

**DATED** \_\_\_\_\_

**Draft (3)**

**(1) SUPPLIER**

**(2) AUTHORITY**

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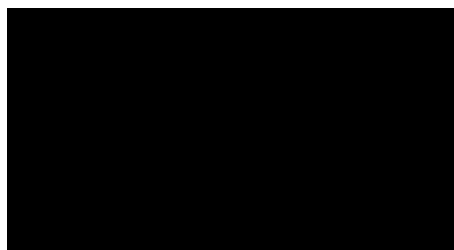
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**DATA LICENCE AGREEMENT**



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THIS AGREEMENT is dated [DATE]

## PARTIES

- (1) [FULL COMPANY NAME] incorporated and registered in England and Wales with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] ("Supplier").
- (2) OFFICE FOR NATIONAL STATISTICS acting as part of the Crown, an executive office of the Statistics Board of Government Buildings, Cardiff Road, Newport, Gwent, NP10 8XG ("Authority").

## BACKGROUND

- (A) The parties wish to cooperate in certain arrangements relating to the supply of Services (including the Supplier Data) to the Authority (both terms as defined below).
- (B) The Supplier has agreed to provide such Services on the terms set out in this Agreement.
- (C) As part of the Services, the Supplier has agreed to license to the Authority the Supplier Data for the Permitted Use on the terms set out in this Agreement.

## AGREED TERMS

### 1. INTERPRETATION

- 1.1 The definitions and rules of interpretation in this Clause apply in this Agreement and in any other agreement between the parties.

"Authority Data"	means each of the Authority Manipulated Data and the Authority Raw Data;
"Authority Derived Data"	means Derived Data that has been Manipulated by, or on behalf of, the Authority by combining the Supplier Data with the Authority Raw Data in connection with the Services;
"Authority Manipulated Data"	means Manipulated Data that has been Manipulated by, or on behalf of, the Authority, including the Authority Derived Data, by combining the Supplier Data with the Authority Raw Data in connection with the Services;
"Authority Raw Data"	means Data which has not been Manipulated under or in connection with this Agreement, and which the Authority has supplied to, or enabled access by, the Supplier in connection with the Services;
"Authority Policies"	the Authority's policies and codes as detailed on the Authority's website together with the policies detailed in Schedule 3 and such other policies as notified to the Supplier from time to time;
"Authority User"	any employee or contractor of the Authority authorised by the Authority to access the Project Data and use the Services (wholly or in part);
"Business Day"	any day other than a Saturday, Sunday or public holiday in England and Wales;

<b>"Change Control Process"</b>	means (i) agreement in writing between the parties specifying the agreed change or, (ii) where required by the Authority, adherence to and completion of the Authority's specified process for the agreement of a change.
<b>"Charges"</b>	the charges specified in Schedule 2;
<b>"Commencement Date"</b>	means <b>TBC date on which this agreement will commence</b> ;
<b>"Commercially Sensitive Information"</b>	means information of a commercially sensitive nature relating to the Supplier, its Intellectual Property Rights or its business or which the Supplier has indicated to the Authority that, if disclosed by the Authority, would cause the Supplier significant commercial disadvantage or material financial loss;
<b>"Confidential Information"</b>	all confidential information (however recorded or preserved) disclosed by a party or its employees, officers, representatives, advisers or sub-contractors involved in the provision or receipt of the Services who need to know the confidential information in question (" <b>Representatives</b> ") to the other party and that party's Representatives in connection with this Agreement, which is either labelled as such or else which should reasonably be considered as confidential because of its nature and the manner of its disclosure;
<b>"Data"</b>	the data or information of whatever nature, in whatever form, including in writing, orally, by demonstration, electronically and in a tangible, visual or machine-readable medium (including CD-ROM, magnetic and digital form), images, still and moving, and sound recordings, the provision of which comprises the Services (wholly or in part) and which may include Personal Data;
<b>"Data Protection Requirements"</b>	the Data Protection Act 1998, the Data Protection Directive (95/46/EC), the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive (2002/58/EC), the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2426/2003) and all applicable laws and regulations relating to the processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Regulator or relevant Government Department in relation to such legislation, and the equivalent of any of the foregoing in any relevant jurisdiction to which a party to this Agreement is subject in relation to any processing that is being carried out under, or in connection with, this Agreement;
<b>"Data Subject Request"</b>	means a subject access request or notice from a Data Subject exercising his rights under the Data Protection Requirements in relation to the Project Personal Data;
<b>"Deliverable"</b>	any item delivered or to be delivered by the Supplier by or on the Key Date or at any other stage during the performance of this Agreement;
<b>"Derived Data"</b>	any Data (wholly or in part) Manipulated to such a degree that it: <ul style="list-style-type: none"> <li>(a) cannot be identified as originating or deriving directly from the Data or the Services and cannot be reverse-engineered such that it can be so identified; and</li> </ul>

	(b) is not capable of use substantially as a substitute for the Data or the Services:
<b>"Distribute"</b>	to make Project Data accessible (including the provision of access through a database or other application populated with the Project Data, re-selling, sub-licensing, transferring or disclosing the Project Data) by any means, including any electronic means;
<b>"DOTAS"</b>	means 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 by the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012, SI 2012/1868) made under section 132A of the Social Security Administration Act 1992;
<b>"Freedom of Information Laws"</b>	means the Freedom of Information Act 2000, the Environmental Information Regulations 2004 and any subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by the Regulator or relevant Government Department in relation to such legislation;
<b>"General Anti-Abuse Rule"</b>	means the legislation in Part 5 of the Finance Act 2013 and any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid national insurance contributions;
<b>"Good Industry Practice"</b>	means standards, practices, methods and procedures conforming to the Law and the exercise of the degree of care, skill, diligence, prudence, efficiency, foresight and timeliness which would be reasonably and ordinarily expected at such time from a skilled and experienced body engaged within the relevant industry or business sector;
<b>"Halifax Abuse Principle"</b>	means the principle explained in the CJEU Case C-255/02 Halifax and others;
<b>"holding company and subsidiary:"</b>	mean a "holding company" and "subsidiary" as defined in section 1159 of the Companies Act 2006 [and a company shall be treated, for the purposes only of the membership requirement contained in subsections 1159(1)(b) and (c), as a member of another company even if its shares in that other company are registered in the name of (a) another person (or its nominee), whether by way of security or in connection with the taking of security, or (b) its nominee]. In the case of a limited liability partnership which is a subsidiary of a company or another limited liability partnership, section 1159 of the Companies Act 2006 shall be amended so that: (a) references in sub sections 1159(1)(a) and (c) to voting rights are to the members' rights to vote on all or substantially all matters which are decided by a vote of the members of the limited liability partnership; and (b) the reference in section 1159(1)(b) to the right to appoint or remove a majority of its board of directors is to the right to appoint or remove members holding a majority of the voting rights;]
<b>"Information"</b>	means all information of whatever nature, however conveyed and

	in whatever form, including in writing, orally, by demonstration, electronically and in a tangible, visual or machine-readable medium (including CD-ROM, magnetic and digital form);
<b>"Intellectual Property Rights"</b>	all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, semi-conductor topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;
<b>"Key Dates"</b>	the dates specified by the Authority for provision of the Services as detailed in the Specification or Schedule 1 (as applicable);
<b>"Manipulate"</b>	to combine or aggregate the Data (wholly or in part) with other data or information or to adapt the Data (wholly or in part) and <b>"Manipulation"</b> shall be construed accordingly;
<b>"Manipulated Data"</b>	any Data which has been Manipulated, including any Derived Data;
<b>"Normal Business Hours"</b>	[8.30] am to [6.00] pm GMT on a Business Day;
<b>"Occasion of Tax Non Compliance"</b>	means: <ul style="list-style-type: none"> <li>(a) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 is found to be incorrect as a result of: <ul style="list-style-type: none"> <li>(i) a Relevant Tax Authority successfully challenging the Supplier under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation in any jurisdiction that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle;</li> <li>(ii) the failure of an avoidance scheme which the Supplier was involved in, and which was, or should have been, notified to a Relevant Tax Authority under DOTAS or any equivalent or similar regime in any jurisdiction; and/or</li> <li>(iii) the Supplier's tax affairs give rise on or after 1 April 2013 to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Commencement Date or to a penalty for civil fraud or evasion;</li> </ul> </li> </ul>
<b>"Permitted Use"</b>	means the permission to: <ul style="list-style-type: none"> <li>(i) analyse the Supplier Data;</li> <li>(ii) store the Supplier Data;</li> </ul>

	(iii) Distribute the Supplier Data to Authority Users for use in connection with the Research Project and other research projects being carried out by the Authority Users or on behalf of the Authority Users;
	(iv) use and/or Manipulate the Supplier Data to create Authority Manipulated Data, including Authority Derived Data; and
	(v) use the Supplier Data as part of the Project Data in the Research Projects and publish the outputs from such Research Projects on its website or otherwise as it thinks fit;
<b>"Personnel"</b>	means all directors, officers, employees, agents, consultants and contractors and third party providers of the Supplier and/or of any sub-contractor engaged in the performance of the Supplier's obligations under this Agreement;
<b>"Project Data"</b>	means together the Authority Data and the Supplier Data;
<b>"Project Personal Data"</b>	means any Project Data that constitutes Personal Data;
<b>"Regulator"</b>	means the UK Information Commissioner (including any successor or replacement);
<b>"Regulator Correspondence"</b>	means any correspondence from a Regulator in relation to the Processing of the Project Personal Data;
<b>"Release"</b>	generally available upgrades and enhancements to the Supplier Data;
<b>"Relevant Tax Authority"</b>	means HMRC, or, if applicable, the tax authority in the jurisdiction in which the Supplier is required to submit a tax return;
<b>"Request for Information"</b>	means a Request for Information under the Freedom of Information Laws;
<b>"Research Project"</b>	means <b>Mobile Data: the provision of geo location data collected from the devices being used by the Supplier's customers, which can be used to identify the volume and patterns of how individuals move throughout the country on any given day at any given time;</b>
<b>"Security Feature"</b>	any security feature including any key, PIN, password, token or smartcard;
<b>"Services"</b>	the services to be supplied by the Supplier under this Agreement as described in Schedule 1 including the supply of Supplier Data and the Manipulation of such Supplier Data and the Authority Raw Data;
<b>"Specification"</b>	means the detailed description of the Deliverables and Services to be provided by the Supplier under this Agreement as included within Schedule 1;
<b>"Supplier Data"</b>	means [each of] the Supplier Manipulated Data [and the Supplier Raw Data];

**"Supplier Derived Data"** means Derived Data that has been Manipulated by, or on behalf of, the Supplier (other than by the Authority) and which the Supplier has supplied to, or enabled accessed by, the Authority in connection with the Services;

**"Supplier Manipulated Data"** means Manipulated Data that has been Manipulated by, or on behalf of, the Supplier (other than by the Authority), including the Supplier Derived Data and which the Supplier has supplied to, or enabled accessed by, the Authority in connection with the Services;

**["Supplier Raw Data"** means Data which has not been Manipulated under or in connection with this Agreement, and which the Supplier has supplied to, or enabled access by, the Authority in connection with the Services;] [and]

**"Term"** the period of this Agreement as described in clause 2

1.2 **"Data Controller", "Data Processor", "Data Subject", "Personal Data" and "Processing"** shall bear the meanings given to those terms respectively in the Data Protection Act 1998, and **"process"** and **"processed"** shall be construed accordingly. Any reference to the **"Seventh Data Protection Principle"** means the seventh data protection principle, as set out in the Data Protection Act 1998.

1.3 Clause, schedule and paragraph headings shall not affect the interpretation of this Agreement.

1.4 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.5 The schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the schedules.

1.6 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.

1.7 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

1.8 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

1.9 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.

1.10 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.

1.11 References to Clauses and schedules are to the Clauses and schedules of this Agreement and references to paragraphs are to paragraphs of the relevant schedule.

1.12 Any words following the terms **including, include, in particular or for example** or any similar phrase shall be construed as illustrative and shall not limit the generality of the related general words.

## 2. **SCOPE AND TERM**

2.1 The Supplier acknowledges that, in entering into this Agreement, no form of exclusivity has been conferred on, or volume guarantee granted by, the Authority in relation to the provision of the Services by the Supplier and that the Authority is at all times entitled to enter into other contracts



and agreements with other suppliers for the provision of any or all services which are the same as, or similar to, the Services.

2.2 This Agreement shall commence on the Commencement Date and, unless it is terminated earlier in accordance with the terms and conditions of this Agreement or otherwise by operation of Law, it shall expire automatically on the earlier of:

2.2.1 completion of provision of all Deliverables to the Authority's satisfaction; or

2.2.2 termination of the Research Project.

2.3 This Agreement, including the schedules, shall prevail to the exclusion of any terms or conditions endorsed upon, delivered with, or contained within, the Supplier's standard terms, quotations, acknowledgments or other similar documents and the Supplier waives any right to rely on such terms or conditions.

2.4 If there is any conflict between the clauses of this Agreement and the Schedules and/or any Annexes to the Schedules, the conflict shall be resolved in accordance with the following order of precedence:

2.4.1 the clauses of this Agreement;

2.4.2 the schedules to this Agreement;

2.4.3 any annexes (other than any Supplier solution or proposal document); and

2.4.4 the commercial detail of the Supplier solution or proposal document (excluding any standard terms detailed therein).

### 3. **CONNECTIONS**

3.1 Each party shall, at its own cost and during the Term, maintain an electronic connectivity between the parties for the purposes of delivering the Services.

### 4. **SERVICES**

4.1 The Supplier shall, [in return for the Charges,] provide the Services from the Commencement Date for the Term subject to, and in accordance with, this Agreement.

4.2 In the event that either party requires a change to:

4.2.1 the content, format or nature of Project Data or the Services; or

4.2.2 the means of access to the Project Data or the Services;

the parties shall agree such change by agreement in writing by means of the Change Control Process.

4.3 In supplying the Services, the Supplier shall:

4.3.1 co-operate with the Authority in all matters relating to the Services and comply with all the Authority's reasonable instructions;

4.3.2 perform the Services with all reasonable care, skill and diligence in accordance with Good Industry Practice in the Supplier's industry, profession or trade;

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

- 4.3.4 ensure that the Services shall conform with all descriptions and specifications as agreed between the parties;
- 4.3.5 comply with all applicable Laws and maintain throughout the Term all the consents, approvals, licences and permissions (statutory, regulatory contractual or otherwise) it may require and which are necessary for the provision of the Services;
- 4.3.6 perform the Services in a timely manner and in accordance with the Key Dates and timescales detailed in the Specification. Timely performance of the Services shall be of the essence under this Agreement;
- 4.3.7 notify the Authority in writing within 10 Business Days of their occurrence, of any actions, suits or proceedings or regulatory investigations before any court or administrative body or arbitration tribunal pending or, to its knowledge, threatened against it that might affect its ability to perform its obligations under this Agreement;
- 4.3.8 ensure that neither it, nor any of its affiliates, embarrasses the Authority or otherwise brings the Authority into disrepute by engaging in any act or omission which is reasonably likely to diminish the trust that the public places in the Authority, regardless of whether or not such act or omission is related to the Supplier's obligations under this Agreement;
- 4.3.9 manage closure or termination of Services to take account of any requirement of the Authority including recycling and scope for re-use, and any applicable standards required by the Authority to ensure a smooth handover of the Services to the Authority or a replacement provider; and
- 4.3.10 collaborate and co-operate with the Authority and its other contractors to enable such parties to create and maintain technical or organisational interfaces with the Services (as appropriate).

4.4 The Supplier acknowledges that it has satisfied itself of all details relating to the performance of the Services, and shall neither be entitled to any additional payment, nor excused from any liabilities under this Agreement if it has misinterpreted any matter or fact relating to the Services.

## 5. CHARGES AND INVOICING

5.1 For the performance of the Services and the provision of the Supplier Data, the Authority shall pay to the Supplier the Charges.

5.2 The Charges for the Services shall be as set out in Schedule 2 and shall be the full and exclusive remuneration of the Supplier in respect of the supply of the Services. Unless otherwise agreed in writing by the Authority, the Charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services and no additional charges or fees may be made in relation to the performance of the Services.

5.3 All amounts stated are exclusive of VAT which shall be charged at the prevailing rate. The Authority shall, following the receipt of a valid VAT invoice, pay to the Supplier a sum equal to the VAT chargeable in respect of the Services.

5.4 The Supplier shall invoice the Authority as specified in this Agreement. Each invoice shall include such supporting information required by the Authority to verify the accuracy of the invoice, including the relevant purchase order number and a breakdown of the Services supplied in the invoice period.

5.5 In consideration of the supply of the Services by the Supplier, the Authority shall pay the Supplier the invoiced amounts no later than 30 days after verifying that the invoice is valid and undisputed and includes a valid purchase order number. The Authority may, without prejudice to any other rights and remedies under this Agreement, withhold or reduce payments in the event of unsatisfactory performance.

- 5.6 The Supplier shall be responsible at all times for payment of taxes and dues to the appropriate government bodies and warrants that it shall continuously indemnify and hold the Authority harmless for:
- 5.6.1 all liabilities, penalties, interest or costs for PAYE, ERNIC or other taxes and deductions which may become payable levied, demanded or incurred as a result of payments made to the Supplier by the Authority under this Agreement; and
  - 5.6.2 all liabilities for the Supplier's failure to account for or to pay for any VAT relating to payments made under this Agreement.
- 5.7 The Authority shall not be liable for any charges levied by the Supplier or its Personnel for any work carried out, or purchases made, by the Supplier, or its Personnel, except where the work, or purchases, have been formally ordered in writing in advance by the Authority's representative.
- 5.8 If, at any point during the Term, an Occasion of Tax Non-Compliance occurs, the Supplier shall:
- 5.8.1 notify the Authority in writing of such fact within five (5) Business Days of its occurrence; and
  - 5.8.2 promptly provide to the Authority:
    - (a) details of the steps that the Supplier is taking to address the Occasion of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors that it considers relevant; and
    - (b) such other information in relation to the Occasion of Tax Non-Compliance as the Authority may reasonably require.

## 6. **CONFLICTS OF INTEREST**

- 6.1 The Supplier shall take appropriate steps to ensure that neither it nor any of its Personnel are placed in a position where, in the reasonable opinion of the Authority, there is or may be an actual conflict, or a potential or perceived conflict, between the pecuniary or personal interests of the Supplier or its Personnel and the duties owed to the Authority under this Agreement. The Supplier shall disclose to the Authority full particulars of any such conflict of interest which may arise.
- 6.2 The Authority reserves the right to terminate this Agreement by notice in writing and/or to take such steps it deems necessary to avoid or, as the case may be, remove such conflict of interest.

## 7. **AUDIT**

- 7.1 The Supplier shall keep, in paper and electronic form, at its normal place of business detailed, accurate and up-to-date records ("**Records**") showing the steps taken by the Supplier to comply with the Authority's requirements under this Agreement.
- 7.2 The Supplier shall permit the Authority and its third party representatives, on reasonable notice during Normal Business Hours, but without notice in case of any reasonably suspected breach of this Clause 7, to:
- 7.2.1 gain (physical and remote electronic) access to, and take copies of, the Records and any other information held at the Authority's premises; and
  - 7.2.2 inspect all Records relating to the use, Distribution, redistribution, permissioning and control of the Supplier Data and the Services including the supply of such Supplier Data to the Supplier by any third parties (where applicable).

for the purpose of auditing Supplier's compliance with its obligations under this Agreement. Such audit rights shall continue for six years after termination of this Agreement. The Supplier shall give

all necessary assistance to the conduct of such audits during the Term and for a period of six years after termination of this Agreement.

## 8. **CONFIDENTIALITY, TRANSPARENCY AND PUBLICITY**

8.1 Without prejudice to the application of the Official Secrets Acts 1911 to 1989 to any Confidential Information, the Supplier acknowledges that any Confidential Information obtained from or relating to the Crown, its employees, representatives or agents is the property of the Crown.

8.2 Subject to Clause 8.3, each party shall:

8.2.1 treat all Confidential Information it receives as confidential, safeguard it accordingly and not disclose it to any other person without the prior written permission of the disclosing party;

8.2.2 immediately notify the other party if it suspects or becomes aware of any unauthorised access, copying, use or disclosure in any form of any of the other party's Confidential Information; and

8.2.3 not use or exploit the disclosing party's Confidential Information in any way except for the purposes anticipated under this Agreement.

8.3 Notwithstanding Clause 8.1, a party may disclose Confidential Information which it receives from the other party:

8.3.1 where disclosure is required by applicable law or by a court of competent jurisdiction;

8.3.2 to its auditors or for the purposes of regulatory requirements;

8.3.3 on a confidential basis, to its professional advisers;

8.3.4 to the Serious Fraud Office where the party has reasonable grounds to believe that the other party is involved in activity that may constitute a criminal offence under the Bribery Act 2010;

8.3.5 where the receiving party is the Supplier, to the Personnel on a need to know basis to enable performance of the Supplier's obligations under this Agreement, provided that the Supplier shall procure that any Personnel to whom it discloses Confidential Information pursuant to this Clause 8.3.5 shall observe the Supplier's confidentiality obligations under this Agreement; and

8.3.6 where the receiving party is the Authority:

(a) on a confidential basis to the employees, agents, consultants and contractors of the Authority;

(b) on a confidential basis to any other Central Government Body, any successor body to a Central Government Body or any company to which the Authority transfers or proposes to transfer all or any part of its business;

(c) to the extent that the Authority (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions; or

(d) in accordance with Clause 9,

and for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the Authority under this Clause 8.

- 8.4 The Supplier shall not handle Authority information classified SECRET or TOP SECRET or OFFICIAL except if there is a specific requirement and, in this case, prior to receipt of such information, the Supplier shall seek additional specific guidance from the Authority.
- 8.5 The Supplier shall ensure that no unauthorised person gains access to any Confidential Information, or any data obtained in the performance of this Agreement, and the Supplier undertakes to maintain adequate security systems that meet the requirements of Good Industry Practice. Where any Confidential Information belonging to the Authority, or obtained from the Authority in connection with this Agreement, is used at the Supplier's premises, the Supplier shall apply appropriate security arrangements specified by the Authority and the Authority may require the Supplier to alter these arrangements at any time during this Agreement.
- 8.6 The Supplier shall immediately notify the Authority of any unauthorised disclosure of, or access, to Confidential Information obtained in the supply of the Services under this Agreement and will keep a record of such disclosures or access. The Supplier shall use its best endeavours to recover such Confidential Information, however it may be recorded. The Supplier shall cooperate with the Authority in any investigation that the Authority considers necessary to undertake as a result of any breach of security in relation to Confidential Information.
- 8.7 The Supplier shall not, and shall ensure that its Personnel shall not, make any press announcement or publicise this Agreement or any part of this Agreement in any way, except with the prior written consent of the Authority. The Supplier shall not promote its involvement or association with the Research Project in any way unless specifically permitted by the Authority in writing in advance on a case by case basis. The Authority shall be entitled to publicise this Agreement and any findings of any reports produced in connection with the performance of this Agreement and delivery of the Services as it thinks fit including publicising any or all outputs from the Research Project.
- 8.8 The Supplier shall not do anything or cause anything to be done, which may damage the reputation of the Authority or bring the Authority into disrepute.
- 8.9 Each party acknowledges to the other that nothing in this Agreement either expressly or by implication constitutes an endorsement of any products or services of the other party and each party agrees not to conduct itself in such a way as to imply or express any such approval or endorsement.

## 9. **FREEDOM OF INFORMATION**

- 9.1 The parties acknowledge that the content of this Agreement is not Confidential Information and the Supplier hereby gives its consent for the Authority to publish this Agreement in its entirety to the general public. The Authority may consult with the Supplier to inform its decision regarding any redactions but shall have the final decision in its absolute discretion whether any of the content of this Agreement is exempt from disclosure in accordance with the provisions of the Freedom of Information Laws.
- 9.2 The Supplier acknowledges that the Authority is subject to the requirements of the Freedom of Information Laws and shall:
  - 9.2.1 provide all necessary assistance and cooperation as reasonably requested by the Authority to enable the Authority to comply with its obligations under the Freedom of Information Laws;
  - 9.2.2 transfer to the Authority all Requests for Information relating to this Agreement that it receives as soon as practicable and in any event within two (2) Business Days of receipt;

- 9.2.3 provide the Authority with a copy of all Information belonging to the Authority requested in the Request for Information which is in its possession or control in the form that the Authority requires within five (5) Business Days (or such other period as the Authority may reasonably specify) of the Authority's request for such Information; and
- 9.2.4 not respond directly to a Request for Information unless authorised in writing to do so by the Authority.
- 9.3 The Supplier acknowledges that the Authority may be required under the Freedom of Information Laws to disclose Information concerning the Supplier or the Services (including Commercially Sensitive Information) without consulting or obtaining consent from the Supplier. In these circumstances the Authority shall, in accordance with any relevant guidance issued under the Freedom of Information Laws, take reasonable steps, where appropriate, to give the Supplier advance notice, or failing that, to draw the disclosure to the Supplier's attention after any such disclosure.
- 9.4 Notwithstanding any other provision in this Agreement, the Authority shall be responsible for determining in its absolute discretion whether any Commercially Sensitive Information or other Information relating to the Supplier or the Services:
- 9.4.1 is exempt from disclosure in accordance with the Freedom of Information Laws; or
- 9.4.2 is to be disclosed in response to a Request for Information, and in no event shall the Supplier respond directly to a Request for Information unless expressly authorised to do so by the Authority.
- 9.5 The Supplier shall ensure that all information produced in the course of this Agreement or relating to this Agreement is retained for disclosure and shall permit the Authority to inspect such records as requested from time to time during the Term and for a period of six (6) years after this Agreement expires or is terminated.
- 9.6 The Supplier acknowledges that any lists that it provides outlining Confidential Information as Commercially Sensitive Information are of indicative value only, and that the Authority may nevertheless be obliged to disclose Commercially Sensitive Information in accordance with this Clause 9.
10. **DATA SHARING LICENCE**
- 10.1 In consideration of the parties performing their respective obligations under this Agreement, the Supplier shall provide the Supplier Data to the Authority in order for the Authority to use the Supplier Data for the Permitted Use and in accordance with the terms of this Agreement.
- 10.2 Where the Supplier transfers the Supplier Data to the Authority, it shall do so in the format and on the Key Dates and times set out in the Specification, or as otherwise agreed between the parties. Where the Supplier Data is required to be transferred to the Authority by the Supplier in more than one tranche, the terms of this Agreement shall apply on each and every occasion that the Supplier Data is transferred.
- 10.3 If requested to do so in writing by the Supplier, the Authority will acknowledge receipt of any Supplier Data transferred to it by the Supplier under this Agreement.
- 10.4 The parties acknowledge and agree that the Supplier shall retain ownership of the Supplier Data. With effect from such time as the Supplier provides the Authority with the Supplier Data, the Supplier hereby grants a fully paid and royalty-free, worldwide, perpetual, irrevocable non-exclusive, transferable and sub-licensable licence to the Authority to use any Intellectual Property Rights in the Supplier Data for the Permitted Use during the Term in accordance with, and subject to, the terms of this Agreement.
- 10.5 The Authority shall be entitled to use the Supplier Data (wholly or in part) in its products or services and Distribute them as required.

- 10.6 The Supplier acknowledges that any display of the Authority Manipulated Data by the Authority shall not be required to credit the Supplier as the source of such Data.
- 10.7 All Intellectual Property Rights in any materials created or developed by the Supplier pursuant to this Agreement or arising as a result of the provision of the Services, including the Authority Manipulated Data shall vest in the Authority. Intellectual Property Rights previously owned by either party shall continue to be so owned, and Intellectual Property Rights developed by either party independently of this Agreement shall be owned by the party who so developed them.
- 10.8 The Supplier shall indemnify, and keep indemnified, the Authority in full against all costs, expenses, damages and losses (whether direct or indirect), including legal and other professional fees awarded against or incurred or paid by the Authority as a result of or in connection with any claim made against the Authority for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the supply or use of the Supplier Data.
- 10.9 The Supplier shall notify the Authority, as soon as is reasonably possible, if any claim or demand is made or action brought against the Supplier for infringement or alleged infringement of any Intellectual Property Rights which may affect the use of the Services. The Authority shall notify the Supplier, as soon as is reasonably possible, if any claim or demand is made or action brought against the Authority to which this Clause 10 Intellectual Property Rights may apply.
- 10.10 The Authority shall not make any admissions that may be prejudicial to the defence or settlement of any claim, demand or action for infringement or alleged infringement of any Intellectual Property Rights by the Authority or the Supplier in connection with the Services.
- 10.11 If a claim, demand or action for infringement or alleged infringement of any Intellectual Property Rights is made in connection with the Services, or in the reasonable opinion of the Supplier is likely to be made, the Supplier may at its own expense either:
- 10.11.1 modify any or all of the Services, without reducing their performance, or substitute services of equivalent performance for any or all the Services, so as to avoid the infringement or the alleged infringement; or
  - 10.11.2 procure a licence to supply and perform the Services on terms that are acceptable to the Authority.
11. **DATA PROTECTION**
- 11.1 The parties acknowledge that if and to the extent that either party Processes Project Personal Data, the factual arrangement between them dictates the role of each party in respect of the Data Protection Requirements. Notwithstanding the foregoing, the parties anticipate that if and to the extent that a party Processes Project Personal Data, that party shall act as a Data Controller in respect of the Processing of the Project Personal Data. If and to the extent that both parties are Processing Project Personal Data, the parties shall each be a Data Controller of the Project Personal Data acting in common, as follows:
- 11.1.1 the Authority shall be a Data Controller where it is Processing the Project Personal Data in relation to the Research Project and
- 11.2 Notwithstanding Clause 11.1, if the Authority is deemed to be a joint Data Controller with the Supplier, the parties agree that the Supplier shall be responsible for the compliance obligations imposed on a Data Controller by the Data Protection Requirements, and the Authority shall do all reasonably necessary things to enable the Supplier to perform such compliance obligations, save that each party shall be responsible for compliance with its data security obligations set out in Clause 11.6(a) where Project Personal Data has been transmitted by it, or while Project Personal Data is in its possession or control.
- 11.3 If and to the extent that the Authority acts as a Data Controller in respect of the Processing of any of the Project Personal Data, it shall comply with the Data Protection Requirements.

- 11.4 If and to the extent that the Supplier acts as a Data Controller in respect of the Processing of any of the Project Personal Data, it shall:
- (a) make due notification to any relevant Regulator and shall comply at all times with the Data Protection Requirements;
  - (b) ensure it is not subject to any prohibition or restriction which would:
    - (i) prevent or restrict it from disclosing or transferring Project Personal Data to the Authority, as required under this Agreement;
    - (ii) prevent or restrict it from granting the Authority access to Project Personal Data, as required under this Agreement; or
    - (iii) prevent or restrict either party from Processing Project Personal Data, as envisaged under this Agreement;
  - (c) ensure that all fair processing notices have been given (and/or, as applicable, consents obtained) and are sufficient in scope to enable each party to Process Project Personal Data as required in order to obtain the benefit of its rights and to fulfil its obligations under this Agreement in accordance with the Data Protection Requirements;
  - (d) ensure that all Project Personal Data disclosed or transferred to, or accessed by, the other party is accurate and up-to-date, as well as adequate, relevant and not excessive to enable either party to Process Project Personal Data, as envisaged under this Agreement.
- 11.5 The Supplier shall notify the Authority immediately, and in any event within twenty-four (24) hours, upon becoming aware of any breach of security including actual, potential or attempted breach, or threat to the Authority's security. In such circumstances, the Supplier shall immediately take all reasonable steps to remedy such breach or protect against potential or attempted breach, including steps reasonably required by the Authority.
- 11.6 If and to the extent that a party is Processing Project Personal Data under, or in connection with, this Agreement, that party shall:
- (a) maintain technical and organisational measures sufficient to comply at least with the obligations imposed on a Data Controller by the Seventh Data Protection Principle, and shall take reasonable steps to ensure the reliability of any of each party's respective personnel who have access to such Project Personal Data;
  - (b) promptly, and in any event within forty-eight (48) hours of receipt of any Data Subject Request or Regulator Correspondence, notify the other party in the event that it receives such a Data Subject Request or Regulator Correspondence in relation to the Processing of such Project Personal Data under, or in connection with, this Agreement; and
  - (c) use reasonable endeavours to notify the other party if it is obliged to make a disclosure of such Project Personal Data under any statutory requirement, such notification to be made in advance of such disclosure or immediately thereafter unless prohibited by law.
- 11.7 The Supplier shall indemnify on demand and keep indemnified the Authority from and against any and all losses which the Authority may suffer or incur (directly or indirectly) in relation to the Supplier's failure to comply with its obligations under this Clause 11. Nothing in this Agreement shall exclude or limit a party's liability under this Clause 11.



11.8 If and to the extent that the Supplier is acting as Data Processor for and on behalf of the Authority in relation to Processing of Project Personal Data that it is carrying out arising out of, or in connection with, the provision of the [Services], it shall:

11.8.1 comply with the obligations imposed on the Authority by the Seventh Data Protection Principle, namely:

(a) maintain technical and organisational security measures sufficient to comply at least with the obligations imposed on the Authority by the Seventh Data Protection Principle, and shall take reasonable steps to ensure the reliability of any personnel of the Supplier who have access to such Project Personal Data; and

(b) only process such Project Personal Data for and on behalf of the Authority for the purpose of performing the [Services] and in accordance with this Agreement (and where necessary only on instructions from the Authority to ensure compliance with the Data Protection Requirements).

11.9 The Supplier shall be responsible for, and bear the risk of, compliance with any change in any Data Protection Requirements affecting this Agreement (a "**Data Protection Change**") and shall seek to implement all necessary changes required to this Agreement to address a Data Protection Change.

11.10 In respect of any change concerned by Clause 11.9, the Supplier shall consult with the Authority in relation to the interpretation and implementation of any change introduced as a result of any Data Protection Change. For the avoidance of doubt, neither party shall be liable to the other for any advice or opinion it may share with the other in relation to a Data Protection Change, or any interpretation thereof.

## 12. **WARRANTIES**

12.1 The Supplier warrants that:

12.1.1 it has the right to provide the Supplier Data to the Authority and permit the Authority to use it as specified in this Agreement;

12.1.2 it has and will continue to carry out all checks necessary to ensure the Supplier Data is anonymised;

12.1.3 the Compliance Questionnaire (a template for which is attached at Schedule [4]) has been accurately completed. In the event of any change to the status of the responses to the Compliance Questionnaire the Supplier shall notify the Authority as soon as reasonably practicable;

12.1.4 in performing its obligations under this agreement the Supplier shall comply with the Authority Policies;

12.1.5 it is not subject to any contractual obligation, compliance with which is likely to have a material adverse effect on its ability to perform its obligations under this Agreement;

12.1.6 there are no actions, suits or proceedings or regulatory investigations pending or, to that party's knowledge, threatened against or affecting that party before any court or administrative body or arbitration tribunal that might affect the ability of that party to meet and carry out its obligations under this Agreement;

12.1.7 it has and will continue to have all necessary rights in and to the Intellectual Property Rights, or any other materials made available by the Supplier to the Authority necessary to perform the Supplier's obligations under this Agreement;

12.1.8 in entering this Agreement it has not committed any fraud.

- 12.2 The Supplier also warrants, represents and undertakes to the Authority that in the three (3) years prior to the date of this Agreement (or from when the Supplier was formed if in existence for less than three (3) years prior to the Commencement Date):
- 12.2.1 it has conducted all financial accounting and reporting activities in all material respects in compliance with the generally accepted accounting principles that apply to it in any country where it files accounts;
  - 12.2.2 it has been in full compliance with all applicable securities and tax laws and regulations in the jurisdiction in which it is established;
  - 12.2.3 it has not done or omitted to do anything which could have a material adverse effect on its assets, financial condition or position as an ongoing business concern or its ability to fulfil its obligations under this Agreement; and
  - 12.2.4 as at the Commencement Date, it has notified the Authority in writing of any Occasions of Tax Non-Compliance or any litigation that it is involved in that is in connection with any Occasions of Tax Non-Compliance.

**13. GOVERNANCE AND RECORDS**

- 13.1 The Supplier shall comply with the governance requirements detailed in Schedule 1.
- 13.2 The Supplier shall keep and maintain until six (6) years after the end of this Agreement, or as long a period as may be agreed between the parties, full and accurate records of all elements of this Agreement. The Supplier shall on request afford the Authority or the Authority's representatives such access to those records as may be reasonably requested by the Authority in connection with this Agreement.

**14. LIMITATION OF LIABILITY**

- 14.1 Neither party excludes or limits its liability for:
- 14.1.1 fraud or fraudulent misrepresentation;
  - 14.1.2 death or personal injury caused by negligence;
  - 14.1.3 a breach of any obligations implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982;
  - 14.1.4 the Supplier's liability under Clause 11.7 or 12.1.1; or
  - 14.1.5 any matter in respect of which it would be unlawful for the parties to exclude liability.
- 14.2 Subject to Clause 14.1, neither party shall be liable whether in contract, tort (including for negligence and breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent) or otherwise, for:
- 14.2.1 any loss (whether direct or indirect) of profits, business, business opportunities, revenue, turnover, reputation or goodwill;
  - 14.2.2 loss (whether direct or indirect) of anticipated savings or wasted expenditure (including management time); or
  - 14.2.3 any loss or liability (whether direct, indirect special or consequential loss or damage) under or in relation to any other contract.

## 15. TERMINATION

- 15.1 Without prejudice to any rights that have accrued under this Agreement or any of its rights or remedies, either party may terminate this Agreement with immediate effect by giving written notice to the other party if the other party commits a material breach of this Agreement (other than failure to pay any amounts due under this Agreement) and (if that breach is remediable) fails to remedy that breach within a period of [30] days after being notified in writing to do so.

### Termination by the Authority

- 15.2 The Authority may terminate this Agreement or any Services (wholly or in part) at any time by serving no less than 1 month's notice in writing to the Supplier.
- 15.3 Without prejudice to any other right or remedy it might have, the Authority may terminate this Agreement by written notice to the Supplier with immediate effect if the Supplier:
- 15.3.1 is in material breach of any obligation under this Agreement which is not capable of remedy;
  - 15.3.2 repeatedly breaches any of the terms and conditions of this Agreement in such a manner as 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 this Agreement;
  - 15.3.3 undergoes a change of control within the meaning of section 416 of the Income and Corporation Taxes Act 1988;
  - 15.3.4 becomes insolvent, or if an order is made or a resolution is passed for the winding up of the Supplier (other than voluntarily for the purpose of solvent amalgamation or reconstruction), or if an administrator or administrative receiver is appointed in respect of the whole or any part of the Supplier's assets or business, or if the Supplier makes any composition with its creditors or takes or suffers any similar or analogous action (to any of the actions detailed in this Clause 15.3.4) in consequence of debt in any jurisdiction;
  - 15.3.5 on the occurrence of any of the statutory provisos contained in Regulation 73(1)(a) to (c) of the Public Contract Regulations 2015; or
  - 15.3.6 in the event that:
    - (a) the warranty relating to an Occasion of Tax Non-Compliance given by the Supplier pursuant to Clause 12.2.4 is materially untrue or misleading; or
    - (b) the Supplier commits a material breach of its obligation to notify the Authority of any Occasion of Tax Non-Compliance as required by Clause 5.8.1; or
    - (c) the Supplier fails to provide details of proposed mitigating factors as required by Clause 5.8.2 which in the reasonable opinion of the Authority, are acceptable.
- 15.4 The Supplier shall notify the Authority as soon as practicable of any change of control as referred to in Clause 15.3.3 or any potential such change of control.

### Termination by the Supplier

- 15.5 The Supplier may, by issuing written notice to the Authority, terminate:
- 15.5.1 this Agreement if the Authority fails to pay an undisputed sum due to the Supplier under this Agreement which in aggregate exceeds 100% and such amount remains outstanding [40] Business Days after the receipt by the Authority of a notice of non-payment from the Supplier; or

15.5.2 any Services that are materially impacted by a Force Majeure Event that endures for a continuous period of more than 90 days,

and this Agreement or the relevant Services (as the case may be) shall then terminate on the date specified in the Supplier's notice (which shall not be less than 20 Business Days from the date of the issue of the Supplier's notice).

## 16. CONSEQUENCES OF TERMINATION

16.1 Termination or expiry of this Agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of this Agreement which existed at or before the date of termination or expiry.

16.2 On any termination of this Agreement for any reason or expiry of the Term, the Supplier shall refund any Charges paid by the Authority for which Services have not been received.

16.3 On expiry or termination of this Agreement, howsoever caused, the Supplier shall immediately cease using the Authority Data and/ or the Authority's Confidential Information and, at the Authority's option or direction, arrange for the prompt and safe return and/or secure and permanent destruction of all the Authority Data and/ or the Authority's Confidential Information, together with all copies in its possession or control and, where requested by the Authority, certify that such destruction has taken place.

16.4 The rights and obligations of the parties under this Agreement which are intended to continue beyond termination or expiry of this Agreement shall continue in full force and effect and, in particular, this Clause 16 and Clause 1, Clause 8, Clause 9, Clause 10, Clause 11, Clause 14, Clause 17 and Clauses 20 to 24 (inclusive) shall survive termination or expiry of this Agreement.

## 17. INSURANCE REQUIREMENTS

17.1 The Supplier shall effect and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of insurance cover in respect of all risks which may be incurred by the Supplier, and which are usually insured in accordance with Good Industry Practice, arising out of the Supplier's performance of the Services (including but not limited to public liability, product liability, property damage and professional indemnity for any loss arising from any advice given or omitted to be given by the Supplier). The terms of any insurance or the amount of cover shall not relieve the Supplier of any liabilities under this Agreement.

17.2 The Supplier shall keep appropriate records of its compliance with this Clause and make such records available to the Authority upon request.

## 18. FORCE MAJEURE

Neither party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for [8] weeks, the party not affected may terminate this Agreement by giving [30] days' written notice to the affected party.

## 19. ASSIGNMENT AND SUB-CONTRACTING

19.1 The Supplier shall not without the written consent of the Authority assign, sub-contract, novate or in any way dispose of the benefit and/ or the burden of this Agreement or any part of this Agreement. The Authority may, in the granting of such consent, provide for additional terms and conditions relating to such assignment, sub-contract, novation or disposal. The Supplier shall be responsible for the acts and omissions of its sub-contractors and for any third party materials provided by the Supplier as though those acts and omissions or materials were its own.

- 19.2 Where the Supplier enters into a sub-contract, the Supplier shall include in that sub-contract obligations no less onerous on the sub-contractor than those imposed on the Supplier under this Agreement in respect of the confidentiality, publicity and transparency obligations set out in this Agreement.
- 19.3 The Authority may assign, novate, or otherwise dispose of its rights and obligations under this Agreement without the consent of the Supplier provided that such assignment, novation or disposal shall not increase the burden of the Supplier's obligations under this Agreement.

20. **NOTICE**

- 20.1 Any notice to be given under this Agreement shall be in writing and may be served by personal delivery, first class recorded or, subject to Clause 20.3, e-mail to the address of the relevant party set out below, or such other address as that party may from time to time notify to the other party in accordance with this Clause:

	Supplier	Authority
Contact	[Supplier to populate]	Gary Evans
Address	[Supplier to populate]	ONS ██ ████████████████████ ██████████ ████████████████████
Email	[Supplier to populate]	██████████@ons.gsi.gov.uk

- 20.2 Notices served as above shall be deemed served on the Business Day of delivery provided delivery is before 5.00pm on a Business Day. Otherwise delivery shall be deemed to occur on the next Business Day. An email shall be deemed delivered when sent unless an error message is received.
- 20.3 Notices under Clauses 18 (Force Majeure) and 15 (Term and Termination) may be served by email only if the original notice is then sent to the recipient by personal delivery or recorded delivery in the manner set out in Clause 20.1.

21. **PREVENTION OF FRAUD, BRIBERY AND CORRUPTION**

- 21.1 The Supplier shall comply with, and shall ensure that its Personnel shall comply with, the provisions of:
- 21.1.1 the Official Secrets Acts 1911 to 1989; and
- 21.1.2 section 182 of the Finance Act 1989.
- 21.2 The Supplier shall not offer, give, or agree to give, to any person, an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of this Agreement or for showing or refraining from showing favour or disfavour to any person in relation to this Agreement.
- 21.3 The Supplier shall not engage in and shall ensure that its Personnel shall not commit, in connection with this Agreement, a Prohibited Act under the Bribery Act 2010, or any other relevant laws, statutes, regulations or codes in relation to bribery and anti-corruption.

- 21.4 The Supplier warrants, represents and undertakes that it has not:
- 21.4.1 paid commission or agreed to pay commission to the Authority or any other public body or any person employed by or on behalf of the Authority or any public body in connection with this Agreement unless details of any such arrangement have been disclosed in writing to the Authority before execution of this Agreement; and
  - 21.4.2 entered into this Agreement with knowledge, that, in connection with it, any money has been, or will be, paid to any person working for or engaged by the Authority or any other public body or any person employed by or on behalf of the Authority in connection with this Agreement, or that an agreement has been reached to that effect, unless details of any such arrangement have been disclosed in writing to the Authority before execution of this Agreement.

## 22. GENERAL

- 22.1 Each of the parties represents and warrants to the other that it has full capacity and authority, and all necessary consents, licences and permissions to enter into and perform its obligations under this Agreement, and that this Agreement is executed by its duly authorised representative.
- 22.2 Each party shall appoint representatives with the authority to act on their behalf on matters set out in, or in connection with, this Agreement. Either party may, by written notice to the other party, revoke or amend the level of authority of its representative or appoint a new representative.
- 22.3 A person who is not a party to this Agreement shall have no right to enforce any of its provisions which, expressly or by implication, confer a benefit on him, without the prior written agreement of the parties. This Clause 22.3 does not affect any right or remedy of any person which exists or is available apart from the Contracts (Rights of Third Parties) Act 1999 and does not apply to the Crown.
- 22.4 This Agreement cannot be varied except in writing signed by a duly authorised representative of both the parties.
- 22.5 This Agreement contains the whole agreement between the parties and supersedes and replaces any prior written or oral agreements, representations or understandings between them. The parties confirm that they have not entered into this Agreement on the basis of any representation that is not expressly incorporated into this Agreement. Nothing in this Clause shall exclude liability for fraud or fraudulent misrepresentation.
- 22.6 Any waiver or relaxation either partly, or wholly of any of the terms and conditions of this Agreement shall be valid only if it is communicated to the other party in writing and expressly stated to be a waiver. A waiver of any right or remedy arising from a breach of contract shall not constitute a waiver of any right or remedy arising from any other breach of this Agreement.
- 22.7 This Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the parties other than the contractual relationship expressly provided for in this Agreement. Neither party shall have, nor represent that it has, any authority to make any commitments on the other party's behalf. The Supplier shall indemnify and keep the Authority fully indemnified, its employees, representatives and agents, and the Crown, against all claims, demands, proceedings, suits, actions, losses, damages, charges, costs and expenses (including but not limited to legal costs and disbursements on a solicitor and client basis) which are incurred by or made against the Authority, its employees, representatives or agents, or the Crown, arising out of or in connection with any of the Personnel asserting that they are an employee of the Authority or otherwise alleging any breach of any employment related legislation.
- 22.8 Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination of this Agreement shall remain in full force and effect.
- 22.9 Except as otherwise expressly provided by this Agreement, all remedies available to either party for breach of this Agreement (whether under this Agreement, statute or common law) are cumulative

and may be exercised concurrently or separately, and the exercise of one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

22.10 If any provision of this Agreement is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from this Agreement and rendered ineffective as far as possible without modifying the remaining provisions of this Agreement, and shall not in any way affect any other circumstances of or the validity or enforcement of this Agreement.

## 23. **DISPUTE RESOLUTION**

23.1 The parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with this Agreement and such efforts shall involve the escalation of the dispute to an appropriately senior representative of each party. The performance of obligations under this Agreement shall not cease or be suspended or delayed by the application of any procedure to resolve a dispute, and the Supplier shall comply fully with the requirements of this Agreement at all times.

23.2 If the dispute cannot be resolved by the parties within one month of being escalated as referred to in Clause 23.1, the dispute may by agreement between the parties be referred to a neutral adviser or mediator (the "**Mediator**") chosen by agreement between the parties. All negotiations connected with the dispute shall be conducted in confidence and without prejudice to the rights of the parties in any further proceedings.

23.3 If the parties fail to appoint a Mediator within one month, or fail to enter into a written agreement resolving the dispute within one month of the Mediator being appointed, either party may exercise any remedy it has under applicable law.

23.4 If, in the Authority's opinion, the Supplier fails to perform any of the Services in accordance with this Agreement, then the Authority may, without prejudice to its other rights and remedies, do one or more of the following:

23.4.1 direct the Supplier to use all reasonable endeavours to provide all such additional resources as are necessary to remedy such failure as soon as is reasonably possible at no additional charge to the Authority;

23.4.2 make such deduction from the payment to be made to the Supplier as the Authority shall reasonably determine to reflect sums paid or sums which would otherwise be payable in respect of such of the Services as the Supplier shall have failed to perform; and/or

23.4.3 consider that the Supplier has committed a Default and take such measures it considers appropriate under Clause 15 (Term and Termination).

## 24. **GOVERNING LAW AND JURISDICTION**

24.1 The validity, construction and performance of this Agreement, and all contractual and non contractual matters arising out of it, shall be governed by English law and shall be subject to the exclusive jurisdiction of the English courts to which the parties submit.

This agreement has been entered into on the date stated at the beginning of it.

**SCHEDULE 1**

As per ITT



**SCHEDULE 2**

**CHARGES**

### **SCHEDULE 3**

#### **[AUTHORITY POLICIES ]**

- [Modern Slavery and Human Trafficking Policy]
- [Corporate and Social Responsibility Policy]
- [Data and Privacy Policy]
- [Ethics and Anti-Bribery Policy]

**SCHEDULE 4**  
**COMPLIANCE QUESTIONNAIRE**

[To be completed by Supplier]

**IN WITNESS** of which this Agreement has been duly executed by the Parties on the date which appears at the head of its page 1.

**EXECUTED AS A DEED**, but not delivered )  
until the date specified on this deed, by **[name** )  
**of the Supplier]** by a director in the presence )  
of a witness: )

Signature: \_\_\_\_\_

Name (block capitals): \_\_\_\_\_  
**Director**

Witness signature: \_\_\_\_\_

Witness name  
(block capitals): \_\_\_\_\_

Witness address: \_\_\_\_\_

**SIGNED** for and on behalf of the **OFFICE FOR NATIONAL STATISTICS**

Signature: \_\_\_\_\_

Name (block capitals): \_\_\_\_\_

Position: \_\_\_\_\_

Date: \_\_\_\_\_