**Award Form**

This Award Form creates this Contract. It summarises the main features of the procurement and includes the Buyer and the Supplier’s contact details.

|  |  |  |
| --- | --- | --- |
|  | **Buyer** | [ ] [**Insert**wording where the Buyer is a Crown Body*:*acting as part of the Crown] (the Buyer).  Its offices are on: [ ] |
|  | **Supplier** | |  |  | | --- | --- | | Name: | **[Insert** name (registered name if registered)] | | Address: | **[Insert**address registered address if registered] | | Registration number: | **[Insert**registration number if registered] | | SID4GOV ID: | **[Insert**SID4GOV ID if you have one] | |
|  | **Contract** | This Contract between the Buyer and the Supplier is for the supply of Deliverables, being [**Insert** general description of the Deliverables] - see Schedule 2 *(Specification)* for full details.  This opportunity is advertised in this Contract Notice in Find A Tender, reference **[Insert** reference number] (FTS Contract Notice). |
|  | **Contract reference** | **[Insert**Buyer contract reference here, if any] |
|  | **Buyer Cause** | ***[Guidance: Buyers can use this section to amend the definition of "Buyer Cause", which is relevant to Clause 5, which deals with the Buyer's obligations to the Supplier. Buyers can choose the first option, which requires a specific list of Buyer responsibilities/obligations to be created, or can choose the second option, which is the previous definition from version 1.0 of this Contract and refers to breaches of the Buyer's obligations under this Contract more generally. If the Buyer intends to choose the first option, it may be helpful to look at Schedule 7 (Authority Responsibilities) of the Model Services Contract as a starting point.]***  [Any material breach of:   * **[Insert specific list of Buyer responsibilities/obligations]**   And the Buyer shall have no obligation to perform any obligations placed on it in Schedule 2 *(Specification)* or Schedule 4 *(Tender)* unless they are specifically identified above.]  [or **insert]**  [Any material breach of the obligations of the Buyer or any other default, act, omission, negligence or statement of the Buyer, of its employees, servants, agents in connection with or in relation to the subject-matter of this Contract and in respect of which the Buyer is liable to the Supplier.] |
|  | **Collaborative working principles** | The Collaborative Working Principles [do not] apply to this Contract. **[Guidance: delete reference to "[do not]" as relevant]**  See Clause 3.1.3 for further details. |
|  | **Financial Transparency Objectives** | The Financial Transparency Objectives [do not] apply to this Contract. **[Guidance: delete reference to "[do not]" as relevant]**  See Clause 6.3 for further details.  ***[Guidance: If the Financial Transparency Objectives are selected, this puts obligations on the Supplier to provide Financial Reports, in effect - Open Book Contract Management. Buyers should consider whether this is appropriate and proportionate for their particular procurement, bearing in mind PPN 004 - Open book contract management]*** |
|  | **Start Date** | [**Insert** Day Month Year]  ***[Guidance: This should be the date on which the provision of Deliverables will commence.]***  **[Insert**a condition precedent if needed e.g. provision of a signed Guarantee by a backstop date] |
|  | **Expiry Date** | [**Insert** Day Month Year] |
|  | **Extension Period** | **[Insert** Not applicable or ***insert*** detail about extensions of this Contract]  [Further period up to **[Insert**Day Month Year or describe duration]  [Extension exercised where the Buyer gives the Supplier no less than [3 Months'] written notice before this Contract expires] ***[Guidance: Insert notice and adjust period as appropriate. This can be used to adjust the notice period in Clause 14.2 but the notice period should only be shorter than 3 months in exceptional circumstances. A shorter notice period may be permitted where a Buyer will be unable to provide 3 months’ written notice and/or where Suppliers can continue performing this Contract for the extension period without incurring costs as a result of a shorter notice period. Buyers should engage with the market before proposing a shorter notice period]*** |
|  | **Ending this Contract without a reason** | The Buyer shall be able to terminate this Contract in accordance with Clause 14.3. *[Guidance: The following can be used to adjust the notice period in Clause 14.3 but it should only be changed if the Buyer has a legitimate requirement to end this Contract sooner or if the Supplier requires more notice so that it can avoid costs and the Buyer is able to provide more notice]* [Provided that the amount of notice that the Buyer shall give to terminate in Clause 14.3 shall be [Insert].] |
|  | **Incorporated Terms**  (together these documents form the **"this Contract"**) | The following documents are incorporated into this Contract. Where numbers are missing we are not using these Schedules. If there is any conflict, the following order of precedence applies:  ***[Guidance: Delete the highlighted Schedule 31 (Buyer Specific Terms) if it is not needed for this procurement. Remove the highlighting before publication if Schedule 31 (Buyer Specific Terms) is to be used. Check each Schedule to make sure all placeholders are populated correctly for this procurement.]***   1. This Award Form 2. Any Special Terms (see **Section 14 (Special Terms)** in this Award Form) 3. Schedule 31 *(Buyer Specific Terms)* 4. Core Terms 5. Schedule 6 *(Intellectual Property Rights)* ***[Guidance: ICT-related IPR clauses are now included in this Schedule, along with more generic IPR clauses. If you are using Schedule 28 (ICT Services) you should use "Part B" of this Schedule]*** 6. Schedule 1 (*Definitions*) 7. Schedule 20 (*Processing Data*) 8. The following Schedules (in equal order of precedence):   ***[Guidance: Delete any highlighted Schedule that is not needed for this procurement. Add any additional Schedule that is needed. Please refer to the Mid-Tier Guidance published on Gov.uk for detailed information on each Schedule to assist with decision making. Remove any highlighting remaining before publication. Check each Schedule to make sure all placeholders are populated correctly for this procurement]***   * 1. Schedule 2 (*Specification*)   2. Schedule 3 (*Charges*)   3. Schedule 5 (*Commercially Sensitive Information*)   4. Schedule 7 (*Staff Transfer*)   5. Schedule 8 (*Implementation Plan & Testing*)   6. Schedule 9 (*Installation Works*)   7. Schedule 10 (*Performance Levels*)   8. Schedule 11 *(Continuous Improvement)*   9. Schedule 12 *(Benchmarking)*   10. Schedule 13 *(Contract Management)*   11. Schedule 14 *(Business Continuity and Disaster Recovery)*   12. Schedule 15 (*Carbon Reduction*)   13. Schedule 16 *(Security)*   14. Schedule 17 *(Service Recipients)*   15. Schedule 18 *(Prompt Payment)*   16. Schedule 19 (*Corporate Resolution Planning*)   17. Schedule 21 *(Variation Form)*   18. Schedule 22 (*Insurance Requirements*)   19. Schedule 23 (*Guarantee)*   20. Schedule 24 (*Financial Difficulties*)   21. Schedule 25 *(Rectification Plan)*   22. Schedule 26 (*Sustainability*)   23. Schedule 27 *(Key Subcontractors)*   24. Schedule 28 *(ICT Services)*   25. Schedule 28A *(Agile Development Additional Terms)*   26. Schedule 29 *(Key Supplier Staff)*   27. Schedule 30 *(Exit Management)*   28. Schedule 32 *(Background Checks)*   29. Schedule 33 *(Scottish Law)*   30. Schedule 34 *(Northern Ireland Law)*   31. Schedule 35 (*Lease Terms*)   32. Schedule 4 (*Tender*), unless any part of the Tender offers a better commercial position for the Buyer (as decided by the Buyer, in its absolute discretion), in which case that part of the Tender will take precedence over the documents above. |
|  | **Special Terms** | Special Term 1 - **[Insert**terms to revise or supplement Core Terms or Schedules, or enter "N/A" and delete the extra rows below]  ***[Guidance: See non-exhaustive list of suggestions below:***   1. ***Assets, Equipment and Maintenance:*** *Where the Supplier relies on use of specific Buyer or Supplier assets/equipment then consider provisions relating to ownership, transfer, use and maintenance (including valuation, payment and tax treatment).* 2. ***Appointment of a Remedial Advisor:*** *Depending on criticality of the Goods and/or Services, consider ability to appoint a remedial advisor to advise the Supplier and support continuity of supply. This could be an earlier remedy prior to step in or termination****.*** 3. ***Appointment of an Expert (Dispute Resolution):*** *Consider if expert determination would be a useful stage in the dispute resolution procedure e.g. for technical such as IT/financial issues. If so then consider if their decision is binding on the parties and processes relating to appointment and decision making.]* |
| *[Special Term 2 - ]* |
| *[Special Term 3 - ]* |
|  | **Buyer’s Environmental Policy** | **[Insert**details[Document name] [version] [date] [available online at:]  or**insert:** [Appended at Schedule [X]] |
|  | **Social Value Commitment** | The Supplier agrees, in providing the Deliverables and performing its obligations under this Contract, to deliver the Social Value outcomes in Schedule 4 (*Tender*) and report on the Social Value KPIs as required by Schedule 10 (*Performance Levels*). |
|  | **Buyer’s Security Requirements** | ***[Guidance: The Buyer may include its own security requirements or use one of the security schedules set out in Schedule 16 (Security). See the separate Guidance Document about when to use optional Schedule 16 (Security), and what versions are most appropriate]*** The Buyer has chosen  *[****[Guidance: Only choose one of the following****]*  Option 1 - Short Form  Option 2 - Consultancy  Option 3 - Development  Option 4 - Supplier-led Assurance  Option 5 - Buyer-led Assurance]  for Schedule 16 (*Security*).  *[****Guidance: The Buyer may include its own security requirements or use one of the security schedules set out in Schedule 16 (Security). See the separate Guidance Document about when to use optional Schedule 16 (Security), and what versions are most appropriate]***  [**Security Requirements**: [Insert details [Document name] [version] [date] [available online at: [insert address].]]  *[****Guidance: Where the Supplier will store and process data in the cloud, or use cloud platforms to build and host your services, the Buyer should consider requiring the Supplier to (i) document; and (ii) provide on Buyer request how they comply with the 14 Cloud Security Principles available at: https://www.ncsc.gov.uk/collection/cloud/the-cloud-security-principles, both for their own Supplier system and for any cloud services they use.]***  **[or insert: As set out in Schedule 16 (*Security*).]**  ***[Guidance: The Buyer will need to:***  ***• decide what version of the Schedule to use based on the separate Guidance Document;***  ***• choose any relevant options provided for in the version of the Schedule chosen;***  ***• review/amend the Schedule to ensure it is in line with its security requirements, and***  ***include it in this Contract.]***  **ICT Policy:** **[Insert** details[Document name] [version] [date] [available online at:] **[Guidance: this is relevant for the ICT Schedule, if used (see Schedule 28). Delete or mark as "Not Used" if not relevant.]**  For the purposes of Schedule 28 (*ICT Services*) Supplier [is/is not] required to comply with the ICT Policy.  The Buyer's staff vetting requirements are: (i) as set out in Schedule 16 *(Security)* (if used); or (ii) if Schedule 16 *(Security)* is not used, the vetting requirements set out in this Order Form, which are: [**Insert** requirements, and whether this is to apply to all Supplier Staff (which includes Subcontractor staff), or only a limited subset of staff)]; or (iii) if Schedule 16 *(Security)* is not used and there are no vetting requirements specified in the Order Form, Supplier Staff are to have BPSS or equivalent. ***[Guidance: If the Buyer is not using a Security Schedule (16) and it wants Supplier/Subcontractor staff, or some of these staff, to be subject to a specific type of vetting, the Buyer will need to list the requirements here. The Buyer will need to specify whether it wants this to apply to all Supplier/Subcontractor staff, or just a subset of these (see the specific definitions of “Subcontractor” and “Supplier Staff” in Schedule 16 for an example of what these might be). If the Buyer is not using Schedule 16 and does not want Supplier /Subcontractor Staff to be subject to vetting, the Buyer should also specify that here – otherwise all Supplier Staff (which includes Subcontractor staff) will need to have BPSS or equivalent]*** |
|  | **Goods** | **[Insert** length of*reasonable* time period that applies in respect of Buyer's right to reject Goods under Clause 3.2.13]  *[****Guidance: The Buyer may include a pre-determined position on what is meant by a "reasonable" time period for the Buyer to reject Goods under Clause 3.2.13 pursuant to Clause 3.2.12, where Goods provided by the Supplier don't conform with Clause 3.2.5. The Buyer should consider what would be a reasonable and proportionate time period for such rejection of Goods having regard to (i) the nature of the Goods and the method of inspection, (ii) the volume to be provided; (iii) the Buyer's use requirements for the Goods and (iv) the risk to the Buyer in the event of a breach by the Supplier of Clause 3.2.5.]***  **or [insert** Not applicable]  *[****Guidance: If the Buyer chooses not to include a pre-determined position in accordance with the guidance note above, the Buyer can state that this section is "Not applicable". If "Not applicable" is chosen and the Buyer seeks to rely on Clause 3.2.13 in order to exercise its rights under Clause 3.2.12, what is a "reasonable" time period will need to be determined by the parties with regard to the relevant circumstances. If the time period cannot be determined or it results in a dispute, parties would need to follow the Dispute Resolution Procedure in order for resolution.]*** |
|  | **Charges** | **[Insert**information about the Charges]  **[Insert** Indexation is not applicable] or **[Insert** Indexation is applicable as detailed in Schedule 3 (*Charges*)]  Details in Schedule 3 (*Charges*) |
|  | **Estimated Year 1 Charges** | [**Insert** Estimated Year 1 Charges] |
|  | **Reimbursable expenses** | **[Insert** None or **Insert**Recoverable as set out in Schedule 3 (*Charges*)] |
|  | **Payment method** | **[Insert**payment method(s) and necessary details] |
|  | **Key Performance Indicators** | [**Insert** Not applicable] or [**Insert** Service Credits will accrue in accordance with Schedule 10 (*Performance Levels*)]]  The Service Credit Cap is: [**Insert** £value]  The Service Period is [**Insert** duration: [ ] Month(s)]  A Critical KPI Failure is: [Buyer to **define]** |
|  | **Liability** | [In accordance with Clause 15.1 each Party's total aggregate liability in each Contract Year under this Contract (whether in tort, contract or otherwise) is no more than [the greater of £[**5 million**] or [**150**]% of the Estimated Yearly Charges]  ***[Guidance: The Buyer can change the cap on liability in Clause 15.1 where it has made an appropriate risk assessment and sought the necessary management approvals. Unlimited liability is not permitted in line with the*** [***Sourcing Playbook***](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/987353/The_Sourcing_Playbook.pdf)***]***  In accordance with Clause 15.6, the Supplier’s total aggregate liability in each Contract Year under Clause 18.6.4 is no more than the Data Protection Liability Cap, being [**insert appropriate number in the suggested range of £10 million –20 million]**  ***[Guidance: Choice of figure should be in accordance with the sensitivity and volume of data concerned, as well as the likelihood and extent of any potential breach.  The range given is a suggestion only and depending on the individual circumstances of the contract, a cap outside of this range may be appropriate. Please refer to the Mid-Tier Guidance published on Gov.uk for further detail on what to consider in determining the Data Protection Liability Cap.***  ***This liability cap applies to the Supplier’s liability to the Buyer under the contract only – it does not act as a cap on any data protection liability that a Supplier may incur to any third party (e.g. Supplier being fined by the Information Commissioner). But if a Supplier default leads to the Buyer breaching data protection legislation, the amount which a Buyer will be able to recover from the Supplier will be subject to this liability cap.]*** |
|  | **Progress Meetings and Progress Reports** | * The Supplier shall attend Progress Meetings with the Buyer every [   ] * The Supplier shall provide the Buyer with Progress Reports every [   ] |
|  | **Guarantor** | [**Insert** Not applicable  or**insert** The Supplier’s performance will be guaranteed by [Insert name of Guarantor] and has entered into a guarantee using the form in Schedule 23 (*Guarantee*)] |
|  | **Virtual Library** | In accordance with Paragraph 2.2. of Schedule 30 (*Exit Management*)   * the period in which the Supplier must create and maintain the Virtual Library, is [as set out in that Paragraph] or **[Insert** alternative time period]; and * the Supplier shall update the Virtual Library every [**Insert** applicable time period].   OR  [**Insert** Not applicable] |
|  | **Supplier’s**  **Contract**  **Manager** | **[Insert** name]  **[Insert** job title]  **[Insert** email address]  **[Insert** phone number] |
|  | **Supplier Authorised Representative** | **[Insert** name]  **[Insert** job title]  **[Insert** email address]  **[Insert** phone number] |
|  | **Supplier Compliance Officer** | **[Insert** name]  **[Insert** job title]  **[Insert** email address]  **[Insert** phone number] |
|  | **Supplier Data Protection Officer** | **[Insert** name]  **[Insert** job title]  **[Insert** email address]  **[Insert** phone number] |
|  | **Supplier Marketing Contact** | **[Insert** name]  **[Insert** job title]  **[Insert** email address]  **[Insert** phone number] |
|  | **Key Subcontractors** | **Key Subcontractor 1**  Name (Registered name if registered): **[insert** name]  Registration number (if registered): **[insert** number]  Role of Subcontractor: **[insert** role]  **[Guidance: copy above lines as needed]** |
|  | **Buyer Authorised Representative** | **[Insert** name]  **[Insert** job title]  **[Insert** email address]  **[Insert** phone number] |

|  |  |  |  |
| --- | --- | --- | --- |
| **For and on behalf of the Supplier:** | | **For and on behalf of the Buyer [Insert** wording where the Buyer is a Crown Body: acting as part of the Crown]: | |
| Signature: |  | Signature: |  |
| Name: |  | Name: |  |
| Role: |  | Role: |  |
| Date: |  | Date: |  |

**Core Terms – Mid-tier**

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Definitions used in the contract

Interpret this Contract using Schedule 1 (*Definitions*).

How the contract works

The Contract:

is between the Supplier and the Buyer; and

includes Core Terms, Schedules and any other changes or items in the completed Award Form.

The Supplier acknowledges it has all the information required to perform its obligations under this Contract before entering into it. When information is provided by the Buyer no warranty of its accuracy is given to the Supplier.

The Supplier acknowledges that it has satisfied itself of all details relating to:

the Buyer’s requirements for the Deliverables;

the Buyer’s operating processes and working methods; and

the ownership and fitness for purpose of the Buyer Assets,

and it has it has advised the Buyer in writing of:

each aspect, if any, of the Buyer’s requirements for the Deliverables, operating processes and working methods that is not suitable for the provision of the Services;

the actions needed to remedy each such unsuitable aspect; and

a timetable for and, to the extent that such costs are to be payable to the Supplier, the costs of those actions,

and such actions, timetable and costs are fully reflected in this Contract.

The Supplier won’t be excused from any obligation, or be entitled to additional Costs or Charges because it failed to either:

verify the accuracy of the Due Diligence Information; or

properly perform its own adequate checks.

The Buyer will not be liable for errors, omissions or misrepresentation of any information.

The Supplier warrants and represents that all statements made and documents submitted as part of the procurement of Deliverables are and remain true and accurate.

What needs to be delivered

All deliverables

The Supplier must provide Deliverables:

that comply with the Specification, the Tender Response and this Contract;

using reasonable skill and care;

using Good Industry Practice;

using its own policies, processes and internal quality control measures as long as they don’t conflict with this Contract;

on the dates agreed; and

that comply with Law.

The Supplier must provide Deliverables with a warranty of at least 90 days from Delivery against all obvious defects or for such other period as specified in the Award Form.

Where the Award Form states that the Collaborative Working Principles will apply, the Supplier must co-operate and provide reasonable assistance to any Buyer Third Party notified to the Supplier by the Buyer from time to time and act at all times in accordance with the following principles:

proactively leading on, mitigating and contributing to the resolution of problems or issues irrespective of its contractual obligations, acting in accordance with the principle of "fix first, settle later";

being open, transparent and responsive in sharing relevant and accurate information with Buyer Third Parties;

where reasonable, adopting common working practices, terminology, standards and technology and a collaborative approach to service development and resourcing with Buyer Third Parties;

providing reasonable cooperation, support, information and assistance to Buyer Third Parties in a proactive, transparent and open way and in a spirit of trust and mutual confidence; and

identifying, implementing and capitalising on opportunities to improve deliverables and deliver better solutions and performance throughout the relationship lifecycle.

**Goods clauses**

All Goods delivered must be new, or as new if recycled, unused and of recent origin.

The Supplier transfers ownership of the Goods on Delivery or payment for those Goods, whichever is earlier.

Risk in the Goods transfers to the Buyer on Delivery of the Goods, but remains with the Supplier if the Buyer notices damage following Delivery and lets the Supplier know within three (3) Working Days of Delivery.

The Supplier warrants that it has full and unrestricted ownership of the Goods at the time of transfer of ownership.

The Supplier warrants that the Goods shall be:

of satisfactory quality (within the meaning of the Sale of Goods Act 1979);

fit for any purpose held out by the Supplier or made known to the Supplier by the Buyer; and

free from defects in design, material and workmanship.

The Supplier must deliver the Goods on the date and to the specified location during the Buyer’s working hours.

The Supplier must provide sufficient packaging for the Goods to reach the point of Delivery safely and undamaged.

All deliveries must have a delivery note attached that specifies the order number, type and quantity of Goods.

The Supplier must provide all tools, information and instructions the Buyer needs to make use of the Goods.

The Supplier must indemnify the Buyer against the costs of any Recall of the Goods and give notice of actual or anticipated action about the Recall of the Goods.

The Buyer can cancel any order or part order of Goods which has not been Delivered. If the Buyer gives less than fourteen (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 uses all reasonable endeavours to minimise these costs.

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 3. If the Supplier doesn’t do this it will pay the Buyer’s costs including repair or re-supply by a third party.

Without limiting any other remedies to which it may be entitled, the Buyer shall be entitled to exercise its rights under Clause 3.2.12 in relation to Goods that don't conform with Clause 3.2.5, for a reasonable period, or such period specified in the Award Form, regardless of whether the Goods have been accepted by the Buyer.

The Buyer will not be liable for any actions, claims or Losses 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 Loss or injury (whether fatal or otherwise) occurring in the course of Delivery or installation then the Supplier shall indemnify the Buyer from any losses, charges, costs or expenses which arise as a result of or in connection with such Loss or injury where it is attributable to any act or omission of the Supplier or any of its Subcontractors or Supplier Staff.

**Services clauses**

Late Delivery of the Services will be a Default of this Contract.

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 of the Buyer or third party suppliers.

The Supplier must at its own risk and expense provide all Supplier 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 this Contract.

The Supplier must allocate sufficient resources and appropriate expertise to this Contract.

The Supplier must take all reasonable care to ensure performance does not disrupt the Buyer’s operations, employees or other contractors.

On completion of the Services, the Supplier is responsible for leaving the Buyer Premises in a clean, safe and tidy condition and making good any damage that it has caused to the Buyer Premises or Buyer Assets, other than fair wear and tear.

The Supplier must ensure all Services, and anything used to Deliver the Services, are of good quality and free from defects.

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 this Contract.

Pricing and payments

In exchange for the Deliverables, the Supplier must invoice the Buyer for the Charges in the Award Form.

All Charges:

exclude VAT, which is payable on provision of a valid VAT invoice; and

include all costs connected with the Supply of Deliverables.

The Buyer must pay the Supplier the Charges,

before the end of the period of thirty (30) days beginning with the day on which an invoice is received by the Buyer in respect of the sum; or

if later, by the date on which the payment falls due in accordance with the invoice,

subject to the invoice being verified by the Buyer as valid and undisputed; and

in cleared funds using the payment method and details stated in the invoice or in the Award Form.

A Supplier invoice is only valid if it:

includes the minimum required information set out in Section 68(9) of the Procurement Act 2023;

includes all appropriate references including this Contract reference number and other details reasonably requested by the Buyer; and

includes a detailed breakdown of Delivered Deliverables and Milestone(s) (if any).

Where any invoice does not conform to the Buyer’s requirements set out in Clause 4.4, or the Buyer disputes the invoice, the Buyer shall notify the Supplier without undue delay.

The Buyer shall accept for processing any electronic invoice that complies with the Electronic Invoice Standard, provided that it is valid and undisputed.

Where any invoice does not conform to the Buyer's requirements set out in this Clause 4, the Buyer shall notify the Supplier without undue delay and the Supplier shall promptly issue a replacement invoice which shall comply with such requirements.

The Buyer may retain or set-off payment of any amount owed to it by the Supplier under this Contract or any other agreement between the Supplier and the Buyer if notice and reasons are provided.

The Supplier must ensure that all Subcontractors are paid, in full:

before the end of the period of thirty (30) days beginning with the day on which an invoice is received by the Supplier in respect of the sum; or

if later, by the date on which the payment falls due in accordance with the invoice,

subject to the invoice being verified by the Supplier as valid and undisputed. If this does not happen, the Buyer can publish the details of the late payment or non-payment.

The Supplier has no right of set-off, counterclaim, discount or abatement unless they’re ordered to do so by a court.

***[Guidance: Clause 4.11 should only be included in those contracts to which*** [***PPN 021***](https://www.gov.uk/government/publications/ppn-021-payment-spot-checks-in-public-sub-contracts#:~:text=Details-,This%20PPN%20sets%20out%20how%20contracting%20authorities%20can%20spot%20check,in%20the%20Procurement%20Act%202023.) ***applies, e.g. public contracts for goods and/or services and/or works, other than special regime contracts with a value of more than £5 million per annum (including VAT)"]***

**[Optional:**

The Supplier must on demand provide the Buyer with all co-operation, assistance, documentation and other information that the Buyer may reasonably require to allow it to effectively investigate and assess the Supplier’s and/or any Subcontractor’s compliance with their respective obligations to pay undisputed invoices within a specified time period.]

The Buyer’s obligations to the supplier

If Supplier Non-Performance arises from a Buyer Cause:

the Buyer cannot terminate this Contract under Clause 14.4.1;

the Supplier is entitled to reasonable and proven additional expenses and to relief from liability and Deductions under this Contract;

the Supplier is entitled to additional time needed to make the Delivery;

the Supplier cannot suspend the ongoing supply of Deliverables.

Clause 5.1 only applies if the Supplier:

gives notice to the Buyer of the Buyer Cause within ten (10) Working Days of becoming aware;

demonstrates that the Supplier Non-Performance only happened because of the Buyer Cause; and

mitigated the impact of the Buyer Cause.

Record keeping and reporting

The Supplier must attend Progress Meetings with the Buyer and provide Progress Reports when specified in the Award Form.

The Supplier must keep and maintain full and accurate records and accounts in respect of this Contract during the Contract Period and for seven (7) years after the End Date and in accordance with the UK GDPR or the EU GDPR as the context requires, including the records and accounts which the Buyer has a right to Audit.

Where the Award Form states that the Financial Transparency Objectives apply, the Supplier must co-operate with the Buyer to achieve the Financial Transparency Objectives and, to this end, will provide a Financial Report to the Buyer:

on or before the Effective Date;

at the end of each Contract Year; and

within six (6) Months of the end of the Contract Period,

and the Supplier must meet with the Buyer if requested within ten (10) Working Days of the Buyer receiving a Financial Report.

If the Supplier becomes aware of an event that has occurred or is likely to occur in the future which will have a material effect on the:

Supplier’s currently incurred or forecast future Costs; and

forecast Charges for the remainder of this Contract,

then the Supplier must notify the Buyer in writing as soon as practicable setting out the actual or anticipated effect of the event.

The Buyer or an Auditor can Audit the Supplier.

The Supplier must allow any Auditor access to their premises and the Buyer will use reasonable endeavours to ensure that any Auditor:

complies with the Supplier’s operating procedures; and

does not unreasonably disrupt the Supplier or its provision of the Deliverables.

During an Audit, the Supplier must provide information to the Auditor and reasonable co-operation at their request including access to:

all information within the permitted scope of the Audit;

any Sites, equipment and the Supplier System used in the performance of this Contract; and

the Supplier Staff.

The Parties will bear their own costs when an Audit is undertaken unless the Audit identifies a Material Default by the Supplier, in which case the Supplier will repay the Buyer's reasonable costs in connection with the Audit.

The Supplier must comply with the Buyer’s reasonable instructions following an Audit, including:

correcting any identified Default;

rectifying any error identified in a Financial Report; and

repaying any Charges that the Buyer has overpaid.

If the Supplier is not providing any of the Deliverables, or is unable to provide them, it must immediately:

tell the Buyer and give reasons;

propose corrective action; and

provide a deadline for completing the corrective action.

Except where an Audit is imposed on the Buyer by a regulatory body or where the Buyer has reasonable grounds for believing that the Supplier has not complied with its obligations under this Contract, the Buyer may not conduct an Audit of the Supplier or of the same Key Subcontractor more than twice in any Contract Year.

At the end of each Contract Year, at its own expense, the Supplier will provide a report to the Buyer setting out a summary of its compliance with Clause 4.9, such report to be certified by the Supplier’s Authorised Representative as being accurate and not misleading.

Supplier staff

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

be appropriately trained and qualified;

be vetted using

the staff vetting requirements set out in Schedule 16 (*Security*) (if that Schedule is used);

the requirements set out in the Award Form (if set out there); or

where no other requirements are set out, the HMG Baseline Personnel Security Standard found at https://assets.publishing.service.gov.uk/media/5b169993ed915d2cbae4af03/HMG\_Baseline\_Personnel\_Security\_Standard\_-\_May\_2018.pdf, as replaced or updated from time to time​​;

where the performance of this Contract will, or is likely to, give Supplier Staff access to children, vulnerable persons or other members of the public to whom the Buyer owes a special duty of care, be further vetted in accordance with Schedule 32 (*Background Checks*); and

comply with all conduct requirements when on the Buyer’s Premises.

Where the Buyer decides one of the Supplier’s Staff is not suitable to work on this Contract, the Supplier must replace them with a suitably qualified alternative.

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

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

The Buyer indemnifies the Supplier against all claims brought by any person employed or engaged by the Buyer caused by an act or omission of the Buyer or any of the Buyer’s employees, agents, consultants and contractors.

The provisions of this Clause 7 are in addition to and not in substitution for the employment exit provisions of Schedule 7 (*Staff Transfer*).

Supply chain

**Appointing Subcontractors**

The Supplier must exercise due skill and care when it selects and appoints Subcontractors to ensure that the Supplier is able to:

manage Subcontractors in accordance with Good Industry Practice;

comply with its obligations under this Contract; and

assign, novate or transfer its rights and/or obligations under the Sub-Contract that relate exclusively to this Contract to the Buyer or a Replacement Supplier.

The Supplier must ensure that it does not any time during the Contract Period enter into a Subcontract with:

any supplier that is on the debarment list on the basis of a mandatory exclusion ground within the meaning of the Procurement Act 2023 and associated regulations; or

any supplier that is on the debarment list on the basis of a discretionary exclusion ground within the meaning of the Procurement Act 2023 and associated regulations, unless the Supplier has obtained the Buyer's prior written consent to the appointment of the relevant proposed Subcontractor.

**Mandatory provisions in Sub-Contracts**

If a Subcontractor is to be appointed under this Contract, then the Buyer may, in accordance with Section 72 of the Procurement Act 2023, require that the Supplier enters into a legally binding arrangement with the proposed Subcontractor within such reasonable period after the Effective Date as may be specified by the Buyer.

If the Supplier does not enter into a legally binding agreement in accordance with Clause 8.2.1 the Buyer may:

terminate this Contract and the consequences of termination set out in Clauses 14.5.1(b) to 14.5.1(g) shall apply; or

require the Supplier to enter into a legally binding agreement with an alternate Subcontractor.

For Sub-Contracts in the Supplier’s supply chain which are entered into wholly or substantially for the purpose of performing or contributing to the performance of the whole or any part of this Contract:

1. after the Effective Date, the Supplier will ensure that they all contain provisions that; or
2. on or before the Effective Date, the Supplier will take all reasonable endeavours to ensure that they all contain provisions that:

allow the Supplier to terminate the Sub-Contract if the Subcontractor fails to comply with its obligations in respect of environmental, social or employment Law;

require that all Subcontractors are paid:

before the end of the period of thirty (30) days beginning with the day on which an invoice is received by the Supplier or other party in respect of the sum; or

if later, the date by which the payment falls due in accordance with the invoice,

subject to the invoice being verified by the party making payment as valid and undisputed;

require the party receiving goods or services under the contract to consider and verify invoices under that contract in a timely fashion and notify the Subcontractor without undue delay if it considers the invoice invalid or it disputes the invoice; [and]

allow the Buyer to publish the details of the late payment or non-payment if this thirty (30) day limit is exceeded;

***[Guidance: Sub-clauses (e) and (f) below should only be included in those contracts to which*** [***PPN 021***](https://www.gov.uk/government/publications/ppn-021-payment-spot-checks-in-public-sub-contracts#:~:text=Details-,This%20PPN%20sets%20out%20how%20contracting%20authorities%20can%20spot%20check,in%20the%20Procurement%20Act%202023.) ***applies, e.g. public contracts for goods and/or services and/or works, other than special regime contracts with a value of more than £5 million per annum (including VAT)"]***

[**Optional:**

require the Subcontractor on demand to provide the Buyer with all co-operation, assistance, documentation and other information that the Buyer may reasonably require to allow it to effectively investigate and assess compliance with the Subcontractor’s obligations to pay undisputed invoices within a specified time period; and

expressly provide the Buyer with the right to enforce the provisions in clause 8.2.3(e) above directly by reference to the Contracts (Rights of Third Parties) Act 1999.]

The Supplier must ensure that a term equivalent to Clause 8.2.3 is included in each Sub-Contract in its supply chain, such that each Subcontractor is obliged to include those terms in any of its own Sub-Contracts in the supply chain for the delivery of this Contract. References to the “Supplier” and “Subcontractor” in Clause 8.2.3 are to be replaced with references to the respective Subcontractors who are parties to the relevant contract.

**When Sub-Contracts can be ended**

At the Buyer’s request, the Supplier must terminate any Sub-Contracts in any of the following events:

there is a Change of Control of a Subcontractor which isn’t pre-approved by the Buyer in writing;

the acts or omissions of the Subcontractor have caused or materially contributed to a right of termination under Clause 14.4;

a Subcontractor or its Affiliates embarrasses or brings into disrepute or diminishes the public trust in the Buyer; and/or

the Subcontractor fails to comply with its obligations in respect of environmental, social or employment Law.

**Ongoing responsibility of the Supplier**

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

**Competitive terms**

If the Buyer can get more favourable commercial terms for the supply at cost of any materials, goods or services used by the Supplier to provide the Deliverables and that cost is reimbursable by the Buyer, then the Buyer may require the Supplier to replace its existing commercial terms with the more favourable terms offered for the relevant items.

If the Buyer uses Clause 8.5.1 then the Charges must be reduced by an agreed amount by using the Variation Procedure.

Rights and protection

The Supplier warrants and represents that:

it has full capacity and authority to enter into and to perform this Contract;

this Contract is entered into by its authorised representative;

it is a legally valid and existing organisation incorporated in the place it was formed;

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 this Contract;

all necessary rights, authorisations, licences and consents (including in relation to IPRs) are in place to enable the Supplier to perform its obligations under this Contract and for the Buyer to receive the Deliverables;

it doesn’t have any contractual obligations which are likely to have a material adverse effect on its ability to perform this Contract; and

it is not impacted by an Insolvency Event or a Financial Distress Event.

The warranties and representations in Clauses 2.6 and 9.1 are repeated each time the Supplier provides Deliverables under this Contract.

The Supplier indemnifies the Buyer against each of the following:

wilful misconduct of the Supplier, Subcontractor and Supplier Staff that impacts this Contract; and

non-payment by the Supplier of any tax or National Insurance.

All claims indemnified under this Contract must use Clause 30.

The description of any provision of this Contract as a warranty does not prevent the Buyer from exercising any termination right that it may have for Default of that provision by the Supplier.

If the Supplier becomes aware of a representation or warranty that becomes untrue or misleading, it must immediately notify the Buyer.

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

Intellectual Property Rights (IPRs)

The Parties agree that the terms set out in Schedule 6 (*Intellectual Property Rights*) shall apply to this Contract.

If there is an IPR Claim, the Supplier indemnifies the Buyer against all losses, damages, costs or expenses (including professional fees and fines) incurred as a result.

If an IPR Claim is made or anticipated the Supplier must at its own expense and the Buyer’s sole option, either:

obtain for the Buyer the rights to continue using the relevant item without infringing any third party IPR; or

replace or modify the relevant item with substitutes that don’t infringe IPR without adversely affecting the functionality or performance of the Deliverables.

If the Buyer requires that the Supplier procures a licence in accordance with Clause 10.3.1 or to modify or replace an item pursuant to Clause 10.3.2, but this has not avoided or resolved the IPR Claim, then the Buyer may terminate this Contract by written notice with immediate effect and the consequences of termination set out in Clauses 14.5.1 shall apply.

Rectifying issues

If there is a Notifiable Default, the Supplier must notify the Buyer within three (3) Working Days of the Supplier becoming aware of the Notifiable Default and the Buyer may request that the Supplier provide a Rectification Plan within ten (10) Working Days of the Buyer’s request alongside any additional documentation that the Buyer requires.

When the Buyer receives a requested Rectification Plan it can either:

reject the Rectification Plan or revised Rectification Plan giving reasons; or

accept the Rectification Plan or revised Rectification Plan (without limiting its rights) in which case the Supplier must immediately start work on the actions in the Rectification Plan at its own cost.

Where the Rectification Plan or revised Rectification Plan is rejected, the Buyer:

will give reasonable grounds for its decision; and

may request that the Supplier provides a revised Rectification Plan within five (5) Working Days.

Escalating issues

If the Supplier fails to:

submit a Rectification Plan or a revised Rectification Plan within the timescales set out in Clauses 11.1 or 11.3; and

adhere to the timescales set out in an accepted Rectification Plan to resolve the Notifiable Default.

or if the Buyer otherwise rejects a Rectification Plan, the Buyer can require the Supplier to attend an Escalation Meeting on not less than five (5) Working Days’ notice. The Buyer will determine the location, time and duration of the Escalation Meeting(s) and the Supplier must ensure that the Supplier Authorised Representative is available to attend.

The Escalation Meeting(s) will continue until the Buyer is satisfied that the Notifiable Default has been resolved, however, where an Escalation Meeting(s) has continued for more than five (5) Working Days, either Party may treat the matter as a Dispute to be handled through the Dispute Resolution Procedure.

If the Supplier is in Default of any of its obligations under this Clause 12, the Buyer shall be entitled to terminate this Agreement and the consequences of termination set out in Clauses 14.5.1 shall apply as if the contract were terminated under Clause 14.4.1.

Step-in rights

If a Step-In Trigger Event occurs, the Buyer may give notice to the Supplierthat it will be taking action in accordance with this Clause 13.1 and setting out:

whether it will be taking action itself or with the assistance of a third party;

what Required Action the Buyer will take during the Step-In Process;

when the Required Action will begin and how long it will continue for;

whether the Buyer will require access to the Sites; and

what impact the Buyer anticipates that the Required Action will have on the Supplier’s obligations to provide the Deliverables.

For as long as the Required Action is taking place:

the Supplier will not have to provide the Deliverables that are the subject of the Required Action;

no Deductions will be applicable in respect of Charges relating to the Deliverables that are the subject of the Required Action; and

the Buyer will pay the Charges to the Supplier after subtracting any applicable Deductions and the Buyer's costs of taking the Required Action.

The Buyer will give notice to the Supplier before it ceases to exercise its rights under the Step-In Process and within twenty (20) Working Days of this notice the Supplier will develop a draft Step-Out Plan for the Buyer to approve.

If the Buyer does not approve the draft Step-Out Plan, the Buyer will give reasons and the Supplier will revise the draft Step-Out Plan and re-submit it for approval.

The Supplier shall bear its own costs in connection with any step-in by the Buyer under this Clause 13, provided that the Buyer shall reimburse the Supplier's reasonable additional expenses incurred directly as a result of any step-in action taken by the Buyer under:

limbs (f) or (g) of the definition of a Step-In Trigger Event; or

limbs (h) and (i) of the definition of a Step-in Trigger Event (insofar as the primary cause of the Buyer serving a notice under Clause 13.1 is identified as not being the result of the Supplier’s Default).

Ending the contract

The Contract takes effect on the Effective Date and ends on the End Date or earlier if terminated under this Clause 14 or if required by Law.

The Buyer can extend this Contract for the Extension Period by giving the Supplier written notice before this Contract expires as described in the Award Form.

**Ending the contract without a reason**

The Buyer has the right to terminate this Contract at any time without reason by giving the Supplier not less than ninety (90) days’ notice (unless a different notice period is set out in the Award Form) and if it’s terminated Clause 14.6.3 applies.

**When the Buyer can end this Contract**

If any of the following events happen, the Buyer has the right to immediately terminate this Contract by issuing a Termination Notice to the Supplier and the consequences of termination in Clause 14.5.1 shall apply:

there’s a Supplier Insolvency Event;

there’s a Notifiable Default that is not corrected in line with an accepted Rectification Plan;

the Buyer rejects a Rectification Plan or the Supplier does not provide it within ten (10) days of the request;

there’s any Material Default of this Contract;

there’s any Material Default of any Joint Controller Agreement relating to this Contract;

there’s a Default of Clauses 2.6, 12, 31 or Schedule 28 (*ICT Services*) (where applicable);

the performance of the Supplier causes a Critical KPI Failure to occur;

there’s a consistent repeated failure to meet the Key Performance Indicators in Schedule 10 (P*erformance Levels*);

there’s a Change of Control of the Supplier which isn’t pre-approved by the Buyer in writing;

the Supplier or its Affiliates embarrass or bring the Buyer into disrepute or diminish the public trust in them;

the Supplier fails to comply with its legal obligations in the fields of environmental, social or employment Law when providing the Deliverables;

the Supplier fails to comply with its obligations under Part D (*Pensions*) of Schedule 7 (*Staff Transfer*);

the Supplier committing a material Default under Paragraphs 7.1.1 or 7.1.2 of Part D (*Pensions*) of Schedule 7 (*Staff Transfer)*;

in accordance with Section 78 and Section 79 (where applicable) of the Procurement Act 2023, and provided that the requirements of Section 78(7) of the Procurement Act 2023 have been met, where:

the Buyer considers that the Contract was awarded or modified in material breach of the Procurement Act 2023 or regulations made under it;

the Supplier has, since the award of the Contract become an excluded supplier or excludable supplier (including by reference to an associated person) as set out in Section 57 of the Procurement Act 2023 and further provided that the conditions in Sections 78(8) of the Procurement Act 2023 have been met; and/or

any Subcontractor in respect of which the Buyer requested information under Section 28(1)(a) of the Procurement Act 2023 in relation to the award of the Contract is an excluded supplier or excludable supplier as set out in Section 57 of the Procurement Act 2023 and further provided that the conditions in Section 78(3)(b) and 78(8) of the Procurement Act 2023 have been met;

the Supplier fails to enter into a legally binding agreement with any Subcontractor in accordance with Section 72 of the Procurement Act 2023; and/or

where any Subcontractor that became a Subcontractor after the award of the Contract is an excluded supplier or excludable supplier as defined in Section 57 of the Procurement Act 2023, provided that prior to exercising its right of termination under this Clause 14.4.1(p) the Buyer:

has notified the Supplier of its intention to terminate under this Clause, and why the Buyer has decided to terminate the Contract;

has given the Supplier reasonable opportunity to make representations about whether this Clause applies and the Buyer's decision to terminate; and

has given the Supplier a reasonable opportunity to end its Sub-Contract with the excluded or excludable supplier, and if necessary, find an alternative Subcontractor.

**What happens if the contract ends**

Where the Buyer terminates this Contract under Clauses 14.4.1 (excluding 14.4.1(n)(i)), 10.4, 12.3 or 36.3, Paragraph 7 of Part D of Schedule 7 (*Staff Transfer*), Paragraph 2.2 of Schedule 12 (*Benchmarking*) (where applicable), Paragraph 4.1 of Schedule 19 (*Corporate Resolution Planning*) (where applicable) Paragraph 7 of Schedule 24 (*Financial Difficulties*) (where applicable) or Paragraph 3.1.12(b) of Part A or Paragraph 3.8.2 of Part B (where applicable) of Schedule 26 (*Sustainability*) all of the following apply:

the Supplier is responsible for the Buyer’s reasonable costs of procuring Replacement Deliverables for the rest of the Contract Period;

the Buyer’s payment obligations under the terminated Contract stop immediately;

accumulated rights of the Parties are not affected;

the Supplier must promptly delete or return the Government Data except where required to retain copies by Law, other than Government Data (i) that is Personal Data in respect of which the Supplier is a Controller; and (ii) in respect of which the Supplier has rights to hold the Government Data independently of this Contract;

the Supplier must promptly return any of the Buyer’s property provided under the terminated Contract;

the Supplier must, at no cost to the Buyer, co-operate fully in the handover and re-procurement (including to a Replacement Supplier); and

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

If either Party terminates this Contract under Clause 24.3 or the Buyer terminates under Clause 14.4.1(n)(i):

each party must cover its own Losses; and

Clauses 14.5.1(b) to 14.5.1(g) apply.

The following Clauses survive the termination or expiry of this Contract: 3.2.12, 4, 6, 7.4, 7.5, 10, 14.5, 14.6.3, 15, 18, 19, 20, 21, 22, 23, 35.2.2, 39, 40, Schedule 1 (*Definitions*), Schedule 3 (*Charges*), Schedule 7 (*Staff Transfer*), Schedule 30 (*Exit Management*)) (if used), Schedule 6 (*Intellectual Property Rights*) and any Clauses and Schedules which are expressly or by implication intended to continue.

**When the Supplier (and the Buyer) can end the contract**

The Supplier can issue a Reminder Notice if the Buyer does not pay an undisputed invoice on time. The Supplier can terminate this Contract if the Buyer fails to pay an undisputed invoiced sum due and worth over 10% of the total Contract Value within thirty (30) days of the date of the Reminder Notice.

The Supplier also has the right to terminate this Contract in accordance with Clauses 24.3 and 27.5.

Where the Buyer terminates this Contract under Clause 14.3 or the Supplier terminates this Contract under Clause 14.6.1 or 27.5:

the Buyer must promptly pay all outstanding Charges incurred to the Supplier;

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 this Contract had not been terminated; and

Clauses 14.5.1(b) to 14.5.1(g) apply.

**Partially ending and suspending the contract**

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

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

The Parties must agree any necessary Variation required by this Clause 14.7 using the Variation Procedure, but the Supplier may not either:

reject the Variation; or

increase the Charges, except where the right to partial termination is under Clause 14.3.

The Buyer can still use other rights available, or subsequently available to it if it acts on its rights under this Clause 14.7.

How much you can be held responsible for?

Each Party’s total aggregate liability in each Contract Year under this Contract (whether in tort, contract or otherwise) is no more than the greater of £5 million or 150% of the Estimated Yearly Charges unless specified otherwise in the Award Form.

Neither Party is liable to the other for:

any indirect Losses; and/or

Loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect).

In spite of Clause 15.1, neither Party limits or excludes any of the following:

its liability for death or personal injury caused by its negligence, or that of its employees, agents or Subcontractors;

its liability for bribery or fraud or fraudulent misrepresentation by it or its employees; and

any liability that cannot be excluded or limited by Law.

In spite of Clause 15.1, the Supplier does not limit or exclude its liability for any indemnity given under Clauses 7.4, 9.3.2, 10.2, 35.2.2 or Schedule 7 (*Staff Transfer*) of this Contract.

In spite of Clause 15.1, the Buyer does not limit or exclude its liability for any indemnity given under Clause 7 or Schedule 7 (*Staff Transfer*) of this Contract.

In spite of Clause 15.1, but subject to Clauses 15.2 and 15.3, the Supplier's total aggregate liability in each Contract Year under Clause 18.6.5 is no more than the Data Protection Liability Cap.

Each Party must use all reasonable endeavours to mitigate any Loss or damage which it suffers under or in connection with this Contract, including any indemnities.

When calculating the Supplier’s liability under Clause 15.1 the following items will not be taken into consideration:

Deductions; and

any items specified in Clause 15.4.

If more than one Supplier is party to this Contract, each Supplier Party is fully responsible for both their own liabilities and the liabilities of the other Suppliers.

Obeying the law

The Supplier shall comply with the provisions of Schedule 26 (*Sustainability*).

The Supplier shall comply with the provisions of:

the Official Secrets Acts 1911 to 1989; and

Section 182 of the Finance Act 1989.

The Supplier indemnifies the Buyer against any costs resulting from any Default by the Supplier relating to any applicable Law to do with this Contract.

The Supplier must appoint a Compliance Officer who must be responsible for ensuring that the Supplier complies with Law, Clause 16.1 and Clauses 31 to 36.

Insurance

The Supplier must, at its own cost, obtain and maintain the Required Insurances in Schedule 22 (*Insurance Requirements*).

Data protection and security

The Supplier must process Personal Data and ensure that Supplier Staff process Personal Data only in accordance with Schedule 20 *(Processing Data)*.

The Supplier must not remove any ownership or security notices in or relating to the Government Data.

The Supplier must ensure that any Supplier, Subcontractor and Subprocessor system (including any cloud services or end user devices used by the Supplier, Subcontractor and Subprocessor) holding any Government Data, including back-up data, is a secure system that complies with the Security Requirements (including Schedule 16 *(Security)* (if used)) and otherwise as required by Data Protection Legislation.

If at any time the Supplier suspects or has reason to believe that the Government Data is corrupted, lost or sufficiently degraded, then the Supplier must immediately notify the Buyer and suggest remedial action.

If the Government Data is any of (i) corrupted, (ii) lost or (iii) sufficiently degraded, in each case as a result of the Supplier's Default, so as to be unusable the Buyer may either or both:

tell the Supplier (at the Supplier's expense) to restore or get restored Government Data as soon as practical but no later than five (5) Working Days from the date that the Buyer receives notice, or the Supplier finds out about the issue, whichever is earlier; and

restore the Government Data itself or using a third party and shall be repaid by the Supplier any reasonable expenses incurred in doing so.

The Supplier:

must not store, copy, disclose, or use the Government Data except as necessary for the performance by the Supplier of its obligations under this Contract or as otherwise expressly authorised in writing by the Buyer, other than Government Data which is Personal Data in respect of which the Supplier is a Controller, or the Supplier has rights to hold the Government Data independently of the Contract;

must, subject to the Security Requirements, including in Schedule 16 *(Security)* (if used), provide the Buyer with copies of Government Data held by the Supplier or any Subcontractor in an agreed format (provided it is secure and readable) within ten (10) Working Days of a written request;

must have documented processes to guarantee prompt availability of Government Data if the Supplier stops trading;

must, subject to the Security Requirements including in Schedule 16 *(Security)* (if used), securely erase all Government Data held by the Supplier or a Subcontractor when asked to do so by the Buyer (and certify to the Buyer that it has done so) using a deletion method that ensures that even a determined expert using specialist techniques can recover only a small fraction of the data deleted, unless and to the extent required by Law to retain it, other than Government Data in respect of which the Supplier is a Controller, or the Supplier has rights to hold the Government Data independently of the Contract; and

indemnifies the Buyer against any and all Losses incurred if the Supplier breaches Clause 18 or any Data Protection Legislation.

What you must keep confidential

Each Party must:

keep all Confidential Information it receives confidential and secure;

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 this Contract; and

immediately notify the Disclosing Party if it suspects unauthorised access, copying, use or disclosure of the Confidential Information.

In spite of Clause 19.1, a Party may disclose Confidential Information which it receives from the Disclosing Party in any of the following instances:

where disclosure is required by applicable Law, a regulatory body or 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;

if the Recipient Party already had the information without obligation of confidentiality before it was disclosed by the Disclosing Party;

if the information was given to it by a third party without obligation of confidentiality;

if the information was in the public domain at the time of the disclosure;

if the information was independently developed without access to the Disclosing Party’s Confidential Information;

on a confidential basis, to its auditors or for the purpose of regulatory requirements;

on a confidential basis, to its professional advisers on a need-to-know basis; and

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.

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 this Contract. The Supplier Staff shall remain responsible at all times for compliance with the confidentiality obligations set out in this Contract by the persons to whom disclosure has been made.

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

on a confidential basis to the employees, agents, consultants and contractors of the Buyer;

on a confidential basis to any other Crown Body, any successor body to a Crown Body or any company that the Buyer transfers or proposes to transfer all or any part of its business to;

if the Buyer (acting reasonably) considers disclosure necessary or appropriate to carry out its public functions;

where requested by Parliament;

under Clauses 4.9 and 20; and

on a confidential basis under the audit rights in Clauses 6.5 to 6.9 (inclusive), Clause 13 (Step-in rights), Schedule 7 *(Staff Transfer)* and Schedule 30 (if used).

For the purposes of Clauses 19.2 to 19.4 references to disclosure on a confidential basis means disclosure under a confidentiality agreement or arrangement including terms as strict as those required in Clause 19.

Transparency Information and any information which is disclosed pursuant to Clause 20 is not Confidential Information.

The Supplier must not make any press announcement or publicise this Contracts or any part of them in any way, without the prior written consent of the Buyer and must use all reasonable endeavours to ensure that Supplier Staff do not either.

When you can share information

The Supplier must tell the Buyer within forty eight (48) hours if it receives a Request For Information.

In accordance with a reasonable timetable and in any event within five (5) Working Days of a request from the Buyer, the Supplier must give the Buyer full co-operation and information needed so the Buyer can:

publish the Transparency Information; and

comply with any Request for Information,

any such co-operation and/or information from the Supplier shall be provided at no additional cost.

To the extent that it is allowed and practical to do so, the Buyer will use reasonable endeavours to notify the Supplier of a Request for Information and may talk to the Supplier to help it decide whether to publish information under Clause 20, taking into account any agreed Commercially Sensitive Information set out in Schedule 5. However, the extent, content and format of the disclosure shall be decided by the Buyer, in its sole discretion.

Invalid parts of the contract

If any provision or part provision of this Contract is or becomes invalid, illegal or unenforceable for any reason, such provision or part-provision shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Contract.

No other terms apply

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

Other people’s rights in this Contract

The provisions of Clauses 4.9, 8.2.3 and 8.2.4, Paragraphs 2.1 and 2.3 of Part A, Paragraphs 2.1, 2.3, 3.1 and 3.3 of Part B, Paragraphs 1.2, 1.4 and 1.7 of Part C, Part D and Paragraphs 1.4, 1.7, 2.3, 2.5 and 2.10 of Part E of Schedule 7 (*Staff Transfer*) and the provisions of Paragraph 3.1, 6.1, 7.2, 8.2, 8.5, 8.6 and 8.9 of Schedule 30 (*Exit Management*) (together "**Third Party Provisions**") confer benefits on persons named or identified in such provisions other than the Parties (each such person a "**Third Party Beneficiary**") and are intended to be enforceable by Third Parties Beneficiaries by virtue of the Contracts (Rights of Third Parties) Act ("**CRTPA**").

Subject to Clause 23.1, no third parties may use the CRTPA to enforce any term of this Contract unless stated (referring to CRTPA) in this Contract. This does not affect third party rights and remedies that exist independently from CRTPA.

Except for the provisions of Clauses 4.9, 8.2.3 and 8.2.4, no Third Party Beneficiary may enforce, or take any step to enforce, any Third Party Provision without the prior written consent of the Buyer, which may, if given, be given on and subject to such terms as the Buyer may determine.

Any amendments or modifications to this Contract may be made, and any rights created under Clause 23.1 may be altered or extinguished, by the Parties without the consent of any Third Party Beneficiary.

Circumstances beyond your control

Any Party affected by a Force Majeure Event is excused from performing its obligations under this Contract while the inability to perform continues, if it both:

provides a Force Majeure Notice to the other Party; and

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

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

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

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.

Giving up contract rights

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

Transferring responsibilities

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

Subject to Schedule 27 (*Key Subcontractors*), the Supplier cannot sub-contract this Contract or any part of it without the Buyer’s prior written consent. The Supplier shall provide the Buyer with information about the Subcontractor as it reasonably requests. The decision of the Buyer to consent or not will not be unreasonably withheld or delayed. If the Buyer does not communicate a decision to the Supplier within ten (10) Working Days of the request for consent then its consent will be deemed to have been given. The Buyer may reasonably withhold its consent to the appointment of a Subcontractor if it considers that:

the appointment of a proposed Subcontractor may prejudice the provision of the Deliverables or may be contrary to its interests;

the proposed Subcontractor is unreliable and/or has not provided reliable goods and or reasonable services to its other customers;

the proposed Subcontractor employs unfit persons; and/or

the proposed Subcontractor is an excluded or excludable supplier within the meaning of the Procurement Act 2023 and any associated regulations.

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.

When the Buyer uses its rights under Clause 27.3 the Supplier must enter into a novation agreement in the form that the Buyer specifies.

The Supplier can terminate this Contract novated under Clause 27.3 to a private sector body that is experiencing an Insolvency Event.

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

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

their name;

the scope of their appointment;

the duration of their appointment;

a copy of the Sub-Contract; and

whether the Supplier considers that an exclusion ground within the meaning of the Procurement Act 2023 and any associated regulations does or may apply to the Sub-contractor.

Changing the Contract

Either Party can request a Variation to this Contract which is only effective if agreed in writing, including where it is set out in the Variation Form, and signed by both Parties.

The Supplier must provide an Impact Assessment either:

with the Variation Form, where the Supplier requests the Variation; or

within the time limits included in a Variation Form requested by the Buyer.

If the Variation to this Contract cannot be agreed or resolved by the Parties, the Buyer can either:

agree that this Contract continues without the Variation; or

refer the Dispute to be resolved using Clause 39 (*Resolving Disputes*).

The Buyer is not required to accept a Variation request made by the Supplier.

The Supplier may only reject a Variation requested by the Buyer if the Supplier:

reasonably believes that the Variation would materially and adversely affect the risks to the health and safety of any person or that it would result in the Deliverables being provided in a way that infringes any Law; or

demonstrates to the Buyer's reasonable satisfaction that the Variation is technically impossible to implement and that neither the Tender nor the Specification state that the Supplier has the required technical capacity or flexibility to implement the Variation.

If there is a General Change in Law, the Supplier must bear the risk of the change and is not entitled to ask for an increase to the Charges.

If there is a Specific Change in Law or one is likely to happen during this Contract Period the Supplier must give the Buyer notice of the likely effects of the changes as soon as reasonably practical. They must also say if they think any Variation is needed either to the Deliverables, the Charges or this Contract and provide evidence:

of how it has affected the Supplier’s costs; and

that the Supplier has kept costs as low as possible, including in Subcontractor costs.

Any change in the Charges or relief from the Supplier's obligations because of a Specific Change in Law must be implemented using Clauses 28.1 to 28.4.

How to communicate about the contract

All notices under this Contract shall be in writing and be served by e-mail unless it is not practicable to do so. An e-mail is effective at 9:00am on the first Working Day after sending unless an error message is received.

If it is not practicable for a notice to be served by e-mail in accordance with Clause 29.1, notices can be served my means of personal delivery or Prepaid, Royal Mail Signed For™ 1st Class or other prepaid, next Working Day service providing proof of delivery. If either of these options are used to serve a notice, such notices 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.

Notices to the Buyer must be sent to the Buyer Authorised Representative’s address or e-mail address in the Award Form.

This Clause does not apply to the service of legal proceedings or any documents in any legal action, arbitration or dispute resolution.

Dealing with claims

If a Beneficiary is notified of a Claim then it must notify the Indemnifier as soon as reasonably practical and no later than ten (10) Working Days.

At the Indemnifier’s cost the Beneficiary must both:

allow the Indemnifier to conduct all negotiations and proceedings to do with a Claim; and

give the Indemnifier reasonable assistance with the claim if requested.

The Beneficiary must not make admissions about the Claim without the prior written consent of the Indemnifier which cannot be unreasonably withheld or delayed.

The Indemnifier must consider and defend the Claim diligently using competent legal advisors and in a way that doesn’t damage the Beneficiary’s reputation.

The Indemnifier must not settle or compromise any Claim without the Beneficiary's prior written consent which it must not unreasonably withhold or delay.

Each Beneficiary must use all reasonable endeavours to minimise and mitigate any losses that it suffers because of the Claim.

If the Indemnifier pays the Beneficiary money under an indemnity and the Beneficiary later recovers money which is directly related to the Claim, the Beneficiary must immediately repay the Indemnifier the lesser of either:

the sum recovered minus any legitimate amount spent by the Beneficiary when recovering this money; or

the amount the Indemnifier paid the Beneficiary for the Claim.

Exclusions

During the Contract Period the Supplier shall notify the Buyer as soon as reasonably practicable if:

the Supplier considers that an exclusion ground within the Procurement Act 2023 and any associated regulations applies to the Supplier, including where the Supplier is put on the debarment list or becomes an excluded or excludable supplier by virtue of any associated persons or subcontractors where information relating to such was provided under Section 28 of the Procurement Act 2023; and/or

there are any changes to the Supplier's associated persons within the meaning of the Procurement Act 2023.

If the Supplier notifies the Buyer in accordance with Clause 31.1.1 then the Supplier must promptly provide any information the Buyer reasonably requests in relation to the notification, including information to support an assessment of whether the circumstances giving rise to the exclusion ground are continuing or likely to occur again.

If the Supplier notifies the Buyer in accordance with Clause 31.1.2 above then the Supplier must promptly provide any information reasonably requested by the Buyer in relation to the change to the Supplier's associated persons, including any information set out in the Procurement Regulations 2024.

The Buyer may terminate this Contract if:

the Supplier has failed to provide notification under Clause 31.1.1 as soon as reasonably practicable after the Supplier become aware that an exclusion ground within the Procurement Act 2023 and any associated regulations does or may apply to the Supplier;

the Supplier has failed to provide notification under Clause 31.1.2 as soon as reasonably practicable after the Supplier becoming aware of any changes to the Supplier's associated persons within the meaning of the Procurement Act 2023; and/or

any notification or information provided by the Supplier under Clause 31.1, 31.2 and/or 31.3 is incomplete, inaccurate or misleading,

and the consequences of termination set out in Clause 14.5.1 shall apply.

Clause 31.4 is without prejudice to the Buyer's rights to terminate the Contract in accordance with Clause 14.4.1(n).

Equality, diversity and human rights

The Supplier must follow all applicable equality Law when they perform their obligations under this Contract, including:

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

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

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

Health and safety

The Supplier must perform its obligations meeting the requirements of:

all applicable Law regarding health and safety; and

the Buyer’s current health and safety policy while at the Buyer’s Premises, as provided to the Supplier.

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 this Contract.

Environment

When working on Site the Supplier must perform its obligations under the Buyer’s current Environmental Policy, which the Buyer must provide.

The Supplier must ensure that Supplier Staff are aware of the Buyer’s Environmental Policy.

Tax

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 this Contract where the Supplier has not paid a minor tax or social security contribution.

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 this Contract, the Supplier must both:

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

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.

At any time during the Contract Period, the Buyer may specify information that the Supplier must provide with regard to the Supplier, the Supplier Staff, the Workers, or the Supply Chain Intermediaries and set a deadline for responding, which:

demonstrates that the Supplier, Supplier Staff, Workers, or Supply Chain Intermediaries comply with the legislation specified in Clause 35.2.1, or why those requirements do not apply; and

assists with the Buyer's due diligence, compliance, reporting, or demonstrating its compliance with any of the legislation in Clause 35.2.1.

The Buyer may supply any information they receive from the Supplier under Clause 35.3 to HMRC for revenue collection and management and for audit purposes.

The Supplier must inform the Buyer as soon as reasonably practicable if there any Workers or Supplier Staff providing services to the Buyer who are contracting, begin contracting, or stop contracting via an intermediary which meets one of conditions A-C set out in Section 61N of the Income Tax (Earnings and Pensions) Act 2003 and/or Regulation 14 of the Social Security Contributions (Intermediaries) Regulations 2000.

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:

the Buyer may, at any time during the Contract Period, request that the Worker provides information which demonstrates they comply with Clause 35.2.1, or why those requirements do not apply, the Buyer can specify the information the Worker must provide and the deadline for responding;

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;

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 35.2.1 or confirms that the Worker is not complying with those requirements; and

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

Conflict of interest

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 of Interest.

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

The Buyer will consider whether there are any reasonable steps that can be put in place to mitigate an actual, perceived or potential Conflict of Interest. If, in the reasonable opinion of the Buyer, such steps do not or will not resolve an actual or potential Conflict of Interest, the Buyer may terminate its Contract immediately by giving notice in writing to the Supplier where there is or may be an actual or potential Conflict of Interest and, subject to Clause 36.4, where the reason for the unresolvable actual or potential Conflict of Interest is in the reasonable opinion of the Buyer

outside of the control of the Supplier, Clauses 14.5.1(b) to 14.5.1(g) shall apply; or

within the control of the Supplier, the whole of Clause 14.5.1 shall apply.

Where the Supplier has failed to notify the Buyer about an actual or potential Conflict of Interest and the Buyer terminates under Clause 36.3, the whole of Clause 14.5.1 shall apply.

Reporting a breach of the contract

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;

Default of Clause 16.1; and

Default of Clauses 31 to 36.

The Supplier must not retaliate against any of the Supplier Staff who in good faith reports a breach or Default listed in Clause 37.1 to the Buyer or a Prescribed Person.

Further Assurances

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

Resolving disputes

If there is a Dispute, the senior representatives of the Parties who have authority to settle the Dispute will, within twenty eight (28) days of a written request from the other Party, meet in good faith to resolve the Dispute by commercial negotiation.

If the Parties cannot resolve the Dispute via commercial negotiation, they 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 39.3 to 39.5.

Unless the Buyer refers the Dispute to arbitration using Clause 39.4, the Parties irrevocably agree that the courts of England and Wales have the exclusive jurisdiction to:

determine the Dispute;

grant interim remedies; and

grant any other provisional or protective relief.

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.

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 39.3, 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 39.4.

The Supplier cannot suspend the performance of this Contract during any Dispute.

Which law applies

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