clause 14. This requirement does not apply where the Supplier employs fewer than 250 staff, unless either the Buyer determines that the processing:
- (a) is not occasional;
  - (b) includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR;
  - (c) is likely to result in a risk to the rights and freedoms of Data Subjects.
- 15.21 The Supplier must appoint a Data Protection Officer responsible for observing its obligations in this Schedule and give the Buyer their contact details.
- 15.22 Before allowing any Subprocessor to process any Personal Data, the Supplier must:
- (a) notify the Buyer in writing of the intended Subprocessor and processing;
  - (b) obtain the written consent of the Buyer;
  - (c) enter into a written contract with the Subprocessor so that this clause 14 applies to the Subprocessor;
  - (d) provide the Buyer with any information about the Subprocessor that the Buyer reasonably requires.
- 15.23 The Supplier remains fully liable for all acts or omissions of any Subprocessor.
- 15.24 At any time the Buyer can, with 30 Working Days notice to the Supplier, change this clause 14 to:
- (a) replace it with any applicable standard clauses (between the controller and processor) or similar terms forming part of an applicable certification scheme under GDPR Article 42;
  - (b) ensure it complies with guidance issued by the Information Commissioner's Office.
- 15.25 The Parties agree to take account of any non-mandatory guidance issued by the Information Commissioner's Office.
- 15.26 The Supplier:
- (a) must provide the Buyer with all Government Data in an agreed open format within 10 Working Days of a written request;
  - (b) must have documented processes to guarantee prompt availability of Government Data if the Supplier stops trading;

- (c) must securely destroy all Storage Media that has held Government Data at the end of life of that media using Good Industry Practice;
- (d) securely erase all Government Data and any copies it holds when asked to do so by the Buyer unless required by Law to retain it;
- (e) indemnifies the Buyer against any and all Losses incurred if the Supplier breaches clause 15 and any Data Protection Legislation.

## **16. What you must keep confidential**

### **16.1 Each Party must:**

- (a) keep all Confidential Information it receives confidential and secure;
- (b) not disclose, use or exploit the disclosing Party's Confidential Information without the disclosing Party's prior written consent, except for the purposes anticipated under the Contract;
- (c) immediately notify the disclosing Party if it suspects unauthorised access, copying, use or disclosure of the Confidential Information.

### **16.2 In spite of clause 16.1, a Party may disclose Confidential Information which it receives from the disclosing Party in any of the following instances:**

- (a) where disclosure is required by applicable Law or by a court with the relevant jurisdiction if the recipient Party notifies the disclosing Party of the full circumstances, the affected Confidential Information and extent of the disclosure;
- (b) if the recipient Party already had the information without obligation of confidentiality before it was disclosed by the disclosing Party;
- (c) if the information was given to it by a third party without obligation of confidentiality;
- (d) if the information was in the public domain at the time of the disclosure;
- (e) if the information was independently developed without access to the disclosing Party's Confidential Information;
- (f) to its auditors or for the purposes of regulatory requirements;
- (g) on a confidential basis, to its professional advisers on a need-to-know basis;
- (h) to the Serious Fraud Office where the recipient Party has reasonable grounds to believe that the disclosing Party is involved in activity that may be a criminal offence under the Bribery Act 2010.

### **16.3 The Supplier may disclose Confidential Information on a confidential basis to Supplier Staff on a need-to-know basis to allow the Supplier to meet its obligations under the Contract. The Supplier Staff must enter into a direct confidentiality agreement with the Buyer at its request.**

### **16.4 The Buyer may disclose Confidential Information in any of the following cases:**

- (a) on a confidential basis to the employees, agents, consultants and contractors of the Buyer;
- (b) on a confidential basis to any other Central Government Body, any successor body to a Central Government Body or any company that the Buyer transfers or proposes to transfer all or any part of its business to;
- (c) if the Buyer (acting reasonably) considers disclosure necessary or appropriate to carry out its public functions;
- (d) where requested by Parliament;
- (e) under clauses 6.7 and 17.

- 16.5 For the purposes of clauses 16.2 to 16.4 references to disclosure on a confidential basis means disclosure under a confidentiality agreement or arrangement including terms as strict as those required in clause 16.
- 16.6 Information which is exempt from disclosure by clause 17 is not Confidential Information.
- 16.7 The Supplier must not make any press announcement or publicise the Contract or any part of it in any way, without the prior written consent of the Buyer and must take all reasonable steps to ensure that Supplier Staff do not either.

## **17. When you can share information**

- 17.1 The Supplier must tell the Buyer within 48 hours if it receives a Request For Information.
- 17.2 Within the required timescales the Supplier must give the Buyer full co-operation and information needed so the Buyer can:
- (a) comply with any Freedom of Information Act (FOIA) request;
  - (b) comply with any Environmental Information Regulations (EIR) request.
- 17.3 The Buyer may talk to the Supplier to help it decide whether to publish information under clause 17. However, the extent, content and format of the disclosure is the Buyer's decision, which does not need to be reasonable.

## **18. Invalid parts of the contract**

If any part of the Contract is prohibited by Law or judged by a court to be unlawful, void or unenforceable, it must be read as if it was removed from that Contract as much as required and rendered ineffective as far as possible without affecting the rest of the Contract, whether it's valid or enforceable.

## **19. No other terms apply**

The provisions incorporated into the Contract are the entire agreement between the Parties. The Contract replaces all previous statements and agreements whether written or oral. No other provisions apply.

## **20. Other people's rights in a contract**

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

## **21. Circumstances beyond your control**

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

- (b) uses all reasonable measures practical to reduce the impact of the Force Majeure Event.

21.2 Either party can partially or fully terminate the Contract if the provision of the Deliverables is materially affected by a Force Majeure Event which lasts for 90 days continuously.

21.3 Where a Party terminates under clause 21.2:

- (a) each party must cover its own losses;
- (b) clause 12.5(b) to 12.5(g) applies.

## **22. Relationships created by the contract**

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

## **23. Giving up contract rights**

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

## **24. Transferring responsibilities**

24.1 The Supplier cannot assign the Contract without the Buyer's written consent.

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

24.3 When the Buyer uses its rights under clause 24.2 the Supplier must enter into a novation agreement in the form that the Buyer specifies.

24.4 The Supplier can terminate the Contract novated under clause 24.2 to a private sector body that is experiencing an Insolvency Event.

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

24.6 If the Buyer asks the Supplier for details about Subcontractors, the Supplier must provide details of Subcontractors at all levels of the supply chain including:

- (a) their name;
- (b) the scope of their appointment;
- (c) the duration of their appointment.

## **25. Changing the contract**

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

**26. How to communicate about the contract**

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

**27. Preventing fraud, bribery and corruption**

- 27.1 The Supplier shall not:
- (a) commit any criminal offence referred to in the Regulations 57(1) and 57(2);
  - (b) offer, give, or agree to give anything, to any person (whether working for or engaged by the Buyer or any other public body) an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of the Contract or any other public function or for showing or refraining from showing favour or disfavour to any person in relation to the Contract or any other public function.
- 27.2 The Supplier shall take all reasonable steps (including creating, maintaining and enforcing adequate policies, procedures and records), in accordance with good industry practice, to prevent any matters referred to in clause 27.1 and any fraud by the Staff and the Supplier (including its shareholders, members and directors) in connection with the Contract and shall notify the Buyer immediately if it has reason to suspect that any such matters have occurred or is occurring or is likely to occur.
- 27.3 If the Supplier or the Staff engages in conduct prohibited by clause 27.1 or commits fraud in relation to the Contract or any other contract with the Crown (including the Buyer) the Buyer may:
- (a) terminate the Contract and recover from the Supplier the amount of any loss suffered by the Buyer resulting from the termination, including the cost reasonably incurred by the Buyer of making other arrangements for the supply of the Deliverables and any additional expenditure incurred by the Buyer throughout the remainder of the Contract; or
  - (b) recover in full from the Supplier any other loss sustained by the Buyer in consequence of any breach of this clause.

**28. Equality, diversity and human rights**

- 28.1 The Supplier must follow all applicable equality law when they perform their obligations under the Contract, including:
- (a) protections against discrimination on the grounds of race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise;
  - (b) any other requirements and instructions which the Buyer reasonably imposes related to equality Law.

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

## **29. Health and safety**

- 29.1 The Supplier must perform its obligations meeting the requirements of:
- (a) all applicable law regarding health and safety;
  - (b) the Buyer's current health and safety policy while at the Buyer's premises, as provided to the Supplier.
- 29.2 The Supplier and the Buyer must as soon as possible notify the other of any health and safety incidents or material hazards they're aware of at the Buyer premises that relate to the performance of the Contract.

## **30. Environment**

- 30.1 When working on Site the Supplier must perform its obligations under the Buyer's current Environmental Policy, which the Buyer must provide.
- 30.2 The Supplier must ensure that Supplier Staff are aware of the Buyer's Environmental Policy.

## **31. Tax**

- 31.1 The Supplier must not breach any tax or social security obligations and must enter into a binding agreement to pay any late contributions due, including where applicable, any interest or any fines. The Buyer cannot terminate the Contract where the Supplier has not paid a minor tax or social security contribution.
- 31.2 Where the Supplier or any Supplier Staff are liable to be taxed or to pay National Insurance contributions in the UK relating to payment received under the Off Contract, the Supplier must both:
- (a) comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax, the Social Security Contributions and Benefits Act 1992 (including IR35) and National Insurance contributions;
  - (b) indemnify the Buyer against any Income Tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made during or after the Contract Period in connection with the provision of the Deliverables by the Supplier or any of the Supplier Staff.
- 31.3 If any of the Supplier Staff are Workers who receive payment relating to the Deliverables, then the Supplier must ensure that its contract with the Worker contains the following requirements:
- (a) the Buyer may, at any time during the term of the Contract, request that the Worker provides information which demonstrates they comply with clause 31.2, or why those requirements do not apply, the Buyer can specify the information the Worker must provide and the deadline for responding;

- (b) the Worker's contract may be terminated at the Buyer's request if the Worker fails to provide the information requested by the Buyer within the time specified by the Buyer;
- (c) the Worker's contract may be terminated at the Buyer's request if the Worker provides information which the Buyer considers isn't good enough to demonstrate how it complies with clause 31.2 or confirms that the Worker is not complying with those requirements;
- (d) the Buyer may supply any information they receive from the Worker to HMRC for revenue collection and management.

## **32. Conflict of interest**

- 32.1 The Supplier must take action to ensure that neither the Supplier nor the Supplier Staff are placed in the position of an actual or potential conflict between the financial or personal duties of the Supplier or the Supplier Staff and the duties owed to the Buyer under the Contract, in the reasonable opinion of the Buyer.
- 32.2 The Supplier must promptly notify and provide details to the Buyer if a conflict of interest happens or is expected to happen.
- 32.3 The Buyer can terminate its Contract immediately by giving notice in writing to the Supplier or take any steps it thinks are necessary where there is or may be an actual or potential conflict of interest.

## **33. Reporting a breach of the contract**

- 33.1 As soon as it is aware of it the Supplier and Supplier Staff must report to the Buyer any actual or suspected breach of law, clause 14.1, or clauses 27 to 32.
- 33.2 The Supplier must not retaliate against any of the Supplier Staff who in good faith reports a breach listed in clause 33.1.

## **34. Resolving disputes**

- 34.1 If there is a dispute between the Parties, their senior representatives who have authority to settle the dispute will, within 28 days of a written request from the other Party, meet in good faith to resolve the dispute.
- 34.2 If the dispute is not resolved at that meeting, the Parties can attempt to settle it by mediation using the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure current at the time of the dispute. If the Parties cannot agree on a mediator, the mediator will be nominated by CEDR. If either Party does not wish to use, or continue to use mediation, or mediation does not resolve the dispute, the dispute must be resolved using clauses 34.3 to 34.5.
- 34.3 Unless the Buyer refers the dispute to arbitration using clause 34.4, the Parties irrevocably agree that the courts of England and Wales have the exclusive jurisdiction to:
  - (a) determine the dispute;
  - (b) grant interim remedies;
  - (c) grant any other provisional or protective relief.

- 34.4 The Supplier agrees that the Buyer has the exclusive right to refer any dispute to be finally resolved by arbitration under the London Court of International Arbitration Rules current at the time of the dispute. There will be only one arbitrator. The seat or legal place of the arbitration will be London and the proceedings will be in English.
- 34.5 The Buyer has the right to refer a dispute to arbitration even if the Supplier has started or has attempted to start court proceedings under clause 34.3, unless the Buyer has agreed to the court proceedings or participated in them. Even if court proceedings have started, the Parties must do everything necessary to ensure that the court proceedings are stayed in favour of any arbitration proceedings if they are started under clause 34.4.
- 34.6 The Supplier cannot suspend the performance of the Contract during any dispute.

### **35. Which law applies**

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