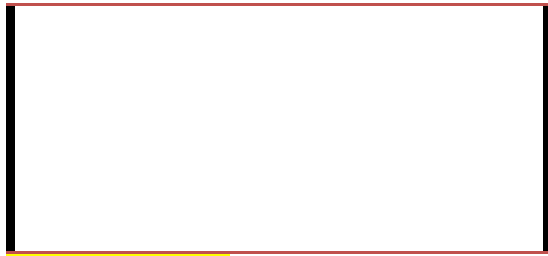


National Highways Limited

Social Enterprise Dynamic Purchasing System

SUPPLIER PACK PART C

C6 – SEDPS Buyer Agreement



[On Buyer Letterhead]
Insert **Supplier** Name
Address

Xx/Month/Year

Award of Buyer Agreement under SEDPS – [INSERT AGREEMENT NAME AND REFERENCE]

I am writing to inform you that [INSERT NAME OF Buyer] (the “**Buyer**”) proposes to make an award of an agreement to you to provide the **Deliverables** on the **Terms** set out in this **Letter** (the “**Buyer Agreement**”). The **Buyer Agreement** will be created by the **Supplier** emailing the **Buyer** to accept the offer of the **Buyer Agreement** in accordance with the instructions in this **Letter**.

This award is made under the National Highways Social Enterprise Dynamic Purchasing System (**SEDPS**).

[On Buyer Letterhead]

The **Supplier** shall supply the **Deliverables** on the **Terms** set out in this **Letter** and the agreement conditions specified in Annex A to this **Letter** (the “**Conditions**”).

The **Charges** for the **Deliverables** are specified in Part 2 of Annex D.

No other **Supplier Terms** are part of the **Buyer Agreement**. That includes any **Terms** written in the email accepting the offer of the **Buyer Agreement** or presented at the time of **Delivery**.

If any of the conditions conflict with any of the **Terms** of this **Letter**, the **Terms** of this **Letter** prevail.

The **Term** shall begin on the date of your email confirming the acceptance of the offer to enter into the **Buyer Agreement** and the **Expiry Date** shall be [Insert **Expiry Date**] unless it is otherwise extended or terminated in accordance with the **Terms** and conditions of the **Buyer Agreement**.

If the **Buyer** and the **Supplier** enter into the **Buyer Agreement**, the **Buyer** and the **Supplier** will, each at their own expense, do all acts and things necessary or desirable to give effect to the **Buyer Agreement**.

Accepting the offer of the **Buyer Agreement**

[INSERT NAME OF Buyer] proposes to enter into the **Buyer Agreement** by the **Supplier** emailing the **Buyer** to accept the offer of the **Buyer Agreement**.

I confirm that I am authorised by **[INSERT NAME OF Buyer]** to accept the **Terms** of the **Buyer Agreement** and this **Letter** expresses my intention to authenticate the **Buyer Agreement**.

Please arrange for a person authorised by the **Supplier** to sign agreements on its behalf to confirm by email, from their own individual account to **[INSERT EMAIL ADDRESS]**, using the heading **[insert specific email header]** the **Supplier's** acceptance of the **Buyer Agreement** using the wording set out below.

To assist us in managing the process, please inform us of your decision as to whether or not to accept the **Buyer Agreement** by 17:00 on **[INSERT DATE]**.

Please state the following in your email:

*"I refer to your Letter dated **[INSERT DATE]** (the "**Letter**") in respect of the agreement **[INSERT AGREEMENT NAME AND REFERENCE]** (the "**Buyer Agreement**"). A copy of the **Letter** is attached to this email. I confirm that I am authorised by **[INSERT NAME OF Supplier]** (the "**Supplier**") to accept the **Terms** of the **Buyer Agreement** for and on behalf of the **Supplier**, that the **Supplier** intends to be bound by the **Terms** of the **Buyer Agreement** and that the **Buyer Agreement** takes effect on and from the date of this email."*

Please make sure that your name and job title are included in the email and attach a copy of this **Letter** to your email.

If we are not sufficiently clear whether or not you accept the **Terms** of the **Buyer Agreement** we will contact you again to ask for clarification. Until we receive your authorised signatory's email clearly accepting the **Terms** of the **Buyer Agreement** as set out in this **Letter**, the **Buyer Agreement** will not come into force.

Management Information

In order to make the **Buyer Agreement** operate properly, you will need the **Information** set out in Annex B to this **Letter**.

If you accept the **Buyer Agreement**, please provide the following **Information** with your email of acceptance:

- **Commercially Sensitive Information** (if applicable)
- **Supplier** Address for notices (if different to the **Supplier's** Registered Address)
- **Supplier's** account for payment of **Charges**

If you have any queries, please contact the team on **[INSERT EMAIL ADDRESS]**.

Yours faithfully,

[Insert name]
[Insert role]

Annex A Conditions

1. DEFINITIONS USED IN THE Buyer Agreement

In this **Buyer Agreement**, unless the context otherwise requires, the following words shall have the following meanings:

Additional Required Insurances	means any insurances required under Annex B;
Buyer	means the person identified in the Letterhead of the Letter ;
Buyer Cause	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 Buyer Agreement and in respect of which the Buyer is liable to the Supplier ;
Buyer Agreement	has the meaning given to it in the Letter ;
Central Government Body	means a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics: (i) Government Department; (ii) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal); (iii) Non-Ministerial Department; or (iv) Executive Agency;
Charges	means the Charges specified in Part 2 of Annex D;
Commercially Sensitive Information	the Confidential Information listed in the email of acceptance comprising of Commercially Sensitive Information relating to the Supplier , its intellectual property rights or its business or which the Supplier has indicated to the Buyer that, if disclosed by the Buyer , would cause the Supplier significant commercial disadvantage or material financial loss;
Confidential Information	means all Information , whether written or oral (however recorded), provided by the disclosing Party to the receiving Party and which (i) is known by the receiving Party to be confidential; (ii) is marked as or stated to be confidential; or (iii) ought reasonably to be considered by the receiving Party to be confidential;
Controller	has the meaning given to it in the UK GDPR ;
Data Protection Impact Assessment	An assessment by the Controller carried out in accordance with Section 3 of the UK GDPR and sections 64 and 65 of the DPA 2018;
Data Protection Legislation	(i) all applicable UK Law relating to the Processing of Personal Data and privacy, including but not limited to the UK GDPR , and the Data Protection Act 2018 to the extent that it relates to Processing of Personal Data and privacy; and, (ii) (to the extent that it may be applicable) the EU GDPR. The UK GDPR and the EU GDPR are defined in section 3 of the Data Protection Act 2018.

Data Protection Officer	has the meaning given to it in the UK GDPR ;
Data Subject	has the meaning given to it in the UK GDPR ;
Data Subject Request	a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data ;
Deliver	means hand over the Deliverables to the Buyer at the address and on the date specified in Annex B, which shall include unloading and any other specific arrangements agreed in any Special Term . “ Delivered ”, “ Deliveries ” and “ Delivery ” shall be construed accordingly;
Deliverables	Offered Deliverables that are ordered under the Buyer Agreement and described in Part 1 of Annex D;
DOTAS	the Disclosure of Tax Avoidance Schemes rules which require a promoter of tax schemes to tell HMRC of any specified notifiable arrangements or proposals and to provide prescribed Information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Part 7 of the Finance Act 2004 and as extended to National Insurance Contributions;
Electronic Invoice	an invoice which has been issued, transmitted and received in a structured electronic format which allows for its automatic and electronic Processing and which complies with (a) the European standard and (b) any of the syntaxes published in Commission Implementing Decision (EU) 2017/1870;
Existing IPR	any and all intellectual property rights that are owned by or licensed to either Party and which have been developed independently of the Agreement (whether prior to the date of the Agreement or otherwise);
Expiry Date	means the date for expiry of the Buyer Agreement as set out in the Letter ;
FOIA	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;
Force Majeure Event	<p>any event, occurrence, circumstance, matter or cause affecting the performance by either the Buyer or the Supplier of its obligations arising from acts, events, omissions, happenings or non-happenings beyond the reasonable control of the affected Party which prevent or materially delay the affected Party from performing its obligations under the Buyer Agreement and which are not attributable to any wilful act, neglect or failure to take reasonable preventative action by the affected Party, including:</p> <ul style="list-style-type: none"> i) riots, civil commotion, war or armed conflict; ii) acts of terrorism; acts of a Central Government Body, local government or regulatory bodies; iv) fire, flood, storm or earthquake or other natural disaster, <p>but excluding any industrial dispute relating to the Supplier, the Supplier Staff, or any other failure in the Supplier's supply chain;</p>

General Anti-Abuse Rule	i) the legislation in Part 5 of the Finance Act 2013; and ii) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid National Insurance contributions;
Goods	means the Goods to be supplied by the Supplier to the Buyer under the Buyer Agreement ;
Good Industry Practice	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;
NH Data	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 Buyer Agreement ; or b) any Personal Data for which the Buyer is the Data Controller ;
Halifax Abuse Principle	the principle explained in the CJEU Case C-255/02 Halifax and others;
Independent Control	where a Controller has provided Personal Data to another Party which is not a Processor or a Joint Controllers because the recipient itself determines the purposes and means of Processing but does so separately from the Controller providing it with Personal Data and “ Independent Controller ” shall be construed accordingly;
Information	has the meaning given under section 84 of the FOIA ;
Information Commissioner	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;
Insolvency Event	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;
IR35	the off-payroll rules requiring individuals who work through their company pay the same tax and National Insurance contributions as an employee which can be found online at: https://www.gov.uk/guidance/IR35-find-out-if-it-applies ;
Joint Controllers	has the meaning given in Article 26 of the UK GDPR ;

Law	any Law , subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, by- law, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of Law , or directives or requirements with which the relevant Party is bound to comply;
Letter	the Letter from the Buyer to the Supplier offering to enter into the Buyer Agreement ;
Losses	all Losses , liabilities, damages, costs, expenses (including legal fees), disbursements, costs of investigation, litigation, settlement, judgment, interest and penalties whether arising in Contract tort (including negligence), breach of statutory duty, misrepresentation or otherwise;
Maximum Liability Amount	the amount specified in Annex B of the Letter ;
Minimum Warranty Period	the minimum period for which the Supplier warrants the Deliverables specified in Annex B of Letter ;
New IPR	all intellectual property rights in any materials created or developed by or on behalf of the Supplier pursuant to the Buyer Agreement but shall not include the Supplier's Existing IPR ;
Offered Deliverables	Goods and/or Services which meet the description of the service heading relating to the Deliverables and the location of the Deliverables as detailed in the SEDPS ;
Party	the Supplier or the Buyer (as appropriate) and " Parties " shall mean both of them;
Personal Data	has the meaning given to it in the UK GDPR ;
Processing	has the meaning given to it in the UK GDPR ;
Processor	has the meaning given to it in the UK GDPR ;
Processor Personnel	all directors, officers, employees, agents, consultants and Suppliers of the Processor and/or of any SubProcessor engaged in the performance of its obligations under the Buyer Agreement ;

Prohibited Acts	<ul style="list-style-type: none"> a) to directly or indirectly offer, promise or give any person working for or engaged by the Buyer or any other public body a financial or other advantage to: <ul style="list-style-type: none"> i) induce that person to perform improperly a relevant function or activity; or ii) reward that person for improper performance of a relevant function or activity; b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with the Buyer Agreement ; or c) committing any offence: <ul style="list-style-type: none"> i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act); or ii) under legislation or common Law concerning fraudulent acts; or iii) defrauding, attempting to defraud or conspiring to defraud the Buyer or other public body; or d) any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct had been carried out in the UK;
Protective Measures	appropriate technical and organisational measures designed to ensure compliance with obligations of the Parties arising under Data Protection Legislation and this Buyer Agreement , which may include: pseudonymising and encrypting Personal Data , ensuring confidentiality, integrity, availability and resilience of systems and Services , ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it;
Purchase Order Number	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 Buyer Agreement ;
Recall	a request by the Supplier to return Goods to the Supplier or the manufacturer after the discovery of safety issues or defects (including defects in the right intellectual property rights) that might endanger health or hinder performance;
Relevant Requirements	applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State pursuant to section 9 of the Bribery Act 2010;
Relevant Tax Authority	HMRC, or, if applicable, the tax authority in the jurisdiction in which the Supplier is established;
Regulations	the Public Contracts Regulations 2015 and/or the Public Contracts (Scotland) Regulations 2015 (as the context requires) as amended from time to time;
Request for Information	has the meaning set out in the FOIA or the Environmental Information Regulations 2004 as relevant (where the meaning set out for the Term "request" shall apply);

SEDPS	means the Social Enterprise Dynamic Purchasing System set up by National Highways to provide a route to market for Social Enterprises considered to be companies, organisations, or consortiums/joint ventures with primarily social objectives whose surpluses are principally reinvested for that purpose in the business or in the community, rather than being driven by the need to maximise profit for shareholders and owners;
SEDPS Agreement	the Terms and conditions which govern how the Supplier must interact with National Highways National Highways under the SEDPS ;
Services	means the Services to be supplied by the Supplier to the Buyer under the Buyer Agreement ;
Staff Vetting Procedures	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;
SEDPS Standard Selection Questionnaire	The questionnaire completed by the Supplier as part of its application for inclusion in the SEDPS ;
SubProcessor	any third Party appointed to process Personal Data on behalf of the Supplier related to the Buyer Agreement ;
Supplier Staff	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 the Buyer Agreement ;
Supplier	means the person named as Supplier in the Letter ;
Term	means the period from the start date of the Buyer Agreement identified in the Letter to the Expiry Date as such period may be extended or Terminated in accordance with the Terms and conditions of the Buyer Agreement ;
Transparency Information	the content of the Buyer Agreement , including any changes to the Buyer Agreement agreed from time to time, except for: <ul style="list-style-type: none"> (i) any Information which is exempt from disclosure in accordance with the provisions of the FOIA, which shall be determined by the Buyer; and (ii) Commercially Sensitive Information;
UK GDPR	means the UK General Data Protection Regulation;
VAT	means value added tax in accordance with the provisions of the Value Added Tax Act 1994;
Workers	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) (https://www.gov.uk/government/publications/procurement-policynote-0815-tax-arrangements-of-appointees) applies in respect of the Deliverables ; and;

Working Day	means a day (other than a Saturday or Sunday) on which banks are open for business in the City of London
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2. UNDERSTANDING THE BUYER AGREEMENT

In the **Buyer Agreement**, unless the context otherwise requires:

- 2.1. References to numbered clauses are references to the relevant clause in these **Terms** and conditions;
- 2.2. Any obligation on any **Party** not to do or omit to do anything shall include an obligation not to allow that thing to be done or omitted to be done;
- 2.3. The headings in this **Buyer Agreement** are for **Information** only and do not affect the interpretation of the **Buyer Agreement**;
- 2.4. References to "writing" include printing, display on a screen and electronic transmission and other modes of representing or reproducing words in a visible form;
- 2.5. The singular includes the plural and vice versa;
- 2.6. 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 by-**Law** made under that **Law**; and
- 2.7. The word 'including', "for example" and similar words shall be understood as if they were immediately followed by the words "without limitation".

3. HOW THE BUYER AGREEMENT WORKS

- 3.1. This **Buyer Agreement** is a separate agreement from the **SEDPS Agreement** and survives the termination of the **SEDPS Agreement**.
- 3.2. The **Supplier** acknowledges it has all the **Information** required to perform its obligations under the **Buyer Agreement** before entering into the **Buyer Agreement**. When **Information** is provided by the **Buyer** no warranty of its accuracy is given to the **Supplier**.
- 3.3. The **Supplier** will not be excused from any obligation, or be entitled to additional **Charges** because it failed to either:
 - 3.3.1. Verify the accuracy of any **Information** provided to the **Supplier** by or on behalf of the **Buyer** prior to the first day of the **Term**; or
 - 3.3.2. Properly perform its own adequate checks.
- 3.4. The **Buyer** will not be liable for errors, omissions or misrepresentation of any **Information**.
- 3.5. The **Supplier** warrants and represents all statements made and documents submitted as part of the procurement of **Deliverables** are and remain true and accurate.

4. WHAT NEEDS TO BE DELIVERED

4.1. All Deliverables

4.1.1. The **Supplier** must provide **Deliverables**:

- 4.1.1.1. in accordance with the **Offered Deliverables**;
- 4.1.1.2. to a professional standard;

- 4.1.1.3. using reasonable skill and care;
 - 4.1.1.4. using **Good Industry Practice**;
 - 4.1.1.5. using its own policies, processes and internal quality control measures as long as they do not conflict with the **Buyer Agreement**;
 - 4.1.1.6. on the dates agreed; and
 - 4.1.1.7. that comply with all **Law**
- 4.1.2. The **Supplier** must provide **Deliverables** with a warranty of at least the **Minimum Warranty Period** (or longer where the **Supplier** offers a longer warranty period to its **Buyers**) from **Delivery** against all obvious defects.
- 4.1.3. The **Supplier** must assign all third **Party** warranties and indemnities covering the **Deliverables** for the **Buyer's** benefit.
- 4.2. **Goods clauses**
- 4.2.1. All **Goods Delivered** must be new, or as new if recycled, unused and of recent origin.
- 4.2.2. All manufacturer warranties covering the **Goods** must be assignable to the **Buyer** on request and for free.
- 4.2.3. The **Supplier** transfers ownership of the **Goods** on completion of **Delivery** or payment for those **Goods**, whichever is earlier.
- 4.2.4. 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 **Working Days** of **Delivery**.
- 4.2.5. The **Supplier** warrants that it has full and unrestricted ownership of the **Goods** at the time of transfer of ownership.
- 4.2.6. The **Supplier** must **Deliver** the **Goods** on the date and to the specified location during the **Buyer's** working hours.
- 4.2.7. The **Supplier** must provide sufficient packaging for the **Goods** to reach the point of **Delivery** safely and undamaged.
- 4.2.8. All **Deliveries** must have a **Delivery** note attached that specifies the order number, type and quantity of **Goods**.
- 4.2.9. The **Supplier** must provide all tools, **Information** and instructions the **Buyer** needs to make use of the **Goods**.
- 4.2.10. The **Supplier** must indemnify the **Buyer** against the costs of any **Recall** of the **Goods** and will give notice of actual or anticipated action about the **Recall** of the **Goods**.
- 4.2.11. 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.
- 4.2.12. 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 do not conform with clause 4.2. If the **Supplier** does not do this it will pay the **Buyer's** costs including repair or re-supply by a third **Party**.
- 4.3. **Services clauses**
- 4.3.1. Late **Delivery** of the **Services** will be a default of the **Buyer Agreement**.

- 4.3.2. 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.
- 4.3.3. The **Supplier** must at its own risk and expense provide all equipment required to **Deliver** the **Services**.
- 4.3.4. The **Supplier** must allocate sufficient resources and appropriate expertise to the **Buyer Agreement**.
- 4.3.5. The **Supplier** must take all reasonable care to ensure performance does not disrupt the **Buyer's** operations, employees or other contractors.
- 4.3.6. The **Supplier** must ensure all **Services**, and anything used to **Deliver** the **Services**, are of good quality and free from defects.
- 4.3.7. 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 **Buyer Agreement**.

5. PRICING AND PAYMENTS

- 5.1. In exchange for the **Deliverables**, the **Supplier** shall be entitled to invoice the **Buyer** for the **Charges**. The **Supplier** shall raise invoices promptly and in any event within 90 days from when **Charges** are due.

All **Charges**:

- 5.1.1. Exclude **VAT**, which is payable on provision of a valid **VAT** invoice;
- 5.1.2. Include all costs connected with the supply of **Deliverables**.
- 5.2. 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 email accepting the **Buyer Agreement**.

A **Supplier** invoice is only valid if it:

 - 5.2.1. Includes all appropriate references including the **Purchase Order Number** and other details reasonably requested by the **Buyer**; and
 - 5.2.2. Includes a detailed breakdown of **Deliverables** which have been **Delivered** (if any).
- 5.3. The **Buyer** must accept and process for payment an undisputed **Electronic Invoice** received from the **Supplier**.
- 5.4. The **Buyer** may retain or set-off payment of any amount owed to it by the **Supplier** if notice and reasons are provided.
- 5.5. The **Supplier** must ensure that all sub-contractors are paid, in full, within 30 days of receipt of a valid, undisputed invoice. If this does not happen, the **Buyer** can publish the details of the late payment or non-payment.
- 5.6. The **Supplier** has no right of set-off, counterclaim, discount or abatement unless they are ordered to do so by a court.

6. THE BUYER'S OBLIGATIONS TO THE SUPPLIER

- 6.1. If the **Supplier** fails to comply with the **Buyer Agreement** as a result of a **Buyer Cause**:
 - 6.1.1. The **Buyer** cannot Terminate the **Buyer Agreement** under clause 11;
 - 6.1.2. The **Supplier** is entitled to reasonable and proven additional expenses and to relief from liability under this **Buyer Agreement**;
 - 6.1.3. The **Supplier** is entitled to additional time needed to **Deliver** the **Deliverables**; and
 - 6.1.4. The **Supplier** cannot suspend the ongoing supply of **Deliverables**.

6.2. Clause 6.1 only applies if the **Supplier**:

- 6.2.1. Gives notice to the **Buyer** within 10 **Working Days** of becoming aware;
- 6.2.2. Demonstrates that the failure would not have occurred but for the **Buyer Cause**; and
- 6.2.3. Mitigated the impact of the **Buyer Cause**

7. RECORD KEEPING AND REPORTING

7.1. The **Supplier** must keep and maintain full and accurate records and accounts on everything to do with the **Buyer Agreement**:

- 7.1.1. During the **Term** of the **Buyer Agreement**;
- 7.1.2. For seven years after the date of expiry or Termination of the **Buyer Agreement**; and
- 7.1.3. In accordance with **UK GDPR**

7.2. The **Buyer** or an auditor can audit the **Supplier**.

7.3. 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 **Buyer Agreement** and provide copies for the audit.

7.4. The **Supplier** must provide **Information** to the auditor and reasonable co-operation at their request.

7.5. Where the audit of the **Supplier** is carried out by an auditor, the auditor shall be entitled to share any **Information** obtained during the audit with the **Buyer**.

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

- 7.6.1. Tell the **Buyer** and give reasons;
- 7.6.2. Propose corrective action; and
- 7.6.3. Provide a deadline for completing the corrective action

7.7. 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 **Buyer Agreement** then the **Buyer** may:

- 7.7.1. Require that the **Supplier** provide to the **Buyer** (for its approval) a plan setting out how the **Supplier** will ensure continued performance of the **Buyer Agreement** 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; and

7.7.2. 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 **Buyer Agreement** immediately for material breach (or on such date as the **Buyer** notifies).

8. SUPPLIER STAFF

8.1. The **Supplier Staff** involved in the performance of the *Buyer Agreement* must:

8.1.1. Be appropriately trained and qualified;

8.1.2. Be vetted using **Good Industry Practice** and in accordance with the **Staff Vetting Procedures**; and

8.1.3. Comply with all conduct requirements when on the **Buyer's** premises.

8.2. Where a **Buyer** decides one of the **Supplier Staff** is not suitable to work on the *Buyer Agreement*, the **Supplier** must replace them with a suitably qualified alternative.

8.3. If requested, the **Supplier** must replace any person whose acts or omissions have caused the **Supplier** to breach clause 26.

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

8.5. 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**.

8.6. The **Supplier** shall use those persons nominated in the email of acceptance (if any) to provide the *Deliverables* and shall not remove or replace any of them unless:

8.6.1. Requested to do so by the **Buyer** (not to be unreasonably withheld or delayed);

8.6.2. The person concerned resigns, retires or dies or is on maternity or long-term sick leave; or

8.6.3. The person's employment or contractual arrangement with the **Supplier** or any subcontract or is Terminated for material breach of contract by the employee.

9. RIGHTS AND PROTECTION

9.1. The **Supplier** warrants and represents that:

9.1.1. It has full capacity and authority to enter into and to perform the **Buyer Agreement**;

9.1.2. The **Buyer Agreement** is executed by its authorised representative;

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

9.1.4. 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 **Buyer Agreement**;

9.1.5. It maintains all necessary rights, authorisations, licenses and consents to perform its obligations under the **Buyer Agreement**;

9.1.6. It does not have any contract obligations which are likely to have a material adverse effect on its ability to perform the **Buyer Agreement**; and

- 9.1.7. It is not impacted by an **Insolvency Event**.
- 9.2. The warranties and representations in clauses 3.5 and 9.1 are repeated each time the **Supplier** provides **Deliverables** under the **Buyer Agreement**.
- 9.3. The **Supplier** indemnifies the **Buyer** against each of the following:
- 9.3.1. Wilful misconduct of the **Supplier**, any of its sub-contractors and/or **Supplier Staff** that impacts the **Buyer Agreement**; and
- 9.3.2. Non-payment by the **Supplier** of any tax or National Insurance.
- 9.4. If the **Supplier** becomes aware of a representation or warranty that becomes untrue or misleading, it must immediately notify the **Buyer**.

10. INTELLECTUAL PROPERTY RIGHTS (IPRS)

- 10.1. Each **Party** keeps ownership of its own **Existing IPRs**. Any **New IPR** created under the **Buyer Agreement** is owned by the **Supplier**. The **Supplier** gives the **Buyer** a non-exclusive, perpetual, royalty-free, irrevocable, transferable, sub-licensable worldwide licence to use, copy and adapt the **Supplier's Existing IPR** and the **New IPR** to enable the **Buyer** and its sub-licensees to receive and use the Deliverables and the New IPR for any purpose relating to the exercise of the **Buyer's** (or, if the **Buyer** is a Public Sector Body, any other Public Sector Body's) business or function. For the purposes of this clause "**Public Sector Body**" means a formally established organisation that is (at least in part) publicly funded to deliver a public or government service.
- 10.2. The termination or expiry of the **Buyer Agreement** does not terminate any licence granted under this clause 10.
- 10.3. The **Buyer** gives the **Supplier** a royalty-free, non-exclusive, non-transferable licence to use, copy, and adapt any **Existing IPRs** for the purpose of fulfilling its obligations during the **Term** and commercially exploiting the **New IPR** developed under the **Buyer Agreement**. This licence is sub-licensable to a subcontractor for the purpose of enabling the **Supplier** to fulfil its obligations under the **Buyer Agreement**, and in that case the subcontractor must enter into a confidentiality undertaking with the **Supplier** on the same terms as set out in clause 15 (What you must keep confidential).
- 10.4. Unless otherwise agreed in writing, the **Supplier** and the **Buyer** will record any **New IPR** and keep this record updated throughout the **Term**.
- 10.5. Where a Party acquires ownership of intellectual property rights incorrectly under this **Buyer Agreement** 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.
- 10.6. 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 this clause 10 or otherwise agreed in writing.
- 10.7. 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.
- 10.8. If an IPR Claim is made or anticipated, the **Supplier** must at its own option and expense, either:
- I. Obtain for the **Buyer** the rights in clause 10.1 without infringing any third party intellectual property rights; and

- II. 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**.
- 10.9. If the **Supplier** is not able to resolve the **IPR Claim** to the **Buyer's** reasonable satisfaction within a reasonable time, the **Buyer** may give written notice that it terminates the **Buyer Agreement** from the date set out in the notice, or where no date is given in the notice, the date of the notice. On termination, the consequences of termination in clause 11.4 shall apply.
- 10.10. The **Supplier** shall not use in the Delivery of the **Deliverables** any **intellectual property rights** owned by a third party (Third Party IPR) unless:
- 10.10.1. The **Buyer** gives its approval to do so; and
 - 10.10.2. One of the following conditions applies:
 - I. The owner or an authorised licensor of the relevant Third Party IPR has granted the **Buyer** a direct licence that provides the **Buyer** with the rights in clause 10.1; or
 - II. If the **Supplier** cannot, after commercially reasonable endeavours, obtain for the **Buyer** a direct licence to the Third Party IPR as set out in clause 10.10.2.i:
 - 10.10.3. The Supplier provides the **Buyer** with details of the licence terms it can obtain and the identity of those licensors;
 - 10.10.4. The **Buyer** agrees to those licence terms; and
 - 10.10.5. The owner or authorised licensor of the Third Party IPR grants a direct licence to the **Buyer** on those terms; or
 - 10.10.6. The **Buyer** approves in writing, with reference to the acts authorised and the specific intellectual property rights involved.
- 10.11. In spite of any other provisions of the **Buyer Agreement** and for the avoidance of doubt, award of this **Buyer Agreement** by the **Buyer** and the ordering of any **Deliverable** under it, does not constitute an authorisation by the Crown under Sections 55 and 56 of the Patents Act 1977, Section 12 of the Registered Designs Act 1949 or Sections 240 – 243 of the Copyright, Designs and Patents Act 1988.

11. ENDING THE AGREEMENT

11.1. Ending the Buyer Agreement without a reason

11.2. The **Buyer** has the right to **Terminate** the **Buyer Agreement** at any time without reason or liability by giving the **Supplier** not less than 90 days' written notice.

11.3. When the Buyer can end the Buyer Agreement

11.3.1. If any of the following events happen, the **Buyer** has the right to immediately terminate the **Buyer Agreement** by issuing a termination notice in writing to the Supplier:

11.3.1.1. There is an **Insolvency Event** affecting the **Supplier**;

11.3.1.2. If the **Supplier** is in 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;

11.3.1.3. There is any material breach of the **Buyer Agreement**;

- 11.3.1.4. There is a material default of any **Joint Controllers** agreement relating to the **Buyer Agreement**;
 - 11.3.1.5. There is a breach of clauses 3.5, 10, 14, 15, 26 or 31;
 - 11.3.1.6. If the Supplier repeatedly breaches the **Buyer Agreement** 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 **Buyer Agreement**;
 - 11.3.1.7. There's a change of control (within the meaning of section 450 of the Corporation Tax Act 2010) of the Supplier which is not pre-approved by the **Buyer** in writing;
 - 11.3.1.8. If the **Buyer** discovers that the Supplier was in one of the situations set out in Part 2 of the SEDPS Standard Selection Questionnaire the time the **Buyer Agreement** was awarded or is in breach of clause 26.1 of this Agreement; or
 - 11.3.1.9. The Supplier or its affiliates embarrass or bring the **Buyer** into disrepute or diminish the public trust in them.
- 11.3.2. If any of the following non-fault based events happen, the **Buyer** has the right to immediately **Terminate** the **Buyer Agreement**;
- 11.3.2.1. There is a change to the **Buyer Agreement** which cannot be agreed using clause 24 or resolved using clause 33; or
 - 11.3.2.2. If there is a declaration of ineffectiveness in respect of any change to the **Buyer Agreement**.
- 11.4. **When the Supplier can end the Buyer Agreement**
- 11.4.1. The **Supplier** can issue a reminder notice if the **Buyer** does not pay an undisputed invoice on time. The Supplier can terminate the **Buyer Agreement** if the **Buyer** fails to pay an undisputed invoiced sum due and worth over 10% of the total **Buyer Agreement** value or £1,000, whichever is the lower, within 30 days of the date of the reminder notice.
- 11.5. **What happens if the Buyer Agreement ends**
- 11.5.1. Where a **Party Terminates** the **Buyer Agreement** under any of clauses 11.1, 11.2(a), 11.2(b), 11.3, 20.2, 23.4 or 31.3 all of the following apply:
 - 11.5.1.1. The **Buyer's** payment obligations under the terminated **Buyer Agreement** stop immediately;
 - 11.5.1.2. Accumulated rights of the **Party** are not affected;
 - 11.5.1.3. The **Supplier** must promptly repay to the **Buyer** any and all **Charges** the **Buyer** has paid in advance in respect of **Deliverables** not provided by the **Supplier** as at the termination date;
 - 11.5.1.4. The **Supplier** must promptly delete or return the **NH Data** except where required to retain copies by **Law**;
 - 11.5.1.5. The **Supplier** must promptly return any of the **Buyer's** property provided under the **Buyer Agreement**;
 - 11.5.1.6. 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;

- 11.5.2. In addition to the consequences of termination listed in clause 11.4(a), where the **Buyer** terminates the **Buyer Agreement** under clause 11.2(a), the **Supplier** is responsible for the **Buyer's** additional reasonable costs of procuring replacement **Deliverables** for the rest of the **Term** of the **Buyer Agreement**.
- 11.5.3. In addition to the consequences of termination listed in clause 11.4(a), if either the **Buyer** terminates the **Buyer Agreement** under clause 11.1 or the **Supplier** Terminates the **Buyer Agreement** under either of clauses 11.3 or 23.4:
- 11.5.3.1. The **Buyer** must promptly pay all outstanding **Charges** incurred to the **Supplier**, and
- 11.5.3.2. 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 **Buyer Agreement** had not been Terminated.
- 11.5.4. In addition to the consequences of termination listed in clause 11.4(a), where a **Party** terminates under clause 20.2 each **Party** must cover its own **Losses**.
- 11.5.5. The following clauses survive the termination of the **Buyer Agreement**: 7, 8.5, 10, 12, 14, 15, 16, 17, 18, 33, 34 and any clauses which are expressly or by implication intended to continue.

11.6. Partially ending and suspending the Buyer Agreement

- 11.6.1. Where the **Buyer** has the right to terminate the **Buyer Agreement** it can terminate or suspend (for any period), all or part of it. If the **Buyer** suspends the **Buyer Agreement** it can provide the **Deliverables** itself or buy them from a third **Party**.
- 11.6.2. The **Buyer** can only partially terminate or suspend the **Buyer Agreement** if the remaining parts of it can still be used to effectively **Deliver** the intended purpose.
- 11.6.3. The **Party** must agree (in accordance with clause 24) any necessary variation required by clause 11.5, but the **Supplier** may not either:
- 11.6.3.1. Reject the variation;
- 11.6.3.2. Increase the **Charges**, except where the right to partial termination is under clause 11.1.
- 11.6.4. The **Buyer** can still use other rights available, or subsequently available to it if it acts on its rights under clause 11.5.

12. HOW MUCH YOU CAN BE HELD RESPONSIBLE FOR AND INSURANCE REQUIREMENTS

- 12.1. Each **Party's** total aggregate liability under or in connection with the **Buyer Agreement** (whether in tort, contract or otherwise) is no more than the higher of the **Maximum Liability Amount** or 150% of the **Charges** paid or payable to the **Supplier**.
- 12.2. No **Party** is liable to the other for:
- 12.2.1. Any indirect **Losses**; or
- 12.2.2. Loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect).
- 12.3. In spite of clause 12.1, neither **Party** limits or excludes any of the following:

- 12.3.1. Its liability for death or personal injury caused by its negligence, or that of its employees, agents or sub-contractors;
 - 12.3.2. Its liability for bribery or fraud or fraudulent misrepresentation by it or its employees;
 - 12.3.3. Any liability that cannot be excluded or limited by *Law*; or
 - 12.3.4. Its liability to the extent it arises as a result of a default by the **Supplier**, any fine or penalty incurred by the **Buyer** pursuant to *Law* and any costs incurred by the **Buyer** in defending any proceedings which result in such fine or penalty.
- 12.4. Each **Party** must use all reasonable endeavours to mitigate any Loss or damage which it suffers under or in connection with the *Buyer Agreement*, including any indemnities.
- 12.5. If more than one **Supplier** is **Party** to the *Buyer Agreement*, each **Supplier Party** is jointly and severally liable for their obligations under the *Buyer Agreement*.
- 12.6. During the *Term*, the **Supplier** must, at its own cost, maintain in force, with a reputable insurance company, employer's liability insurance in the minimum amount required by law, and public liability insurance at a minimum amount of £5 Million, and any Additional Required Insurances required under Annex B. If no **Additional Required Insurances** are specified in Annex B, the **Supplier** must ensure that it has adequate insurance cover for this *Buyer Agreement*.

13. OBEYING THE LAW

- 13.1. The **Supplier** must not use or allow its subcontractors to use modern slavery, child labour or inhumane treatment.

14. DATA PROTECTION

- 14.1. The **Supplier** must process **Personal Data** and ensure that **Supplier Staff** process **Personal Data** only in accordance with Annex C of the *Letter*.
- 14.2. The **Supplier** must not remove any ownership or security notices in or relating to the *NH Data*.
- 14.3. The **Supplier** must make accessible back-ups of all *NH Data*, stored in an agreed off-site location and send the *Buyer* copies every six months.
- 14.4. The **Supplier** must ensure that any **Supplier** system holding any *NH Data*, including back-up data, is a secure system that complies with the security requirements specified in writing by the *Buyer*.
- 14.5. If at any time the **Supplier** suspects or has reason to believe that the *NH Data* provided under the *Buyer Agreement* is corrupted, lost or sufficiently degraded, then the **Supplier** must notify the *Buyer* and immediately suggest remedial action.
- 14.6. If the *NH Data* is corrupted, lost or sufficiently degraded so as to be unusable the *Buyer* may either or both:
 - 14.6.1. Tell the **Supplier** to restore or get restored **NH 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; and/or
 - 14.6.2. Restore the **NH Data** itself or using a third **Party**.
- 14.7. The **Supplier** must pay each **Party's** reasonable costs of complying with clause 14.6 unless the *Buyer* is at fault.

14.8. The **Supplier**

- 14.8.1. Must provide the **Buyer** with all **NH Data** in an agreed open format within 10 *Working Days* of a written request;
- 14.8.2. Must have documented processes to guarantee prompt availability of **NH Data** if the **Supplier** stops trading;
- 14.8.3. Must securely destroy all storage media that has held **NH Data** at the end of life of that media using **Good Industry Practice**;
- 14.8.4. Securely erase all **NH Data** and any copies it holds when asked to do so by the **Buyer** unless required by **Law** to retain it; and
- 14.8.5. Indemnifies the **Buyer** against any and all **Losses** incurred if the **Supplier** breaches clause 14 and any **Data Protection Legislation**.

15. **WHAT YOU MUST KEEP CONFIDENTIAL**

15.1. Each Party must:

- 15.1.1. Keep all **Confidential Information** it receives confidential and secure;
- 15.1.2. Except as expressly set out in clauses 15.2 to 15.4 or elsewhere in the **Buyer** Contract, not disclose, use or exploit the disclosing **Party's Confidential Information** without the disclosing **Party's** prior written consent; and
- 15.1.3. Immediately notify the disclosing **Party** if it suspects unauthorised access, copying, use or disclosure of the **Confidential Information**.

15.2. In spite of clause 15.1, a **Party** may disclose **Confidential Information** which it receives from the disclosing **Party** in any of the following instances:

- 15.2.1. 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;
- 15.2.2. If the recipient **Party** already had the **Information** without obligation of confidentiality before it was disclosed by the disclosing **Party**;
- 15.2.3. If the **Information** was given to it by a third **Party** without obligation of confidentiality;
- 15.2.4. If the **Information** was in the public domain at the time of the disclosure;
- 15.2.5. If the **Information** was independently developed without access to the disclosing **Party's Confidential Information**;
- 15.2.6. On a confidential basis, to its auditors;
- 15.2.7. On a confidential basis, to its professional advisers on a need-to-know basis; or
- 15.2.8. 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.

15.3. In spite of clause 15.1, 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 **Buyer** Contract. The **Supplier Staff** must enter into a direct confidentiality agreement with the **Buyer** at its request.

- 15.4. In spite of clause 15.1, the **Buyer** may disclose **Confidential Information** in any of the following cases:
- 15.4.1. On a confidential basis to the employees, agents, consultants and contractors of the **Buyer**;
 - 15.4.2. On a confidential basis to any **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;
 - 15.4.3. If the **Buyer** (acting reasonably) considers disclosure necessary or appropriate to carry out its public functions;
 - 15.4.4. Where requested by Parliament; or
 - 15.4.5. Under clauses 5.6 and 16.
- 15.5. For the purposes of clauses 15.2 to 15.4 references to disclosure on a confidential basis means disclosure under a confidentiality agreement or arrangement including **Terms** as strict as those required in clause 15.
- 15.6. **Transparency Information** is not **Confidential Information**.
- 15.7. The **Supplier** must not make any press announcement or publicise the **Buyer 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.

16. WHEN YOU CAN SHARE INFORMATION

- 16.1. The **Supplier** must tell the **Buyer** within 48 hours if it receives a **Request for Information**.
- 16.2. Within five (5) **Working Days** of the **Buyer's** request the **Supplier** must give the **Buyer** full co-operation and **Information** needed so the **Buyer** can:
- 16.2.1. Publish the **Transparency Information**;
 - 16.2.2. Comply with any Freedom of **Information Act (FOIA)** request; and/or
 - 16.2.3. Comply with any Environmental **Information Regulations (EIR)** request.
- 16.3. The **Buyer** may talk to the **Supplier** to help it decide whether to publish **Information** under clause 16. However, the extent, content and format of the disclosure is the **Buyer's** decision, in its absolute discretion.

17. INVALID PARTS OF THE AGREEMENT

- 17.1. If any part of the **Buyer Agreement** 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 **Buyer Agreement** as much as required and rendered ineffective as far as possible without affecting the rest of the **Buyer Agreement**, whether it is valid or enforceable.

18. NO OTHER TERMS APPLY

- 18.1. The provisions incorporated into the **Buyer Agreement** are the entire agreement between the **Party**. The **Buyer Agreement** replaces all previous statements, agreements and any course of dealings made between the **Party**, whether written or oral, in relation to its subject matter. No other provisions apply.

19. OTHER PEOPLE'S RIGHTS

- 19.1. No Third **Party** may use the Contracts (Rights of Third **Party**) Act 1999 (“**CRTPA**”) to enforce any **Term** of the **Buyer Agreement** unless stated (referring to **CRTPA**) in the **Buyer Agreement**. This does not affect third **Party** rights and remedies that exist independently from **CRTPA**.

20. CIRCUMSTANCES BEYOND YOUR CONTROL

- 20.1. Any **Party** affected by a **Force Majeure Event** is excused from performing its obligations under the **Buyer Agreement** while the inability to perform continues, if it both:
- 20.1.1. Provides written notice to the other **Party**; and
 - 20.1.2. Uses all reasonable measures practical to reduce the impact of the **Force Majeure Event**.
- 20.2. Either **Party** can partially or fully Terminate the **Buyer Agreement** if the provision of the **Deliverables** is materially affected by a **Force Majeure Event** which lasts for 90 days continuously.

21. RELATIONSHIPS CREATED BY THE AGREEMENT

- 21.1. The **Buyer Agreement** does not create a partnership, joint venture or employment relationship. The **Supplier** must represent themselves accordingly and ensure others do so.

22. GIVING UP AGREEMENT RIGHTS

- 22.1. A partial or full waiver or relaxation of the **Terms** of the **Buyer Agreement** is only valid if it is stated to be a waiver in writing to the other **Party**.

23. TRANSFERRING RESPONSIBILITIES

- 23.1. The **Supplier** cannot assign, novate or transfer the **Buyer Agreement** or any part of the **Buyer Agreement** without the **Buyer's** written consent.
- 23.2. The **Buyer** can assign, novate or transfer its **Buyer Agreement** or any part of it to any **Central Government Body**, public or private sector body which performs the functions of the **Buyer**.
- 23.3. When the **Buyer** uses its rights under clause 23.2 the **Supplier** must enter into a novation agreement in the form that the **Buyer** specifies.
- 23.4. The **Supplier** can Terminate the **Buyer Agreement** if it is novated under clause 23.2 to a private sector body that is experiencing an **Insolvency Event**.
- 23.5. The **Supplier** remains responsible for all acts and omissions of the **Supplier Staff** as if they were its own.
- 23.6. If the **Buyer** asks the **Supplier** for details about sub-contractors, the **Supplier** must provide details of sub-contractors at all levels of the supply chain including:
- 23.6.1. Their name;
 - 23.6.2. The scope of their appointment; and
 - 23.6.3. The duration of their appointment.

24. CHANGING THE AGREEMENT

- 24.1. Either **Party** can request a variation to the **Buyer Agreement** which is only effective if agreed in writing and signed by both **Party**. The **Buyer** is not required to accept a variation request made by the **Supplier**.
- 24.2. For 101(5) of the **Regulations**, if the Court declares any variation to the **Buyer Agreement** ineffective, the **Party** agree that their mutual rights and obligations will be regulated by the **Terms** of the **Buyer Agreement** as they existed immediately prior to that variation and as if the **Party** had never entered into that variation.

25. HOW TO COMMUNICATE ABOUT THE AGREEMENT

- 25.1. All notices under the **Buyer Agreement** must be in writing and are considered effective on the **Working Day of Delivery** as long as they are **Delivered** before 5:00pm on a **Working Day**. Otherwise, the notice is effective on the next **Working Day**. An email is effective at 9:00am on the first **Working Day** after sending unless an error message is received.
- 25.2. Notices to the **Buyer** or **Supplier** must be sent to their address in the **Letter** or in the email of acceptance, respectively.
- 25.3. This clause does not apply to the service of legal proceedings or any documents in any legal action, arbitration or dispute resolution.

26. PREVENTING FRAUD, BRIBERY AND CORRUPTION

- 26.1. The **Supplier** must not during the **Term**:
- 26.1.1. Commit a **Prohibited Acts** or any other criminal offence referred to in Part 2 of the **SEDPS Standard Selection Questionnaire**; or
- 26.1.2. Do or allow anything which would cause the **Buyer**, including any of its employees, consultants, contractors, sub-contractors or agents to breach any of the **Relevant Requirements** or incur any liability under them.
- 26.2. The **Supplier** must during the **Term**:
- 26.2.1. Create, maintain and enforce adequate policies and procedures to ensure it complies with the **Relevant Requirements** to prevent a **Prohibited Acts** and require its contractors to do the same;
- 26.2.2. Keep full records to show it has complied with its obligations under clause 26 and give copies to the **Buyer** on request; and
- 26.2.3. If required by the **Buyer**, within 20 **Working Days** of the first day of the **Term**, and then annually, certify in writing to the **Buyer**, that they have complied with clause 26, including compliance of **Supplier Staff**, and provide reasonable supporting evidence of this on request, including its policies and procedures.
- 26.3. The **Supplier** must immediately notify the **Buyer** if it becomes aware of any breach of clauses 26.1 or 26.2 or has any reason to think that it, or any of the **Supplier Staff**, has either:
- 26.3.1. Been investigated or prosecuted for an alleged **Prohibited Acts**;
- 26.3.2. Been debarred, suspended, proposed for suspension or debarment, or is otherwise ineligible to take part in procurement programmes or contracts because of a **Prohibited Acts** by any government department or agency;
- 26.3.3. Received a request or demand for any undue financial or other advantage of any kind related to the **Buyer Agreement**; or

- 26.3.4. Suspected that any person or **Party** directly or indirectly related to the **Buyer Agreement** has committed or attempted to commit a **Prohibited Acts**.
- 26.4. If the **Supplier** notifies the **Buyer** as required by clause 26.3, the **Supplier** must respond promptly to their further enquiries, co-operate with any investigation and allow the audit of any books, records and relevant documentation.
- 26.5. In any notice the **Supplier** gives under clause 26.3 it must specify the:
- 26.5.1. **Prohibited Acts**;
- 26.5.2. Identity of the **Party** who it thinks has committed the **Prohibited Acts**; and
- 26.5.3. Action it has decided to take.

27. EQUALITY, DIVERSITY AND HUMAN RIGHTS

- 27.1. The **Supplier** must follow all applicable equality **Law** when they perform their obligations under the **Buyer Agreement**, including:
- 27.1.1. Protections against discrimination on the grounds of race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise; and
- 27.1.2. Any other requirements and instructions which the **Buyer** reasonably imposes related to equality **Law**.
- 27.2. 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 **Buyer Agreement**.

28. HEALTH AND SAFETY

- 28.1. The **Supplier** must perform its obligations meeting the requirements of:
- 28.1.1. All applicable **Law** regarding health and safety; and
- 28.1.2. The **Buyer's** current health and safety policy while at the **Buyer's** premises, as provided to the **Supplier**.
- 28.2. The **Supplier** and the **Buyer** must as soon as possible notify the other of any health and safety incidents or material hazards they are aware of at the **Buyer** premises that relate to the performance of the **Buyer Agreement**.

29. ENVIRONMENT

- 29.1. When working at the **Buyer's** premises, the **Supplier** must perform its obligations under the **Buyer's** current Environmental Policy, which the **Buyer** must provide.
- 29.2. The **Supplier** must ensure that **Supplier Staff** are aware of the **Buyer's** Environmental Policy.

30. TAX

- 30.1. 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 **Buyer Agreement** where the **Supplier** has not paid a minor tax or social security contribution.

- 30.2. 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 **Buyer Agreement**, the **Supplier** must both:
- 30.2.1. 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; and
 - 30.2.2. 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 **Term** in connection with the provision of the **Deliverables** by the **Supplier** or any of the **Supplier Staff**.
- 30.3. 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:
- 30.3.1. The **Buyer** may, at any time during the **Term**, request that the Worker provides **Information** which demonstrates they comply with clause 30.2, or why those requirements do not apply, the **Buyer** can specify the **Information** the Worker must provide and the deadline for responding;
 - 30.3.2. 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**;
 - 30.3.3. The Worker's contract may be terminated at the **Buyer's** request if the Worker provides **Information** which the **Buyer** considers is not good enough to demonstrate how it complies with clause 30.2 or confirms that the Worker is not complying with those requirements; and
 - 30.3.4. The **Buyer** may supply any **Information** they receive from the Worker to HMRC for revenue collection and management.

31. CONFLICT OF INTEREST

- 31.1. 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 **Buyer Agreement**, in the reasonable opinion of the **Buyer** (a "**Conflict of Interest**").
- 31.2. The **Supplier** must promptly notify and provide details to the **Buyer** if a Conflict of Interest happens or is expected to happen.
- 31.3. The **Buyer** can terminate its **Buyer Agreement** 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.

32. REPORTING A BREACH OF THE AGREEMENT

- 32.1. 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 13 or clauses 26 to 31.
- 32.2. The **Supplier** must not retaliate against any of the **Supplier Staff** who in good faith reports a breach listed in clause 32.1.

33. RESOLVING DISPUTES

- 33.1. If there is a dispute between the **Party**, 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.

- 33.2. If the dispute is not resolved at that meeting, the **Party** 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 **Party** 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 33.3 to 33.5.
- 33.3. Unless the **Buyer** refers the dispute to arbitration using clause 33.4, the **Party** irrevocably agree that the courts of England and Wales have the exclusive jurisdiction to:
- 33.3.1. Determine the dispute;
- 33.3.2. Grant interim remedies; and
- 33.3.3. Grant any other provisional or protective relief.
- 33.4. 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.
- 33.5. 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 33.3, unless the **Buyer** has agreed to the court proceedings or participated in them. Even if court proceedings have started, the **Party** must do everything necessary to ensure that the court proceedings are stayed in favour of any arbitration proceedings if they are started under clause 33.4.
- 33.6. The **Supplier** cannot suspend the performance of the *Buyer Agreement* during any dispute.

34. WHICH LAW APPLIES

- 34.1. This **Buyer Agreement** and any claim, dispute or difference (whether contractual or non-contractual) arising out of, or connected to it, are governed by English **Law**.



[On Buyer Letterhead]

Annex B Management Information

PAYMENT

All invoices must be sent, quoting a valid **Purchase Order Number** (PO Number), to:

[Insert address].

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.

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. agreement manager). Non-compliant invoices will be sent back to you, which may lead to a delay in payment.

If you have a query regarding an outstanding payment, please contact our Accounts Payable section either by email to

[Insert email address]

or by telephone [Insert telephone number]

between 09:00-17:00 Monday to Friday.

Date and address for *Delivery*:

[Insert date]

[Insert address]

Buyer ADDRESS FOR NOTICES:

[Insert name]

[Insert role]

[Insert email address]

[Insert address]

Buyer'S AUTHORISED REPRESENTATIVE

[Insert name]

[Insert role]

[Insert email address]

[Insert address]

PROCEDURES AND POLICIES

For the purposes of the *Buyer Agreement* the [Staff Vetting Procedures/data security requirements/equality and diversity policy/ [and] environmental policy [is/are] [specify where to be found]].

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.

Except where the **Buyer** has given prior written authorisation, the **Supplier** shall ensure that no person who discloses that he/she has a conviction that is relevant to the nature of the **Buyer Agreement**, relevant to the work of the **Buyer**, or is of a type otherwise advised by the **Buyer** (each such conviction a "**Relevant Conviction**"), 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**

Minimum Warranty Period

[Insert minimum number of days the **Supplier** must warrant the **Deliverables** for]

Maximum Liability Amount

[Insert the liability cap which applies in respect of all liabilities under the **Buyer Agreement**:
£100,000]

ADDITIONAL REQUIRED INSURANCES

[Insert the type and minimum amount of any insurance that you require the **Supplier** to maintain under the **Buyer Agreement**, in addition to the employers' liability and public liability insurance that the **Supplier** is required to maintain under clause 12.6]

Insurance against:

Minimum amount of cover is:

[On Buyer Letterhead]

Annex C Processing Data

Status of the *Controller*

- 1 The **Party** acknowledge that for the purposes of the **Data Protection Legislation**, the nature of the activity carried out by each of them in relation to their respective obligations under the **Buyer Agreement** dictates the status of each **Party** under the Data Protection Act 2018. A **Party** may act as:
- (a) “**Controller**” in respect of the other **Party** who is “**Processor**”;
 - (b) “**Processor**” in respect of the other **Party** who is “**Controller**”;
 - (c) “**Joint Controllers**” with the other **Party**;
 - (d) “**Independent Controller**” of the **Personal Data** where the other **Party** is also “**Controller**”,
- in respect of certain **Personal Data** under a *Buyer Agreement* and shall specify in Appendix 1 (**Processing Personal Data**) which scenario they think shall apply in each situation.

PART 1: Where one *Party* is *Controller* and the other *Party* its *Processor*

- 2 Where a **Party** is a **Processor**, the only **Processing** that it is authorised to do is listed in Appendix 1 (**Processing Personal Data**) by the **Controller** and may not be determined by the **Processor**. The **Term** “**Processing**” and any associated **Terms** are to be read in accordance with Article 4 of the **UK GDPR**.
- 3 The **Processor** shall notify the **Controller** immediately if it considers that any of the **Controller’s** instructions infringe the **Data Protection Legislation**.
- 4 The **Processor** shall provide all reasonable assistance to the **Controller** in the preparation of any **Data Protection Impact Assessment** prior to commencing any **Processing**. Such assistance may, at the discretion of the **Controller**, include:
- (a) a systematic description of the envisaged **Processing** operations and the purpose of the **Processing**;
 - (b) an assessment of the necessity and proportionality of the **Processing** operation in relation to the **Offered Deliverables**;
 - (c) an assessment of the risks to the rights and freedoms of **Data Subjects**; and
 - (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of **Personal Data**.
- 5 The **Processor** shall, in relation to any **Personal Data** processed in connection with its obligations under the Agreement:

- (a) process that **Personal Data** only in accordance with Appendix 1 (**Processing Personal Data**), unless the **Processor** is required to do otherwise by *Law*. If it is so required the **Processor** shall notify the **Controller** before **Processing** the **Personal Data** unless prohibited by *Law*;
- (b) ensure that it has in place **Protective Measures**, which are appropriate to protect against a Data Loss Event, which the **Controller** may reasonably reject. In the event of the **Controller** reasonably rejecting **Protective Measures** put in place by the **Processor**, the **Processor** must propose alternative **Protective Measures** to the satisfaction of the **Controller**. Failure to reject shall not amount to approval by the **Controller** of the adequacy of the **Protective Measures**. **Protective Measures** must take account of the:
 - (i) nature of the data to be protected;
 - (ii) harm that might result from a Data Loss Event;
 - (iii) state of technological development; and
 - (iv) cost of implementing any measures;
- (c) ensure that:
 - (i) the **Processor Personnel** do not process **Personal Data** except in accordance with the *Buyer Agreement* (and in particular Appendix 1 (**Processing Personal Data**));
 - (ii) it takes all reasonable steps to ensure the reliability and integrity of any **Processor Personnel** who have access to the **Personal Data** and ensure that they:
 - (A) are aware of and comply with the **Processor's** duties under this Annex C, clauses 13 (*Data protection*), 14 (*What you must keep confidential*) and 15 (*When you can share Information*) of the conditions;
 - (B) are subject to appropriate confidentiality undertakings with the **Processor** or any Sub **Processor**;
 - (C) are informed of the confidential nature of the **Personal Data** and do not publish, disclose or divulge any of the **Personal Data** to any third **Party** unless directed in writing to do so by the **Controller** or as otherwise permitted by the Agreement; and
 - (D) have undergone adequate training in the use, care, protection and handling of **Personal Data**;
- (d) not transfer **Personal Data** outside of the UK unless the prior written consent of the **Controller** has been obtained and the following conditions are fulfilled:
 - (i) the destination country has been recognised as adequate by the UK government in accordance with Article 45 **UK GDPR** or section 74 of the DPA 2018;
 - (ii) the **Controller** or the **Processor** has provided appropriate safeguards in relation to the transfer (whether in accordance with **UK GDPR** Article 46 or section 75 DPA 2018) as determined by the **Controller**;
 - (iii) the **Data Subject** has enforceable rights and effective legal remedies;
 - (iv) the **Processor** complies with its obligations under the **Data Protection Legislation** by providing an adequate level of protection to any **Personal Data** that is transferred (or, if it is not so bound, uses its best endeavours to assist the **Controller** in meeting its obligations); and
 - (v) the **Processor** complies with any reasonable instructions notified to it in advance by the **Controller** with respect to the **Processing** of the **Personal Data**; and
- (e) at the written direction of the **Controller**, delete or return **Personal Data** (and any copies of it) to the **Controller** on Termination of the *Buyer Agreement* unless the **Processor** is required by *Law* to retain the **Personal Data**.

- 6 Subject to paragraph 7 of this Annex B, the **Processor** shall notify the **Controller** immediately if in relation to it **Processing Personal Data** under or in connection with the **Buyer Agreement** it:
- (a) receives a **Data Subject Request** (or purported **Data Subject 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 the **Buyer Agreement**;
 - (e) receives a request from any third **Party** for disclosure of **Personal Data** where compliance with such request is required or purported to be required by **Law**, or
 - (f) becomes aware of a Data Loss Event.
- 7 The **Processor's** obligation to notify under paragraph 6 of this Annex C shall include the provision of further **Information** to the **Controller**, as details become available.
- 8 Taking into account the nature of the **Processing**, the **Processor** shall provide the **Controller** with full assistance in relation to either **Party's** obligations under **Data Protection Legislation** and any complaint, communication or request made under paragraph 6 of this Annex C (and insofar as possible within the timescales reasonably required by the **Controller**) including but not limited to promptly providing:
- (a) the **Controller** with full details and copies of the complaint, communication or request;
 - (b) such assistance as is reasonably requested by the **Controller** to enable it to comply with a **Data Subject Request** within the relevant timescales set out in the **Data Protection Legislation**;
 - (c) the **Controller**, at its request, with any **Personal Data** it holds in relation to a **Data Subject**;
 - (d) assistance as requested by the **Controller** following any Data Loss Event; and/or
 - (e) assistance as requested by the **Controller** with respect to any request from the **Information Commissioner's Office**, or any consultation by the **Controller** with the **Information Commissioner's Office**.
- 9 The **Processor** shall maintain complete and accurate records and **Information** to demonstrate its compliance with this Annex B. This requirement does not apply where the **Processor** employs fewer than 250 staff, unless:
- (a) the **Controller** determines that the **Processing** is not occasional;
 - (b) the **Controller** determines the **Processing** includes special categories of data as referred to in Article 9(1) of the **UK GDPR** or **Personal Data** relating to criminal convictions and offences referred to in Article 10 of the **UK GDPR**; or
 - (c) the **Controller** determines that the **Processing** is likely to result in a risk to the rights and freedoms of **Data Subjects**.
- 10 The **Processor** shall allow for audits of its Data **Processing** activity by the **Controller** or the **Controller's** designated auditor.
- 11 Each **Party** shall designate its own **Data Protection Officer** if required by **Data Protection Legislation**.
- 12 Before allowing any **SubProcessor** to Process any **Personal Data** related to the **Buyer Agreement**, the **Processor** must:
- (a) notify the **Controller** in writing of the intended **SubProcessor** and **Processing**;
 - (b) obtain the written consent of the **Controller**;

- (c) enter into a written agreement with the **SubProcessor** which give effect to the **Terms** set out in this Annex C such that they apply to the **SubProcessor**; and
- (d) provide the **Controller** with such **Information** regarding the **SubProcessor** as the **Controller** may reasonably require.

13 The **Processor** shall remain fully liable for all acts or omissions of any of its **SubProcessors**.

14 NOT USED

15 The **Party** agree to take account of any guidance issued by the **Information Commissioner's Office**. National Highways may on not less than thirty (30) **Working Days'** notice to the **Supplier** amend the Agreement to ensure that it complies with any guidance issued by the **Information Commissioner's Office**.

PART 2: Where the Party are Joint Controllers of Personal Data

16 In the event that the **Party** are **Joint Controllers** in respect of **Personal Data** under the **Buyer Agreement**, the **Party** shall prepare and agree in writing such wording as is necessary to comply with GDPR Article 26 within 28 days of the date of the **Buyer Agreement**.

PART 3: Independent Controllers of Personal Data

17 With respect to **Personal Data** provided by one **Party** to another **Party** for which each **Party** acts as **Controller** but which is not under the Joint Control of the **Party**, each **Party** undertakes to comply with the applicable **Data Protection Legislation** in respect of their **Processing** of such **Personal Data** as **Controller**.

18 Each **Party** shall Process the **Personal Data** in compliance with its obligations under the **Data Protection Legislation** and not do anything to cause the other **Party** to be in breach of it.

19 Where a **Party** has provided **Personal Data** to the other **Party** in accordance with paragraph 7 of this Annex C above, the recipient of the **Personal Data** will provide all such relevant documents and **Information** relating to its data protection policies and procedures as the other **Party** may reasonably require.

20 The **Party** shall be responsible for their own compliance with Articles 13 and 14 **UK GDPR** in respect of the **Processing** of **Personal Data** for the purposes of the **Buyer Agreement**.

21 The **Supplier** shall indemnify National Highways against any **Losses**, damages, cost or expenses incurred by National Highways arising from, or in connection with, any breach of the **Supplier's** obligations under Part 3 of this Annex B

22 The provisions of Part 3 of this Annex C shall apply during the continuance of the **Buyer Agreement** and indefinitely after its expiry or Termination.

Appendix 1 - Processing Personal Data

This Appendix shall be completed by the **Controller**, who may take account of the view of the **Processors**, however the final decision as to the content of this Appendix shall be with the **Buyer** at its absolute discretion.

1. The contact details of the **Buyer's Data Protection Officer** are: **[Insert]** Contact details]
2. The contact details of the **Supplier's Data Protection Officer** are: **[Insert]** Contact details]
3. The **Processor** shall comply with any further written instructions with respect to **Processing** by the **Controller**.
4. Any such further instructions shall be incorporated into this Appendix.

Description	Details
<p>Identity of Controller for each Category of Personal Data</p>	<p>The Buyer is Controller and the Supplier is Processor</p> <p>The Party acknowledge that in accordance with paragraph 2 to paragraph 15 of Annex C and for the purposes of the Data Protection Legislation, the Buyer is the Controller and the Supplier is the Processor of the following Personal Data:</p> <ul style="list-style-type: none"> • [Insert] the scope of Personal Data which the purposes and means of the Processing by the Supplier is determined by the Buyer] <p>The Supplier is Controller and the Buyer is Processor</p> <p>The Party acknowledge that for the purposes of the Data Protection Legislation, the Supplier is the Controller and Buyer is the Processor in accordance with paragraph 2 to paragraph 15 of Annex C of the following Personal Data:</p> <ul style="list-style-type: none"> • [Insert] the scope of Personal Data which the purposes and means of the Processing by the Buyer is determined by the Supplier] <p>The Party are Joint Controllers</p> <p>The Party acknowledge that they are Joint Controllers for the purposes of the Data Protection Legislation in respect of:</p> <ul style="list-style-type: none"> • [Insert] the scope of Personal Data which the purposes and means of the Processing is determined by the both Parties together] <p>The Party are Independent Controllers of Personal Data</p> <p>The Party acknowledge that they are Independent Controllers for the purposes of the Data Protection Legislation in respect of:</p> <ul style="list-style-type: none"> • Business contact details of Supplier Personnel for which the Supplier is the Controller, • Business contact details of any directors, officers, employees, agents, consultants and contractors of Buyer (excluding the Supplier Personnel) engaged in the performance of the Buyer's duties under the Buyer Agreement) for which Buyer is the Controller,

	<ul style="list-style-type: none"> • [Insert the scope of other Personal Data provided by one Party who is Controller to the other Party who will separately determine the nature and purposes of its Processing the Personal Data on receipt e.g. where (1) the Supplier has professional or regulatory obligations in respect of Personal Data received, (2) a standardised service is such that the Buyer cannot dictate the way in which Personal Data is processed by the Supplier, or (3) where the Supplier comes to the transaction with Personal Data for which it is already Controller for use by the Buyer] <p>[Guidance where multiple relationships have been identified above, please address the below rows in the table for in respect of each relationship identified]</p>
Duration of the Processing	[Clearly set out the duration of the Processing including dates]
Nature and purposes of the Processing	<p>[Please be as specific as possible, but make sure that you cover all intended purposes.</p> <p>The nature of the Processing means any operation such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means) etc.</p> <p>The purpose might include employment Processing, statutory obligation, recruitment assessment etc.]</p>
Type of Personal Data	[Examples here include name, address, date of birth, NI number, telephone number, pay, images, biometric data etc.]
Categories of Data Subject	[Examples include: Staff (including volunteers, agents, and temporary Workers), customers/ clients, Suppliers , patients, students / pupils, members of the public, users of a particular website etc.]
International transfers and legal gateway	[Explain where geographically Personal Data may be stored or accessed from. Explain the legal gateway you are relying on to export the data e.g., adequacy decision, EU SCCs, UK IDTA. Annex any SCCs or IDTA to this contract].
Plan for return and destruction of the data once the Processing is complete. UNLESS requirement under Union or Member State Law to preserve that type of data	[Describe how long the data will be retained, how it be returned or destroyed]

Annex D

Part 1 – Deliverables

[Insert] details of *Deliverables*

Part 2 – Charges

[Insert] details of the *Charges* for the *Deliverables*