



Department  
for Education

# Stimulating the SME market for T levels

## Invitation to Tender

Dear Supplier

**INVITATION TO TENDER (ITT) for Stimulating the SME market for T levels.**

1. Your organisation along with others is invited to offer a tender for provision of the above, to the specification outlined in the attached documents. Enclosed are:
  - a. Document 1 Instructions on the tendering procedures.
  - b. Document 2 Departmental standard requirements
  - c. Document 3 Specification of the requirement.
  - d. Document 4 List of attachments.
  - e. Document 5 Declaration and information to be provided by tenderer.
2. Please read the instructions on the tendering procedures carefully. This document and the attachments contain information and instructions that will facilitate your submission of a compliant Tender using the online e-Tendering portal.
3. This procurement is being put out using the open procedure as set out in Regulation 27 of the 2015 Public Contracts Regulations.
4. You should read this document and all the other procurement documents that relate to this procurement that are available to Potential Providers on the e-Tendering portal, before answering the questions and submitting your Tender Application.
5. Please do not hesitate to contact me with any questions you may have via the messaging portal on Jaggaer.

Yours sincerely

Stevinder Binning  
Category Manager

## INSTRUCTIONS ON TENDERING PROCEDURES

- 1 These instructions are designed to ensure that all tenders are given equal and fair consideration. It is important therefore that you provide all the information asked for in the format and order specified. Please contact Stevinder Binning via the Jaggaer messaging board if you have any doubts as to what is required or you have difficulty in providing the information requested. Pre-tender negotiations are not allowed.
- 2 Please note that references to the 'Department' throughout these documents mean The Secretary of State for Education acting through representatives in the Department for Education.

### Contract Period

- 3 The contract is to be for a period of 2 years (Year 1- June 2022 to March 31<sup>st</sup> 2023 and Year 2 - 1<sup>st</sup> April 2023 to 31<sup>st</sup> March 2024) with a possible extension of 1 year (1<sup>st</sup> April 2024 to 31<sup>st</sup> March 2025). .

### Incomplete Tender

- 4 Tenders may be rejected if the information asked for in the ITT and Specification is not given at the time of tendering.

### Indicative procurement timetable

- 5 The indicative timetable for the procurement is:

Tender documents issued	6 <sup>th</sup> April 2022
Last day for submission of clarifications via Jaggaer	21 <sup>st</sup> April 2022
Last day for DfE to respond to clarifications	27 <sup>th</sup> April 2022
Deadline for tender responses to be received	3 <sup>rd</sup> May 2022 (09:00)
Evaluation	6 <sup>th</sup> May 2022
Department announcement of preferred bidder	27 <sup>th</sup> May 2022
10 day standstill period ends	6 <sup>th</sup> June 2022
Contract commencement	Early to Mid June

### Returning Tenders

- 6 One copy of your tender must be received by the Authority via the Jaggaer Online Portal for the ITT references below no later than 03/05/2022 09:00. Late tenders will not be considered.

### Receipt of Tenders

- 7 Tenders will be received up to the time and date stated. Those received before the due date will be retained unopened until then. It is the responsibility of the tenderer to ensure that their tender is delivered not later than the appointed time.

### **Acceptance of Tenders**

- 8 By issuing this invitation the Department is not bound in any way and does not have to accept the lowest or any tender, and reserves the right to accept a portion of any tender, unless the tenderer expressly stipulates otherwise in their tender.
- 9 The Department reserves the right to treat any tender which is caveated by reference to the UK exiting the EU with a deal or without a deal EU as non-compliant and, as with any procurement exercise, a bidder in submitting its price for evaluation does so in acceptance of all business risks and circumstances arising from time to time.

### **Authority's Rights**

- 10 Subject to its obligations to act in a transparent, proportionate and non-discriminatory manner and in addition to the Authority's rights specified in these Instructions to Tenderers, the Authority reserves the right to:
- a) change the requirements of these Instructions to Tenderers at any time prior to the Submission Deadline. Any such amendment will be numbered, dated and issued by the Authority via the Jaggaer portal. Where amendments are significant, the Authority may at its discretion extend the Submission Deadline and if so, will communicate details of any such extension via the Jaggaer portal;
  - b) withdraw these Instructions to Tenderers at any time, or re-invite Tenders on the same or any alternative basis;
  - c) choose not to award any contract as a result of the Procurement Process;
- 11 The Authority will reject a Tender and/or exclude a Tenderer from further participation in the Procurement Process where a Tender is submitted late, is incomplete, is submitted other than via the Jaggaer Portal or otherwise fails to meet any of the Authority's submission requirements/instructions which have been notified to Tenderer, including those set out in these Instructions to Tenderers;

### **Tender Costs**

- 12 The Authority will not be liable for any costs or expenses incurred by any Tenderer or the Tenderer's Team or any other person in connection with the Procurement Process, including (but not limited to) the submission of Tenders, nor will the Authority or any of its officers, ministers, employees, agents or advisors will be liable in any way to any Tenderer, any member of the Tenderer's Team or any other person for any costs, expenses or losses incurred by any Tenderer, any member of the Tenderer's Team or any other person in connection with this Procurement Process, including (but not limited to) where the Procurement Process is cancelled or amended or the Authority otherwise decides not to award a Contract pursuant to the Procurement Process.

### **Inducements**

- 13 Offering an inducement of any kind in relation to obtaining this or any other contract with the Department will disqualify your tender from being considered and may constitute a criminal offence.

### **Confidentiality of Tenders**

- 14 Please note the following requirements, you must not:
- Tell anyone else what your tender price is or will be, before the time limit for delivery of tenders.
  - Try to obtain any information about anyone else's tender or proposed tender before the time limit for delivery of tenders.
  - Make any arrangements with another organisation about whether or not they should tender, or about their or your tender price.

Failure to comply with these conditions may disqualify your tender.

### **Costs and Expenses**

- 15 You will not be entitled to claim from the Department any costs or expenses which you may incur in preparing your tender whether or not your tender is successful.

### **Debriefing**

- 16 Following the award of contract, debriefing will be available to unsuccessful tenderers on request.

### **Evaluation Criteria**

- 17 The tender process will be conducted in a manner that ensures tenders are evaluated fairly to ascertain the economically most advantageous tender.
- 18 Your capability to perform the contract will be evaluated using the criteria set out in Document 4 Attachment 2 - Evaluation Criteria.
- 19 Your response to the tender specification will be evaluated using the criteria set out in Document 4 Attachment 2 .- Evaluation Criteria.

### **Tender Period**

- 20 Due to the intensive evaluation process the Department requires tenders to remain valid for a period specified in the declaration form provided separately to this document.

### **Basis of the Contract**

- 21 The specification in Document 3, and the terms and conditions in Document 4 Attachment 1, together with any special requirements, will form the basis of the contract between the successful tenderer and the Secretary of State for Education.

### **Format of Bids**

- 22 For a Tender application to be considered compliant the Applicant must ensure all of the following information is submitted in the format shown

<b>Standard Selection Questionnaire (SSQ)</b>	
<b>Document</b>	<b>Format</b>
Response Questionnaire Part 1 (Potential Supplier Information)	Response required entered directly into e-Tendering portal ALL MANDATORY QUESTIONS AND DECLARATION
Response Questionnaire Part 2 (Exclusions Grounds)	Response required entered directly into e-Tendering portal
Response Questionnaire Part 3 (Selection Questions)	Response required entered directly into e-Tendering portal
Response Questionnaire Additional Questions	Response required entered directly into e-Tendering portal
Declaration	Response required entered directly into e-Tendering portal
<b>Technical Envelope</b>	
<b>Document</b>	<b>Format</b>
Technical Envelope (Service Specific Questions & Social Value)	Attachments to be added into attachment area for each specific question, uploaded to the e-tendering portal.
<b>Commercial Envelope</b>	
<b>Document</b>	<b>Format</b>
Commercial Envelope (Pricing Template)	Standalone downloadable excel document which you will have to upload once completed, to the e-Tendering portal.

## Conclusions

- 23 Whilst every endeavour has been made to give tenderers an accurate description of the Department's requirement, tenderers should make their own assessment about the methods and resources needed to meet those requirements.

## DEPARTMENTAL STANDARD REQUIREMENTS

### Freedom Of Information

- 1 The Department is committed to open government and to meeting their responsibilities under the Freedom of Information Act 2000. Accordingly, all information submitted to the department may need to be disclosed in response to a request under the Act. If you consider that any of the information included in your tender is commercially sensitive, please identify it and explain (in broad terms) what harm may result from disclosure if a request is received, and the time period applicable to that sensitivity. You should be aware that, even where you have indicated that information is commercially sensitive, we may still be required to disclose it under the Act if a request is received. Please also note that the receipt of any material marked 'confidential' or equivalent by the department should not be taken to mean that we accept any duty of confidence by virtue of that marking. If a request is received, we may also be required to disclose details of unsuccessful tenders.

### Publication of Contract

- 2 Under the Government's Transparency requirements we are obliged to publish the contract between the Department and the successful tenderer(s) in full. The successful tenderer(s) should identify any information regarded as commercially sensitive and explain (in broad terms) what harm may result from disclosure and the time period applicable to that sensitivity. You should be aware that, even where you have indicated that information is commercially sensitive, we may still be required to disclose it if the public interest in disclosure outweighs withholding the information. See ['The Transparency of Suppliers and Government to the Public'](#) for more detail.

### Information Sharing Across Government

- 3 All Central Government Departments and their Executive Agencies and Non Departmental Public Bodies are subject to control and reporting within Government. In particular, they report to the Cabinet Office and HM Treasury for all expenditure. Further, the Cabinet Office has a cross-Government role delivering overall Government policy on public procurement - including ensuring value for money and related aspects of good procurement practice.
- 4 For these purposes, the Department may disclose within Government any of the Contractor's documentation/information (including any that the Contractor considers to be confidential and/or commercially sensitive such as specific bid information) submitted by the Contractor to the Department during this Procurement. The information will not be disclosed outside Government. Contractors taking part in this competition consent to these terms as part of the competition process."

### Cyber Essentials Scheme

- 5 The Government has introduced the Cyber Essentials Scheme in consultation with industry to mitigate the risk from common internet based threats.
- 6 It is mandatory for new Central Government contracts, which feature characteristics involving the handling of personal data and ICT systems designed

to store or process data at the OFFICIAL level of the [Government Security Classifications scheme](#) to comply with Cyber Essentials requirements.

- 7 All potential tenderers for Central Government contracts, featuring the above characteristics, should make themselves aware of [Cyber Essentials](#) and the requirements for the appropriate level of certification “or equivalent”.
- 8 As this requirement features the above characteristics, you are required to demonstrate in your tender response that:
  - Your organisation has Cyber Essentials certification; or
  - Your organisation will be able to secure Cyber Essentials prior to contract award; or
  - Your organisation has equivalent evidence to support that you have appropriate technical and organisational measures to mitigate the risk from common internet based threats in respect to the following five technical areas:
    - a) Boundary firewalls and internet gateways - these are devices designed to prevent unauthorised access to or from private networks, but good setup of these devices either in hardware or software form is important for them to be fully effective.
    - b) Secure configuration – ensuring that systems are configured in the most secure way for the needs of the organisation
    - c) Access control – Ensuring only those who should have access to systems to have access and at the appropriate level.
    - d) Malware protection – ensuring that virus and malware protection is installed and is up to date
    - e) Patch management – ensuring the latest supported version of applications is used and all the necessary patches supplied by the vendor have been applied.
- Any equivalent evidence must be verified by a technically competent and independent third party.
- 9 The successful tenderer will be required to provide evidence of Cyber Essentials or certification “or equivalent” (i.e. demonstrate they meet the five technical areas the Cyber Essentials Scheme covers) prior to contract award.
- 10 The successful tenderer will be required to secure and provide evidence of Cyber Essentials re-certification “or equivalent” (i.e. demonstrate they meet the five technical areas) on an annual basis.
- 11 Details of certification bodies are available at: <https://iasme.co.uk/certification-bodies>.

## Data Security Standards



- 12 For contracts which require the holding or processing of either personal data and/or OFFICIAL data the successful contractor will need to assure the Department that they can comply with the Department's security standards.
- 13 Departmental security standards are listed as contract clauses in an annex to this letter (see Document 4 – List of Attachments).

### **Prompt Payment Policy**

- 14 Government's aim is to pay 80% of all correctly submitted invoices within 5 days of receipt and we are 100% committed to paying correctly submitted invoices within 30 days of receipt from the day of physical or electronic arrival at the nominated address of the Department.
- 15 The payment period will be deemed to have started when a correctly submitted invoice reaches the nominated address. Contractors can assume receipt to be two days after mailing (by first class post). The thirty day "clock" therefore commences two days after mailing first class.
- 16 A correct invoice is one that is:
- delivered in timing in accordance with the contract;
  - that is for the correct sum;
  - In respect of goods / services supplied or delivered to the required quality (or are expected to be at the required quality);
  - include the date, supplier name, contact details and bank details;
  - which quote the relevant purchase order / contract reference;
  - which has been delivered to the nominated address.
- 17 Any correctly submitted invoices that are not paid within 30 days will be subject to the provisions of the Late Payment of Commercial Debt (Interest) Act 1998.

### **Sub-contracting to Small and Medium Enterprises (SMEs)**

- 18 DfE is committed to removing barriers to SME participation in its contracts, and would like to also actively encourage its larger suppliers to make their sub-contacts accessible to smaller companies and implement SME-friendly policies in their supply-chains. This can be achieved by advertising subcontracting opportunities on Contracts Finder and implementing the principles of the SME and Growth Agenda in your own organisation.
- 19 To help us measure the volume of business we do with SMEs, we will be asking DfE suppliers to provide us with information about the size of your own organisation and those in your supply chain. We may ask about volumes of business that will flow from this contract down your supply chains, and ask you to quantify that for us. This data will help us contribute towards Government targets on the use of SMEs. We may also publish success stories and examples of good practice on our website.
- 20 **For any contract with a value lifetime value over £5m** it will be a contract condition to a) advertise sub-contracting opportunities with a value over £25,000 on Contracts Finder and b) report on how much you spend on subcontracting

and separately how much you spend directly with SME or VCSE organisations in the delivery of the contract. See [Procurement Policy Note 01/18](#) for further information.

### **Armed Forces Covenant**

- 21 The Armed Forces Covenant is a public sector pledge from Government, businesses, charities and organisations to demonstrate their support for the armed forces community. The Covenant was brought in under the Armed Forces Act 2011 to recognise that the whole nation has a moral obligation to redress the disadvantages the armed forces community face in comparison to other citizens, and recognise sacrifices made.
- 22 The Covenant's 2 principles are that:
- the armed forces community should not face disadvantages when compared to other citizens in the provision of public and commercial services.
  - special consideration is appropriate in some cases, especially for those who have given most such as the injured and the bereaved.
- 23 The Department encourages all Tenderers, and their suppliers, to sign the Corporate Covenant, declaring their support for the Armed Forces community by displaying the values and behaviours set out therein.
- 24 Guidance on the various ways you can demonstrate your support through the Corporate Covenant is at [The Corporate Covenant](#).
- 25 If you wish to register your support you can provide a point of contact for your company on this issue to the Armed Forces Covenant Team at the address below, so that the MOD can alert you to any events or initiatives in which you may wish to participate. The Covenant Team can also provide any information you require in addition to that included on the website.

Email address: [covenant-mailbox@mod.uk](mailto:covenant-mailbox@mod.uk)

Address: Armed Forces Covenant Team

Zone D, 6th Floor, Ministry of Defence,

Main Building, Whitehall, London, SW1A 2HB

- 26 Paragraphs 20-25 above are not a condition of working with the Department now or in the future, nor will this issue form any part of the tender evaluation, contract award procedure or any resulting contract. However, the Department very much hopes you will want to provide your support.

### **Conflicts of interest**

- 27 The Department may exclude an organisation if there is a conflict of interest which cannot be effectively remedied. The concept of a conflict of interest includes any situation where relevant staff members have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure.
- 28 Where there is any indication that a conflict of interest exists or may arise then it is the responsibility of the organisation to inform the Department, detailing the

conflict in a separate Appendix. Provided that it has been carried out in a transparent manner, routine pre-market engagement carried out by the Department should not represent a conflict of interest for the organisation.

## **Equality and Diversity**

- 29 [Equality and diversity](#) are critical to delivering the DfE's vision: to provide children's services, education and skills training that ensures opportunity is equal for all, no matter background, family circumstances, or need. We enable children and learners to thrive by protecting and supporting the vulnerable and disadvantaged and ensuring the delivery of excellent education. There is an expectation that all suppliers endorse and demonstrate a commitment to DfE's [equality objectives](#) – including the legal requirements of the Equality Act 2010 and the Public Sector Equality Duty.

## **Disability Confident Scheme**

- 30 The Department for Education is a Disability Confident leader. Through the Disability Confident campaign, the government is working with employers to remove barriers, increase understanding and ensure that disabled people have the opportunities to fulfil their potential and realise their aspirations.
- 31 The Department encourage other employers to sign up to the disability confident scheme. It is open to all employers and there are three levels ranging from 'Committed' to 'Leader' with employers having to meet certain criteria to reach each level.
- 32 Employers who sign up to the disability confident scheme ensure that they can:
- draw from the widest possible pool of talent;
  - secure and retain high quality staff who are skilled, loyal and hard working;
  - save time and money on the costs of recruitment and training by reducing staff turnover;
  - keep valuable skills and experience;
  - reduce the levels and costs of sickness absences; improve employee morale and commitment by demonstrating that they treat all employees fairly.
- 33 Disability confident employers can use the disability confident branding in their communications and when advertising jobs.
- 34 Find out more about the aims of disability confident, why becoming a disability confident employer will be good for your business and how you will be supported through your journey to being a Disability Confident leader [here](#).

## **Supplier Code of Conduct**

- 35 Government relies on its suppliers for the delivery of many important public services, for assistance in delivering policy and for the construction of public assets. While underpinned by a contractual relationship this reliance needs to be based on a bond of trust.
- 36 Our relationships with our suppliers are critical to successful performance. Civil servants are all subject to the [Civil Service Code](#) and the [Seven Principles of Public Life](#), which define the values that we espouse and the behaviours required

of us. This [Supplier Code of Conduct](#) sets out the matching behaviours that we expect of suppliers who are delivering services on behalf of government.

37. Government expects all suppliers to meet these commitments and ensure that their employees, partners and subcontractors will do the same.

### **Economic and Financial Standing (EFS) – Gold/Silver Tier**

38. The Department will assess the EFS of Tenderers using the answers and information provided in response to Section 4 of the Standard Selection Questionnaire (SSQ).
39. The Department has set out the thresholds that Tenderers must meet and the methodology for assessment in the table below.
40. The Department will focus on three key thresholds to determine a Tenderer's financial standing. If applicable, the supplementary information in mitigation of any red metrics will be required for the thresholds detailed below:
- Turnover
  - Operational Gross Margin
  - Acid Ratio
41. If the Department determines that the financial risk is acceptable and the rest of the Selection Stage evaluation is successfully completed, the Tenderer will then proceed to the Award Stage evaluation.
42. The instructions and methodology which follow explain how the Department will approach the EFS assessment and its overall evaluation process.

## **SPECIFICATION**

This Schedule sets out what the Buyer wants.

## **Specification**

### **Contents**

- 1) Introduction
- 2) Background to the requirement
- 3) Description of Requirements
- 4) Key Performance Indicators

## 1) Introduction

1. T Levels are qualifications for students aged 16 to 19 who have finished GCSEs. They are a 2-year qualification and the equivalent to studying 3 A levels.
2. They have been developed in collaboration with over 250 businesses, to give them the skilled workforce they need by helping young people develop their knowledge, attitude, and practical skills to thrive in the workplace.
3. Each T Level offers students a mixture of technical, classroom learning and 'on-the-job' experience through an industry placement. The first 3 T Levels started in September 2020, and over the coming years the rollout of T Levels will continue - **by 2023**, all 23 T Levels will be available, and the number of providers will have increased significantly from 1,800 to 100,000 by 2025.

## 2) Background to the requirement

1. To scale up the number of industry placements as T Levels grow, additional industry placement opportunities need to be sourced to meet the growing demand of student numbers.
2. The Small and Medium Enterprises (SMEs) market make up 99% of the UK's (United Kingdom) business population. The term SME encompasses micro employers with less than 10 employees, small employers with less than 50 employees and medium sized employers with less than 250 employees.
3. By raising awareness of T Levels and the benefits of hosting industry placements within the SME market, we aim to unlock additional industry placement capacity. This additional capacity will support the scale up of T Levels whilst contributing positively to SMEs nationally by providing potential new workforce employees of high and relevant calibre suitable to their industry.
4. Every T Level student will undertake a mandatory industry placement relevant to the occupational area they are studying for a minimum of 315 hours. The industry placement is a key component of the course and without it, a student will not be able to graduate.
5. As T Levels are rolled out, training providers need to source an increasing number of industry placements for eligible students and will be asking employers to make the shift to offering longer, more substantial placements than the traditionally offered pathways.
6. T Levels launched in September 2020, and we will continue to grow the programme over the next few years and expect to be at steady state by 2025 when there will be c100,000 students for T levels per year. SMEs currently require additional support at this early stage to embed the programme as it grows. SMEs make up the largest proportion of the national economy and it is recognised that SMEs do not have the same infrastructure of larger employers. The current promotional low/no cost marketing available from DfE to intermediaries should be used as part of good practice of contractors to provide a service to their membership. However, we recognise for SMEs there is a need for an extra layer of support to broker a relationship with their relevant T Level provider, as well as support to ensure they understand the benefits and requirements of a T Level placement.
7. Contractors will need to show how they intend to engage the SME market whilst they emerge from the Covid-19 pandemic, to increase their knowledge of T Levels and industry placements and their ability and willingness to offer

placements in financial years of 2022/23 and 2023/24.

8. We expect contractors to help SMEs understand what an industry placement is, how they can host a quality industry placement within their business and the benefits of getting involved as part of their business as usual service using no/low cost materials. For this procurement, we are looking for the Contractor to establish strong relationships with employers and other local partners, enabling them to:
  - a) Identify SMEs that can host high-quality industry placements relevant to each student's location and the sector specific course they are undertaking, by using innovative solutions to source them,
  - b) Work together to tailor their delivery of industry placements, to the real-time needs of the employer, the learner, the provider network, and the local labour market. The Contractor must be flexible with their engagement, to allow them to react to the employers they are engaging with and their varying needs. Contractors must to be able to react to emerging needs and changing priorities over the course of the contract.
  - c) Support SMEs to find a suitable provider to work with to identify a student to offer a quality industry placement.
  - d) Support SMEs in building long-term capacity to offer T Level placements in the future.

### 3) Description of Requirements

1. Successful contractors are expected to secure T Level industry placements hosted by newly engaged SMEs for students who started their T Level qualifications from September 2021 and need to be geographically and sector/ route specific to match student demand.
2. Newly engaged SMEs are identified as those who have never actively hosted a T Level industry placement (previous capacity development fund (CDF) industry placements are permissible) or have not done so in the preceding 24 months from the time of engagement. We would also expect Contractors to build SMEs' confidence in delivering repeat placement opportunities.
3. The department would welcome bids from individual partners or a consortium of multiple partners working collaboratively and submitting under one application. Contractors must be able to demonstrate a national reach across England.
4. Contractors must ensure that any industry placements offered are for those aged 16 to 19 who are enrolled on a T Level qualification with a pre-identified training provider.
5. The Contractor should engage SME employers in a timely manner to ensure the number of industry placement outcomes sourced, meets the minimum number as outlined in the table below (please refer to the "Table 1: Volume of expected Industry placement outcomes", in the Scope section of this

- document). The Contractor must also ensure any placement outcomes secured are of an occupational relevance and are purposeful whilst maintaining and safeguarding students' personal welfare. The number of placements sourced, and the quality of placements, will be monitored.
6. The legal basis for this Service is present in the Employment and Training Act 1973.
  7. The contractor must ensure SMEs gain a better understanding of the business benefits, support, and resources available to them in relation to T Levels and delivering industry placements.
  8. The contractor must provide, to the engaged SME, a support and planning offer, ensuring the employer understands the T Level qualification so they can plan and develop an industry placement that supports the learner:
    - a) Ensuring the employer understands their responsibilities when hosting a student and relevant steps have been put in place where required.
    - b) In addition to brokering the relationship between the employer and provider, the contractor and learner must ensure that both parties know they must agree learner objectives which are to be signed by the employer and provider. Copies of these objectives must be returned as evidence to receive the industry placement outcome payment,
    - c) Supporting the employer with selection of an industry placement student where the employer has requested this type of support.
  9. The contractor will stimulate employer interest and engagement by working creatively to provide new and innovative ways of working with the SME market and document this activity in their action plans with appropriate milestones, dates, number of expected industry placement outcomes and associated costs.
  10. The contractor will be expected to utilise existing Government collateral in their market engagement activities. This will include, but is not limited to, the following (a comprehensive list / annex will be provided with the contract):
    - a) Links to SME specific material and case studies  
[T Levels and industry placement support for employers](#)
    - b) Links to a collection of resources and materials for promoting T levels, including branding and communication guidelines. Contractors have the freedom to develop their own marketing materials, if they are in line with the guidelines set out. Development of marketing materials will not be funded as part this contract.  
<https://www.gov.uk/government/collections/resources-and-materials-for-promoting-t-levels>



- c) Video/YouTube clips highlighting case studies.

[Skill areas and case studies – T Levels and industry placement support for employers](#)

- d) Employer Guidance, including an Annex E: Industry placement agreement template which must be signed by both the provider and employer and will be used to evidence an industry placement start.

[T Level Industry Placements Employer Guide.](#)

[Annex E: Industry placement agreement template](#)

11. Contractors will be required to engage sufficient numbers of SMEs in order to achieve the volumes of industry placements starts, as outlined in the table (please refer to “Table 1: Volume of expected Industry placement outcomes”, in the Scope section of this document). Delivering high-quality T Level industry placements which are relevant to students’ chosen T Level and support progression into apprenticeships, employment, or further learning.
12. Contractors must define how they will ensure SMEs delivering industry placements under this contract are newly engaged with T Levels and have not previously delivered a T Level industry placement. Placement outcomes will be verified through the completion of the learner objectives, signed by the employer and provider, submitted monthly at contract management meetings with the department.
13. Contractors must clearly define how they will use this funding to target T Level industry placements in newly engaged SMEs to deliver the number of industry placement starts as stated in the table below, profiled on a month by month basis (please refer to Table 1: Volume of expected Industry placement outcomes, in the Scope section of this document).
14. As part of the bid Contractors must prepare a comprehensive plan defining how they will measure the impact of their activities via clear agreed milestones and specifically the volume of industry placement starts. The number of industry placement outcomes sourced will be monitored via submissions of Annex E: Industry placement agreement templates. This plan should also include a costed breakdown of the funding spend needed to set up and implement the contract, profiled out on a month by month basis for the entirety of the contracted period.
15. Contractors must ensure that any leads for placement opportunities are passed onto providers who are delivering the relevant T Level qualification. In their bid Contractors should outline how they will ensure engaged SMEs are matched to providers ensuring the industry placement meets the qualification need. There is an expectation that the employer will understand and agree what their roles and responsibilities are in hosting an industry placement prior to being passed on to a provider.
16. The contractor must ensure that where there is current SME engagement activity in place, they can demonstrate how any engagement activity they claim funding for under this contract fits with the definition of ‘newly engaged’ and is not just ‘Business as Usual’.

17. The contractor must detail historic and current SME engagement activity undertaken for the sectors they are bidding for and what the outcomes were.
18. The contractor must demonstrate their ability to engage in and deliver placement opportunities at scale for the sector(s) they are bidding for. The sectors available to bid for are:
  - a. Construction and the Built Environment,
  - b. Engineering & Manufacturing,
  - c. Digital
  - d. Business Operations (which is an umbrella term for Business and Administration, Legal, Finance and accounting)
19. The contractors must put in place the mechanisms required to track and demonstrate newly engaged SMEs, and the live number of industry placement outcomes secured, and report on this on a monthly basis. This will be monitored through monthly performance review meetings.
20. The contractors must outline how they will measure the impact that engagement activity has on the volume of SMEs engaged with T Levels and the volume of industry placement starts achieved as a direct result of the engagement activity.
21. The contractor must be able to demonstrate their well-established links / relationships with providers.
22. Contractors must clearly define how they will use funding to target SMEs relevant to the sector(s) they are bidding for (construction and the built environment, digital, engineering and manufacturing and business operations) to deliver high quality industry placement opportunities. The quality of placements will be monitored through the submission of completed learner objective templates.
23. Contractors should also be aware the department will monitor repeat delivery of placements in further years, from the SMEs engaged through this contract, as a way of monitoring the quality of delivery.
24. Contractors must report back to the department monthly, recording: how they have measured the impact of their engagement activities, the number of industry placements they have secured along with the supporting evidence (learner objectives signed by provider and employer) to generate the second 50% payment element.
25. There will be a meeting between the department and the Contractor to set key performance indicators (KPIs) and agree the milestones within the Contractors' delivery plan. Contractors' performance will be monitored against the KPIs and milestones that are set out, at their monthly performance meetings with the department.
26. Contractors should be aware that the department will consider the lessons learned from this programme, with possibility for continuation of this programme.

#### 4) Key Performance Indicators

KPI reference	Measure	Target
KPI 1	<p>Monthly contract meeting with DfE with completion of monthly report.</p> <p>Suppliers to provide monthly reports on:</p> <ol style="list-style-type: none"> <li>1) the number of SMEs engaged</li> <li>2) the number of newly engaged SMEs handed over to named providers</li> <li>3) the volume of placement starts the above have resulted in, (as evidenced by copies of completed learner objective templates)</li> </ol>	100% attendance and reporting
KPI 2	Engage employers with a minimum 5:1 ratio of Industry Placement Starts, as per the specification, over the course of the year	Achieve engagements of 5:1
KPI 3	Increase awareness of T level and industry placements through engagements	85%
KPI 4	Increase employer's confidence to implement industry placements	85%

#### 5) Payments

1. The payment of funds will be as follows:
2. The DfE will pay up to £375 per placement, 50% of this value will be multiplied by the amount of required Industry Placements per Lot (see Table 3), this is the cap of costs available to suppliers for implementation and set-up costs per year. Should a supplier compete on price a table of costs will be updated within the Pricing Schedule.
3. All costs through the life of the contract will require evidence of invoicing prior to payment and will be based on actual spend.

4. The remaining 50% will be paid per evidence of secured Industry Placement Starts (capped at £187.50 per secured Industry Placement). Should a supplier compete on price a table of costs will be updated within the Pricing Schedule reflecting indicative contract values. This will be measured throughout the contract via monthly performance reviews and monitoring of the number of Annex E submissions.
  
5. The Department will expect contractors to provide monthly reports on:
  - a) the number of SMEs engaged
  - b) the number of newly engaged SMEs handed over to named providers
  - c) the volume of placement starts (as evidenced by copies of completed learner objective templates)

**Table 1: Volume of required Industry Placements**

<b>Lot (Sector)</b>	<b>Industry Placement Volume 2022/23</b>	<b>Industry Placement Volume 2023/24</b>	<b>Industry Placement Volume 2024/5</b>	<b>Total Industry placements numbers per lot (sector)</b>
Construction and the Built Environment	598	598	598	<b>1794</b>
Business Operations	110	332	222	<b>664</b>
Engineering & Manufacturing	240	702	481	<b>1,423</b>
Digital	697	697	704	<b>2,098</b>

*This table details the volume of expected industry placement outcomes, per lot for each contract year in financial years.*

**Table 2: Total value of lots (based on maximum cap of £375 per placement)**

	Year 1	Year 2	Year 3 (option to extend)	Total
<b>Lot 1- Construction and the Built Environment</b>	£224,250	£224,250	£224,250	<b>£672,750</b>
<b>Lot 2- Business Operations</b>	£41,250	£124,500	£83,250	<b>£249,000</b>
<b>Lot 3- Engineering &amp; Manufacturing</b>	£90,000	£263,250	£180,375	<b>£533,625</b>
<b>Lot 4- Digital</b>	£261,375	£261,375	£264,000	<b>£786,750</b>

*This table details the indicative contract values of each lot by each contract year based on Table 1 volumes. The initial contract will be for Years 1 and 2, with year 3 included as an option to extend at the discretion of the DfE.*

**Table 3: Value of lots based on 50% initial payment**

	Year 1	Year 2	Year 3 (option to extend)	Total
<b>Lot 1- Construction and the Built Environment</b>	£112,125	£112,125	£112,125	<b>£336,375</b>
<b>Lot 2- Business Operations</b>	£20,625	£62,250	£41,625	<b>£124,500</b>
<b>Lot 3- Engineering &amp; Manufacturing</b>	£45,000	£131,625	£90,188	<b>£266,813</b>
<b>Lot 4- Digital</b>	£130,688	£130,688	£132,000	<b>£393,375</b>

*This table details the maximum value caps that will be provided to the supplier to profile against the relevant contract years. If a supplier competes on price this table will update within the pricing schedule. All of the initial 50% payment will require evidence of invoicing in order to receive payments through the life of the contract. The initial contract will be for Years 1 and 2, with year 3 included as an option to extend at the discretion of the DfE.*

**Table 4: Indicative split of required Industry Placements split by region**

	2021/22-2022/23	Construction and the Built Environment			Business Operations			Digital			Engineering & Manufacturing	
		2022/23-2023/24	2023/24-2024/25	2021/22-2022/23	2022/23-2023/24	2023/24-2024/25	2021/22-2022/23	2022/23-2023/24	2023/24-2024/25	2021/22-2022/23	2022/23-2023/24	2023/24-2024/25
East Midlands	14%	2%	5%	N/A	11%	6%	13%	9%	1%	N/A	11%	2%
East of England	8%	12%	7%	N/A	8%	6%	9%	5%	7%	N/A	9%	5%
London	13%	19%	24%	N/A	17%	17%	15%	17%	12%	N/A	18%	18%
North East	9%	9%	22%	N/A	15%	18%	6%	18%	35%	N/A	13%	27%
North West	9%	12%	5%	N/A	13%	12%	12%	13%	10%	N/A	9%	6%
South East	10%	11%	9%	N/A	9%	10%	10%	9%	3%	N/A	10%	10%
South West	4%	10%	10%	N/A	9%	15%	8%	6%	9%	N/A	14%	8%
West Midlands	17%	13%	11%	N/A	10%	14%	15%	11%	13%	N/A	11%	16%
Yorkshire and Humberside	16%	12%	7%	N/A	8%	2%	10%	13%	10%	N/A	5%	9%

*The sourcing of industry placement outcomes will be driven by geographical need as demonstrated in the following table. This provides an indicative split with the breakdown of placement starts to be agreed by region at the start of each contract year.*

5. The national contract(s) awarded will need to engage and source industry placements within the Construction and the Built Environment, Engineering & Manufacturing and Digital sectors. Business Operations (Lot 2) is an umbrella term for the following T level courses: Legal, Finance, Accounting and Business Admin.
6. The department will validate and monitor the number of placement starts sourced by the Contractor monthly.
7. Contractors will be required to provide monthly activity and progress returns, measured against contract specification.
8. There will be one contract awarded per sector.

6) Contract period

Year 1	4 <sup>th</sup> June 2022 - 31 <sup>st</sup> March 2023
Year 2	1 <sup>st</sup> April 2023 - 31 <sup>st</sup> March 2024
Year 3 (option to extend)	1 <sup>st</sup> April 2024 – 31 <sup>st</sup> March 2025

**LIST OF ATTACHMENTS**

- 1 DRAFT CONTRACT**
- 2 EVALUATION CRITERIA**
- 3 *DEPARTMENTAL SECURITY REQUIREMENTS***



## DOCUMENT 5

### DECLARATIONS AND INFORMATION TO BE PROVIDED BY THE TENDERER

#### 1 Grounds for mandatory exclusion

You will be excluded from the procurement process if there is evidence of convictions relating to specific criminal offences including, but not limited to, bribery, corruption, conspiracy, terrorism, fraud and money laundering, or if you have been the subject of a binding legal decision which found a breach of legal obligations to pay tax or social security obligations (except where this is disproportionate e.g. only minor amounts involved).

Please Note: The department reserves the right to use its discretion to exclude a potential supplier where it can demonstrate by any appropriate means that the potential supplier is in breach of its obligations relating to the non-payment of taxes or social security contributions.

We are actively monitoring bids and are vigilant for signs of bid-rigging. Should we discover/suspect any anti-competitive behaviour we will contact the Competitions and Markets Authority (CMA). For more information and to find out if this applies to you, visit the [CMA website](#). Should you be found to be in breach of competition law you may face:

- Fines of up to 10% of worldwide turnover
- Director disqualification of up to 15 years
- Damages claims by third parties
- Prison for up to 5 years
- Reputational harm

#### Taking Account of Bidders' Past Performance

The Department may assess the past performance of a Supplier (through a Certificate of Performance provided by a Customer or other means of evidence). The Department may also assess whether specified minimum standards for reliability for such contracts are met.

In addition, the Department may re-assess reliability based on past performance at key stages in the procurement process (i.e. supplier selection, tender evaluation, contract award stage etc.). Suppliers may also be asked to update the evidence they provide in this section to reflect more recent performance on new or existing contracts (or to confirm that nothing has changed).

#### Non-payment of taxes/social security contributions

The Department reserves the right to use its discretion to exclude a supplier where it can demonstrate the supplier's non-payment of taxes/social security contributions where no binding legal decision has been taken.

Please note that this section relating to tax compliance only applies where the Department has indicated that the contract is over £5million in value.

“Occasion of Tax Non-Compliance” means:

- (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:
  - 1. 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 that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle;
  - 2. 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 the DOTAS or any equivalent or similar regime; and/or
- (b) 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 Effective Date or to a penalty for civil fraud or evasion

### **Defining Different Types of Organisations**

The Department for Education is keen to collect information about SMEs. We are particularly interested in discovering how many SMEs apply for our contracts through the tendering process. Completion of the table below is for departmental information purposes only and will have no effect on the evaluation process outcomes. Government is committed to changing how it does business to make sure that small companies, charities and voluntary sector organisations are included and encouraged to compete for our contracts.

A voluntary sector organisation may also be a SME if it has the same attributes.

Defn; A SME must be autonomous, an EU Company not owned or controlled by a non EU parent, and employ less than 250 staff and have sales below €50million

Source -[http://ec.europa.eu/enterprise/policies/sme/files/sme\\_definition/sme\\_report\\_2009\\_en.pdf](http://ec.europa.eu/enterprise/policies/sme/files/sme_definition/sme_report_2009_en.pdf)

The Department uses Dun and Bradstreet Numbers to manage its data around suppliers; we strongly encourage all suppliers to apply for a free Dunn’s numbers. The link to apply is: <http://www.dnb.co.uk/myduns> - add ‘GOVERNMENT SUPPLIER’ as a reason for requesting your D&B DUNS number.

Do not delay returning your tender if you do not already have a Dun and Bradstreet number, returning your tender within the deadline is more important.

**Attachment 1**  
**Terms and Conditions**



# **Stimulating the SME market for T Levels**

## **Core Terms**

## **1. Definitions used in the contract**

1.1 Interpret this Contract using Schedule 1 (Definitions).

## **2. How the contract works**

2.1 If the Buyer decides to buy Deliverables under the Contract it must state its requirements using the Award Form). If allowed by the Regulations, the Buyer can:

- make changes to Award Form
- create new Schedules
- exclude optional template Schedules
- use Special Terms in the Award Form to add or change terms

2.2 The Contract:

- is between the Supplier and the Buyer
- includes Core Terms, Schedules and any other changes or items in the completed Award Form

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

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

- verify the accuracy of the Due Diligence Information
- properly perform its own adequate checks

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

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

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

### **3.1 All deliverables**

3.1.1 The Supplier must provide Deliverables:

- that comply with the Specification, the Tender Response and the Contract
- using Good Industry Practice

- using its own policies, processes and internal quality control measures as long as they don't conflict with the Contract
- on the dates agreed
- that comply with Law

3.1.2 In the event that a level of warranty is not specified in the Award Form, the Supplier must provide Deliverables with a warranty of at least 90 days from Delivery against all obvious defects.

## **3.2 Goods clauses**

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

3.2.2 All manufacturer warranties covering the Goods must be assignable to the Buyer on request and for free.

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

3.2.4 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 3 Working Days of Delivery.

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

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

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

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

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

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

3.2.11 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.

3.2.12 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 don't conform with Clause 3. If the Supplier doesn't do this it will pay the Buyer's costs including repair or re-supply by a third party.

### **3.3 Services clauses**

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

3.3.2 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 of the Buyer or third party suppliers.

3.3.3 The Supplier must at its own risk and expense provide all Supplier Equipment required to Deliver the Services.

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

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

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

3.3.7 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 Contract.

## **4 Pricing and payments**

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

4.2 All Charges:

- exclude VAT, which is payable on provision of a valid VAT invoice
- include all costs connected with the Supply of Deliverables

4.3 The Buyer must pay the Supplier the Charges within 30 days of receipt by the Buyer of a valid, undisputed invoice, in cleared funds using the payment method and details stated in the Award Form.

4.4 A Supplier invoice is only valid if it:

- includes all appropriate references including the Contract reference number and other details reasonably requested by the Buyer
- includes a detailed breakdown of Delivered Deliverables and Milestone(s) (if any)

4.5 The Buyer may retain or set-off payment of any amount owed to it by the Supplier if notice and reasons are provided.

4.6 The Supplier must ensure that all Subcontractors 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.

4.7 If the Buyer can get more favourable commercial terms for the supply at cost of any materials, goods or services used by the Supplier to provide the Deliverables and that cost is reimbursable by the Buyer, then the Buyer may either:

- require the Supplier to replace its existing commercial terms with the more favourable terms offered for the relevant items; or
- enter into a direct agreement with the Subcontractor or third party for the relevant item

4.8 If the Buyer uses Clause 4.7 then the Charges must be reduced by an agreed amount by using the Variation Procedure.

4.9 The Buyer's right to enter into a direct agreement for the supply of the relevant items is subject to both:

- the relevant item being made available to the Supplier if required to provide the Deliverables
- any reduction in the Charges excludes any unavoidable costs that must be paid by the Supplier for the substituted item, including any licence fees or early termination charges

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

## **5. The buyer's obligations to the supplier**

5.1 If Supplier Non-Performance arises from a Buyer Cause:

- the Buyer cannot terminate the Contract under Clause 10.4.1
- the Supplier is entitled to reasonable and proven additional expenses and to relief from Delay Payments, liability and Deduction under this Contract
- the Supplier is entitled to additional time needed to make the Delivery
- the Supplier cannot suspend the ongoing supply of Deliverables

5.2 Clause 5.1 only applies if the Supplier:

- gives notice to the Buyer of the Buyer Cause within 10 Working Days of becoming aware
- demonstrates that the Supplier Non-Performance only happened because of the Buyer Cause
- mitigated the impact of the Buyer Cause

## **6. Record keeping and reporting**

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

6.2 The Supplier must keep and maintain full and accurate records and accounts in respect of the Contract for 7 years after the End Date and in accordance with the GDPR.

6.3 The Supplier must allow any Auditor access to their premises to verify all contract accounts and records of everything to do with the Contract and provide copies for an Audit.

6.4 The Supplier must provide information to the Auditor and reasonable co-operation at their request.

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

- tell the Buyer and give reasons
- propose corrective action
- provide a deadline for completing the corrective action

## **7. Supplier staff**

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

- be appropriately trained and qualified
- be vetted using Good Industry Practice and the Security Policy
- comply with all conduct requirements when on the Buyer's Premises

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

7.3 If requested, the Supplier must replace any person whose acts or omissions have caused the Supplier to breach Clause 27.

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

7.5 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. Rights and protection**

8.1 The Supplier warrants and represents that:

- it has full capacity and authority to enter into and to perform the Contract
- the Contract is executed by its authorised representative
- it is a legally valid and existing organisation incorporated in the place it was formed
- there are no known legal or regulatory actions or investigations before any court, administrative body or arbitration tribunal pending or threatened against it or its Affiliates that might affect its ability to perform the Contract
- it maintains all necessary rights, authorisations, licences and consents to perform its obligations under the Contract
- it doesn't have any contractual obligations which are likely to have a material adverse effect on its ability to perform the Contract
- it is not impacted by an Insolvency Event

8.2 The warranties and representations in Clauses 2.6 and 8.1 are repeated each time the Supplier provides Deliverables under the Contract.

8.3 The Supplier indemnifies the Buyer against each of the following:

- wilful misconduct of the Supplier, Subcontractor and Supplier Staff that



impacts the Contract

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

8.4 All claims indemnified under this Contract must use Clause 26.

8.5 The Buyer can terminate the Contract for breach of any warranty or indemnity where they are entitled to do so.

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

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

## **9. Intellectual Property Rights (IPRs)**

9.1 Each Party keeps ownership of its own Existing IPRs. The Supplier gives the Buyer a non-exclusive, perpetual, royalty-free, irrevocable, transferable worldwide licence to use, change and sub-license the Supplier's Existing IPR to enable it to both:

- receive and use the Deliverables
- make use of the deliverables provided by a Replacement Supplier

9.2 Any New IPR created under the Contract is owned by the Buyer. The Buyer gives the Supplier a licence to use any Existing IPRs and New IPRs for the purpose of fulfilling its obligations during the Contract Period.

9.3 Where a Party acquires ownership of IPRs incorrectly under this Contract it must do everything reasonably necessary to complete a transfer assigning them in writing to the other Party on request and at its own cost.

9.4 Neither Party has the right to use the other Party's IPRs, including any use of the other Party's names, logos or trademarks, except as provided in Clause 9 or otherwise agreed in writing.

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

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

- obtain for the Buyer the rights in Clause 9.1 and 9.2 without infringing any third party IPR
- replace or modify the relevant item with substitutes that don't infringe IPR without adversely affecting the functionality or performance of the Deliverables

## **10. Ending the contract**

10.1 The Contract takes effect on the Start Date and ends on the End Date or earlier if required by Law.

10.2 The Buyer can extend the Contract for the Extension Period by giving the

Supplier no less than 3 Months' written notice before the Contract expires.

### **10.3 Ending the contract without a reason**

10.3.1 The Buyer has the right to terminate the Contract at any time without reason or liability by giving the Supplier at least 90 days' notice and if it's terminated Clause 10.5.2 to 10.5.7 applies.

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

10.4.1 If any of the following events happen, the Buyer has the right to immediately terminate the Contract by issuing a Termination Notice to the Supplier:

- there's a Supplier Insolvency Event
- there's a Default that is not corrected in line with an accepted Rectification Plan
- the Buyer rejects a Rectification Plan or the Supplier does not provide it within 10 days of the request
- there's any material Default of the Contract
- there's any material Default of any Joint Controller Agreement relating to the Contract
- there's a Default of Clauses 2.6, 9, 14, 15, 27, 32 or Schedule 19 (Cyber Essentials) (where applicable) relating to the Contract
- there's a consistent repeated failure to meet the Service Levels in Schedule 10 (Service Levels)
- there's a Change of Control of the Supplier which isn't pre-approved by the Buyer in writing
- there's a Variation to the Contract which cannot be agreed using Clause 24 (Changing the contract) or resolved using Clause 34 (Resolving disputes)
- The Buyer discovers that the Supplier was in one of the situations in 57 (1) or 57(2) of the Regulations at the time the Contract was awarded
- the Court of Justice of the European Union uses Article 258 of the Treaty on the Functioning of the European Union (TFEU) to declare that the Contract should not have been awarded to the Supplier because of a serious breach of the TFEU or the Regulations
- the Supplier or its Affiliates embarrass or bring the Buyer into disrepute or diminish the public trust in them

10.4.2 If there is a Default, the Buyer can, without limiting its other rights, request that the Supplier provide a Rectification Plan.

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

- reject the Rectification Plan or revised Rectification Plan, giving reasons
- accept the Rectification Plan or revised Rectification Plan (without limiting its rights) and the Supplier must immediately start work on the actions in the Rectification Plan at its own cost, unless agreed otherwise by the Parties

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

- must give reasonable grounds for its decision
- may request that the Supplier provides a revised Rectification Plan within 5 Working Days

10.4.5 If any of the events in 73 (1) (a) to (c) of the Regulations happen, the Buyer has the right to immediately terminate the Contract and Clause 10.5.2 to 10.5.7 applies.

## **10.5 What happens if the contract ends**

Where the Buyer terminates the Contract under Clause 10.4.1 all of the following apply:

10.5.1 The Supplier is responsible for the Buyer's reasonable costs of procuring Replacement Deliverables for the rest of the Contract Period.

10.5.2 The Buyer's payment obligations under the terminated Contract stop immediately.

10.5.3 Accumulated rights of the Parties are not affected.

10.5.4 The Supplier must promptly delete or return the Government Data except where required to retain copies by law.

10.5.5 The Supplier must promptly return any of the Buyer's property provided under the terminated Contract.

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

10.5.7 The following Clauses survive the termination of the Contract: 3.2.10, 6, 7.2, 9, 11, 14, 15, 16, 17, 18, 34, 35 and any Clauses and Schedules which are expressly or by implication intended to continue.

## **10.6 When the supplier can end the contract**

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

10.6.2 If a Supplier terminates the Contract under Clause 10.6.1:

- the Buyer must promptly pay all outstanding Charges incurred to the Supplier
- the Buyer must pay the Supplier reasonable committed and unavoidable Losses as long as the Supplier provides a fully itemised and costed schedule with evidence - the maximum value of this payment is limited to the total sum payable to the Supplier if the Contract had not been terminated
- Clauses 10.5.4 to 10.5.7 apply

## **10.7 When subcontracts can be ended**

At the Buyer's request, the Supplier must terminate any Subcontracts in any of the following events:

- there is a Change of Control of a Subcontractor which isn't pre-approved

by the Buyer in writing

- the acts or omissions of the Subcontractor have caused or materially contributed to a right of termination under Clause 10.4
- a Subcontractor or its Affiliates embarrasses or brings into disrepute or diminishes the public trust in the Buyer

## **10.8 Partially ending and suspending the contract**

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

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

10.8.3 The Parties must agree any necessary Variation required by Clause 10.8 using the Variation Procedure, but the Supplier may not either:

- reject the Variation
- increase the Charges, except where the right to partial termination is under Clause 10.3

10.8.4 The Buyer can still use other rights available, or subsequently available to it if it acts on its rights under Clause 10.8.

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

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

11.2 No Party is liable to the other for:

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

11.3 In spite of Clause 11.1, neither Party limits or excludes any of the following:

- its liability for death or personal injury caused by its negligence, or that of its employees, agents or Subcontractors
- its liability for bribery or fraud or fraudulent misrepresentation by it or its employees
- any liability that cannot be excluded or limited by Law

11.4 In spite of Clause 11.1, the Supplier does not limit or exclude its liability for any indemnity given under Clauses 7.5, 8.3, 9.5, 12.2 or 14.8 or Schedule 7 (Staff Transfer) of the Contract.

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

11.6 When calculating the Supplier's liability under Clause 11.1 the following items will not be taken into consideration:

- Deductions
- any items specified in Clause 11.4

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

## **12. Obeying the law**

12.1 The Supplier must use reasonable endeavours to comply with the provisions of Schedule 26 (Corporate Social Responsibility).

12.2 The Supplier indemnifies the Buyer against any costs resulting from any Default by the Supplier relating to any applicable Law.

12.3 The Supplier must appoint a Compliance Officer who must be responsible for ensuring that the Supplier complies with Law, Clause 12.1 and Clauses 27 to 32.

## **13. Insurance**

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

## **14. Data protection**

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

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

14.3 The Supplier must make accessible back-ups of all Government Data, stored in an agreed off-site location and send the Buyer copies every 6 Months.

14.4 The Supplier must ensure that any Supplier system holding any Government Data, including back-up data, is a secure system that complies with the Security Policy and any applicable Security Management Plan.

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

14.6 If the Government Data is corrupted, lost or sufficiently degraded so as to be unusable the Buyer may either or both:

- tell the Supplier to restore or get restored Government Data as soon as practical but no later than 5 Working Days from the date that the

Buyer receives notice, or the Supplier finds out about the issue, whichever is earlier

- restore the Government 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:

- must provide the Buyer with all Government Data in an agreed open format within 10 Working Days of a written request
- must have documented processes to guarantee prompt availability of Government Data if the Supplier stops trading
- must securely destroy all Storage Media that has held Government Data at the end of life of that media using Good Industry Practice
- securely erase all Government Data and any copies it holds when asked to do so by the Buyer unless required by Law to retain it
- 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:

- keep all Confidential Information it receives confidential and secure
- not disclose, use or exploit the Disclosing Party's Confidential Information without the Disclosing Party's prior written consent, except for the purposes anticipated under the Contract
- 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:

- 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
- if the Recipient Party already had the information without obligation of confidentiality before it was disclosed by the Disclosing Party
- if the information was given to it by a third party without obligation of confidentiality
- if the information was in the public domain at the time of the disclosure
- if the information was independently developed without access to the Disclosing Party's Confidential Information
- to its auditors or for the purposes of regulatory requirements
- on a confidential basis, to its professional advisers on a need-to-know basis
- 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 The Supplier may disclose Confidential Information on a confidential basis to

Supplier Staff on a need-to-know basis to allow the Supplier to meet its obligations under the Contract. The Supplier Staff must enter into a direct confidentiality agreement with the Buyer at its request.

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

- on a confidential basis to the employees, agents, consultants and contractors of the Buyer
- on a confidential basis to any other 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
- if the Buyer (acting reasonably) considers disclosure necessary or appropriate to carry out its public functions
- where requested by Parliament
- under Clauses 4.7 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 and any Information which is exempt from disclosure by Clause 16 is not Confidential Information.

15.7 The Supplier must not make any press announcement or publicise the Contracts or any part of them 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 the required timescales the Supplier must give the Buyer full co-operation and information needed so the Buyer can:

- publish the Transparency Information
- comply with any Freedom of Information Act (FOIA) request
- 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, which does not need to be reasonable.

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

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

## **18. No other terms apply**

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

## **19. Other people's rights in the Contract**

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

## **20. Circumstances beyond your control**

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

- provides a Force Majeure Notice to the other Party
- uses all reasonable measures practical to reduce the impact of the Force Majeure Event

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

20.3 Where a Party terminates under Clause 20.2:

- each party must cover its own Losses
- Clause 10.5.2 to 10.5.7 applies

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

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

## **22. Giving up contract rights**

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

## **23. Transferring responsibilities**

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

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

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 Contract 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 Subcontractors, the Supplier must provide details of Subcontractors at all levels of the supply chain including:

- their name
- the scope of their appointment
- the duration of their appointment

## **24. Changing the contract**

24.1 Either Party can request a Variation to the Contract which is only effective if agreed in writing and signed by both Parties

24.2 The Supplier must provide an Impact Assessment either:

- with the Variation Form, where the Supplier requests the Variation
- within the time limits included in a Variation Form requested by the Buyer

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

- agree that the Contract continues without the Variation
- terminate the affected Contract, unless the Supplier has already provided part or all of the provision of the Deliverables, or where the Supplier can show evidence of substantial work being carried out to provide them
- refer the Dispute to be resolved using Clause 34 (Resolving Disputes)

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

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

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

- that the Supplier has kept costs as low as possible, including in Subcontractor costs
- of how it has affected the Supplier's costs

24.7 Any change in the Charges or relief from the Supplier's obligations because of a Specific Change in Law must be implemented using Clauses 24.1 to 24.4.

## **25. How to communicate about the contract**

25.1 All notices under the Contract must be in writing and are considered effective on the Working Day of delivery as long as they're delivered before 5:00pm on a Working Day. Otherwise the notice is effective on the next Working Day. An email is effective

when sent unless an error message is received.

25.2 Notices to the Buyer must be sent to the Buyer Authorised Representative's address or email address in the Award Form.

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. Dealing with claims**

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

26.2 At the Indemnifier's cost the Beneficiary must both:

- allow the Indemnifier to conduct all negotiations and proceedings to do with a Claim
- give the Indemnifier reasonable assistance with the claim if requested

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

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

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

26.6 Each Beneficiary must take all reasonable steps to minimise and mitigate any losses that it suffers because of the Claim.

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

- the sum recovered minus any legitimate amount spent by the Beneficiary when recovering this money
- the amount the Indemnifier paid the Beneficiary for the Claim

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

27.1 The Supplier must not during any Contract Period:

- commit a Prohibited Act or any other criminal offence in the Regulations 57(1) and 57(2)
- do or allow anything which would cause the Buyer, including any of their employees, consultants, contractors, Subcontractors or agents to breach any of the Relevant Requirements or incur any liability under them

27.2 The Supplier must during the Contract Period:

- create, maintain and enforce adequate policies and procedures to ensure it complies with the Relevant Requirements to prevent a Prohibited Act

and require its Subcontractors to do the same

- keep full records to show it has complied with its obligations under Clause 27 and give copies to the Buyer on request
- if required by the Buyer, within 20 Working Days of the Start Date of the Contract, and then annually, certify in writing to the Buyer, that they have complied with Clause 27, including compliance of Supplier Staff, and provide reasonable supporting evidence of this on request, including its policies and procedures

27.3 The Supplier must immediately notify the Buyer if it becomes aware of any breach of Clauses 27.1 or 27.2 or has any reason to think that it, or any of the Supplier Staff, has either:

- been investigated or prosecuted for an alleged Prohibited Act
- been debarred, suspended, proposed for suspension or debarment, or is otherwise ineligible to take part in procurement programmes or contracts because of a Prohibited Act by any government department or agency
- received a request or demand for any undue financial or other advantage of any kind related to the Contract
- suspected that any person or Party directly or indirectly related to the Contract has committed or attempted to commit a Prohibited Act

27.4 If the Supplier notifies the Buyer as required by Clause 27.3, 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.

27.5 In any notice the Supplier gives under Clause 27.4 it must specify the:

- Prohibited Act
- identity of the Party who it thinks has committed the Prohibited Act
- action it has decided to take

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

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

- protections against discrimination on the grounds of race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise
- any other requirements and instructions which the Buyer reasonably imposes related to equality Law

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

## **29. Health and safety**

29.1 The Supplier must perform its obligations meeting the requirements of:

- all applicable Law regarding health and safety
- the Buyer's current health and safety policy while at the Buyer's Premises, as provided to the Supplier

29.2 The Supplier must as soon as possible notify the other of any health and safety incidents or material hazards they're aware of at the Buyer Premises that relate to the performance of the Contract.

### **30. Environment**

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

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

### **31. Tax**

31.1 The Supplier must not breach any tax or social security obligations and must enter into a binding agreement to pay any late contributions due, including where applicable, any interest or any fines. The Buyer cannot terminate the Contract where the Supplier has not paid a minor tax or social security contribution.

31.2 Where the Charges payable under the Contract are or are likely to exceed £5 million at any point during the relevant Contract Period, and an Occasion of Tax Non-Compliance occurs, the Supplier must notify the Buyer of it within 5 Working Days including:

- the steps that the Supplier is taking to address the Occasion of Tax Non-Compliance and any mitigating factors that it considers relevant
- other information relating to the Occasion of Tax Non-Compliance that the Buyer may reasonably need

31.3 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 Contract, the Supplier must both:

- 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
- indemnify the Buyer against any Income Tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made during or after the Contract Period in connection with the provision of the Deliverables by the Supplier or any of the Supplier Staff

31.4 If any of the Supplier Staff are Workers who receive payment relating to the Deliverables, then the Supplier must ensure that its contract with the Worker contains the following requirements:

- the Buyer may, at any time during the Contract Period, request that the Worker provides information which demonstrates they comply with Clause 31.3, or why those requirements do not apply, the Buyer can specify the information the Worker must provide and the deadline for responding
- the Worker's contract may be terminated at the Buyer's request if the Worker fails to provide the information requested by the Buyer within the time specified by the Buyer
- the Worker's contract may be terminated at the Buyer's request if the Worker provides information which the Buyer considers isn't good enough to demonstrate how it complies with Clause 31.3 or confirms that the Worker is not complying with those requirements
- the Buyer may supply any information they receive from the Worker to HMRC for revenue collection and management

### **32. Conflict of interest**

32.1 The Supplier must take action to ensure that neither the Supplier nor the Supplier Staff are placed in the position of an actual or potential Conflict of Interest.

32.2 The Supplier must promptly notify and provide details to the Buyer if a Conflict of Interest happens or is expected to happen.

32.3 The Buyer can terminate its Contract immediately by giving notice in writing to the Supplier or take any steps it thinks are necessary where there is or may be an actual or potential Conflict of Interest.

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

33.1 As soon as it is aware of it the Supplier and Supplier Staff must report to the Buyer any actual or suspected breach of:

- Law
- Clause 12.1
- Clauses 27 to 32

33.2 The Supplier must not retaliate against any of the Supplier Staff who in good faith reports a breach listed in Clause 33.1 to the Buyer or a Prescribed Person.

### **34. Resolving disputes**

34.1 If there is a Dispute, the senior representatives of the Parties who have authority to settle the Dispute will, within 28 days of a written request from the other Party, meet in good faith to resolve the Dispute.

34.2 If the Dispute is not resolved at that meeting, the Parties can attempt to settle it by mediation using the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure current at the time of the Dispute. If the Parties cannot agree on a mediator, the mediator will be nominated by CEDR. If either Party does not wish to use, or continue to use mediation, or mediation does not resolve the Dispute, the Dispute must be resolved using Clauses 34.3 to 34.5.

34.3 Unless the Buyer refers the Dispute to arbitration using Clause 34.4, the Parties irrevocably agree that the courts of England and Wales have the exclusive jurisdiction to:

- determine the Dispute
- grant interim remedies
- grant any other provisional or protective relief

34.4 The Supplier agrees that the Buyer has the exclusive right to refer any Dispute to be finally resolved by arbitration under the London Court of International Arbitration Rules current at the time of the Dispute. There will be only one arbitrator. The seat or legal place of the arbitration will be London and the proceedings will be in English.

34.5 The Buyer has the right to refer a Dispute to arbitration even if the Supplier has started or has attempted to start court proceedings under Clause 34.3, unless the Buyer has agreed to the court proceedings or participated in them. Even if court proceedings have started, the Parties must do everything necessary to ensure that the court proceedings are stayed in favour of any arbitration proceedings if they are started under Clause 34.4.

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

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

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



Department  
for Education

# Stimulating the SME market for T Levels.

## Schedules

## Schedule 1 (Definitions)

- 1.1 In the Contract, unless the context otherwise requires, capitalised expressions shall have the meanings set out in this Schedule 1 (Definitions) or the relevant Schedule in which that capitalised expression appears.
- 1.2 If a capitalised expression does not have an interpretation in this Schedule or any other Schedule, it shall, in the first instance, be interpreted in accordance with the common interpretation within the relevant market sector/industry where appropriate. Otherwise, it shall be interpreted in accordance with the dictionary meaning.
- 1.3 In the Contract, unless the context otherwise requires:
  - 1.3.1 the singular includes the plural and vice versa;
  - 1.3.2 reference to a gender includes the other gender and the neuter;
  - 1.3.3 references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or Crown Body;
  - 1.3.4 a reference to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time;
  - 1.3.5 the words "**including**", "**other**", "**in particular**", "**for example**" and similar words shall not limit the generality of the preceding words and shall be construed as if they were immediately followed by the words "**without limitation**";
  - 1.3.6 references to "**writing**" include typing, printing, lithography, photography, display on a screen, electronic and facsimile transmission and other modes of representing or reproducing words in a visible form, and expressions referring to writing shall be construed accordingly;
  - 1.3.7 references to "**representations**" shall be construed as references to present facts, to "**warranties**" as references to present and future facts and to "**undertakings**" as references to obligations under the Contract;
  - 1.3.8 references to "**Clauses**" and "**Schedules**" are, unless otherwise provided, references to the clauses and schedules of the Core Terms and references in any Schedule to parts, paragraphs, annexes and tables are, unless otherwise provided, references to the parts, paragraphs, annexes and tables of the Schedule in which these references appear;
  - 1.3.9 references to "**Paragraphs**" are, unless otherwise provided, references to the paragraph of the appropriate Schedules unless otherwise provided; and



1.3.10 references to a series of Clauses or Paragraphs shall be inclusive of the clause numbers specified.

1.3.11 the headings in the Contract are for ease of reference only and shall not affect the interpretation or construction of the Contract; and

1.3.12 where the Buyer is a Crown Body it shall be treated as contracting with the Crown as a whole.

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

<b>"Achieve"</b>	in respect of a Test, to successfully pass such Test without any Test Issues and in respect of a Milestone, the issue of a Satisfaction Certificate in respect of that Milestone and " <b>Achieved</b> ", " <b>Achieving</b> " and " <b>Achievement</b> " shall be construed accordingly;
<b>"Affected Party"</b>	the party seeking to claim relief in respect of a Force Majeure Event;
<b>"Affiliates"</b>	in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control of that body corporate from time to time;
<b>"Annex"</b>	extra information which supports a Schedule;
<b>"Approval"</b>	the prior written consent of the Buyer and " <b>Approve</b> " and " <b>Approved</b> " shall be construed accordingly;
<b>"Audit"</b>	<p>the Buyer's right to:</p> <ul style="list-style-type: none"> <li>a) verify the accuracy of the Charges and any other amounts payable by the Buyer under a Contract (including proposed or actual variations to them in accordance with the Contract);</li> <li>b) verify the costs of the Supplier (including the costs of all Subcontractors and any third party suppliers) in connection with the provision of the Services;</li> <li>c) verify the Open Book Data;</li> <li>d) verify the Supplier's and each Subcontractor's compliance with the applicable Law;</li> <li>e) identify or investigate actual or suspected breach of Clauses 27 to 33 and/or Schedule 26 (Corporate Social Responsibility), impropriety or accounting mistakes or any breach or threatened breach of security and in these circumstances the Buyer shall have no obligation to inform the Supplier of the purpose or objective of its investigations;</li> <li>f) identify or investigate any circumstances which may impact upon the financial stability of the Supplier, any Guarantor, and/or any Subcontractors or their ability to provide the Deliverables;</li> <li>g) obtain such information as is necessary to fulfil the Buyer's obligations to supply information for parliamentary, ministerial,</li> </ul>

	<p>judicial or administrative purposes including the supply of information to the Comptroller and Auditor General;</p> <p>h) review any books of account and the internal contract management accounts kept by the Supplier in connection with the Contract;</p> <p>i) carry out the Buyer's internal and statutory audits and to prepare, examine and/or certify the Buyer's annual and interim reports and accounts;</p> <p>j) enable the National Audit Office to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Buyer has used its resources.</p>
<b>"Auditor"</b>	<p>a) the Buyer's internal and external auditors;</p> <p>b) the Buyer's statutory or regulatory auditors;</p> <p>c) the Comptroller and Auditor General, their staff and/or any appointed representatives of the National Audit Office;</p> <p>d) HM Treasury or the Cabinet Office;</p> <p>e) any party formally appointed by the Buyer to carry out audit or similar review functions; and</p> <p>f) successors or assigns of any of the above;</p>
<b>"Buyer Cause"</b>	<p>any breach of the obligations of the Buyer or any other default, act, omission, negligence or statement of the Buyer, of its employees, servants, agents in connection with or in relation to the subject-matter of the Contract and in respect of which the Buyer is liable to the Supplier;</p>
<b>"BACS"</b>	<p>the Bankers' Automated Clearing Services, which is a scheme for the electronic processing of financial transactions within the United Kingdom;</p>
<b>"Beneficiary"</b>	<p>a Party having (or claiming to have) the benefit of an indemnity under this Contract;</p>
<b>"Buyer Assets"</b>	<p>the Buyer's infrastructure, data, software, materials, assets, equipment or other property owned by and/or licensed or leased to the Buyer and which is or may be used in connection with the provision of the Deliverables which remain the property of the Buyer throughout the term of the Contract;</p>
<b>"Buyer Authorised Representative"</b>	<p>the representative appointed by the Buyer from time to time in relation to the Contract initially identified in the Award Form;</p>
<b>"Buyer Premises"</b>	<p>premises owned, controlled or occupied by the Buyer which are made available for use by the Supplier or its Subcontractors for the provision of the Deliverables (or any of them);</p>

<b>"Contract"</b>	the contract between the Buyer and the Supplier, which consists of the terms set out and referred to in the Award Form;
<b>"Contract Period"</b>	the Contract Period in respect of the Contract;
<b>"Central Government Body"</b>	<p>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:</p> <p>a) Government Department;</p> <p>b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);</p> <p>c) Non-Ministerial Department; or</p> <p>d) Executive Agency;</p>
<b>"Change in Law"</b>	any change in Law which impacts on the supply of the Deliverables and performance of the Contract which comes into force after the Start Date;
<b>"Change of Control"</b>	a change of control within the meaning of Section 450 of the Corporation Tax Act 2010;
<b>"Charges"</b>	the prices (exclusive of any applicable VAT), payable to the Supplier by the Buyer under the Contract, as set out in the Award Form, for the full and proper performance by the Supplier of its obligations under the Contract less any Deductions;
<b>"Claim"</b>	any claim which it appears that a Beneficiary is, or may become, entitled to indemnification under this Contract;
<b>"Commercially Sensitive Information"</b>	the Confidential Information listed in the Award Form (if any) comprising of commercially sensitive information relating to the Supplier, its IPR 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;
<b>"Comparable Supply"</b>	the supply of Deliverables to another Buyer of the Supplier that are the same or similar to the Deliverables;
<b>"Compliance Officer"</b>	the person(s) appointed by the Supplier who is responsible for ensuring that the Supplier complies with its legal obligations;
<b>"Confidential Information"</b>	means any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, Know-How, personnel and suppliers of the Buyer or the Supplier, including IPRs, together with information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as <b>"confidential"</b> ) or which ought reasonably to be considered to be confidential;

<b>"Conflict of Interest"</b>	a conflict between the financial or personal duties of the Supplier or the Supplier Staff and the duties owed to the Buyer under the Contract, in the reasonable opinion of the Buyer;
<b>"Contract"</b>	the contract to be entered into between the Buyer and the Supplier for the provision of the Deliverables;
<b>"Contracts Finder"</b>	the Government's publishing portal for public sector procurement opportunities and contract data;
<b>"Contract Period"</b>	the term of the Contract from the earlier of the: a) applicable Start Date; or b) the Effective Date until the applicable End Date;
<b>"Contract Value"</b>	the higher of the actual or expected total Charges paid or payable under the Contract where all obligations are met by the Supplier;
<b>"Contract Year"</b>	a consecutive period of twelve (12) Months commencing on the Start Date or each anniversary thereof;
<b>"Control"</b>	control in either of the senses defined in sections 450 and 1124 of the Corporation Tax Act 2010 and <b>"Controlled"</b> shall be construed accordingly;
<b>"Controller"</b>	has the meaning given to it in the GDPR;
<b>"Core Terms"</b>	the Buyer's standard terms and conditions for common goods and services which comprise one part of the Contract the full title of which is Core Terms – Mid-tier version 1.0;
<b>"Costs"</b>	the following costs (without double recovery) to the extent that they are reasonably and properly incurred by the Supplier in providing the Deliverables:  a) the cost to the Supplier or the Key Subcontractor (as the context requires), calculated per Work Day, of engaging the Supplier Staff, including: i) base salary paid to the Supplier Staff; ii) employer's National Insurance contributions; iii) pension contributions; iv) car allowances; v) any other contractual employment benefits; vi) staff training; vii) work place accommodation; viii) work place IT equipment and tools reasonably necessary to provide the Deliverables (but not including items included within limb (b) below); and ix) reasonable recruitment costs, as agreed with the Buyer;  b) costs incurred in respect of Supplier Assets which would be treated as capital costs according to generally accepted

	<p>accounting principles within the UK, which shall include the cost to be charged in respect of Supplier Assets by the Supplier to the Buyer or (to the extent that risk and title in any Supplier Asset is not held by the Supplier) any cost actually incurred by the Supplier in respect of those Supplier Assets;</p> <p>c) operational costs which are not included within (a) or (b) above, to the extent that such costs are necessary and properly incurred by the Supplier in the provision of the Deliverables; and</p> <p>d) Reimbursable Expenses to the extent these have been specified as allowable in the Award Form and are incurred in delivering any Deliverables;</p> <p>but excluding:</p> <p>a) Overhead;</p> <p>b) financing or similar costs;</p> <p>c) maintenance and support costs to the extent that these relate to maintenance and/or support Deliverables provided beyond the Contract Period whether in relation to Supplier Assets or otherwise;</p> <p>d) taxation;</p> <p>e) fines and penalties;</p> <p>f) amounts payable under Schedule 12 (Benchmarking) where such Schedule is used; and</p> <p>g) non-cash items (including depreciation, amortisation, impairments and movements in provisions);</p>
<b>"Crown Body"</b>	the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the National Assembly for Wales), including, but not limited to, government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;
<b>"CRTPA"</b>	the Contract Rights of Third Parties Act 1999;
<b>"Data Protection Impact Assessment"</b>	an assessment by the Controller of the impact of the envisaged Processing on the protection of Personal Data;
<b>"Data Protection Legislation"</b>	(i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 to the extent that it relates to Processing of personal data and privacy; (iii) all applicable Law about the Processing of personal data and privacy;
<b>"Data Protection Officer"</b>	has the meaning given to it in the GDPR;
<b>"Data Subject"</b>	has the meaning given to it in the GDPR

"Data Subject Access 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;
"Deductions"	all Service Credits, Delay Payments (if applicable), or any other deduction which the Buyer is paid or is payable to the Buyer under the Contract;
"Default"	any breach of the obligations of the Supplier (including abandonment of the Contract in breach of its terms) or any other default (including material default), act, omission, negligence or statement of the Supplier, of its Subcontractors or any Supplier Staff howsoever arising in connection with or in relation to the subject-matter of the Contract and in respect of which the Supplier is liable to the Buyer;
"Delay Payments"	the amounts (if any) payable by the Supplier to the Buyer in respect of a delay in respect of a Milestone as specified in the Implementation Plan;
"Deliverables"	Goods and/or Services that may be ordered under the Contract including the Documentation;
"Delivery"	delivery of the relevant Deliverable or Milestone in accordance with the terms of the Contract as confirmed and accepted by the Buyer by the either (a) confirmation in writing to the Supplier; or (b) where Schedule 8 (Implementation Plan and Testing) is used issue by the Buyer of a Satisfaction Certificate. "Deliver" and "Delivered" shall be construed accordingly;
"Disaster"	the occurrence of one or more events which, either separately or cumulatively, mean that the Deliverables, or a material part thereof will be unavailable (or could reasonably be anticipated to be unavailable) for the period specified in the Award Form (for the purposes of this definition the " <b>Disaster Period</b> ");
"Disclosing Party"	the Party directly or indirectly providing Confidential Information to the other Party in accordance with Clause 15 (What you must keep confidential);
"Dispute"	any claim, dispute or difference arises out of or in connection with the Contract or in connection with the negotiation, existence, legal validity, enforceability or termination of the Contract, whether the alleged liability shall arise under English law or under the law of some other country and regardless of whether a particular cause of action may successfully be brought in the English courts;
"Dispute Resolution Procedure"	the dispute resolution procedure set out in Clause 34 (Resolving disputes);
"Documentation"	descriptions of the Services and Service Levels, technical specifications, user manuals, training manuals, operating manuals, process definitions and procedures, system environment descriptions and all such other documentation (whether in hardcopy or electronic form) is required to be supplied by the Supplier to the Buyer under the Contract as:

	<p>a) would reasonably be required by a competent third party capable of Good Industry Practice contracted by the Buyer to develop, configure, build, deploy, run, maintain, upgrade and test the individual systems that provide the Deliverables</p> <p>b) is required by the Supplier in order to provide the Deliverables; and/or</p> <p>c) has been or shall be generated for the purpose of providing the Deliverables;</p>
<b>"DOTAS"</b>	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;
<b>"Due Diligence Information"</b>	any information supplied to the Supplier by or on behalf of the Buyer prior to the Start Date;
<b>"Effective Date"</b>	the date on which the final Party has signed the Contract;
<b>"EIR"</b>	the Environmental Information Regulations 2004;
<b>"Employment Regulations"</b>	the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced or any other Regulations implementing the European Council Directive 77/187/EEC;
<b>"End Date"</b>	<p>the earlier of:</p> <p>a) the Expiry Date (as extended by any Extension Period exercised by the Buyer under Clause 10.2); or</p> <p>b) if the Contract is terminated before the date specified in (a) above, the date of termination of the Contract;</p>
<b>"Environmental Policy"</b>	to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment, including any written environmental policy of the Buyer;
<b>"Estimated Year 1 Charges"</b>	the anticipated total Charges payable by the Buyer in the first Contract Year specified in the Award Form;
<b>"Estimated Yearly Charges"</b>	<p>means for the purposes of calculating each Party's annual liability under clause 11.2 :</p> <p>i) in the first Contract Year, the Estimated Year 1 Charges; or</p> <p>ii) in any subsequent Contract Years, the Charges paid or payable in the previous Contract Year; or</p>

	iii) after the end of the Contract, the Charges paid or payable in the last Contract Year during the Contract Period;
<b>"Equality and Human Rights Commission"</b>	the UK Government body named as such as may be renamed or replaced by an equivalent body from time to time;
<b>"Existing IPR"</b>	any and all IPR that are owned by or licensed to either Party and which are or have been developed independently of the Contract (whether prior to the Start Date or otherwise);
<b>"Expiry Date"</b>	the date of the end of the Contract as stated in the Award Form;
<b>"Extension Period"</b>	such period or periods beyond which the Initial Period may be extended up to a maximum of the number of years in total specified in the Award Form;
<b>"FOIA"</b>	the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation;
<b>"Force Majeure Event"</b>	<p>any event, circumstance, matter or cause affecting the performance by either the Buyer or the Supplier of its obligations arising from:</p> <p>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 a Contract;</p> <p>a) riots, civil commotion, war or armed conflict, acts of terrorism, nuclear, biological or chemical warfare;</p> <p>b) acts of a Crown Body, local government or regulatory bodies;</p> <p>c) fire, flood or any disaster; or</p> <p>d) an industrial dispute affecting a third party for which a substitute third party is not reasonably available but excluding:</p> <p>i) any industrial dispute relating to the Supplier, the Supplier Staff (including any subsets of them) or any other failure in the Supplier or the Subcontractor's supply chain;</p> <p>ii) any event, occurrence, circumstance, matter or cause which is attributable to the wilful act, neglect or failure to take reasonable precautions against it by the Party concerned; and</p> <p>iii) any failure of delay caused by a lack of funds;</p>
<b>"Force Majeure Notice"</b>	a written notice served by the Affected Party on the other Party stating that the Affected Party believes that there is a Force Majeure Event;



<b>"Award Form"</b>	the document outlining the Incorporated Terms and crucial information required for the Contract, to be executed by the Supplier and the Buyer;
<b>" Incorporated Terms"</b>	the contractual terms applicable to the Contract specified in the Award Form;
<b>" Special Terms"</b>	any additional terms and conditions specified in the Award Form incorporated into the Contract;
<b>" Tender Response"</b>	the tender submitted by the Supplier to the Buyer and annexed to or referred to in Schedule 4 (Tender);
<b>"GDPR"</b>	the General Data Protection Regulation (Regulation (EU) 2016/679)
<b>"General Anti-Abuse Rule"</b>	a) the legislation in Part 5 of the Finance Act 2013 and; and b) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid National Insurance contributions;
<b>"General Change in Law"</b>	a Change in Law where the change is of a general legislative nature (including taxation or duties of any sort affecting the Supplier) or which affects or relates to a Comparable Supply;
<b>"Goods"</b>	goods made available by the Supplier as specified in Schedule 2 (Specification) and in relation to a Contract as specified in the Award Form;
<b>"Good Industry Practice"</b>	standards, practices, methods and procedures conforming to the Law and the exercise of the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged within the relevant industry or business sector;
<b>"Government"</b>	the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Government and the National Assembly for Wales), including government ministers and government departments and other bodies, persons, commissions or agencies from time to time carrying out functions on its behalf;
<b>"Government Data"</b>	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: <ul style="list-style-type: none"> <li>i) are supplied to the Supplier by or on behalf of the Buyer; or</li> <li>ii) the Supplier is required to generate, process, store or transmit pursuant to the Contract;</li> </ul>
<b>"Government Procurement Card"</b>	the Government's preferred method of purchasing and payment for low value goods or services <a href="https://www.gov.uk/government/publications/government-procurement-card--2">https://www.gov.uk/government/publications/government-procurement-card--2</a> ;

"Guarantor"	the person (if any) who has entered into a guarantee in the form set out in Schedule 23 (Guarantee) in relation to this Contract;
"Halifax Abuse Principle"	the principle explained in the CJEU Case C-255/02 Halifax and others;
"HMRC"	Her Majesty's Revenue and Customs;
"ICT Policy"	the Buyer's policy in respect of information and communications technology, referred to in the Award Form, which is in force as at the Start Date (a copy of which has been supplied to the Supplier), as updated from time to time in accordance with the Variation Procedure;
"Impact Assessment"	<p>an assessment of the impact of a Variation request by the Buyer completed in good faith, including:</p> <ul style="list-style-type: none"> <li>a) details of the impact of the proposed Variation on the Deliverables and the Supplier's ability to meet its other obligations under the Contract;</li> <li>b) details of the cost of implementing the proposed Variation;</li> <li>c) details of the ongoing costs required by the proposed Variation when implemented, including any increase or decrease in the Charges (as applicable), any alteration in the resources and/or expenditure required by either Party and any alteration to the working practices of either Party;</li> <li>d) a timetable for the implementation, together with any proposals for the testing of the Variation; and</li> <li>e) such other information as the Buyer may reasonably request in (or in response to) the Variation request;</li> </ul>
"Implementation Plan"	the plan for provision of the Deliverables set out in Schedule 8 (Implementation Plan and Testing) where that Schedule is used or otherwise as agreed between the Supplier and the Buyer;
"Indemnifier"	a Party from whom an indemnity is sought under this Contract;
"Independent Control"	where a Controller has provided Personal Data to another Party which is not a Processor or a Joint Controller because the recipient itself determines the purposes and means of Processing but does so separately from the Controller providing it with Personal Data and " <b>Independent Controller</b> " shall be construed accordingly;
"Indexation"	the adjustment of an amount or sum in accordance with the Award Form;
"Information"	has the meaning given under section 84 of the Freedom of Information Act 2000;
"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;
"Initial Period"	the initial term of the Contract specified in the Award Form;

<b>"Insolvency Event"</b>	<ul style="list-style-type: none"> <li>a) in respect of a person:</li> <li>b) a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignment for the benefit of, its creditors; or</li> <li>c) a shareholders' meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding-up is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation); or</li> <li>d) a petition is presented for its winding up (which is not dismissed within fourteen (14) Working Days of its service) or an application is made for the appointment of a provisional liquidator or a creditors' meeting is convened pursuant to section 98 of the Insolvency Act 1986; or</li> <li>e) a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets; or</li> <li>f) an application order is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given; or</li> <li>g) it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986; or</li> <li>h) being a "small company" within the meaning of section 382(3) of the Companies Act 2006, a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or</li> <li>i) where the person is an individual or partnership, any event analogous to those listed in limbs (a) to (g) (inclusive) occurs in relation to that individual or partnership; or</li> <li>j) any event analogous to those listed in limbs (a) to (h) (inclusive) occurs under the law of any other jurisdiction;</li> </ul>
<b>"Installation Works"</b>	all works which the Supplier is to carry out at the beginning of the Contract Period to install the Goods in accordance with the Contract;
<b>"Intellectual Property Rights" or "IPR"</b>	<ul style="list-style-type: none"> <li>a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trade marks, rights in internet domain names and website addresses and other rights in trade or business names, goodwill, designs, Know-How, trade secrets and other rights in Confidential Information;</li> <li>b) applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and</li> <li>c) all other rights having equivalent or similar effect in any country or jurisdiction;</li> </ul>
<b>"Invoicing Address"</b>	the address to which the Supplier shall Invoice the Buyer as specified in the Award Form;

<b>"IPR Claim"</b>	any claim of infringement or alleged infringement (including the defence of such infringement or alleged infringement) of any IPR, used to provide the Deliverables or otherwise provided and/or licensed by the Supplier (or to which the Supplier has provided access) to the Buyer in the fulfilment of its obligations under the Contract;
<b>"IR35"</b>	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: <a href="https://www.gov.uk/guidance/ir35-find-out-if-it-applies">https://www.gov.uk/guidance/ir35-find-out-if-it-applies</a> ;
<b>"Joint Controller Agreement"</b>	the agreement (if any) entered into between the Buyer and the Supplier substantially in the form set out in Annex 2 of Schedule 20 ( <i>Processing Data</i> );
<b>"Joint Controllers"</b>	where two or more Controllers jointly determine the purposes and means of Processing;
<b>"Key Personnel"</b>	the individuals (if any) identified as such in the Award Form;
<b>"Key Sub-Contract"</b>	each Sub-Contract with a Key Subcontractor;
<b>"Key Subcontractor"</b>	any Subcontractor: a) which is relied upon to deliver any work package within the Deliverables in their entirety; and/or b) which, in the opinion of the Buyer performs (or would perform if appointed) a critical role in the provision of all or any part of the Deliverables; and/or c) with a Sub-Contract with the Contract value which at the time of appointment exceeds (or would exceed if appointed) 10% of the aggregate Charges forecast to be payable under the Contract, and the Supplier shall list all such Key Subcontractors in section 29 of the Award Form;
<b>"Know-How"</b>	all ideas, concepts, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know-how relating to the Deliverables but excluding know-how already in the other Party's possession before the applicable Start Date;
<b>"Law"</b>	any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Supplier is bound to comply;
<b>"LED"</b>	Law Enforcement Directive (Directive (EU) 2016/680)
<b>"Losses"</b>	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 and " <b>Loss</b> " shall be interpreted accordingly;
" <b>Lots</b> "	the number of lots specified in Schedule 2 (Specification), if applicable;
" <b>Marketing Contact</b> "	shall be the person identified in the Award Form;
" <b>Milestone</b> "	an event or task described in the Implementation Plan;
" <b>Milestone Date</b> "	the target date set out against the relevant Milestone in the Implementation Plan by which the Milestone must be Achieved;
" <b>Month</b> "	a calendar month and " <b>Monthly</b> " shall be interpreted accordingly;
" <b>National Insurance</b> "	contributions required by the National Insurance Contributions Regulations 2012 (SI 2012/1868) made under section 132A of the Social Security Administration Act 1992;
" <b>New IPR</b> "	<p>a) IPR in items created by the Supplier (or by a third party on behalf of the Supplier) specifically for the purposes of the Contract and updates and amendments of these items including (but not limited to) database schema; and/or</p> <p>b) IPR in or arising as a result of the performance of the Supplier's obligations under the Contract and all updates and amendments to the same;</p> <p>but shall not include the Supplier's Existing IPR;</p>
" <b>Occasion of Tax Non – Compliance</b> "	<p>where:</p> <p>a) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which is found on or after 1 April 2013 to be incorrect as a result of:</p> <ol 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 the DOTAS or any equivalent or similar regime in any jurisdiction; and/or</li> </ol> <p>b) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 which gives rise, on or after 1 April 2013, to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Start Date or to a civil penalty for fraud or evasion;</p>
" <b>Open Book Data</b> "	complete and accurate financial and non-financial information which is sufficient to enable the Buyer to verify the Charges already paid or payable and Charges forecast to be paid during the remainder of the Contract, including details and all assumptions relating to:

	<p>a) the Supplier's Costs broken down against each Good and/or Service and/or Deliverable, including actual capital expenditure (including capital replacement costs) and the unit cost and total actual costs of all Deliverables;</p> <p>b) operating expenditure relating to the provision of the Deliverables including an analysis showing:</p> <ul style="list-style-type: none"> <li>i) the unit costs and quantity of Goods and any other consumables and bought-in Deliverables;</li> <li>ii) manpower resources broken down into the number and grade/role of all Supplier Staff (free of any contingency) together with a list of agreed rates against each manpower grade;</li> <li>iii) a list of Costs underpinning those rates for each manpower grade, being the agreed rate less the Supplier Profit Margin; and</li> <li>iv) Reimbursable Expenses, if allowed under the Award Form;</li> </ul> <p>c) Overheads;</p> <p>d) all interest, expenses and any other third party financing costs incurred in relation to the provision of the Deliverables;</p> <p>e) the Supplier Profit achieved over the Contract Period and on an annual basis;</p> <p>f) confirmation that all methods of Cost apportionment and Overhead allocation are consistent with and not more onerous than such methods applied generally by the Supplier;</p> <p>g) an explanation of the type and value of risk and contingencies associated with the provision of the Deliverables, including the amount of money attributed to each risk and/or contingency; and</p> <p>h) the actual Costs profile for each Service Period;</p>
<b>"Overhead"</b>	those amounts which are intended to recover a proportion of the Supplier's or the Key Subcontractor's (as the context requires) indirect corporate costs (including financing, marketing, advertising, research and development and insurance costs and any fines or penalties) but excluding allowable indirect costs apportioned to facilities and administration in the provision of Supplier Staff and accordingly included within limb (a) of the definition of "Costs";
<b>"Parliament"</b>	takes its natural meaning as interpreted within by Law;
<b>"Party"</b>	the Buyer or the Supplier and <b>"Parties"</b> shall mean both of them where the context permits;
<b>"Personal Data"</b>	has the meaning given to it in the GDPR;
<b>"Personal Data Breach"</b>	has the meaning given to it in the GDPR;
<b>"Prescribed Person"</b>	a legal adviser, an MP or an appropriate body which a whistle-blower may make a disclosure to as detailed in 'Whistleblowing: list of prescribed people and bodies', 24 November 2016, available online

	at: <a href="https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies">https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2/whistleblowing-list-of-prescribed-people-and-bodies</a> ;
<b>"Progress Meeting"</b>	a meeting between the Buyer Authorised Representative and the Supplier Authorised Representative;
<b>"Progress Meeting Frequency"</b>	the frequency at which the Supplier shall conduct a Progress Meeting in accordance with Clause 6.1 as specified in the Award Form;
<b>"Progress Report"</b>	a report provided by the Supplier indicating the steps taken to achieve Milestones or delivery dates;
<b>"Progress Report Frequency"</b>	the frequency at which the Supplier shall deliver Progress Reports in accordance with Clause 6.1 as specified in the Award Form;
<b>"Prohibited Acts"</b>	<p>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:</p> <ul style="list-style-type: none"> <li>i) induce that person to perform improperly a relevant function or activity; or</li> <li>ii) reward that person for improper performance of a relevant function or activity;</li> </ul> <p>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 Contract; or</p> <p>c) committing any offence:</p> <ul style="list-style-type: none"> <li>i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act); or</li> <li>ii) under legislation or common law concerning fraudulent acts; or</li> <li>iii) defrauding, attempting to defraud or conspiring to defraud the Buyer or other public body; or</li> </ul> <p>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;</p>
<b>"Protective Measures"</b>	<p>technical and organisational measures which must take account of:</p> <ul style="list-style-type: none"> <li>a) the nature of the data to be protected</li> <li>b) harm that might result from Data Loss Event;</li> <li>c) state of technological development</li> <li>d) the cost of implementing any measures</li> </ul> <p>including but not limited to 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,</p>

	and regularly assessing and evaluating the effectiveness of the such measures adopted by it;
<b>"Recall"</b>	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 IPR rights) that might endanger health or hinder performance;
<b>"Recipient Party"</b>	the Party which receives or obtains directly or indirectly Confidential Information;
<b>"Rectification Plan"</b>	<p>the Supplier's plan (or revised plan) to rectify it's breach using the template in Schedule 25 (Rectification Plan Template) which shall include:</p> <p>a) full details of the Default that has occurred, including a root cause analysis;</p> <p>b) the actual or anticipated effect of the Default; and</p> <p>c) the steps which the Supplier proposes to take to rectify the Default (if applicable) and to prevent such Default from recurring, including timescales for such steps and for the rectification of the Default (where applicable);</p>
<b>"Rectification Plan Process"</b>	the process set out in Clause 10.4.2 to 10.4.4 (Rectification Plan Process);
<b>"Regulations"</b>	the Public Contracts Regulations 2015 and/or the Public Contracts (Scotland) Regulations 2015 (as the context requires);
<b>"Reimbursable Expenses"</b>	<p>the reasonable out of pocket travel and subsistence (for example, hotel and food) expenses, properly and necessarily incurred in the performance of the Services, calculated at the rates and in accordance with the Buyer's expenses policy current from time to time, but not including:</p> <p>a) travel expenses incurred as a result of Supplier Staff travelling to and from their usual place of work, or to and from the premises at which the Services are principally to be performed, unless the Buyer otherwise agrees in advance in writing; and</p> <p>b) subsistence expenses incurred by Supplier Staff whilst performing the Services at their usual place of work, or to and from the premises at which the Services are principally to be performed;</p>
<b>"the Buyer's Confidential Information"</b>	<p>c) all Personal Data and any information, however it is conveyed, that relates to the business, affairs, developments, property rights, trade secrets, Know-How and IPR of the Buyer (including all Buyer Existing IPR and New IPR);</p> <p>d) any other information clearly designated as being confidential (whether or not it is marked "confidential") or which ought reasonably be considered confidential which comes (or has come) to the Buyer's attention or into the Buyer's possession in connection with the Contract; and</p> <p>information derived from any of the above;</p>



<b>"Relevant Requirements"</b>	all 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;
<b>"Relevant Tax Authority"</b>	HMRC, or, if applicable, the tax authority in the jurisdiction in which the Supplier is established;
<b>"Reminder Notice"</b>	a notice sent in accordance with Clause 10.6 given by the Supplier to the Buyer providing notification that payment has not been received on time;
<b>"Replacement Deliverables"</b>	any deliverables which are substantially similar to any of the Deliverables and which the Buyer receives in substitution for any of the Deliverables , whether those goods are provided by the Buyer internally and/or by any third party;
<b>"Replacement Subcontractor"</b>	a Subcontractor of the Replacement Supplier to whom Transferring Supplier Employees will transfer on a Service Transfer Date (or any Subcontractor of any such Subcontractor);
<b>"Replacement Supplier"</b>	any third party provider of Replacement Deliverables appointed by or at the direction of the Buyer from time to time or where the Buyer is providing Replacement Deliverables for its own account, shall also include the Buyer;
<b>"Request For Information"</b>	a request for information or an apparent request relating to the Contract for the provision of the Deliverables or an apparent request for such information under the FOIA or the EIRs;
<b>"Required Insurances"</b>	the insurances required by Schedule 22 (Insurance Requirements);
<b>"Satisfaction Certificate"</b>	the certificate (materially in the form of the document contained in Annex 2 of Part B of Schedule 8 (Implementation Plan and Testing) or as agreed by the Parties where Schedule 8 is not used in this Contract) granted by the Buyer when the Supplier has Achieved a Milestone or a Test;
<b>"Schedules"</b>	any attachment to the Contract which contains important information specific to each aspect of buying and selling;
<b>"Security Management Plan"</b>	the Supplier's security management plan prepared pursuant to Schedule 16 (Security) (if applicable);
<b>"Security Policy"</b>	the Buyer's security policy, referred to in the Award Form, in force as at the Start Date (a copy of which has been supplied to the Supplier), as updated from time to time and notified to the Supplier;
<b>"Serious Fraud Office"</b>	the UK Government body named as such as may be renamed or replaced by an equivalent body from time to time;
<b>"Service Levels"</b>	any service levels applicable to the provision of the Deliverables under the Contract (which, where Schedule 10 (Service Levels) is used in this Contract, are specified in the Annex to Part A of such Schedule);
<b>"Service Period"</b>	has the meaning given to it in the Award Form;

<b>"Services"</b>	services made available by the Supplier as specified in Schedule 2 (Specification) and in relation to a Contract as specified in the Award Form;
<b>"Service Transfer"</b>	any transfer of the Deliverables (or any part of the Deliverables), for whatever reason, from the Supplier or any Subcontractor to a Replacement Supplier or a Replacement Subcontractor;
<b>"Service Transfer Date"</b>	the date of a Service Transfer;
<b>"Sites"</b>	any premises (including the Buyer Premises, the Supplier's premises or third party premises) from, to or at which: a) the Deliverables are (or are to be) provided; or b) the Supplier manages, organises or otherwise directs the provision or the use of the Deliverables; c) those premises at which any Supplier Equipment or any part of the Supplier System is located (where ICT Services are being provided)
<b>"SME"</b>	an enterprise falling within the category of micro, small and medium sized enterprises defined by the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium enterprises;
<b>"Special Terms"</b>	any additional Clauses set out in the Award Form which shall form part of the respective Contract;
<b>"Specific Change in Law"</b>	a Change in Law that relates specifically to the business of the Buyer and which would not affect a Comparable Supply where the effect of that Specific Change in Law on the Deliverables is not reasonably foreseeable at the Start Date;
<b>"Specification"</b>	the specification set out in Schedule 2 (Specification), as may, in relation to the Contract, be supplemented by the Award Form;
<b>"Standards"</b>	any: a) standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardisation or other reputable or equivalent bodies (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Supplier would reasonably and ordinarily be expected to comply with; b) standards detailed in the specification in Schedule 2 (Specification); c) standards detailed by the Buyer in the Award Form or agreed between the Parties from time to time; d) relevant Government codes of practice and guidance applicable from time to time;

<b>"Start Date"</b>	the date specified on the Award Form;
<b>"Storage Media"</b>	the part of any device that is capable of storing and retrieving data;
<b>"Sub-Contract"</b>	any contract or agreement (or proposed contract or agreement), other than a Contract, pursuant to which a third party: a) provides the Deliverables (or any part of them); b) provides facilities or services necessary for the provision of the Deliverables (or any part of them); and/or c) is responsible for the management, direction or control of the provision of the Deliverables (or any part of them);
<b>"Subcontractor"</b>	any person other than the Supplier, who is a party to a Sub-Contract and the servants or agents of that person;
<b>"Subprocessor"</b>	any third Party appointed to process Personal Data on behalf of the Supplier related to the Contract;
<b>"Supplier"</b>	the person, firm or company identified in the Award Form;
<b>"Supplier Assets"</b>	all assets and rights used by the Supplier to provide the Deliverables in accordance with the Contract but excluding the Buyer Assets;
<b>"Supplier Authorised Representative"</b>	the representative appointed by the Supplier named in the Award Form, or later defined in a Contract;
<b>"Supplier's Confidential Information"</b>	a) any information, however it is conveyed, that relates to the business, affairs, developments, IPR of the Supplier (including the Supplier Existing IPR) trade secrets, Know-How, and/or personnel of the Supplier; b) any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential and which comes (or has come) to the Supplier's attention or into the Supplier's possession in connection with the Contract; c) Information derived from any of (a) and (b) above;
<b>"Supplier's Contract Manager"</b>	the person identified in the Award Form appointed by the Supplier to oversee the operation of the Contract and any alternative person whom the Supplier intends to appoint to the role, provided that the Supplier informs the Buyer prior to the appointment;
<b>"Supplier Equipment"</b>	the Supplier's hardware, computer and telecoms devices, equipment, plant, materials and such other items supplied and used by the Supplier (but not hired, leased or loaned from the Buyer) in the performance of its obligations under this Contract;
<b>"Supplier Non-Performance"</b>	where the Supplier has failed to: a) Achieve a Milestone by its Milestone Date; b) provide the Goods and/or Services in accordance with the Service Levels ; and/or

	c) comply with an obligation under the Contract;
"Supplier Profit"	in relation to a period, the difference between the total Charges (in nominal cash flow terms but excluding any Deductions and total Costs (in nominal cash flow terms) in respect of the Contract for the relevant period;
"Supplier Profit Margin"	in relation to a period or a Milestone (as the context requires), the Supplier Profit for the relevant period or in relation to the relevant Milestone divided by the total Charges over the same period or in relation to the relevant Milestone and expressed as a percentage;
"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 Contract;
"Supply Chain Information Report Template"	the document at Annex 1 of Schedule 18 Supply Chain Visibility;
"Supporting Documentation"	sufficient information in writing to enable the Buyer to reasonably assess whether the Charges, Reimbursable Expenses and other sums due from the Buyer under the Contract detailed in the information are properly payable;
"Termination Notice"	a written notice of termination given by one Party to the other, notifying the Party receiving the notice of the intention of the Party giving the notice to terminate the Contract on a specified date and setting out the grounds for termination;
"Test Issue"	any variance or non-conformity of the Deliverables or Deliverables from their requirements as set out in the Contract;
"Test Plan"	a plan: a) for the Testing of the Deliverables; and b) setting out other agreed criteria related to the achievement of Milestones;
"Tests and Testing"	any tests required to be carried out pursuant to the Contract as set out in the Test Plan or elsewhere in the Contract and "Tested" shall be construed accordingly;
"Third Party IPR"	Intellectual Property Rights owned by a third party which is or will be used by the Supplier for the purpose of providing the Deliverables;
"Transferring Supplier Employees"	those employees of the Supplier and/or the Supplier's Subcontractors to whom the Employment Regulations will apply on the Service Transfer Date;

<b>"Transparency Information"</b>	the Transparency Reports and the content of the Contract, including any changes to this Contract agreed from time to time, except for –  (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;
<b>"Transparency Reports"</b>	the information relating to the Deliverables and performance pursuant to the Contract which the Supplier is required to provide to the Buyer in accordance with the reporting requirements in Schedule 6 (Transparency Reports);
<b>"Variation"</b>	has the meaning given to it in Clause 24 (Changing the contract);
<b>"Variation Form"</b>	the form set out in Schedule 21 (Variation Form);
<b>"Variation Procedure"</b>	the procedure set out in Clause 24 (Changing the contract);
<b>"VAT"</b>	value added tax in accordance with the provisions of the Value Added Tax Act 1994;
<b>"VCSE"</b>	a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives;
<b>"Worker"</b>	any one of the Supplier Staff which the Buyer, in its reasonable opinion, considers is an individual to which Procurement Policy Note 08/15 (Tax Arrangements of Public Appointees) ( <a href="https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees">https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees</a> ) applies in respect of the Deliverables; and
<b>"Working Day"</b>	any day other than a Saturday or Sunday or public holiday in England and Wales unless specified otherwise by the Parties in the Award Form.
<b>"Work Day"</b>	7.5 Work Hours, whether or not such hours are worked consecutively and whether or not they are worked on the same day;
<b>"Work Hours"</b>	the hours spent by the Supplier Staff properly working on the provision of the Deliverables including time spent travelling (other than to and from the Supplier's offices, or to and from the Sites) but excluding lunch breaks;

# Schedule 3 (Charges)

## 1. How Charges are calculated

### 1.1 The Charges:

1.1.1 shall be calculated in accordance with the terms of this Schedule;

## 2. The pricing mechanisms

2.1 The pricing mechanisms and prices set out in Annex 1 shall be available for use in calculation of Charges in the Contract.

## 3. Are costs and expenses included in the Charges

3.1 The Charges shall include all costs and expenses relating to the provision of Deliverables. No further amounts shall be payable in respect of matters such as:

3.1.1 incidental expenses such as travel, subsistence and lodging, document or report reproduction, shipping, desktop or office equipment costs, network or data interchange costs or other telecommunications charges; or

3.1.2 costs incurred prior to the commencement of the Contract.

## 4. Other events that allow the Supplier to change the Charges

4.1 The Charges can also be varied (and Annex 1 will be updated accordingly) due to:

4.1.1 a Specific Change in Law in accordance with Clause 24;

4.1.2 a review in accordance with insurance requirements in Clause 13;

4.1.3 a request from the Supplier, which it can make at any time, to decrease the Charges; and

## Annex 1: Rates and Prices

1. The payment of funds will be as follows:
  2. The DfE will pay up to £375 per placement, 50% of this value will be multiplied by the amount of required Industry Placements per Lot (see Table 3), this is the cap of costs available to suppliers for implementation and set-up costs per year. Should a supplier compete on price a table of costs will be updated within the Pricing Schedule.
  3. All costs through the life of the contract will require evidence of invoicing prior to payment and will be based on actual spend.
  - 4.
  5. The remaining 50% will be paid per evidence of secured Industry Placement Starts (capped at £187.50 per secured Industry Placement). Should a supplier compete on price a table of costs will be updated within the Pricing Schedule reflecting indicative contract values. This will be measured throughout the contract via monthly performance reviews and monitoring of the number of Annex E submissions.
5. The Department will expect contractors to provide monthly reports on:
- d) the number of SMEs engaged
  - e) the number of newly engaged SMEs handed over to named providers
  - f) the volume of placement starts (as evidenced by copies of completed learner objective templates)

**Table 1: Volume of required Industry Placements**

Lot (Sector)	Industry Placement Volume 2022/23	Industry Placement Volume 2023/24	Industry Placement Volume 2024/5	Total Industry placements numbers per lot (sector)
Construction and the Built Environment	598	598	598	<b>1794</b>
Business Operations	110	332	222	<b>664</b>
Engineering & Manufacturing	240	702	481	<b>1,423</b>
Digital	697	697	704	<b>2,098</b>

*This table details the volume of expected industry placement outcomes, per lot for each contract year in financial years.*

**Table 2: Total value of lots (based on maximum cap of £375 per placement)**

	Year 1	Year 2	Year 3 (option to extend)	Total
<b>Lot 1- Construction and the Built Environment</b>	£224,250	£224,250	£224,250	<b>£672,750</b>
<b>Lot 2- Business Operations</b>	£41,250	£124,500	£83,250	<b>£249,000</b>
<b>Lot 3- Engineering &amp; Manufacturing</b>	£90,000	£263,250	£180,375	<b>£533,625</b>
<b>Lot 4- Digital</b>	£261,375	£261,375	£264,000	<b>£786,750</b>

*This table details the indicative contract values of each lot by each contract year based on Table 1 volumes. The initial contract will be for Years 1 and 2, with year 3 included as an option to extend at the discretion of the DfE.*

**Table 3: Value of lots based on 50% initial payment**

	Year 1	Year 2	Year 3 (option to extend)	Total
<b>Lot 1- Construction and the Built Environment</b>	£112,125	£112,125	£112,125	<b>£336,375</b>
<b>Lot 2- Business Operations</b>	£20,625	£62,250	£41,625	<b>£124,500</b>
<b>Lot 3- Engineering &amp; Manufacturing</b>	£45,000	£131,625	£90,188	<b>£266,813</b>
<b>Lot 4- Digital</b>	£130,688	£130,688	£132,000	<b>£393,375</b>

*This table details the maximum value caps that will be provided to the supplier to profile against the relevant contract years. If a supplier competes on price this table will update within the pricing schedule. All of the initial 50% payment will require evidence of invoicing in order to receive payments through the life of the contract. The initial contract will be for Years 1 and 2, with year 3 included as an option to extend at the discretion of the DfE.*



**Table 4: Indicative split of required Industry Placements split by region**

	2021/22-2022/23	Construction and the Built Environment			Business Operations			Digital			Engineering & Manufacturing	
		2022/23-2023/24	2023/24-2024/25	2021/22-2022/23	2022/23-2023/24	2023/24-2024/25	2021/22-2022/23	2022/23-2023/24	2023/24-2024/25	2021/22-2022/23	2022/23-2023/24	2023/24-2024/25
East Midlands	14%	2%	5%	N/A	11%	6%	13%	9%	1%	N/A	11%	2%
East of England	8%	12%	7%	N/A	8%	6%	9%	5%	7%	N/A	9%	5%
London	13%	19%	24%	N/A	17%	17%	15%	17%	12%	N/A	18%	18%
North East	9%	9%	22%	N/A	15%	18%	6%	18%	35%	N/A	13%	27%
North West	9%	12%	5%	N/A	13%	12%	12%	13%	10%	N/A	9%	6%
South East	10%	11%	9%	N/A	9%	10%	10%	9%	3%	N/A	10%	10%
South West	4%	10%	10%	N/A	9%	15%	8%	6%	9%	N/A	14%	8%
West Midlands	17%	13%	11%	N/A	10%	14%	15%	11%	13%	N/A	11%	16%
Yorkshire and Humberside	16%	12%	7%	N/A	8%	2%	10%	13%	10%	N/A	5%	9%

*The sourcing of industry placement outcomes will be driven by geographical need as demonstrated in the following table. This provides an indicative split with the breakdown of placement starts to be agreed by region at the start of each contract year.*

6. The national contract(s) awarded will need to engage and source industry placements within the Construction and the Built Environment, Engineering & Manufacturing and Digital sectors. Business Operations (Lot 2) is an umbrella term for the following T level courses: Legal, Finance, Accounting and Business Admin.
7. The department will validate and monitor the number of placement starts sourced by the Contractor monthly.
8. Contractors will be required to provide monthly activity and progress returns, measured against contract specification.
9. There will be one contract awarded per sector.

## Schedule 5 (Commercially Sensitive Information)

### 2. What is the Commercially Sensitive Information?

- 2.1 In this Schedule the Parties have sought to identify the Supplier's Confidential Information that is genuinely commercially sensitive and the disclosure of which would be the subject of an exemption under the FOIA and the EIRs.
- 2.2 Where possible, the Parties have sought to identify when any relevant Information will cease to fall into the category of Information to which this Schedule applies in the table below and in the Award Form (which shall be deemed incorporated into the table below).
- 2.3 Without prejudice to the Buyer's obligation to disclose Information in accordance with FOIA or Clause 16 (When you can share information), the Buyer will, in its sole discretion, acting reasonably, seek to apply the relevant exemption set out in the FOIA to the following Information:

No.	Date	Item(s)	Duration of Confidentiality
	[insert date]	[insert details]	[insert duration]

# Schedule 19 (Cyber Essentials Scheme)

## 1. Definitions

1.1 In this Schedule, the following words shall have the following meanings and they shall supplement Schedule 1 (Definitions):

<b>"Cyber Essentials Scheme"</b>	the Cyber Essentials Scheme developed by the Government which provides a clear statement of the basic controls all organisations should implement to mitigate the risk from common internet based threats (as may be amended from time to time). Details of the Cyber Essentials Scheme can be found at: <a href="https://www.gov.uk/government/publications/cyber-essentials-scheme-overview">https://www.gov.uk/government/publications/cyber-essentials-scheme-overview</a>
<b>"Cyber Essentials Basic Certificate"</b>	the certificate awarded on the basis of self-assessment, verified by an independent certification body, under the Cyber Essentials Scheme and is the basic level of assurance;
<b>"Cyber Essentials Certificate"</b>	Cyber Essentials Basic Certificate or the Cyber Essentials Plus Certificate to be provided by the Supplier as set out in the Framework Award Form
<b>"Cyber Essential Scheme Data"</b>	sensitive and personal information and other relevant information as referred to in the Cyber Essentials Scheme; and
<b>"Cyber Essentials Plus Certificate"</b>	the certification awarded on the basis of external testing by an independent certification body of the Supplier's cyber security approach under the Cyber Essentials Scheme and is a more advanced level of assurance.

## 2. What Certification do you need

2.1 Where the Award Form requires that the Supplier provide a Cyber Essentials Certificate prior to the Supplier shall provide a valid Cyber Essentials Certificate to the Buyer. Where the Supplier fails to comply with this Paragraph it shall be prohibited from commencing the provision of Deliverables under any Contract until such time as the Supplier has evidenced to the Buyer its compliance with this Paragraph 2.1.

2.2 Where the Supplier continues to Process Cyber Essentials Scheme Data during the Contract Period of the Contract the Supplier shall deliver to the Buyer evidence of renewal of the Cyber Essentials Certificate on each anniversary of the first applicable certificate obtained by the Supplier under Paragraph 2.1.

2.2 Where the Supplier is due to Process Cyber Essentials Scheme Data after the Start date of the Contract but before the end of the Contact Period, the Supplier shall deliver to the Buyer evidence of:

2.2.1 a valid and current Cyber Essentials Certificate before the Supplier Processes any such Cyber Essentials Scheme Data; and

- 2.2.2 renewal of the valid Cyber Essentials Certificate on each anniversary of the first Cyber Essentials Scheme certificate obtained by the Supplier under Paragraph 2.1.
- 2.3 In the event that the Supplier fails to comply with Paragraphs 2.2 or 2.3 (as applicable), the Buyer reserves the right to terminate this Contract for material Default.
- 2.4 The Supplier shall ensure that all Sub-Contracts with Subcontractors who Process Cyber Essentials Data contain provisions no less onerous on the Subcontractors than those imposed on the Supplier under this Contract in respect of the Cyber Essentials Scheme under Paragraph 2.1 of this Schedule.
- 2.5 This Schedule shall survive termination or expiry of this Contract.

# Schedule 20 (Processing Data)

## Status of the Controller

1. The Parties acknowledge that for the purposes of the Data Protection Legislation, the nature of the activity carried out by each of them in relation to their respective obligations under a Contract dictates the status of each party under the DPA. 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 Controller” 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 Contract and shall specify in Annex 1 (*Processing Personal Data*) which scenario they think shall apply in each situation.

## 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 Annex 1 (*Processing Personal Data*) by the Controller.
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 and the purpose of the Processing;
  - (b) an assessment of the necessity and proportionality of the Processing in relation to the Services;
  - (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 Contract:
  - (a) Process that Personal Data only in accordance with Annex 1 (*Processing Personal Data*), unless the Processor is required to do otherwise by Law. If it is

so required the Processor shall notify the Controller before Processing the Personal Data unless prohibited by Law;

- (b) ensure that it has in place Protective Measures, including in the case of the Supplier the measures set out in Clause 14.3 of the Core Terms, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures) having taken account of the:
  - (i) nature of the data to be protected;
  - (ii) harm that might result from a Personal Data Breach;
  - (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 Contract (and in particular Annex 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 Schedule 20, Clauses 14 (*Data protection*), 15 (*What you must keep confidential*) and 16 (*When you can share information*);
    - (B) are subject to appropriate confidentiality undertakings with the Processor or any Subprocessor;
    - (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 Contract; and
    - (D) have undergone adequate training in the use, care, protection and handling of Personal Data;
- (d) not transfer Personal Data outside of the EU unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
  - (i) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Controller;
  - (ii) the Data Subject has enforceable rights and effective legal remedies;
  - (iii) 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
  - (iv) 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 Contract unless the Processor is required by Law to retain the Personal Data.

6. Subject to paragraph 7 of this Schedule 20, the Processor shall notify the Controller immediately if in relation to it Processing Personal Data under or in connection with the Contract it:
  - (a) receives a Data Subject Access Request (or purported Data Subject Access Request);
  - (b) receives a request to rectify, block or erase any Personal Data;
  - (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
  - (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data Processed under the Contract;
  - (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 Personal Data Breach.
  
7. The Processor's obligation to notify under paragraph 6 of this Schedule 20 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 assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under paragraph 6 of this Schedule 20 (and insofar as possible within the timescales reasonably required by the Controller) including by immediately 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 Access 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 Personal Data Breach; 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 Schedule 20. 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 GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the 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. The Parties shall designate a Data Protection Officer if required by the Data Protection Legislation.
12. Before allowing any Subprocessor to Process any Personal Data related to the Contract, 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 Schedule 20 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. The Buyer may, at any time on not less than 30 Working Days' notice, revise this Schedule 20 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to the Contract).
15. The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Buyer may on not less than 30 Working Days' notice to the Supplier amend the Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office.

#### **Where the Parties are Joint Controllers of Personal Data**

16. In the event that the Parties are Joint Controllers in respect of Personal Data under the Contract, the Parties shall implement paragraphs that are necessary to comply with GDPR Article 26 based on the terms set out in Annex 2 to this Schedule 20 (*Processing Data*).

#### **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 Parties, 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 Schedule 20 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 Parties shall be responsible for their own compliance with Articles 13 and 14 GDPR in respect of the Processing of Personal Data for the purposes of the Contract.
21. The Parties shall only provide Personal Data to each other:
  - (a) to the extent necessary to perform their respective obligations under the Contract;
  - (b) in compliance with the Data Protection Legislation (including by ensuring all required data privacy information has been given to affected Data Subjects to meet the requirements of Articles 13 and 14 of the GDPR); and
  - (c) where it has recorded it in Annex 1 (*Processing Personal Data*).
22. Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, each Party shall, with respect to its Processing of Personal Data as Independent Controller, implement and maintain appropriate technical and organisational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1)(a), (b), (c) and (d) of the GDPR, and the measures shall, at a minimum, comply with the requirements of the Data Protection Legislation, including Article 32 of the GDPR.
23. A Party Processing Personal Data for the purposes of the Contract shall maintain a record of its Processing activities in accordance with Article 30 GDPR and shall make the record available to the other Party upon reasonable request.
24. Where a Party receives a request by any Data Subject to exercise any of their rights under the Data Protection Legislation in relation to the Personal Data provided to it by the other Party pursuant to the Contract ("**Request Recipient**"):
  - (a) the other Party shall provide any information and/or assistance as reasonably requested by the Request Recipient to help it respond to the request or correspondence, at the cost of the Request Recipient; or
  - (b) where the request or correspondence is directed to the other Party and/or relates to that other Party's Processing of the Personal Data, the Request Recipient will:
    - (i) promptly, and in any event within five (5) Working Days of receipt of the request or correspondence, inform the other Party that it has received the same and shall forward such request or correspondence to the other Party; and
    - (ii) provide any information and/or assistance as reasonably requested by the other Party to help it respond to the request or

correspondence in the timeframes specified by Data Protection Legislation.

25. Each Party shall promptly notify the other Party upon it becoming aware of any Personal Data Breach relating to Personal Data provided by the other Party pursuant to the Contract and shall:
  - (a) do all such things as reasonably necessary to assist the other Party in mitigating the effects of the Personal Data Breach;
  - (b) implement any measures necessary to restore the security of any compromised Personal Data;
  - (c) work with the other Party to make any required notifications to the Information Commissioner's Office and affected Data Subjects in accordance with the Data Protection Legislation (including the timeframes set out therein); and
  - (d) not do anything which may damage the reputation of the other Party or that Party's relationship with the relevant Data Subjects, save as required by Law.
26. Personal Data provided by one Party to the other Party may be used exclusively to exercise rights and obligations under the Contract as specified in Annex 1 (*Processing Personal Data*).
27. Personal Data shall not be retained or processed for longer than is necessary to perform each Party's respective obligations under the Contract which is specified in Annex 1 (*Processing Personal Data*).
28. Notwithstanding the general application of paragraphs 2 to 15 of this Schedule 20 to Personal Data, where the Supplier is required to exercise its regulatory and/or legal obligations in respect of Personal Data, it shall act as an Independent Controller of Personal Data in accordance with paragraphs 16 to 27 of this Schedule 20.

## Annex 1 - Processing Personal Data

This Annex 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 Annex shall be with the Buyer at its absolute discretion.

- 1.1 The contact details of the Buyer's Data Protection Officer are: **[Insert]** Contact details]
- 1.2 The contact details of the Supplier's Data Protection Officer are: **[Insert]** Contact details]
- 1.3 The Processor shall comply with any further written instructions with respect to Processing by the Controller.
- 1.4 Any such further instructions shall be incorporated into this Annex.

Description	Details
Identity of Controller for each Category of Personal Data	<p><b>The Buyer is Controller and the Supplier is Processor</b></p> <p>The Parties acknowledge that in accordance with paragraph 2 to paragraph 15 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"> <li>• <b>[Insert]</b> <i>the scope of Personal Data which the purposes and means of the Processing by the Supplier is determined by the Buyer]</i></li> </ul>
Duration of the Processing	<b>[INSERT]</b> <i>Clearly set out the duration of the Processing including dates]</i>
Nature and purposes of the Processing	<p><b>[INSERT]</b> <i>Please be as specific as possible, but make sure that you cover all intended purposes.</i></p> <p><i>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.</i></p> <p><i>The purpose might include: employment processing, statutory obligation, recruitment assessment etc]</i></p>
Type of Personal Data	<b>[INSERT]</b> <i>Examples here include: name, address, date of birth, NI number, telephone number, pay, images, biometric data etc]</i>
Categories of Data Subject	<b>[INSERT]</b> <i>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]</i>

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

**[INSERT]** Describe how long the data will be retained for, how it be returned or destroyed]

## Schedule 21 (Variation Form)

This form is to be used in order to change a contract in accordance with Clause 24 of the Core Terms (Changing the Contract)

Contract Details		
This variation is between:	[Buyer] ("the Buyer") And [insert name of Supplier] ("the Supplier")	
Contract name:	[insert name of contract to be changed] ("the Contract")	
Contract reference number:	[insert contract reference number]	
Details of Proposed Variation		
Variation initiated by:	[delete] as applicable: Buyer/Supplier]	
Variation number:	[insert variation number]	
Date variation is raised:	[insert date]	
Proposed variation		
Reason for the variation:	[insert reason]	
An Impact Assessment shall be provided within:	[insert number] days	
Impact of Variation		
Likely impact of the proposed variation:	[Supplier to insert] assessment of impact]	
Outcome of Variation		
Contract variation:	This Contract detailed above is varied as follows: <ul style="list-style-type: none"> <li>[Buyer to insert] original Clauses or Paragraphs to be varied and the changed clause]</li> </ul>	
Financial variation:	Original Contract Value:	£ [insert amount]
	Additional cost due to variation:	£ [insert amount]
	New Contract value:	£ [insert amount]

1. This Variation must be agreed and signed by both Parties to the Contract and shall only be effective from the date it is signed by the Buyer
2. Words and expressions in this Variation shall have the meanings given to them in the Contract.
3. The Contract, including any previous Variations, shall remain effective and unaltered except as amended by this Variation.

Signed by an authorised signatory for and on behalf of the Buyer

Signature

Date

Name (in Capitals)

Address

Signed by an authorised signatory to sign for and on behalf of the Supplier

Signature

Date

Name (in Capitals)

Address

# Schedule 22 (Insurance Requirements)

## 1. The insurance you need to have

- 1.1 The Supplier shall take out and maintain, or procure the taking out and maintenance of the insurances as set out in the Annex to this Schedule and any other insurances as may be required by applicable Law (together the “**Insurances**”). The Supplier shall ensure that each of the Insurances is effective no later than

the Start Date in respect of those Insurances set out in the Annex to this Schedule and those required by applicable Law; and

- 1.2 The Insurances shall be:

1.2.1 maintained in accordance with Good Industry Practice;

1.2.2 (so far as is reasonably practicable) on terms no less favourable than those generally available to a prudent contractor in respect of risks insured in the international insurance market from time to time;

1.2.3 taken out and maintained with insurers of good financial standing and good repute in the international insurance market; and

1.2.4 maintained for at least six (6) years after the End Date.

- 1.3 The Supplier shall ensure that the public and products liability policy contain an indemnity to principals clause under which the Buyer shall be indemnified in respect of claims made against the Buyer in respect of death or bodily injury or third party property damage arising out of or in connection with the Deliverables and for which the Supplier is legally liable.

## 2. How to manage the insurance

- 2.1 Without limiting the other provisions of this Contract, the Supplier shall:

2.1.1 take or procure the taking of all reasonable risk management and risk control measures in relation to Deliverables as it would be reasonable to expect of a prudent contractor acting in accordance with Good Industry Practice, including the investigation and reports of relevant claims to insurers;

2.1.2 promptly notify the insurers in writing of any relevant material fact under any Insurances of which the Supplier is or becomes aware; and

2.1.3 hold all policies in respect of the Insurances and cause any insurance broker effecting the Insurances to hold any insurance slips and other evidence of placing cover representing any of the Insurances to which it is a party.

## 3. What happens if you aren't insured

- 3.1 The Supplier shall not take any action or fail to take any action or (insofar as is reasonably within its power) permit anything to occur in relation to it which

would entitle any insurer to refuse to pay any claim under any of the Insurances.

- 3.2 Where the Supplier has failed to purchase or maintain any of the Insurances in full force and effect, the Buyer may elect (but shall not be obliged) following written notice to the Supplier to purchase the relevant Insurances and recover the reasonable premium and other reasonable costs incurred in connection therewith as a debt due from the Supplier.

#### **4. Evidence of insurance you must provide**

- 4.1 The Supplier shall upon the Start Date and within 15 Working Days after the renewal of each of the Insurances, provide evidence, in a form satisfactory to the Buyer, that the Insurances are in force and effect and meet in full the requirements of this Schedule.

#### **5. Making sure you are insured to the required amount**

- 5.1 The Supplier shall ensure that any Insurances which are stated to have a minimum limit "in the aggregate" are maintained at all times for the minimum limit of indemnity specified in this Contract and if any claims are made which do not relate to this Contract then the Supplier shall notify the Buyer and provide details of its proposed solution for maintaining the minimum limit of indemnity.

#### **6. Cancelled Insurance**

- 6.1 The Supplier shall notify the Buyer in writing at least five (5) Working Days prior to the cancellation, suspension, termination or non-renewal of any of the Insurances.
- 6.2 The Supplier shall ensure that nothing is done which would entitle the relevant insurer to cancel, rescind or suspend any insurance or cover, or to treat any insurance, cover or claim as voided in whole or part. The Supplier shall use all reasonable endeavours to notify the Buyer (subject to third party confidentiality obligations) as soon as practicable when it becomes aware of any relevant fact, circumstance or matter which has caused, or is reasonably likely to provide grounds to, the relevant insurer to give notice to cancel, rescind, suspend or void any insurance, or any cover or claim under any insurance in whole or in part.

#### **7. Insurance claims**

- 7.1 The Supplier shall promptly notify to insurers any matter arising from, or in relation to, the Deliverables, or the Contract for which it may be entitled to claim under any of the Insurances. In the event that the Buyer receives a claim relating to or arising out of the Contract or the Deliverables, the Supplier shall co-operate with the Buyer and assist it in dealing with such claims including without limitation providing information and documentation in a timely manner.
- 7.2 Except where the Buyer is the claimant party, the Supplier shall give the Buyer notice within twenty (20) Working Days after any insurance claim in excess of 10% of the sum required to be insured pursuant to Paragraph 5.1 relating to or arising out of the provision of the Deliverables or this Contract on any of the Insurances or which, but for the application of the applicable policy excess,



would be made on any of the Insurances and (if required by the Buyer) full details of the incident giving rise to the claim.

- 7.3 Where any Insurance requires payment of a premium, the Supplier shall be liable for and shall promptly pay such premium.
- 7.4 Where any Insurance is subject to an excess or deductible below which the indemnity from insurers is excluded, the Supplier shall be liable for such excess or deductible. The Supplier shall not be entitled to recover from the Buyer any sum paid by way of excess or deductible under the Insurances whether under the terms of this Contract or otherwise.

## **ANNEX: REQUIRED INSURANCES**

- 1.** The Supplier shall hold the following insurance cover from the Start Date in accordance with this Schedule:
  - 1.1 professional indemnity insurance with cover (for a single event or a series of related events and in the aggregate) of not less than one million pounds (£1,000,000);
  - 1.2 public liability insurance with cover (for a single event or a series of related events and in the aggregate) of not less than ten million pounds (£5,000,000);  
and
  - 1.3 employers' liability insurance with cover (for a single event or a series of related events and in the aggregate) of not less than five million pounds (£5,000,000).

## Schedule 25 (Rectification Plan)

Request for <b>[Revised]</b> Rectification Plan		
Details of the Default:	<b>[Guidance]:</b> Explain the Default, with clear schedule and clause references as appropriate]	
Deadline for receiving the <b>[Revised]</b> Rectification Plan:	<b>[add]</b> date (minimum 10 days from request)]	
Signed by Buyer :		Date:
Supplier <b>[Revised]</b> Rectification Plan		
Cause of the Default	<b>[add]</b> cause]	
Anticipated impact assessment:	<b>[add]</b> impact]	
Actual effect of Default:	<b>[add]</b> effect]	
Steps to be taken to rectification:	<b>Steps</b>	<b>Timescale</b>
	1.	<b>[date]</b>
	2.	<b>[date]</b>
	3.	<b>[date]</b>
	4.	<b>[date]</b>
	<b>[...]</b>	<b>[date]</b>
Timescale for complete Rectification of Default	<b>[X]</b> Working Days ]	
Steps taken to prevent recurrence of Default	<b>Steps</b>	<b>Timescale</b>
	1.	<b>[date]</b>
	2.	<b>[date]</b>
	3.	<b>[date]</b>
	4.	<b>[date]</b>
	<b>[...]</b>	<b>[date]</b>
Signed by the Supplier:		Date:
Review of Rectification Plan Buyer		
Outcome of review	<b>[Plan Accepted]</b> <b>[Plan Rejected]</b> <b>[Revised Plan Requested]</b>	
Reasons for rejection (if applicable)	<b>[add]</b> reasons]	

Signed by Buyer		Date:	
-----------------	--	-------	--

# Schedule 27 (Key Subcontractors)

## 1. Restrictions on certain subcontractors

- 1.1 The Supplier is entitled to sub-contract its obligations under the Contract to the Key Subcontractors set out in the Award Form.
- 1.2 Where during the Contract Period the Supplier wishes to enter into a new Key Sub-contract or replace a Key Subcontractor, it must obtain the prior written consent of the Buyer and the Supplier shall, at the time of requesting such consent, provide the Buyer with the information detailed in Paragraph 1.4. The decision of the Buyer to consent or not will not be unreasonably withheld or delayed. Where the Buyer consents to the appointment of a new Key Subcontractor then they will be added to Key Subcontractor section of the Award Form. The Buyer may reasonably withhold their consent to the appointment of a Key Subcontractor if it considers that:
  - 1.2.1 the appointment of a proposed Key Subcontractor may prejudice the provision of the Deliverables or may be contrary to its interests;
  - 1.2.2 the proposed Key Subcontractor is unreliable and/or has not provided reliable goods and or reasonable services to its other customers; and/or
  - 1.2.3 the proposed Key Subcontractor employs unfit persons.
- 1.3 The Supplier shall provide the Buyer with the following information in respect of the proposed Key Subcontractor:
  - 1.3.1 the proposed Key Subcontractor's name, registered office and company registration number;
  - 1.3.2 the scope/description of any Deliverables to be provided by the proposed Key Subcontractor;
  - 1.3.3 where the proposed Key Subcontractor is an Affiliate of the Supplier, evidence that demonstrates to the reasonable satisfaction of the Buyer that the proposed Key Sub-Contract has been agreed on "arm's-length" terms;
  - 1.3.4 the Key Sub-Contract price expressed as a percentage of the total projected Charges over the Contract Period; and
  - 1.3.5 (where applicable) Credit Rating Threshold (as defined in Schedule 24 (Financial Distress)) of the Key Subcontractor.
- 1.4 If requested by the Buyer, within ten (10) Working Days of receipt of the information provided by the Supplier pursuant to Paragraph 1.3, the Supplier shall also provide:
  - 1.4.1 a copy of the proposed Key Sub-Contract; and
  - 1.4.2 any further information reasonably requested by the Buyer.

- 1.5 The Supplier shall ensure that each new or replacement Key Sub-Contract shall include:
- 1.5.1 provisions which will enable the Supplier to discharge its obligations under the Contract;
  - 1.5.2 a right under CRTPA for the Buyer to enforce any provisions under the Key Sub-Contract which confer a benefit upon the Buyer;
  - 1.5.3 a provision enabling the Buyer to enforce the Key Sub-Contract as if it were the Supplier;
  - 1.5.4 a provision enabling the Supplier to assign, novate or otherwise transfer any of its rights and/or obligations under the Key Sub-Contract to the Buyer;
  - 1.5.5 obligations no less onerous on the Key Subcontractor than those imposed on the Supplier under the Contract in respect of:
    - (a) the data protection requirements set out in Clause 14 (Data protection);
    - (b) the FOIA and other access request requirements set out in Clause 16 (When you can share information);
    - (c) the obligation not to embarrass the Buyer or otherwise bring the Buyer into disrepute;
    - (d) the keeping of records in respect of the goods and/or services being provided under the Key Sub-Contract, including the maintenance of Open Book Data; and
    - (e) the conduct of audits set out in Clause 6 (Record keeping and reporting);
  - 1.5.6 provisions enabling the Supplier to terminate the Key Sub-Contract on notice on terms no more onerous on the Supplier than those imposed on the Buyer under Clauses 10.4 (When the Buyer can end this contract) and 10.5 (What happens if the contract ends) of this Contract; and
  - 1.5.7 a provision restricting the ability of the Key Subcontractor to sub-contract all or any part of the provision of the Deliverables provided to the Supplier under the Key Sub-Contract without first seeking the written consent of the Buyer.

## Attachment 2

### Evaluation Criteria

#### Evaluation Process

1. In the interests of an open, fair and transparent assessment, this document sets out how the authority intends to evaluate tender responses to determine the most economically advantageous Tender (MEAT). Included in this section is the evaluation criteria and respective weightings, as well as the evaluation methodology to be applied. Please make sure you fully understand the evaluation methodology before submitting your tender response.
2. In order to bid, potential suppliers **MUST** complete all three tender components.
  - i. Standard Selection Questionnaire
  - ii. Service Specific & Social Value Questions
  - iii. Pricing Template
3. Evaluation will take place in the following stages:

**Table 1: Evaluation Process**

<b>Stage</b>	<b>Evaluation Criteria</b>	<b>Question Scoring/Weighting</b>
Stage 1. Standard Selection Questionnaire	Responses provided in the e-tendering system Jaggaer	Pass or Fail
Stage 2. Technical Evaluation: Service Specific & Social Value Questions	Responses to the questions set out in the technical envelope (you must use the attachments provided)	Scored – 80% (Service Specific 70%) (Social Value 10%)
Stage 3. Commercial Evaluation: Pricing Template	Response to the question set out in commercial envelope (you must use the attachments provided)	Scored – 20 %
Stage 4. Appointment to the Tender	Final score will be calculated as follows: 80% is made up of the total from Stage 2 (Technical) 20% is made up from stage 3 (Commercial)	

#### **Stage 1: Selection Questionnaire (not weighted)**

1. As part of this tender, Potential Suppliers are required to complete a Standard Selection Questionnaire (SSQ), to allow the authority to ensure they are compliant with the requirements of the ITT.

2. Parts 1 is not scored. Much of parts 2 and 3 of the Response Questionnaire are autoscored within the e-Tendering portal. We score each correct answer with a Pass. We score each incorrect answer Fail. A Fail score, for one or more questions, is deemed an overall Fail and service specific technical question responses of any Prospective Contractor receiving this score, will not be evaluated.
4. You should note that within Part 2 there are a small number of questions where you are able to “self-cleanse” i.e. offer mitigation against an answer that would otherwise receive a Fail score. If we accept the mitigation then the Fail score can be overturned. If we do not accept the mitigation you will be provided with feedback explaining why. Please note these self-cleansing questions are ONLY available in Part 2 (Q2.1(a) – Q3.1(h)) under mandatory and discretionary grounds for exclusion.

### **Stage 2: Technical Evaluation (80%)**

5. Tender responses that meet the mandatory requirements will then be evaluated at stage 2 (Technical Evaluation). Technical will constitute 80% of the maximum score available.
6. Evaluation of the tender responses will be undertaken by a panel appointed by the authority. Each evaluation panel member will first undertake an independent evaluation of the tender responses, following which a moderation meeting will be held.
7. All the questions are mandatory. If a potential supplier does not respond to all questions and fails to provide a satisfactory reason as to why it cannot respond to a particular question, this will result in a zero mark for the relevant question and a complete failure of the Tender.
8. The questions are designed to ensure the authority is able to evaluate the quality aspects that determine the MEAT tender for the supply of required services. Potential bidders should ensure they have read and understand the required services before submitting questions.



Questions	Looks For	Weighting	Word Count
Please demonstrate that you have sufficient knowledge of T levels, Industry Placements and how these fit within the post 16 landscape	<ul style="list-style-type: none"> <li>i. Demonstrate a clear understanding and interest in the technical reforms and post 16 skills Plan including industry placement policy</li> <li>ii. Detail any current work undertaken to date to engage with and provide guidance to SMEs on post-16 education</li> <li>iii. Demonstrate evidence of working with employers at an operational level and using expert knowledge to underpin detailed operational conversations that will support employers to develop and host industry placements in the specific sector you are bidding for.</li> <li>iv. Demonstrate evidence of your expertise/knowledge of the sector you are bidding for</li> </ul>	10%	2,000
Please demonstrate how you will engage SMEs to identify what good practice looks like to support their employer journey to offering industry placement opportunities specific to the lot/indicative figures provided in the Specification	<ul style="list-style-type: none"> <li>i. Provide a detailed plan of how you will implement, and project manage this project both in terms of engaging SMEs and supporting them in their journey to host high quality industry placements that reflect the T level roll out. Plans should be costed and profiled on a month-to-month basis for the contract period according to the costs set out in Table 3 of the evaluation criteria</li> <li>ii. Provide a full risk-assessment and describe how you will mitigate these risks</li> <li>iii. Provide information on staff members to be involved, necessary roles and responsibilities and how professional time will be split</li> </ul>	20%	3,000
Please provide a plan including provisional milestones of activity to deliver this project	<ul style="list-style-type: none"> <li>i. Provide a timescale for the introduction of this project indicating what activity you will undertake to first engage with SME's and</li> </ul>	40%	5,000

	<ul style="list-style-type: none"> <li>ii. how you will monitor their progress of planning an industry placement to hosting a student</li> <li>iii. what measures you will have in place to match employers to suitable T level providers</li> <li>iv. how you will scale up this work to support future T Level rollout from September 2023 onwards</li> </ul>		
Please describe the commitment your organisation will make to create employment/training opportunities for those who face barriers to employment and/or for people in industries with known skills shortages or in high growth sectors	<ul style="list-style-type: none"> <li>I. Creating employment and training opportunities particularly for those who face barriers to employment and/or who are in deprived areas</li> <li>II. Understanding of employment and skills issues and of the skills and employment shortages of high growth sectors relating to this contract. Illustrative examples: demographics, skills shortages, new opportunities in high growth sectors, groups under-represented in the workforce (e.g., prison leavers, people with a disability) geographical/local community and skills/employment challenges.</li> <li>III. Delivery of training schemes and programmes to address and identify gaps and under-representation in the workforce for this contract (e.g., prison leavers and people with a disability)</li> </ul>	10%	2,000

### Technical Scoring Matrix

9. All responses to questions will be assessed against the grading in the technical evaluation scoring scheme set out in the table 2 below. The scores range between 0 and 5. High scores will be awarded when the evidence provided demonstrates and provides high confidence in reliable delivery of the required services. Lower scores will be given when the evidence provided does not demonstrate and/or provide confidence in reliable delivery of the requirement as specified.

10. Where questions in the award questionnaire include a number of response requirements, these are not scored separately, but will in practice combine to determine the overall score.

11. A number of technical questions have a minimum score, shown next to the question in the Award Questionnaire and in Annex A. Where a tender does not achieve the minimum score in relation to any question, the tender will be rejected and excluded from further participation in this Procurement.

**Table 2: Technical Evaluation Scoring Scheme**

<b>Score</b>	<b>Acceptability</b>	<b>Description</b>
5	<b>Excellent</b>	The Tender fully and successfully meets the criteria detailed and has provided proposals which demonstrate that they can deliver the requires services to an excellent standard and will bring significant value and benefit to the authority and eligible providers.
4	<b>Good</b>	The response is of a quality and level of detail that provides a high degree of confidence that the potential supplier shall meet all of the service requirements relating to the question, demonstrating a good understanding of the issues and what is being asked for.
3	<b>Satisfactory</b>	The response is of a quality and level of detail that provides a satisfactory degree of confidence that the potential supplier shall meet all of the service requirements relating to the question, demonstrating a satisfactory understanding of the issues and what is being asked for. The response to the question is clear and detailed (with only minor omissions).
2	<b>Poor</b>	The response lacks any convincing evidence to provide confidence that the potential supplier shall meet the service requirements relating to the question, demonstrating some misunderstanding and/or failure to meet the service requirements in many ways and/or materially in one or more ways.
1	<b>Very Poor</b>	The response clearly fails to meet a number of criteria detailed in the question, or the response exhibits clear and significant omissions with regard to meeting the criteria detailed, or inadequate or no supporting evidence has been provided to support the response.
0	<b>Unacceptable</b>	The tenderers proposals are absent or incomplete and or the tenderer has proposals that are not relevant to the authority's requirements.

### **Technical Score Weighting**

12. Each question has been assigned a weighting and this is indicated in the text of the relevant question and set out under "maximum weighted score" in the table set out in Annex A. Weighted scores will be rounded up or down, as appropriate, to the second decimal place.

13. An example of how scores will be weighted are set out below:

Ref	Question	Areas to cover	Score	Weighting	Weighted Score
1.1	<b>Example Q</b>	- <i>Example criteria</i>	<b>5</b>	<b>2.00</b>	<b>10.00</b>
1.2	<b>Example Q</b>	- <i>Example criteria</i>	<b>3</b>	<b>4.00</b>	<b>12.00</b>
1.3	<b>Example Q</b>	- <i>Example criteria</i>	<b>4</b>	<b>8.00</b>	<b>32.00</b>
				<b>Total Score</b>	<b>54.00/80.00</b>

### Moderation

14. Once all evaluators have scored all the technical questions from all the tenders that have been submitted and have had an opportunity to take into account any clarifications with the Potential Suppliers and clarification responses received, a moderation meeting will be scheduled.

15. Each of the bids will then be moderated using the following process:

- After each of the assessors has marked the response using the criteria, the group of assessors will then meet with an independent moderator (someone not involved as an assessor).
- Any questions where the assessors have given scores that are different by +/-2 will be discussed, and a consensus agreed. This will then provide a final moderated score.

### Stage 3: Price Evaluation (20%)

16. Pricing will constitute 20% of the maximum score and will be evaluated as set out below.

17. The authority will calculate the bidder's price score on the following basis.

18. Bidders with higher prices are awarded a lower Price score according to the following formula:

**Financial Score = (Max Percentage score (20) x Lowest price) ÷ Bid price**

For example:

Bidder 1 - £520,260, score 20

Bidder 2 - £538,200, score 19.3

Bidder 3 - £556,140, score 18.7

Bidder 4 - £592,020, score 17.57

Bidder 5 - £627,900, score 16.57

19. All costs **must be stand-alone for the whole life of this contract only** and not rely on interdependencies, shared costs etc. with any other government contract.

### **Abnormally low or inconsistently Price Tender**

1. In the event that the authority has concerns that the prices or costs proposed in the potential supplier's tender may be abnormally low (so as to put the sustainability and satisfactory delivery of the Contract over its term at risk) it may require the potential supplier to provide further information to explain and justify its pricing proposals (or any aspect of these).
2. The authority will assess any information, explanation or evidence provided by the potential supplier in response to the authority's request and, where necessary, may raise any further clarifications with the Potential Supplier. In carrying out this assessment the Authority may also have regard to the potential supplier's overall financial and economic standing and the authority's assessment of this in the Standard Selection Questionnaire.
3. Following this assessment, the authority reserves the right to reject a tender where the information, explanation or evidence provided by the potential supplier does not, in the opinion of the authority, satisfactorily account for the low level of prices or costs proposed and so leads the authority to the conclusion that the Tender is abnormally low (so as to put the sustainability and satisfactory delivery of the Contract at risk). In reaching its judgement and conclusion on this issue, the Authority may also have regard to the potential supplier's overall financial and economic standing and the authority's assessment of this in the Standard Selection Questionnaire.

### **Stage 4: Contract Award**

4. The authority has established a dedicated evaluation for the purpose of evaluating and moderating Award Questionnaires submitted by potential suppliers. The Award Questionnaire evaluation panel consists of members from the authority. The moderator will be an independent panel member from the authority's commercial directorate.
5. The technical and price elements of the tenders will be evaluated in order to determine the MEAT tender. The Authority anticipates appointing Tenderers based on their MEAT scores. The MEAT tender shall be the tender with the highest overall score, based on a weighting of 80% for technical and 20% for price.
6. If the tenders of two or more potential suppliers obtain the same highest overall consolidated score, the potential supplier's tender with the highest

technical score will be deemed to have the highest overall consolidated score.

7. Any Contract Award will be subject to the relevant potential supplier providing supporting evidence in relation to any of its Tender responses that it has self-certified as meeting the relevant question's requirements. If the potential supplier fails to provide such evidence which confirms, to the Authority's satisfaction, that it meets the relevant question's requirements, its tender may be excluded from the procurement.

#### Clarifications

8. Following submission of tenders, the authority may request a potential supplier to clarify any aspect of their Tender.
9. Individual evaluators may meet in one or more groups and on one or more occasions in order to identify and agree any clarification questions or other concerns which need to be raised with a potential supplier regarding their Tender.
10. Clarification questions will be raised with the potential supplier via the e-Sourcing Portal. potential suppliers will be requested to provide their answers via the e-Sourcing Portal within the timeframe stated in the request.
11. All the answers received from each potential supplier will then be passed onto the evaluators in order to inform their scoring of the relevant Tender.
12. As part of the evaluation of tenders, the authority may invite potential suppliers to a clarification meeting. If required, this will take place between receipt of Award Stage Submissions and announcement of the successful potential supplier(s) pricing and technical evaluation.

## Annex A- Table of questionnaire, scores and weighting

### Technical Envelope: Service Specific Questions (70%)

Service Specific Section	Question	Max Word Count	Weighting	Minimum Score	Maximum Score	Maximum Weighted Score
1.1.1	Please demonstrate that you have sufficient knowledge of T levels, Industry Placements and how these fit within the post 16 landscape	2,000	2.00	3.00	5.00	10.00
1.1.2	Please demonstrate how you will engage SMEs to identify what good practice looks like to support their employer journey to offering industry placement opportunities in relation to the required Industry Placement starts provided in the Specification	3,000	4.00	3.00	5.00	20.00
1.1.3	Please provide a plan including provisional milestones of activity to deliver this project	5,000	8.00	3.00	5.00	40.00
<b>Total: Service Specific</b>						<b>70</b>

### Technical Envelope: Social Value Questions (10%)

<b>Total: Social Value</b>						
Social Value Section	Question	Max Character Count	Weighting	Minimum Score	Maximum Score	Maximum Weighted Score
1.1.4	Please describe the commitment your organisation will make to create employment/training opportunities for those who face barriers to employment and/or for people in industries with known skills shortages or in high growth sectors	2,000	2.00	3.00	5.00	10.00
<b>Total: Social Value</b>						<b>10</b>

### Commercial Envelope Questions (20%)

Commercial Section	Question	Max Character Count	Maximum Score	Maximum Weighted Score
3.1	Please provide a detailed breakdown of costs using Attachment 5 Commercial Envelope Pricing Template.	N/A	20.00	20.00
<b>Total: Commercial</b>				<b>20</b>



## Attachment 3

### Departmental Security Standards

#### 12. Departmental Security Standards for Business Services and ICT Contracts

<p>“BPSS” “Baseline Personnel Security Standard”</p>	<p>means the Government’s HMG Baseline Personal Security Standard . Further information can be found at: <a href="https://www.gov.uk/government/publications/government-baseline-personnel-security-standard">https://www.gov.uk/government/publications/government-baseline-personnel-security-standard</a></p>
<p>“CCSC” “Certified Cyber Security Consultancy”</p>	<p>is the National Cyber Security Centre’s (NCSC) approach to assessing the services provided by consultancies and confirming that they meet NCSC's standards.  See website: <a href="https://www.ncsc.gov.uk/scheme/certified-cyber-consultancy">https://www.ncsc.gov.uk/scheme/certified-cyber-consultancy</a></p>
<p>“CCP” “Certified Professional”</p>	<p>is a NCSC scheme in consultation with government, industry and academia to address the growing need for specialists in the cyber security profession. See website: <a href="https://www.ncsc.gov.uk/information/about-certified-professional-scheme">https://www.ncsc.gov.uk/information/about-certified-professional-scheme</a></p>
<p>“CPA” “Commercial Product Assurance” [formerly called “CESG Product Assurance”]</p>	<p>is an ‘information assurance scheme’ which evaluates commercial off the shelf (COTS) products and their developers against published security and development standards.. See website: <a href="https://www.ncsc.gov.uk/scheme/commercial-product-assurance-cpa">https://www.ncsc.gov.uk/scheme/commercial-product-assurance-cpa</a></p>
<p>“Cyber Essentials” “Cyber Essentials Plus”</p>	<p>Cyber Essentials is the government backed, industry supported scheme to help organisations protect themselves against common cyber-attacks. Cyber Essentials and Cyber Essentials Plus are levels within the scheme.  There are a number of certification bodies that can be approached for further advice on the scheme; the link below points to these providers: <a href="https://www.cyberessentials.ncsc.gov.uk/getting-certified/#what-is-an-accreditation-body">https://www.cyberessentials.ncsc.gov.uk/getting-certified/#what-is-an-accreditation-body</a></p>

<p>“Data”</p> <p>“Data Controller”</p> <p>“Data Protection Officer”</p> <p>“Data Processor”</p> <p>“Personal Data”</p> <p>“Personal Data requiring Sensitive Processing”</p> <p>“Data Subject”, “Process” and “Processing”</p>	<p>shall have the meanings given to those terms by the Data Protection Act 2018</p>
<p>“Department’s Data”</p> <p>“Department’s Information”</p>	<p>is any data or information owned or retained in order to meet departmental business objectives and tasks, including:</p> <p>(a) any data, text, drawings, diagrams, images or sounds (together with any repository or database made up of any of these components) which are embodied in any electronic, magnetic, optical or tangible media, and which are:</p> <p style="padding-left: 40px;">(i) supplied to the Contractor by or on behalf of the Department; or</p> <p style="padding-left: 40px;">(ii) which the Contractor is required to generate, process, store or transmit pursuant to this Contract; or</p> <p>(b) any Personal Data for which the Department is the Data Controller;</p>
<p>“DfE”</p> <p>“Department”</p>	<p>means the Department for Education</p>
<p>“Departmental Security Standards”</p>	<p>means the Department’s security policy or any standards, procedures, process or specification for security that the Contractor is required to deliver.</p>
<p>“Digital Marketplace / G-Cloud”</p>	<p>means the Digital Marketplace is the online framework for identifying and procuring cloud technology and people for digital projects.</p>
<p>End User Devices</p>	<p>means the personal computer or consumer devices that store or process information.</p>
<p>“Good Industry Practice”</p> <p>“Industry Good Practice”</p>	<p>means the exercise of that degree of skill, care, prudence, efficiency, foresight and timeliness as would be expected from a leading company within the relevant industry or business sector.</p>
<p>“Good Industry Standard”</p> <p>“Industry Good Standard”</p>	<p>means the implementation of products and solutions, and the exercise of that degree of skill, care, prudence, efficiency, foresight and timeliness as would be expected from a leading company within the relevant industry or business sector.</p>

<p>“GSC”</p> <p>“GSCP”</p>	<p>means the Government Security Classification Policy which establishes the rules for classifying HMG information. The policy is available at: <a href="https://www.gov.uk/government/publications/government-security-classifications">https://www.gov.uk/government/publications/government-security-classifications</a></p>
<p>“HMG”</p>	<p>means Her Majesty’s Government</p>
<p>“ICT”</p>	<p>means Information and Communications Technology (ICT) and is used as an extended synonym for information technology (IT), used to describe the bringing together of enabling technologies used to deliver the end-to-end solution</p>
<p>“ISO/IEC 27001” “ISO 27001”</p>	<p>is the International Standard for Information Security Management Systems Requirements</p>
<p>“ISO/IEC 27002” “ISO 27002”</p>	<p>is the International Standard describing the Code of Practice for Information Security Controls.</p>
<p>“ISO 22301”</p>	<p>is the International Standard describing for Business Continuity</p>
<p>“IT Security Health Check (ITSHC)”</p> <p>“IT Health Check (ITHC)”</p> <p>“Penetration Testing”</p>	<p>means an assessment to identify risks and vulnerabilities in systems, applications and networks which may compromise the confidentiality, integrity or availability of information held on that IT system.</p>
<p>“Need-to-Know”</p>	<p>means the Need-to-Know principle employed within HMG to limit the distribution of classified information to those people with a clear ‘need to know’ in order to carry out their duties.</p>
<p>“NCSC”</p>	<p>The National Cyber Security Centre (NCSC) is the UK government’s National Technical Authority for Information Assurance. The NCSC website is <a href="https://www.ncsc.gov.uk">https://www.ncsc.gov.uk</a></p>
<p>“OFFICIAL”</p> <p>“OFFICIAL-SENSITIVE”</p>	<p>the term ‘OFFICIAL’ is used to describe the baseline level of ‘security classification’ described within the Government Security Classification Policy (GSCP).</p> <p>the term ‘OFFICIAL–SENSITIVE is used to identify a limited subset of OFFICIAL information that could have more damaging consequences (for individuals, an organisation or government generally) if it were lost, stolen or published in the media, as described in the GSCP.</p>
<p>“RBAC”</p> <p>“Role Based Access Control”</p>	<p>means Role Based Access Control. A method of restricting a person’s or process’ access to information depending on the role or functions assigned to them.</p>
<p>“Storage Area Network”</p> <p>“SAN”</p>	<p>means an information storage system typically presenting block based storage (i.e. disks or virtual disks) over a network interface rather than using physically connected storage.</p>

<p>“Secure Sanitisation”</p>	<p>means the process of treating data held on storage media to reduce the likelihood of retrieval and reconstruction to an acceptable level.</p> <p>NCSC Guidance can be found at:  <a href="https://www.ncsc.gov.uk/guidance/secure-sanitisation-storage-media">https://www.ncsc.gov.uk/guidance/secure-sanitisation-storage-media</a></p> <p>The disposal of physical documents and hardcopy materials advice can be found at:  <a href="https://www.cpni.gov.uk/secure-destruction">https://www.cpni.gov.uk/secure-destruction</a></p>
<p>“Security and Information Risk Advisor”  “CCP SIRA”  “SIRA”</p>	<p>means the Security and Information Risk Advisor (SIRA) is a role defined under the NCSC Certified Professional (CCP) Scheme. See also:  <a href="https://www.ncsc.gov.uk/articles/about-certified-professional-scheme">https://www.ncsc.gov.uk/articles/about-certified-professional-scheme</a></p>
<p>“Senior Information Risk Owner”  “SIRO”</p>	<p>means the Senior Information Risk Owner (SIRO) responsible on behalf of the DfE Accounting Officer for overseeing the management of information risk across the organisation. This includes its executive agencies, arms length bodies (ALBs), non-departmental public bodies (NDPBs) and devolved information held by third parties.</p>
<p>“SPF”  “HMG Security Policy Framework”</p>	<p>means the definitive HMG Security Policy which describes the expectations of the Cabinet Secretary and Government’s Official Committee on Security on how HMG organisations and third parties handling HMG information and other assets will apply protective security to ensure HMG can function effectively, efficiently and securely.  <a href="https://www.gov.uk/government/publications/security-policy-framework">https://www.gov.uk/government/publications/security-policy-framework</a></p>

12.1. The Contractor shall be aware of and comply the relevant [HMG security policy framework](#), [NCSC guidelines](#) and where applicable DfE Departmental Security Standards for Contractors which include but are not constrained to the following clauses.

- (Guidance: Providers on the HMG Digital Marketplace / GCloud that have demonstrated compliance, as part of their scheme application, to the relevant scheme’s security framework, such as the HMG Cloud Security Principles for the HMG Digital Marketplace / GCloud, may on presentation of suitable evidence of compliance be excused from compliance to similar clauses within the DfE Security Clauses detailed in this section (Section 12).)

- 12.2. Where the Contractor will provide products or services or otherwise handle information at OFFICIAL for the Department, the requirements of [Cabinet Office Procurement Policy Note – Use of Cyber Essentials Scheme certification - Action Note 09/14](#) dated 25 May 2016, or any subsequent updated document, are mandated, namely that contractors supplying products or services to HMG shall have achieved, and will be expected to retain Cyber Essentials certification at the appropriate level for the duration of the contract. The certification scope shall be relevant to the services supplied to, or on behalf of, the Department.
- (Guidance: Details of the acceptable forms of equivalence are stated at Section 9 of Annex A within the link to Cabinet Office document in this clause).
  - (Guidance: The Department’s expectation is that the certification scope will be relevant to the services supplied to, or on behalf of, the Department. However, where a contractor or (sub) contractor is able to evidence a valid exception or certification to an equivalent recognised scheme or standard, such as ISO 27001, then certification under the Cyber Essentials scheme could be waived. Changes to the Cabinet Office Action Note will be tracked by the DfE)
  - (Guidance: The department’s expectation is that SMEs or organisations of comparable size shall be expected to attain and maintain Cyber Essentials. Larger organisations or enterprises shall be expected to attain and maintain Cyber Essentials Plus.)

- 12.3 Where clause 12.2 above has not been met, the Contractor shall have achieved, and be able to maintain, independent certification to ISO/IEC 27001 (Information Security Management Systems Requirements).

The ISO/IEC 27001 certification must have a scope relevant to the services supplied to, or on behalf of, the Department. The scope of certification and the statement of applicability must be acceptable, following review, to the Department, including the application of controls from ISO/IEC 27002 (Code of Practice for Information Security Controls).

- (Guidance: The Department’s expectation is that suppliers claiming certification to ISO/IEC 27001 shall provide the Department with copies of their Scope of Certification, Statement of Applicability and a valid ISO/IEC 27001 Certificate issued by an authorised certification body. Where the provider is able to provide a valid Cyber Essentials certification then certification under the ISO/IEC 27001 scheme could be waived and this clause may be removed.)

- 12.4 The Contractor shall follow the UK Government Security Classification Policy (GSCP) in respect of any Departmental Data being handled in the course of providing this service and will handle all data in accordance with its security classification. (In the event where the Contractor has an existing Protective Marking Scheme then the Contractor may continue to use this but must map the HMG security classifications against it to ensure the correct controls are applied to the Departmental Data).
- (Guidance: The Department’s expectations are that all contractors shall handle the Department’s information in a manner compliant with the GSCP. Details of the GSCP can be found on the GOV.UK website at: <https://www.gov.uk/government/publications/government-security-classifications>.)
  - (Guidance: Compliance with the GCSP removes the requirement for the department to issue a Security Aspects Letter (SAL) to the contractor).
- 12.5 Departmental Data being handled in the course of providing an ICT solution or service must be separated from all other data on the Contractor’s or sub-contractor’s own IT equipment to protect the Departmental Data and enable the data to be identified and securely deleted when required in line with clause 12.14.
- (Guidance: Advice on HMG secure sanitisation policy and approved methods are described at <https://www.ncsc.gov.uk/guidance/secure-sanitisation-storage-media>)
- 12.6 The Contractor shall have in place and maintain physical security to premises and sensitive areas in line with ISO/IEC 27002 including, but not limited to, entry control mechanisms (e.g. door access), CCTV, alarm systems, etc.
- (Guidance: Where the contractor’s and sub-contractor services are wholly carried out within Departmental premises and all access to buildings or ICT systems is managed directly by the Department as part of the service, the Department shall be responsible for meeting the requirements of this clause.)

- 12.7 The Contractor shall have in place and maintain an appropriate user access control policy for all ICT systems to ensure only authorised personnel have access to Departmental Data. This policy should include appropriate segregation of duties and if applicable role based access controls (RBAC). User credentials that give access to Departmental Data or systems shall be considered to be sensitive data and must be protected accordingly.
- 12.8 (Guidance: Where the contractor's and sub-contractor services are wholly carried out within Departmental premises and all access to buildings or ICT systems is managed directly by the Department as part of the service, the Department shall be responsible for meeting the requirements of this clause.) The Contractor shall have in place and shall maintain procedural, personnel, physical and technical safeguards to protect Departmental Data, including but not limited to:
- physical security controls;
  - good industry standard policies and processes;
  - malware protection;
  - boundary access controls including firewalls, application gateways, etc;
  - maintenance and use of fully supported software packages in accordance with vendor recommendations;
  - use of secure device configuration and builds;
  - software updates and patching regimes including malware signatures, for operating systems, network devices, applications and services;
  - user identity and access controls, including the use of multi-factor authentication for sensitive data and privileged account accesses;
  - any services provided to the department must capture audit logs for security events in an electronic format at the application, service and system level to meet the department's logging and auditing requirements, plus logs shall be:
    - retained and protected from tampering for a minimum period of six months;
    - made available to the department on request.
- (Guidance: Where the contractor's and sub-contractor services are wholly carried out using Departmental ICT resources or locations managed directly by the Department as part of the service, the Department shall be responsible for meeting the requirements of this clause.)

- (Guidance: The [Minimum Cyber Security Standard](#) issued by Cabinet Office and Information Commissioner’s Office advice for the protection of sensitive and personal information recommends the use of Multi-Factor Authentication (MFA). The MFA implementation must have two factors as a minimum; with the second factor being facilitated through a separate and discrete channel, such as, a secure web page, voice call, text message or via a purpose built mobile app, such as; Microsoft Authenticator.)
  - (Guidance: Further advice on appropriate levels of security audit and log collection to be applied can be found at: <https://www.ncsc.gov.uk/collection/caf/caf-principles-and-guidance/c-1-security-monitoring>.)
- 12.9 The contractor shall ensure that any departmental data (including email) transmitted over any public network (including the Internet, mobile networks or un-protected enterprise network) or to a mobile device shall be encrypted when transmitted.
- 12.10 The contractor shall ensure that any departmental data which resides on a mobile, removable or physically uncontrolled device is stored encrypted using a product or system component which has been formally assured through a recognised certification process agreed with the department except where the department has given its prior written consent to an alternative arrangement.
- (Guidance: The use of an encryption product that utilises the AES256 algorithm would be considered ‘industry good practice’ in this area. Where the use of removable media as described in this clause is either prohibited or not required in order to deliver the service this clause shall be revised as follows: - ‘The use of removable media in any form is not permitted’.)
- 12.11 The contractor shall ensure that any device which is used to process departmental data meets all of the security requirements set out in the NCSC End User Devices Platform Security Guidance, a copy of which can be found at: <https://www.ncsc.gov.uk/guidance/end-user-device-security> and <https://www.ncsc.gov.uk/collection/end-user-device-security/eud-overview/eud-security-principles>.
- (Guidance: The use of an encryption product that utilises the AES256 algorithm would be considered ‘industry good practice’ in this area. Where the contractor’s and sub-contractor services are wholly carried out using Departmental ICT resources managed directly by the Department as part of the service, the Department shall be responsible for meeting the requirements of this clause.)
- 12.12 Whilst in the Contractor’s care all removable media and hardcopy paper documents containing Departmental Data must be handled securely and secured under lock and key when not in use and shall be securely destroyed when no longer required, using either a cross-cut shredder or a professional secure disposal organisation.



The term 'lock and key' is defined as: "securing information in a lockable desk drawer, cupboard or filing cabinet which is under the user's sole control and to which they hold the keys".

- (Guidance: Further advice on appropriate destruction and disposal methods for physical and hardcopy documents can be found at: <https://www.cpni.gov.uk/secure-destruction>)

12.13 When necessary to hand carry removable media and/or hardcopy paper documents containing Departmental Data, the media or documents being carried shall be kept under cover and transported in such a way as to ensure that no unauthorised person has either visual or physical access to the material being carried. This clause shall apply equally regardless of whether the material is being carried inside or outside of company premises.

The term 'under cover' means that the information is carried within an opaque folder or envelope within official premises and buildings and within a closed briefcase or other similar bag or container when outside official premises or buildings.

12.14 In the event of termination of contract due to expiry, liquidation or non-performance, all information assets provided, created or resulting from the service shall not be considered as the supplier's assets and must be returned to the department and written assurance obtained from an appropriate officer of the supplying organisation that these assets regardless of location and format have been fully sanitised throughout the organisation in line with clause 12.15.

- (Guidance: It is Departmental policy that suppliers of business services shall provide evidence of an acceptable level of security assurance concerning sanitisation must be in accordance with guidance provided by NCSC and CPNI.

12.15 In the event of termination, equipment failure or obsolescence, all Departmental information and data, in either hardcopy or electronic format, that is physically held or logically stored by the Contractor must be accounted for and either physically returned or securely sanitised or destroyed in accordance with the current HMG policy using an NCSC approved product or method.

Where sanitisation or destruction is not possible for legal, regulatory or technical reasons, such as data stored in a cloud system, Storage Area Network (SAN) or on shared backup tapes, then the Contractor or sub-contractor shall protect the Department's information and data until such time, which may be long after the end of the contract, when it can be securely cleansed or destroyed.

Evidence of secure destruction will be required in all cases.

- (Guidance: Where there is no acceptable secure sanitisation method available for a piece of equipment, or it is not possible to sanitise the

equipment due to an irrecoverable technical defect, the storage media involved shall be destroyed using an HMG approved method described at <https://www.ncsc.gov.uk/guidance/secure-sanitisation-storage-media>.)

- (Guidance: Further advice on appropriate destruction and disposal methods for physical and hardcopy documents can be found at: <https://www.cpni.gov.uk/secure-destruction> )
- (Guidance: The term ‘accounted for’ means that assets and documents retained, disposed of or destroyed should be listed and provided to the department as proof of compliance to this clause.)

12.16 Access by Contractor or sub-contractor staff to Departmental Data, including user credentials, shall be confined to those individuals who have a “need-to-know” in order to carry out their role; and have undergone mandatory pre-employment screening, to a minimum of HMG Baseline Personnel Security Standard (BPSS); or hold an appropriate National Security Vetting clearance as required by the Department. All Contractor or sub-contractor staff must complete this process before access to Departmental Data is permitted. Any Contractor or sub-contractor staff who will be in contact with children or vulnerable adults must, in addition to any security clearance, have successfully undergone an Enhanced DBS (Disclosure and Barring Service) check prior to any contact.

- (Guidance: Further details of the requirements for HMG BPSS clearance are available on the website at: <https://www.gov.uk/government/publications/government-baseline-personnel-security-standard>)
- (Guidance: Further details of the requirements for National Security Vetting, if deemed necessary for this contract are available at: <https://www.gov.uk/government/publications/hmg-personnel-security-controls>)

- 12.17 All Contractor or sub-contractor employees who handle Departmental Data shall have annual awareness training in protecting information.
- 12.18 The Contractor shall, as a minimum, have in place robust Business Continuity arrangements and processes including IT disaster recovery plans and procedures that conform to ISO 22301 to ensure that the delivery of the contract is not adversely affected in the event of an incident. An incident shall be defined as any situation that might, or could lead to, a disruption, loss, emergency or crisis to the services delivered. If a ISO 22301 certificate is not available the supplier will provide evidence of the effectiveness of their ISO 22301 conformant Business Continuity arrangements and processes including IT disaster recovery plans and procedures. This should include evidence that the Contractor has tested or exercised these plans within the last 12 months and produced a written report of the outcome, including required actions.
- (Guidance: The business continuity and disaster recovery plans should be aligned with industry good practice and it is the Department’s expectation that all vendors providing services or infrastructure to the Department will have plans that are aligned to the ISO 22301 standard in place. Further information on the requirements of ISO 22301 may be found in the standard.)
- 12.19 Any suspected or actual breach of the confidentiality, integrity or availability of Departmental Data, including user credentials, used or handled in the course of providing this service shall be recorded as an incident. This includes any non-compliance with these Departmental Security Standards for Contractors, or other Security Standards pertaining to the solution.

Incidents shall be reported to the department immediately, wherever practical, even if unconfirmed or when full details are not known, but always within 24 hours of discovery. If incident reporting has been delayed by more than 24 hours, the contractor should provide an explanation about the delay.

Incidents shall be reported through the department’s nominated system or service owner.

Incidents shall be investigated by the contractor with outcomes being notified to the Department.

- 12.20 The Contractor shall ensure that any IT systems and hosting environments that are used to handle, store or process Departmental Data shall be subject to independent IT Health Checks (ITHC) using an NCSC CHECK Scheme ITHC provider before go-live and periodically (at least annually) thereafter. The findings of the ITHC relevant to the service being provided are to be shared with the Department and all necessary remedial work carried out. In the event of significant security issues being identified, a follow up remediation test may be required.
- (Guidance: Further information on IT Health Checks and the NCSC CHECK Scheme which enables penetration testing by NCSC approved companies can be found on the NCSC website at: <https://www.ncsc.gov.uk/scheme/penetration-testing>.)

- 12.21 The Contractor or sub-contractors providing the service will provide the Department with full details of any actual or future intent to develop, manage, support, process or store Departmental Data outside of the UK mainland. The Contractor or sub-contractor shall not go ahead with any such proposal without the prior written agreement from the Department.
- (Guidance: The offshoring of HMG information outside of the UK is subject to approval by the Departmental SIRO).
- 12.22 The Department reserves the right to audit the Contractor or sub-contractors providing the service within a mutually agreed timeframe but always within seven days of notice of a request to audit being given. The audit shall cover the overall scope of the service being supplied and the Contractor's, and any sub-contractors', compliance with the clauses contained in this Section.
- 12.23 The Contractor and sub-contractors shall undergo appropriate security assurance activities and shall provide appropriate evidence including the production of the necessary security documentation as determined by the department. This will include obtaining any necessary professional security resources required to support the Contractor's and sub-contractor's security assurance activities such as: a Security and Information Risk Advisor (SIRA) certified to NCSC Certified Cyber Security Consultancy (CCSC) or NCSC Certified Cyber Professional (CCP) schemes.
- (Guidance: It is Departmental policy that suppliers of business services shall provide evidence of an acceptable level of security assurance concerning their organisation. Further advice and guidance on the Department's security assurance processes can be supplied on request. Information about the HMG Supplier Assurance Framework can be found at:  
<https://www.gov.uk/government/publications/government-supplier-assurance-framework>
  - (Guidance: Further information on the CCP and CCSC roles described above can be found on the NCSC website at:  
<https://www.ncsc.gov.uk/information/about-certified-professional-scheme> and <https://www.ncsc.gov.uk/scheme/certified-cyber-consultancy>)
- 12.24 Where the Contractor is delivering an ICT solution to the Department they shall design and deliver solutions and services that are compliant with the HMG Security Policy Framework in conjunction with current NCSC Information Assurance Guidance and Departmental Policy. The Contractor will provide the Department with evidence of compliance for the solutions and services to be delivered. The Department's expectation is that the Contractor shall provide written evidence of:
- Compliance with HMG Minimum Cyber Security Standard.

- Any existing security assurance for the services to be delivered, such as: ISO/IEC 27001 / 27002 or an equivalent industry level certification.
- Any existing HMG security accreditations or assurance that are still valid including: details of the awarding body; the scope of the accreditation; any caveats or restrictions to the accreditation; the date awarded, plus a copy of the residual risk statement.
- Documented progress in achieving any security assurance or accreditation activities including whether documentation has been produced and submitted. The Contractor shall provide details of who the awarding body or organisation will be and date expected.

12.25 The Contractor shall contractually enforce all these Departmental Security Standards for Contractors onto any third-party suppliers, sub-contractors or partners who could potentially access Departmental Data in the course of providing this service.