



Defence Science and Technology Laboratory

The R-Cloud (version 5) Agreement

Version 1.0 (September 2026)

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PART 1: PRELIMINARIES:

1 BACKGROUND

Parties:	the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland, (referred to in this document as the "Authority"), acting as part of the Crown; and
	the "Supplier", as defined at Schedule 1 (Definitions).

- 1.1 The Authority is seeking to set up an Agreement under which the Authority and Other Contracting Authorities can procure science and technology (S&T) research and development (R&D), and associated goods and services.
- 1.2 The Supplier made a request to participate by submitting an Application in which it represented to the Authority that it is capable of delivering the relevant Services and, in particular, made statements regarding its suitability, financial standing, and technical capability.
- 1.3 On the basis of this Application, the Supplier was appointed to the Agreement to provide the Services to Contracting Authorities from time to time on a contract basis in accordance with this Agreement.
- 1.4 This Agreement sets out:
 - 1.4.1 how Commercial Processes will be conducted, including how Contracts may be awarded for the provision of Services;
 - 1.4.2 the template terms and conditions as shall be incorporated by reference into any Contract which the Contracting Authorities may enter into; and
 - 1.4.3 the obligations of the Supplier during and after the Term.
- 1.5 By electronically confirming acceptance of the terms of this Agreement within its Application, the Supplier agrees to comply with all the terms and conditions of this Agreement.
- 1.6 The Supplier acknowledges the receipt of the sum of £1 from the Authority, paid in consideration of the Supplier entering into this Agreement.

2 DEFINITIONS AND INTERPRETATION

- 2.1 The defined terms in this Agreement shall be as set out in Schedule 1 (Definitions).
- 2.2 In this Agreement, unless the context otherwise requires:
 - 2.2.1 Capitalised terms shall have the meanings set out in Schedule 1 (Definitions) or, where applicable, the relevant Schedule of the Agreement in which they appear;
 - 2.2.2 Words in the singular include the plural and vice versa;
 - 2.2.3 Words indicating a gender include all genders;
 - 2.2.4 A reference to a "Party" includes that party's successors and permitted assignees;
 - 2.2.5 References to a person include any individual, firm, body corporate, unincorporated association or partnership, government, state or agency of a state or joint venture;
 - 2.2.6 References to any legislation, regulation, or other similar instrument, shall be read as a reference to the legislation, regulation or instrument as amended, supplemented, replaced or consolidated and shall include any sub-ordinate legislation made under it;

- 2.2.7 The words “including”, “in particular”, “for example” and similar expressions shall be read as if they were immediately followed by the words “without limitation”, except where explicitly stated otherwise;
- 2.2.8 A reference to “writing” or “written” includes any method of reproducing words in a legible and non-transitory form, including email and other electronic messaging formats, unless otherwise required by law or expressly stated in the Agreement;
- 2.2.9 Any reference to this Agreement includes the Schedules and any Annexes (each as amended from time to time), which form part of this Agreement;
- 2.2.10 References to this Agreement shall, where the context requires, include any Contract entered into under or pursuant to this Agreement, save where or to the extent inconsistent with the terms of the relevant Contract or Schedule 5 (Conditions of Contract);
- 2.2.11 References to “Conditions”, “Schedules”, “Annexes”, “paragraphs”, “Parts” and “Tables” are, unless otherwise stated, references to those elements of this Agreement, and, in any Schedule or Annex, to the clauses, Contract Schedules, Annexes, paragraphs, parts and tables of that Schedule or Annex (as applicable).
- 2.2.12 Headings are for convenience only and do not affect interpretation; and
- 2.2.13 Any decision, act, or thing which the Authority is required or authorised to take or do under the Agreement may be taken or done only by any person authorised, either generally or specifically, by the Authority to take or do that decision, act, or thing on behalf of the Authority.

3 WARRANTIES, REPRESENTATIONS AND UNDERTAKINGS

- 3.1 The Supplier shall comply with all applicable law, whether specifically referenced in the Agreement or not.
- 3.2 The Supplier warrants, represents and undertakes to the Authority that:
 - 3.2.1 it has full power and authority to enter into and perform this Agreement, which has been duly authorised on its behalf by a person with authority to bind the Supplier;
 - 3.2.2 it is duly incorporated, validly existing and operating in accordance with the laws of its place of incorporation;
 - 3.2.3 this Agreement constitutes legal, valid and binding obligations on the Supplier in accordance with its terms;
 - 3.2.4 its entry into and performance of this Agreement does not and will not result in a breach of any other applicable law or obligation which it is bound;
 - 3.2.5 it is not subject to an Insolvency Event;
 - 3.2.6 for at least the three (3) years preceding the Appointment Date (or, if the Supplier has been in existence for less than three (3) years, the entirety of its existence), the Supplier has:
 - (a) complied with applicable financial accounting and reporting standards; and
 - (b) not taken any action or made any omission with respect to its financial accounting or reporting which could have an adverse effect on the Supplier’s ability to fulfil its obligations under this Agreement or any Contract.
 - 3.2.7 it has not, except as disclosed to the Authority prior to the Appointment Date:
 - (a) been subject to any Exclusion Ground;
 - (b) engaged in or had reasonable cause to suspect any Prohibited Act; or

(c) where applicable, been involved in any Occasion of Tax Non-Compliance.

For the avoidance of doubt, any such disclosure shall not prejudice the Authority's rights under this Agreement, including its right to terminate this Agreement for breach.

- 3.2.8 it is not subject to any proceedings or restrictions which might reasonably be expected to adversely affect its ability to perform this Agreement;
- 3.2.9 it has, and will maintain, the necessary rights, licences and consents required to perform its obligations under this Agreement.
- 3.2.10 it has not unlawfully discriminated with the Equality Act 2010 or any equivalent legislation in each jurisdiction in which it operates;
- 3.2.11 it has complied with all applicable employment and Child Labour Legislation in each jurisdiction in which it operates.
- 3.2.12 it has taken, and shall continue to take throughout the Term, all reasonable steps to ensure that any Delivery Partner complies with Condition 3.1 and the warranties, representations and undertakings in this Condition 3.2.

3.3 The Supplier warrants that:

- 3.3.1 the factual statements and information contained in the Application, which resulted in the Supplier's appointment to the Agreement, were, as at the Appointment Date, true, accurate and not misleading in all material respects (the "Application Warranty").
- 3.3.2 any Supplier Profile information provided or updated during the Term shall, at the time it is provided or updated, be true, accurate and not misleading in all material respects (the "Supplier Profile Warranty").
- 3.3.3 For the avoidance of doubt:
 - (a) the Application Warranty at Condition 3.3.1 applies only as at the Appointment Date.
 - (b) the Supplier Profile does not amend, replace or supersede the Application;
 - (c) any inaccuracy in the Application is not cured by any subsequent update to the Supplier Profile; and
 - (d) no update to the Supplier Profile shall constitute a variation of this Agreement unless agreed in accordance with Condition 13 (Amendments to the Agreement).

3.4 Each warranty, representation and undertaking in Conditions 3.1 to 3.3:

- 3.4.1 is deemed to be repeated on entry into each Contract; and
- 3.4.2 applies on a continuing basis throughout the Term and for the duration of each Contract (as the context requires) if later, by reference to the facts and circumstances from time to time.

3.5 The Supplier shall notify the Authority as soon as practicable if it becomes aware that any warranty, representation or undertaking given under Conditions 3.1 to 3.3:

- 3.5.1 is untrue or misleading; or
- 3.5.2 has ceased to be true due to a change in circumstances,

and shall provide sufficient detail to enable the Authority to assess the matter. For the avoidance of doubt, this Condition 3.5 does not apply to changes relevant only to the Application Warranty after the Appointment Date.

- 3.6 The Supplier acknowledges that the warranties, representations and undertakings in this Condition 3 are material and that the Authority has entered into and continues this Agreement in reliance upon them. If the Supplier fails to comply with this Condition 3, then the Authority may treat such failure as a material breach and may terminate this Agreement in accordance with Condition 38 (Termination for Material Breach).

4 SUPPLIER'S APPOINTMENT

- 4.1 This Agreement constitutes the entire agreement and understanding between the Parties relating to its subject matter and supersedes any prior agreement, arrangement, understanding or representation (whether written or oral), given or made before the Appointment Date by or on behalf of the Parties and relating to its subject matter, except that the Application and the Supplier Profile (in such form as is agreed between the Parties) are each incorporated by reference into this Agreement solely for the purposes and to the extent expressly set out in Condition 3 (Warranties, Representations and Undertakings) and Schedule 2 (Eligibility Criteria).
- 4.2 Each Party confirms that it has not relied upon, and (subject to Condition 36.1.2 (Liability)) shall have no remedy in respect of, any agreement, warranty, statement, representation, understanding or undertaking made by any party (whether or not a Party to the Agreement) unless that warranty, statement, representation, understanding or undertaking is expressly set out in the Agreement.
- 4.3 The Supplier acknowledges and agrees that:
- 4.3.1 there is no obligation whatsoever on any Contracting Authority to invite the Supplier to participate in any Commercial Process or to contract with the Supplier to provide any Services under this Agreement or any Contract;
 - 4.3.2 in entering into this Agreement no undertaking or any form of statement, promise, representation or obligation has been made or implied to have been made by any Contracting Authority in respect of the provision of the Services by the Supplier or the quantities or values of the Services to be contracted through this Agreement;
 - 4.3.3 Contracting Authorities are at all times entitled to enter into other contracts and agreements with other suppliers for the provision of any or all services and/or goods which are the same as or similar to the Services; and
- 4.4 The Supplier acknowledges and agrees that:
- 4.4.1 the Authority has made available to the Supplier all the information that the Supplier considers necessary or relevant for the performance of its obligations under this Agreement and the Supplier has made its own enquiries to satisfy itself as to the accuracy of this information;
 - 4.4.2 it has raised all relevant due diligence questions with the Authority before the Appointment Date, has undertaken all necessary due diligence and has entered into this Agreement in reliance on its own due diligence alone; and
 - 4.4.3 it shall not be excused from the performance of any of its obligations under this Agreement on the grounds of, nor shall the Supplier be entitled to recover any additional costs or charges, arising as a result of any:
 - (a) misrepresentation by the Supplier in the Application or elsewhere;
 - (b) failure by the Supplier to undertake its own due diligence; and/or
 - (c) failure by the Supplier to satisfy itself as to the accuracy and/or adequacy of its due diligence.

5 DURATION OF THE AGREEMENT

- 5.1 This Agreement shall take effect on the Appointment Date and shall remain in force unless and until terminated in accordance with the terms of this Agreement or by operation of law.
- 5.2 The Authority may notify the Supplier in writing of the expiry of this Agreement (the “Expiry Date”), provided that the Expiry Date shall be no earlier than the date on which all Commercial Processes which commenced prior to the Expiry Date and in which the Supplier is invited to participate have either:
- 5.2.1 concluded in accordance with their intended purpose (whether or not resulting in the award of a Contract); or
 - 5.2.2 been abandoned or terminated.
- 5.3 Expiry or termination of this Agreement shall not affect the validity, continuation or termination of any Contract awarded pursuant to a Tasking Procedure commenced prior to the Expiry Date, save as expressly provided in this Agreement or the relevant Contract.

6 ORDER OF PRECEDENCE

- 6.1 Subject to Condition 6.2, in the event and to the extent only of any conflict between the provisions of this Agreement, the conflict shall be resolved in accordance with the following descending order of precedence:
- 6.1.1 the Conditions of this Agreement and Schedule 1 (Definitions); and
 - 6.1.2 Schedules 2 to 5 inclusive;
 - 6.1.3 any Annexes or appendices to any Schedule; and
 - 6.1.4 any documents incorporated by reference into this Agreement.
- 6.2 In the event of any inconsistency between this Agreement and the terms of a Contract, the order of precedence shall be determined in accordance with the applicable provisions of that Contract.

PART 2: AGREEMENT MANAGEMENT AND SUPPLIER OBLIGATIONS

7 AGREEMENT PERFORMANCE

- 7.1 The Supplier shall perform all obligations under this Agreement and any Contract:
- 7.1.1 in accordance with the requirements of this Agreement;
 - 7.1.2 in accordance with the terms and conditions of the respective Contracts;
 - 7.1.3 in accordance with Good Industry Practice;
 - 7.1.4 with appropriately experienced, qualified and trained personnel with all due skill, care and diligence;
 - 7.1.5 in compliance with all applicable laws (which for the avoidance of doubt includes all legislation); and
 - 7.1.6 in compliance with all licences and authorisations.
- 7.2 The Supplier shall take all reasonable steps to ensure that all Delivery Partners comply with all obligations relevant to their respective role under this Agreement, and the Supplier shall remain fully responsible for the acts and omissions of all Delivery Partners as if they were the acts and omissions of the Supplier.

- 7.3 If the Supplier identifies any conflict between any of the requirements in this Condition 7, it must inform the Authority and shall comply with the Authority's decision, which shall be final and binding, on the resolution of any such conflict.

8 CONFLICT OF INTEREST

- 8.1 The Supplier shall take all appropriate steps to ensure that neither the Supplier nor any Delivery Partner is or is placed in a position where, in the reasonable opinion of the relevant Contracting Authority, there is or may be an actual, potential or perceived conflict of interest between the financial or personal interests of the Supplier and/or Delivery Partner and the duties owed to any Contracting Authority under this Agreement.
- 8.2 For the purposes of this Condition 8, the relevant Contracting Authority shall be:
- 8.2.1 where the matter relates to the management or operation of this Agreement and is not attributable solely to a specific Commercial Process or Contract, the Authority; and
 - 8.2.2 where the matter relates solely to a specific Commercial Process or Contract, the Contracting Authority conducting that Commercial Process or entering into that Contract.
- 8.3 The Supplier shall maintain a system for identifying and managing conflicts of interest. If any conflict referred to in Condition 8.1 arises, or is anticipated to arise:
- 8.3.1 the Supplier shall, as soon as reasonably practicable, notify and provide full details to the relevant Contracting Authority, including any proposed measures to manage, mitigate, eliminate, or avoid the conflict; and
 - 8.3.2 where the conflict arises in connection with more than one Commercial Process or Contract or relates to the duties owed to more than one Contracting Authority, the Supplier shall notify both the Authority and each affected Contracting Authority. All such notices shall meet the requirements of Condition 8.3.1.
- whilst also ensuring that the provision of Services under the relevant Contract is not interrupted and the Services continue to meet the standards required by the relevant Contract.
- 8.4 Each affected Contracting Authority will notify the Supplier if any additional measures are required to ensure that the actual, potential or perceived conflict is appropriately managed in connection with the Agreement, Commercial Process or Contract to which that Contracting Authority's interests relate. Where the conflict relates to a perceived conflict, the Supplier shall provide all reasonable support and assistance as may be required by the relevant Contracting Authority to manage the conflict.
- 8.5 Where:
- 8.5.1 the Supplier has notified the Authority or Other Contracting Authority of an actual, potential or perceived conflict of interest in accordance with Condition 8.3; or
 - 8.5.2 the Authority or Other Contracting Authority has otherwise become aware of an actual, potential or perceived conflict of interest and has notified the Supplier in writing,
- but in the reasonable opinion of the Authority there are no or insufficient measures available to manage the conflict of interest, then the Authority may treat such conflict as a material breach and may terminate this Agreement in accordance with Condition 38 (Termination for Material Breach).
- 8.6 If the Supplier:
- 8.6.1 fails to notify the Authority of an actual, potential or perceived conflict of interest in accordance with Condition 8.3; or
 - 8.6.2 fails to implement any measures reasonably required by the Authority (or, where applicable, any Other Contracting Authority) to manage, mitigate or avoid a conflict of interest,

then the Authority may treat such failure as a material breach and may terminate this Agreement in accordance with Condition 38 (Termination for Material Breach).

9 PROHIBITED ACTS

- 9.1 The Supplier shall ensure that neither the Supplier, any Delivery Partner, or any other person connected to the Supplier does any of the Prohibited Acts or commits any offence under the Bribery Act 2010 in connection with this Agreement.
- 9.2 If the Supplier fails to comply with this Condition 9, the Authority may, in its sole discretion:
- 9.2.1 require the Supplier to propose and implement remedial or mitigating actions acceptable to the Authority, or to implement such remedial or mitigating actions as the Authority may reasonably specify, in each case within such timescales as the Authority may require; or
 - 9.2.2 treat such failure, or any failure to propose, implement or comply with remedial or mitigating actions required under this Condition 9.2, as a material breach and may terminate this Agreement in accordance with Condition 38 (Termination for Material Breach).

10 PAYMENT OF TAX AND PROMOTING TAX COMPLIANCE

- 10.1 The Supplier shall comply with all applicable tax legislation and shall be responsible for the payment of any taxes, duties, levies and similar charges for which it is liable in connection with this Agreement. The Supplier shall ensure that any Delivery Partner (and its personnel) complies with all applicable tax obligations.
- 10.2 This Condition 10.2 shall apply if the total value of all Charges in connection with this Agreement exceed, or are reasonably likely to exceed, five million pounds (£5,000,000) during the Term.
- If, at any point during the Term, an Occasion of Tax Non-Compliance (OOTNC) occurs, the Supplier shall:
- 10.2.1 notify the Authority in writing of such fact within twenty (20) Business Days of its occurrence; and
 - 10.2.2 promptly provide to the Authority:
 - (a) details of the steps that the Supplier is taking to address the Occasion of Tax Non-Compliance, together with any mitigating factors that it considers relevant; and
 - (b) such other information in relation to the Occasion of Tax Non-Compliance as the Authority may reasonably require.
- For the avoidance of doubt, this clause 10.2 also applies to OOTNC in non-UK jurisdictions. If the OOTNC occurred in non-UK jurisdictions, the notification must be accompanied by a full explanation of the OOTNC and any relevant tax laws and administrative provisions so the Authority can understand the nature and seriousness of the OOTNC.
- 10.3 If the Supplier fails to:
- 10.3.1 comply with Conditions 10.1 to 10.2; and/or
 - 10.3.2 provide mitigating factors which, in the reasonable opinion of the Authority, are acceptable,
- then the Authority may treat such failure as a material breach and may terminate this Agreement in accordance with Condition 38 (Termination for Material Breach).
- 10.4 Any amounts payable by the Supplier under this Condition 10 shall constitute amounts owing for the purposes of Condition 11 (Recovery of Sums Due).

11 RECOVERY OF SUMS DUE

- 11.1 Without prejudice to any other right or remedy, the Authority reserves the right to set off any amount owing at any time from the Supplier to the Authority against any amount payable by the Authority to the Supplier under the Agreement or any Contract or under any other contract with the Authority, or with any other Central Government Body.

12 SUPPLIER CHANGE OF CONTROL

- 12.1 The Supplier shall notify the Authority, as soon as practicable, of any proposed or actual change of Control of the Supplier and/or any Delivery Partner by issuing a Change of Control Notice.
- 12.2 The Change of Control Notice shall be given in accordance with Condition 50 (Notices) and shall include:
- 12.2.1 details of the change of Control; and
 - 12.2.2 any concerns of which the Supplier is aware arising from the change of Control, including:
 - (a) potential threats to national security;
 - (b) risks to security of supply; and
 - (c) any matters relevant to the Supplier's continued eligibility to participate in this Agreement.
- 12.3 The Supplier shall not be required to submit any Change of Control Notice which is unlawful or is in breach of either any pre-existing non-disclosure agreement or any regulations governing the conduct of the Supplier in the UK or other jurisdictions where it may be subject to legal sanction arising from issuing such a Notice.
- 12.4 The Authority shall consider the Change of Control Notice and advise the Supplier in writing of any concerns the Authority may have. Such concerns may include potential threats to national security, the ability of the Authority to comply with its statutory obligations or matters covered by any declarations made by the Supplier at any time (whether before or after the Commencement Date).
- 12.5 To the extent that the Authority considers that it is reasonable to do so, it shall work with the Supplier to address its concerns. The Supplier shall promptly respond to any Authority request for information and, where required, submit mitigation plans, in each case within any reasonable timeframe specified by the Authority.
- 12.6 From the date on which the Authority notifies the Supplier of any concerns under Condition 12.4 and for so long as the Authority is assessing the change of Control, the Authority may, in its sole discretion:
- 12.6.1 suspend the Supplier from participating in the Agreement, in accordance with Condition 46 (Suspension of Supplier's Appointment); and/or
 - 12.6.2 where the change of Control relates to a Delivery Partner, require the Supplier to procure that such Delivery Partner is not engaged in any activities in connection with the Agreement.
- The Supplier shall provide any evidence, information or assurances required by the Authority to demonstrate that any action required under this Condition 12.6 has been fully implemented.
- 12.7 Where the Authority considers, in its sole discretion, that the risk may be appropriately mitigated, the Supplier shall implement any agreed mitigations promptly and, in any case, within the timescales required by the Authority.

- 12.8 Where the Authority considers, in its sole discretion, that the risk cannot be appropriately mitigated or the Supplier fails to implement mitigations required by the Authority within the required timeframe, the Authority reserves the right to terminate this Agreement in accordance with Condition 41 (Termination on Change of Control).
- 12.9 Where a change of Control relates to a Delivery Partner, the Authority may require the Supplier to remove or replace that Delivery Partner. If the Supplier fails to comply with such instruction within the period specified by the Authority, the Authority may treat such failure as a material breach and may terminate this Agreement in accordance with Condition 38 (Termination for Material Breach).
- 12.10 Notification by the Supplier of any intended, planned or actual change of Control shall not prejudice the existing rights of the Authority or the Supplier under the Agreement nor create or imply any rights of either the Supplier or the Authority additional to the Authority's rights set out in this Condition 12.

13 AMENDMENTS TO THE AGREEMENT

- 13.1 The Authority shall be entitled, at its sole discretion, to vary the scope, terms and conditions of this Agreement at any time. The Authority may also amend the format of any documentation and processes associated with this Agreement.
- 13.2 No amendment made under Condition 13.1 shall entitle the Supplier to any compensation, damages, costs, loss of profit or other liability, nor give rise to any claim against the Authority.

14 PUBLICITY AND BRANDING

- 14.1 Except where the Authority has given its prior written approval, the Supplier shall not, and shall ensure that any Delivery Partners shall not:
- 14.1.1 communicate with representatives of the press, television, radio, social media, or other media in relation to the Agreement; or
 - 14.1.2 use the name, brand, logo or trademarks of any Contracting Authority in any promotion, publicity, marketing material or announcement, or in connection with any products or services; or
 - 14.1.3 make any statement, announcement or communication which suggests or implies that any Contracting Authority has endorsed the Supplier or its products or services.
- 14.2 Subject to Condition 14.1, the Supplier may make factual statements relating to its participation in this Agreement, provided that:
- 14.2.1 the Supplier complies at all times with Condition 23 (Confidentiality and Disclosure of Information), including by ensuring that it does not make any statements containing details of any Commercial Process, Contract, Authority Information or other information obtained by the Supplier as a result of its participation in this Agreement, except with the prior written approval of the affected Contracting Authority; and
 - 14.2.2 no Contracting Authority is identified by name unless approved in writing by that Contracting Authority.
- 14.3 If the Supplier fails to comply with this Condition 14, the Authority may:
- 14.3.1 require the Supplier to propose and implement remedial or mitigating actions acceptable to the Authority, or to implement such actions as the Authority may reasonably specify, in each case within such timescales as the Authority may require; or
 - 14.3.2 treat such failure, or any failure to propose, implement or comply with mitigation or remedial actions required under this Condition 14.3, as a material breach and may terminate this Agreement in accordance with Condition 38 (Termination for Material Breach).

15 APPLICATION OF AUTHORITY RIGHTS

- 15.1 For the avoidance of doubt, the Authority may, acting reasonably, determine the appropriate basis on which to exercise its rights under this Agreement, including whether to treat any matter as:
- 15.1.1 a breach of this Agreement;
 - 15.1.2 a failure to meet the Eligibility Criteria; or
 - 15.1.3 a matter affecting the Supplier's suitability or willingness to participate in the Agreement.
- 15.2 Nothing in this Agreement shall require the Authority to treat any matter exclusively under one such category where it may reasonably fall within more than one.

PART 3: HOW SERVICES WILL BE BOUGHT (TASKING PROCEDURE)**16 COMMERCIAL PROCESSES AND CONTRACTS AWARDED UNDER THE AGREEMENT**

- 16.1 Where a Contracting Authority decides to undertake any Commercial Process under this Agreement, it shall do so in accordance with Schedule 4 (Commercial Processes and Pricing).
- 16.2 Where a Contracting Authority decides, as part of a Commercial Process or otherwise, to source any of the Services through this Agreement, it may conduct a Tasking Procedure in accordance with Schedule 4 and may award Contracts for such Services pursuant to that Tasking Procedure.
- 16.3 A Supplier's Response to a Tasking Procedure constitutes an offer capable of acceptance, confirming full and unqualified acceptance of the requirements of the Tasking Procedure, including the terms and conditions set out in Schedule 5 (Conditions of Contract).
- 16.4 Any clarifications provided by the Supplier during a Tasking Procedure shall be deemed to form part of the Supplier's Response, unless expressly stated otherwise.
- 16.5 A Contract is formed only upon the issue of an Acceptance Notice by a person with authority to bind the relevant Contracting Authority.
- 16.6 The Supplier shall perform each Contract in accordance with its terms and the applicable Tasking Procedure.

17 FORM OF CONTRACT

- 17.1 All Contracts awarded to Suppliers under this Agreement shall be in the form set out in Schedule 5 (Conditions of Contract), subject to any refinements or variations permitted by this Agreement.
- 17.2 A Contracting Authority may include in a Contract any terms or conditions which are additional to those set out in Schedule 5, in respect of that Contract only. The Contracting Authority shall include any such terms and conditions in the Tasking Form (or other document referenced within) as part of the applicable Commercial Process.
- 17.3 For the avoidance of doubt, the inclusion of any additional or variant terms in a Tasking Procedure and/or Contract shall not be construed as setting a precedent for, or creating any obligation on, the Authority to vary the Agreement or on any Contracting Authority to apply the same or similar terms to any other Tasking Procedure or Contract awarded under this Agreement.

18 GUARANTEE

- 18.1 A Contracting Authority may, where it considers it appropriate, determine that a Contract requires protection in the form of a guarantee. Where requested, the Supplier shall, prior to the Contract being formed, obtain and provide in respect of that Contract a guarantee in a form agreed by the Contracting Authority, which may include a bond, parent company guarantee or letter of credit.

19 PRICING AND PAYMENT

- 19.1 The Supplier acknowledges that Contracting Authorities are entitled to take all reasonable steps to ensure that the Services represent value for money to the UK taxpayer.
- 19.2 The relevant Contracting Authority shall be responsible for paying the Supplier for the Services in accordance with the terms of the relevant Contract.
- 19.3 For the avoidance of doubt, the Authority shall have no liability in respect of any payment due to the Supplier under a Contract between the Supplier and any Other Contracting Authority, and the Supplier shall have no right of recourse against the Authority in connection with any such payment.

20 ASSISTANCE IN RELATED PROCUREMENTS

- 20.1 Where a Supplier is invited to participate in a Commercial Process and is, has been, or is likely to be providing goods and/or services to a Contracting Authority which are the same as, similar to, or related to the goods and/or services which may be the subject of that Commercial Process, the Supplier shall take all reasonable steps to identify those circumstances.
- 20.2 Where such circumstances are identified, the Supplier shall promptly notify the Contracting Authority leading the Commercial Process and shall provide such reasonable information and assistance as that Contracting Authority may require for the purposes set out in Condition 20.4.
- 20.3 The Supplier shall also take all reasonable steps to identify whether any Delivery Partner is providing, has provided, or is due to be providing such goods and/or services, including by requiring the relevant Delivery Partner to disclose such information to the Supplier or, where appropriate, directly to the relevant Contracting Authority.
- 20.4 The information and assistance referred to in this Condition 20 may be used by the relevant Contracting Authority to inform its understanding of current and future requirements in connection with this Agreement and any Commercial Process, including for the purpose of:
- 20.4.1 carrying out appropriate due diligence in relation to the proposed goods and/or services; and
 - 20.4.2 making appropriate use of existing knowledge, experience, documentation and lessons learned relating to the proposed goods and/or services and any similar or related goods and/or services, including, where relevant, collaboration with other Contracting Authorities or between suppliers to support effective procurement, transition or delivery.
- 20.5 Any information or assistance provided pursuant to this Condition 20 shall be provided for information purposes only and shall not, unless expressly stated otherwise in documentation relating to the Commercial Process, be taken into account by the Contracting Authority in determining whether to award a Contract.
- 20.6 In performing its obligations under this Condition 20, the Supplier shall comply with the principles of equal treatment, transparency and non-discrimination and shall not seek to obtain or confer any unfair competitive advantage on itself, any Delivery Partner, or any other person in relation to the relevant Commercial Process or the procurement or award of any Contract.

PART 4: INFORMATION, RECORD KEEPING AND CONFIDENTIALITY**21 RIGHTS OF OTHER CONTRACTING AUTHORITIES**

- 21.1 For the purposes of any Commercial Process or other mechanism by which Information is shared between the Supplier and any Other Contracting Authority, Conditions 22 to 26 shall apply to, and be enforceable by, that Other Contracting Authority as if it were a party to this Agreement, in accordance with their terms.

- 21.2 For the purposes of Conditions 22 to 26, references to “the Authority” shall, where the context permits, be construed as including the relevant Other Contracting Authority exercising rights or enforcing obligations under this Agreement in connection with its participation in a Commercial Process or any Contract. For the avoidance of doubt, this Condition 21.2 shall not confer on any Other Contracting Authority any right to terminate this Agreement or to determine the existence of a breach for the purposes of Condition 38 (Termination for Material Breach).
- 21.3 Unless otherwise agreed with the Authority in writing, where records are to be provided to any Other Contracting Authority in accordance with Condition 22, these shall only be where, and to the extent that, such records relate to that Other Contracting Authority, its activities under this Agreement or any Contract.
- 21.4 Nothing in Conditions 22 to 26 shall be construed as imposing any obligation under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004 on any Contracting Authority to which such legislation does not apply.

22 RECORD KEEPING

- 22.1 The Supplier shall maintain records reasonably required to comply with its obligations under this Agreement and to demonstrate such compliance, including:
- 22.1.1 Payment of Tax and Promoting Tax Compliance (Condition 10);
 - 22.1.2 Recovery of Sums Due (Condition 11);
 - 22.1.3 Information, Record Keeping and Confidentiality (Conditions 21 to 27);
 - 22.1.4 Security Obligations (Conditions 28 to 34);
 - 22.1.5 the Eligibility Criteria set out in Schedule 2 (Eligibility Criteria);
 - 22.1.6 the Commercial Processes set out in Condition 16 and Schedule 4 (Commercial Processes and Pricing);
 - 22.1.7 Contracts awarded under this Agreement; and
 - 22.1.8 any other obligations under this Agreement or any Contract relating to security, data protection, conflicts of interest, supply chain management or Delivery Partners.
- 22.2 The Authority may, upon reasonable notice, require the Supplier to make these records available for examination and, where required, copying by the Authority or any person authorised by the Authority.
- 22.3 Unless this Agreement or the Authority specifies otherwise, the records referred to in this Condition shall be retained for a period of at least six (6) years from:
- 22.3.1 the Expiry Date of this Agreement; or
 - 22.3.2 the expiry or termination of the last Contract in force under this Agreement,
- whichever is the later.

23 CONFIDENTIALITY AND DISCLOSURE OF INFORMATION

- 23.1 Subject to Conditions 23.5 to 23.11, each Party shall:
- 23.1.1 treat in confidence all Information;
 - 23.1.2 not disclose any Information to any third party without the prior written consent of the other Party (such consent not to be unreasonably withheld), except that the Supplier may disclose Information, in confidence, to the extent necessary for the performance of this Agreement;

- 23.1.3 not use any Information other than for the purpose for which it was disclosed under or in connection with this Agreement; and
- 23.1.4 not copy any such Information except to the extent necessary to exercise its rights of use and disclosure under this Agreement.
- 23.2 The Supplier shall take all reasonable precautions necessary to ensure that all Information disclosed to the Supplier by or on behalf of the Authority or any Other Contracting Authority under or in connection with the Agreement is:
 - 23.2.1 disclosed to its Supplier Personnel and Delivery Partners, only to the extent necessary for the performance of the Agreement; and
 - 23.2.2 treated in confidence by them and not disclosed except with the prior written consent of the Authority or used otherwise than for the purpose of performing work or having work performed for a Contracting Authority under this Agreement.
- 23.3 For the avoidance of doubt, where Information is disclosed by a Contracting Authority subject to express restrictions on onward disclosure, those restrictions shall take precedence over this Condition 23.
- 23.4 The Supplier shall ensure that all Supplier Personnel and Delivery Partners are aware of the arrangements in place for complying with Conditions 23.1 to 23.3 before they receive Information and take such steps as may be reasonably practical to enforce such arrangements.
- 23.5 A Party shall not be in breach of Conditions 23.1 or 23.2 to the extent that either Party:
 - 23.5.1 exercises rights of use or disclosure granted otherwise than in consequence of, or under, the Agreement;
 - 23.5.2 has the right to use or disclose the Information in accordance with other Conditions of the Agreement; or
 - 23.5.3 can show:
 - (a) that the Information was or has become published or publicly available for use otherwise than in breach of any provision of the Agreement or any other agreement between the Parties;
 - (b) that the Information was already known to it (without restrictions on disclosure or use) prior to it receiving it under or in connection with the Agreement;
 - (c) that the Information was received without restriction on further disclosure from a third party who lawfully acquired it and who is under no obligation restricting its disclosure; or
 - (d) from its records that the same information was derived independently of that received under or in connection with the Agreement;provided the relationship to any other Information is not revealed.
- 23.6 Nothing in this Condition 23 shall prevent the Authority from using, disclosing, publishing or sharing Information which has been anonymised or aggregated so that the identity of any Supplier, Contracting Authority or Contract cannot reasonably be determined, including for statistical, analytical, market-management, governance or policy purposes.
- 23.7 Neither Party shall be in breach of this Condition 23 where it can show that any disclosure of Information was made solely to the extent necessary to comply with a statutory, judicial or parliamentary obligation. Where such a disclosure is made, the Party making the disclosure shall ensure that the recipient of the Information is made aware of and asked to respect its confidentiality. Such disclosure shall in no way diminish the obligations of the Parties under this Agreement.

- 23.8 The Authority may disclose the Information:
- 23.8.1 to any Other Contracting Authority for the purposes of participating in, using or operating this Agreement, any Commercial Process or any Contract, provided that such disclosure is made on a confidential basis;
 - 23.8.2 to any Central Government Body for any proper purpose of the Authority or of the relevant Central Government Body, which shall include disclosure to the Cabinet Office and / or HM Treasury for the purpose of ensuring effective cross-Government procurement processes, including value for money and related purposes. Where such a disclosure is made the Authority shall take all reasonable steps to ensure that the recipient is made aware of its confidentiality;
 - 23.8.3 to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;
 - 23.8.4 subject to Condition 23.9, to the extent that disclosure, in the reasonable opinion of the Authority, is necessary or appropriate in the course of carrying out its public functions;
 - 23.8.5 subject to Condition 23.9, on a confidential basis to a professional adviser, consultant or other person engaged by the Authority or any Central Government Body (including any benchmarking organisation) for any purpose relating to or connected with this Agreement;
 - 23.8.6 on a confidential basis for the purpose of the exercise of its rights under the Agreement; or
 - 23.8.7 on a confidential basis to a proposed body in connection with any assignment, novation or disposal of any of its rights, obligations or liabilities under the Agreement; and
- for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the Authority under this Condition 23.
- 23.9 Where the Authority intends to disclose Information to a commercial entity in accordance with Conditions 23.8.4 or 23.8.5, the Authority will endeavour to provide the Supplier with at least three (3) Business Days' notice in advance of such disclosure. In relation to a disclosure of Information made under Condition 23.8.4, if reasonably requested by the Supplier within two (2) Business Days of such notice being given, where the Authority has not already done so, it will endeavour to procure from the intended recipient of the Information an agreement containing confidentiality terms the same as, or substantially similar to, those placed on the Authority under this Condition 23.
- 23.10 Before sharing any Information in accordance with Condition 23.8, the Authority may redact the Information. Any decision to redact information made by the Authority shall be final.
- 23.11 The Authority shall not be in breach of this Agreement where it discloses Information solely and to the extent necessary to comply with the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004 (EIRs). Disclosures made pursuant to FOIA or the EIRs shall be governed by Condition 26 (Freedom of Information).
- 23.12 Nothing in this Condition 23 shall affect the Parties' obligations of confidentiality where information is disclosed orally in confidence.
- 23.13 If the Supplier fails to comply with this Condition 23, then the Authority may treat such failure as a material breach and may terminate this Agreement in accordance with Condition 38 (Termination for Material Breach).

24 CONTROLLED INFORMATION

- 24.1 The Supplier shall:

- 24.1.1 hold any Controlled Information and not use it other than for the purpose of discharging its obligations under the Agreement;
- 24.1.2 not copy any Controlled Information except as strictly necessary for the purpose of discharging its obligations under the Agreement;
- 24.1.3 not disclose any Controlled Information to any third party unless so authorised in writing beforehand by the Authority;
- 24.1.4 protect any Controlled Information diligently against unauthorised access and against loss; and,
- 24.1.5 act diligently to ensure that:
 - (a) Controlled Information is disclosed to its Supplier Personnel and Delivery Partners only to the extent necessary for the purpose of discharging its obligations under the Agreement; and
 - (b) Supplier Personnel and Delivery Partners to whom Controlled Information is disclosed are made aware of and required to comply with the terms of this Condition 24.
- 24.2 Where Controlled Information is provided to the Supplier, it shall:
 - 24.2.1 compile a register of that Controlled Information, which shall include an explicit description of the Controlled Information, a record of the number of copies made and a record of all access to the Controlled Information including access to any copies of the Controlled Information;
 - 24.2.2 maintain this register until the date specified in writing by the Authority, or where no such date is specified, for so long as the Controlled Information continues to be required for the purposes of this Agreement;
 - 24.2.3 make the register of access available to the relevant Contracting Authority, upon reasonable notice, for inspection and audit, for so long as it is required to be maintained under this Condition 24; and
 - 24.2.4 upon notification by the Authority, or by such date as the Authority may specify in writing, or where no such notification or date is specified, upon the Controlled Information no longer being required for the purposes of this Agreement, as determined by the Authority, return to the Authority all original and duplicate copies of the Controlled Information or, at the Authority's option, destroy those copies without delay and provide a certificate of destruction to the Authority.
- 24.3 This Condition 24 shall not diminish or extinguish any right of the Supplier to copy, use or disclose any other information to the extent that it can show:
 - 24.3.1 that the information concerned was or has become published or publicly available for use without breach of any provision of the Agreement or any other agreement between the Parties;
 - 24.3.2 that the information was already known to it (without restrictions on disclosure or use) prior to receiving it under or in connection with the Agreement;
 - 24.3.3 that the information concerned was lawfully provided by a third party without restriction on use or further disclosure; or
 - 24.3.4 from its records, that the information was derived independently of the Controlled Information; to the extent that copying use or disclosure of this other information shall not disclose its relationship to any Controlled Information.

- 24.4 If the Supplier fails to comply with this Condition 24, then the Authority may treat such failure as a material breach and may terminate this Agreement in accordance with Condition 38 (Termination for Material Breach).

25 PROTECTION OF PERSONAL DATA

- 25.1 The Parties acknowledge that there is no processing of Personal Data associated with or intrinsic to the performance of the Agreement. The incidental exchange of Personal Data for the purpose of communication to give effect to the Agreement or the business relationship is not considered to be processing of Personal Data by either Party on behalf of the other.
- 25.2 The Supplier shall notify the Authority as soon as practicable if it considers that any of the Authority's instructions obligate the Supplier to take on the role of Processor under the Data Protection Legislation beyond that which is contemplated in Condition 25.1. The Authority agrees that the Supplier shall not be required to provide legal advice to the Authority and that such notification (or absence of notification) by the Supplier will not be construed as legal advice or representation by the Supplier.
- 25.3 Should the Agreement be amended to require the Supplier to process Personal Data as a Processor on behalf of the Authority as a result of Condition 25.2 or otherwise the Agreement will be amended to include appropriate provisions. Where the Agreement is amended to include processing of Personal Data as a Joint Controller, the Parties agree that they shall amend the Agreement to include appropriate contractual conditions, including but not limited to conditions dealing with notification in the event of a Personal Data Breach and requests from Data Subjects for access to their Personal Data.
- 25.4 Notwithstanding Condition 25.1, each Party undertakes to comply with its obligations as Controller under the Data Protection Legislation.

26 FREEDOM OF INFORMATION

- 26.1 The Supplier acknowledges that the Authority is subject to the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIRs) and shall provide all reasonable assistance and cooperation required by the Authority to enable compliance with those obligations, including:
- 26.1.1 promptly transferring to the Authority any request for information relating to this Agreement and, in any event, within five (5) Business Days of receipt; and
- 26.1.2 providing the Authority, within five (5) Business Days of the Authority's request or such other period specified by the Authority, with a copy of all information belonging to the Authority, which is in the Supplier's possession or control, in such form as the Authority may reasonably require.
- 26.2 Nothing in this Agreement, including Condition 23 (Confidentiality and Disclosure of Information), shall prevent or restrict the Authority from disclosing any information where required to do so by FOIA or the EIRs.
- 26.3 The Authority shall be responsible for determining, acting reasonably and in accordance with FOIA and the EIRs, whether information is exempt from disclosure and whether any exemption applies following any relevant public-interest test.
- 26.4 Where reasonably practicable and permitted by statutory timescales, the Authority may consult with the Supplier prior to disclosure of information which it considers may be commercially sensitive. Any views expressed by the Supplier are advisory only and failure to consult shall not invalidate any disclosure.

- 26.5 The Authority may lawfully redact information prior to disclosure. Any decision as to disclosure or redaction shall be final.
- 26.6 The Supplier shall not, and shall ensure that any Delivery Partners shall not, respond directly to any FOIA or EIR request relating to this Agreement unless authorised in writing by the Authority.

27 MANAGEMENT INFORMATION

- 27.1 Upon reasonable notice, the Supplier shall provide the Authority with such Management Information as the Authority may reasonably specify, and in such format and at such frequency as the Authority may reasonably specify.
- 27.2 All Management Information shall be provided to the Authority at no additional charge.
- 27.3 The Supplier shall implement appropriate processes to monitor and manage its participation in this Agreement and all Contracts placed under it, and to demonstrate that it has exercised due diligence in doing so, including:
- 27.3.1 in relation to its participation in this Agreement:
- (a) any arrangements (whether formal or informal) entered into in connection with this Agreement, including those with Delivery Partners; and
 - (b) compliance with the Eligibility Criteria; and
- 27.3.2 in relation to Contracts placed under this Agreement and the associated supply chain, including:
- (a) the contract values;
 - (b) the identity of all contracting parties; and
 - (c) details of any third parties engaged in the supply chain, including sub-contractors, agents and suppliers.
- 27.4 The information referred to in Condition 27.3 shall be maintained, retained and made available to the Authority in accordance with Condition 22 (Record Keeping), and shall be sufficient to enable the Supplier to comply with its obligations under Condition 27.1.

PART 5: SECURITY REQUIREMENTS – DATA, PERSONNEL AND SUPPLY CHAIN

28 SECURITY OBLIGATIONS

- 28.1 The Supplier shall comply with the security obligations set out in this Agreement and any Contract throughout the Term.
- 28.2 Certain security requirements under this Agreement and any Contract may refer to or depend upon details specified in:
- 28.2.1 Guidance;
- 28.2.2 other documentation expressly identified as applicable to the performance of this Agreement (including a Tasking Form or Security Aspects Letter (SAL));
- 28.2.3 applicable government or Authority security policies or standards relevant to the performance of this Agreement; or
- 28.2.4 any other security requirements notified to the Supplier by the Authority in connection with this Agreement,
- in each case as may be specified or notified to the Supplier from time to time.

- 28.3 The Supplier shall comply with the requirements specified under Condition 28.2 to the extent that they are expressed as mandatory or otherwise indicate that compliance is required.
- 28.4 Nothing in this Agreement relieves the Supplier of its obligation to maintain appropriate security governance, controls and readiness to comply with the Authority's security requirements at all times.
- 28.5 If the Supplier fails to comply with Conditions 28 to 34, or if any act or omission by Supplier Personnel or any Delivery Partner occurs that the Authority considers, in its sole discretion, to constitute or give rise to a potential security risk, such failure, act or omission shall be considered a breach of this Agreement and may result in termination of this Agreement in accordance with Condition 39 (Termination for Breach of Security Obligations).

29 SECURITY MEASURES AND OPERATING PROCEDURES

- 29.1 The Supplier shall at all times maintain security measures that are appropriate to the nature of the Agreement and Services, as a minimum, in accordance with Good Industry Practice. The Supplier shall maintain documented security operating procedures sufficient to enable the Supplier (and its Delivery Partners) to comply with Condition 29.3.
- 29.2 The Supplier shall comply and procure that its Delivery Partners comply, with the security requirements set out in this Agreement, including those specified in accordance with Condition 28 (Security Obligations), and any additional security requirements notified to it by a Contracting Authority in connection with:
- 29.2.1 any Commercial Process conducted by that Contracting Authority; or
- 29.2.2 the performance of any Contract awarded by that Contracting Authority,
- and shall implement such requirements promptly and within any timescales specified, in each case to the extent that such requirements are expressed as mandatory or otherwise indicate that compliance is required.
- 29.3 The Supplier shall, upon request, provide such information and evidence, including records maintained in accordance with Condition 22 (Record Keeping), as the Authority may reasonably require to demonstrate the Supplier's compliance with Conditions 28 to 34 and, where applicable, its ongoing compliance throughout the Term, for audit, assurance or verification purposes.

30 DATA AND INFORMATION SECURITY

- 30.1 The Supplier shall ensure that all Authority Information, whether in electronic or physical form, is handled, stored, transmitted and otherwise processed securely and in a manner that preserves its confidentiality, integrity and availability, and shall implement and maintain appropriate technical and organisational measures to protect Authority Information against unauthorised or unlawful access, use, disclosure, alteration or loss.
- 30.2 The Supplier shall ensure that all Authority Information is classified, handled, stored and transmitted in accordance with the applicable Government Security Classification Policy (GSCP) rating applied by the relevant Contracting Authority and any additional instructions or requirements relating to that classification, as specified or notified in accordance with this Agreement.
- 30.3 The Supplier shall notify the Authority immediately upon becoming aware of any suspected or actual security incident, breach, or weakness affecting Authority Information and shall comply with any reporting requirements or instructions relating to such incident, breach or weakness notified to it by the Authority. The Supplier shall also inform the Authority of the remedial action it proposes to take.

31 CYBER SECURITY

- 31.1 The Supplier shall comply with all cyber security requirements applicable to its participation under this Agreement, including those specified in accordance with Conditions 28 and 29. The Supplier shall apply appropriate cyber security controls to all systems used to process, generate or store Authority Information and shall ensure that any Delivery Partners comply with those requirements.

32 SUPPLIER PERSONNEL

- 32.1 The Authority reserves the right to require visibility of, and where applicable prior approval of, the Supplier Personnel engaged in the performance of activities under this Agreement, including activities undertaken pursuant to any Commercial Process. All Supplier Personnel engaged in the performance of this Agreement shall possess appropriate qualifications, experience, clearance and competence, and shall be in all respects acceptable to the Authority.
- 32.2 Each Contracting Authority reserves the right, in connection with its activities under this Agreement, to restrict or control Supplier Personnel access to Authority Information relating to that Contracting Authority in accordance with applicable security requirements. Such restrictions may include requirements that certain activities are performed only by UK nationals.
- 32.3 Supplier Personnel may be required to hold or obtain such security clearance as a Contracting Authority considers necessary to access Authority Information relating to that Contracting Authority, having regard to the classification of that information and the security requirements applicable under this Agreement. Where such clearance is required, Supplier Personnel must hold or be willing to obtain the required clearance. Failure to do so may result in exclusion from any affected Commercial Process or other relevant activities under this Agreement, without prejudice to any other rights or remedies of the Authority under this Agreement.
- 32.4 The Supplier shall ensure that all Supplier Personnel comply at all times with the Supplier's obligations under this Agreement, including those relating to security, information handling, confidentiality and data protection, and with any applicable requirements or instructions specified or notified in accordance with Conditions 28 and 29.

33 APPROVAL OF SUPPLIER PERSONNEL BY THE CONTRACTING AUTHORITY

- 33.1 Where required by a Contracting Authority, the Supplier shall notify the Contracting Authority in writing of the identity of any Supplier Personnel it proposes to deploy on any Contract with that Contracting Authority in sufficient time to enable all required security and suitability checks to be completed before Contract award. The Supplier acknowledges that the satisfactory completion of such checks may be a condition of Contract award.
- 33.2 A Contracting Authority may, in its sole discretion, undertake any checks it considers necessary, including identity verification, background checks, and national security vetting. The completion of such checks may be required prior to Contract award and, in any event, shall be a condition of any Supplier Personnel commencing work on any Contract. No Supplier Personnel may begin work unless and until all checks have been completed to the Contracting Authority's satisfaction.
- 33.3 The Supplier shall comply with all processes and requirements specified by the Contracting Authority in relation to security, vetting and suitability checks, and shall co-operate fully with those checks. The Supplier shall provide all information, documents, consents and assistance reasonably required to enable the checks to be conducted and shall ensure that all such information is complete, accurate and provided within any timescales specified by the Contracting Authority.
- 33.4 Any delay arising from such checks shall not constitute a breach by the Contracting Authority, nor shall it give rise to any claim for costs, relief or extension of time by the Supplier.

- 33.5 The Contracting Authority may, in its sole discretion, revoke the approval of any Supplier Personnel and may require the Supplier to remove, replace, or restrict that individual's access to any Authority Information or activities relating to the Agreement or any Contract awarded by that Contracting Authority. The Contracting Authority shall not be required to provide reasons for any such decision.
- 33.6 Where the Contracting Authority requires the Supplier to implement any access controls in respect of Supplier Personnel, the Supplier shall:
- 33.6.1 implement such controls promptly and, in any event, within any timescales specified by the Contracting Authority;
 - 33.6.2 provide any evidence, information or assurances required by the Contracting Authority to demonstrate that the controls have been fully implemented, remain in place, and are effective;
 - 33.6.3 ensure that the controls remain effective for the duration of the relevant Contract; and
 - 33.6.4 cooperate fully with any audit, inspection or verification activities carried out by the Contracting Authority or its nominated representatives.
- 33.7 Where the Contracting Authority instructs that any Supplier Personnel must not be involved in any Contract awarded by that Contracting Authority, the Supplier shall take all steps necessary to comply with the Contracting Authority's requirement and provide a suitable replacement at no additional cost to the Contracting Authority.
- 33.8 The Supplier shall take all reasonable steps to ensure continuity of Supplier Personnel once approved. Where a change is unavoidable, the Supplier shall obtain prior written consent of any affected Contracting Authority and provide a suitable replacement at no additional cost to the Contracting Authority.
- 33.9 Any approval of Supplier Personnel is granted solely for the specific purpose, activity or engagement for which it is given and shall not apply, or be relied upon, for any other purpose, activity, Contract or task, unless expressly extended in writing by the Contracting Authority granting the approval. For the avoidance of doubt, no approval by a Contracting Authority shall constitute approval by, or be relied upon in relation to, any other Contracting Authority.

34 DELIVERY PARTNERS AND THE SUPPLY CHAIN

- 34.1 For the purposes of Conditions 32 (Supplier Personnel) and 33 (Approval of Supplier Personnel by the Contracting Authority), references to Supplier Personnel shall, where applicable, include personnel of any Delivery Partner, and the Supplier shall ensure that such personnel comply with those Conditions as if they were Supplier Personnel.
- 34.2 The Supplier shall notify the Authority of, and obtain the prior written consent of the Authority before engaging, any Delivery Partner where that Delivery Partner:
- 34.2.1 is relied upon to meet any Eligibility Criteria; or
 - 34.2.2 has, or is intended to have, a material or controlling influence over the Supplier in connection with this Agreement.
- Such notice to include the Delivery Partner's name, registered office, company number and scope of services to be provided by such proposed Delivery Partner.
- 34.3 The Supplier shall provide such further information as the Authority may reasonably require in relation to any Delivery Partner engaged pursuant to Condition 34.2.

- 34.4 The Supplier shall ensure that any Delivery Partner engaged in connection with this Agreement is suitable from a national security perspective, taking into account ownership, control, foreign jurisdiction exposure, sanctions risk, access to Authority Information, and any other relevant security factors. The Authority may require the Supplier to remove, replace, or restrict any Delivery Partner that presents, or may present, a national security, operational, or reputational risk.
- 34.5 The Supplier shall ensure that any Delivery Partner complies with the relevant provisions of Conditions 28 to 33 as applicable to its role in connection with this Agreement, and the Supplier shall remain fully responsible for the acts and omissions of any Delivery Partner as if they were the acts and omissions of the Supplier. Further, the Supplier shall oversee all activities and services performed by any Delivery Partner to ensure Delivery Partners continuously meet all of their contractual obligations.
- 34.6 The involvement of any Delivery Partner shall not relieve the Supplier of any of its obligations under this Agreement.

PART 6: INTELLECTUAL PROPERTY RIGHTS (IPR)

35 OWNERSHIP OF INTELLECTUAL PROPERTY RIGHTS (IPR)

- 35.1 Ownership of Intellectual Property Rights (IPR) shall not be affected by this Agreement and shall remain vested in the relevant owner. Any different allocation, licence or transfer of IPR may only be agreed expressly in a Contract and shall apply solely for the purposes of that Contract.
- 35.2 Unless and until a Contract is entered into, no Intellectual Property Rights submitted by a Supplier shall transfer to a Contracting Authority, nor shall a Contracting Authority be under any obligation to use, retain or protect any Intellectual Property Rights voluntarily disclosed by the Supplier as part of any submission.
- 35.3 Where the Supplier discloses to a Contracting Authority any Intellectual Property Rights, proprietary methodologies, trade secrets, copyrighted materials, detailed technical solutions or other commercially sensitive information in connection with a Commercial Process or otherwise in connection with this Agreement, the Supplier shall clearly identify such information and, at the time of disclosure, notify the relevant Contracting Authority, in accordance with any requirements specified by that Contracting Authority, of any restrictions which it considers should apply to its use, disclosure or onward disclosure.
- 35.4 Where the Supplier fails to comply with Condition 35.3, the Authority and any Contracting Authority may treat the information in accordance with the provisions of this Agreement and shall have no liability arising solely from any use, disclosure or onward disclosure permitted by this Agreement.
- 35.5 Where a Contracting Authority discloses proprietary information to a Supplier under or in connection with this Agreement, including as part of any Commercial Process, the Supplier shall comply with Condition 23 (Confidentiality and Disclosure of Information) and any terms and conditions applicable to that disclosure.
- 35.6 In the event of any conflict or inconsistency between the terms of this Agreement and any terms and conditions applicable to a disclosure under clause 35.5, the Supplier shall promptly notify the Contracting Authority and comply with the Contracting Authority's written direction as to which terms shall prevail.

PART 7: LIABILITY AND INSURANCE

36 LIABILITY

- 36.1 Neither Party excludes nor limits its liability for:

- 36.1.1 death or personal injury caused by its negligence, or that of its employees, Delivery Partners, or agents (as applicable);
 - 36.1.2 bribery, theft or misappropriation of funds, fraud or fraudulent misrepresentation by it or its employees;
 - 36.1.3 breach of any obligation as to title implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or
 - 36.1.4 any liability to the extent it cannot be limited or excluded by Law.
- 36.2 The Supplier's liability shall be unlimited in respect of:
- 36.2.1 the indemnity in Condition 55.2 (Independent Contractor Status);
 - 36.2.2 breach by the Supplier of Condition 25 (Protection of Personal Data) or Data Protection Legislation;
 - 36.2.3 breach by the Supplier of Condition 9 (Prohibited Acts);
 - 36.2.4 to the extent arising from a Default by the Supplier, any fine or penalty incurred by the Authority or any other Contracting Authority pursuant to legislation and any costs incurred by the Authority or any other Contracting Authority in defending any proceedings which result in such fine or penalty.
- 36.3 Subject to Conditions 36.1, 36.2 and 36.5, the Supplier's aggregate liability in respect of all Losses incurred by the Authority under or in connection with this Agreement as a result of Defaults by the Supplier in any consecutive 12-month period commencing on the Appointment Date or any anniversary of it shall in no event exceed one million pounds (£1,000,000).
- 36.4 Subject to Conditions 36.1, 36.2 and 36.5, and to the maximum extent permitted by legislation, the Authority's total liability (in aggregate) under or in connection with this Agreement in any consecutive 12-month period commencing on the Appointment Date or any anniversary of it shall not exceed the Charges paid by the Authority in that period.
- 36.5 Subject to Conditions 36.1, 36.2 and 36.7, neither Party shall be liable to the other Party for:
- 36.5.1 any indirect, special or consequential Loss; or
 - 36.5.2 any loss of profits, turnover, business opportunities or damage to goodwill (in each case whether direct or indirect).
- arising out of, or in connection with, this Agreement.
- 36.6 Notwithstanding Condition 36.5 but subject to Condition 36.3, the Supplier acknowledges that the Authority may recover from the Supplier the following Losses incurred by the Authority to the extent that they arise as a result of a Default by the Supplier:
- 36.6.1 any additional operational and/or administrative costs and expenses incurred by the Authority or any other Contracting Authority, including costs relating to time spent by or on behalf of the Authority or any other Contracting Authority in dealing with the consequences of the Default;
 - 36.6.2 any wasted expenditure or charges;
 - 36.6.3 any compensation or interest paid to a third party by the Authority or any other Contracting Authority;
 - 36.6.4 any losses arising from the loss, corruption or degradation of Authority data or other data or software, including the costs of restoring or reconstituting it;

- 36.6.5 damage to the Authority's or any other Contracting Authority's physical property and tangible assets; or
- 36.6.6 any losses arising from infringement of third-party Intellectual Property Rights or breach of confidence, including any damages or account of profits.
- 36.7 Without prejudice to any other rights or remedies of the Authority under this Agreement, the Authority may claim from the Supplier any Losses arising from a claim made against the Authority or any other Contracting Authority by a third party, provided that such third-party claim:
 - 36.7.1 arises naturally and ordinarily as a result of the Supplier's failure to perform any of its obligations under this Agreement; and
 - 36.7.2 is a type of claim or loss that would have been recoverable under this Agreement if the third party were a party to this Agreement (whether as the Authority or the Supplier), such claim to be construed as direct losses for the purpose of this Agreement.
- 36.8 Without prejudice to this Condition 36, a Contracting Authority may, in relation to any individual Commercial Process, specify alternative or additional provisions relating to liability, which shall apply to that Commercial Process only, provided that such provisions shall not limit or exclude any liability referred to in Conditions 36.1 or 36.2.
- 36.9 Each Party shall use all reasonable endeavours to mitigate any loss or damage suffered arising out of or in connection with this Agreement.
- 36.10 Neither Party shall be entitled to employ such rights and remedies available to it so as to seek to recover more than once in respect of the same Loss, but the Authority shall be entitled to use (singly or together) such rights and remedies available to the Authority so as to recover the full extent of any recoverable Losses suffered or incurred, including any remedies the Authority may have against any guarantor.

37 INSURANCES

- 37.1 The Supplier shall maintain appropriate insurance cover with a reputable insurance company (or companies) to adequately cover, in the aggregate, any losses, damages, costs, claims, expenses, or liabilities that may be incurred by one or more Contracting Authorities arising out of or in connection with any act or omission of the Supplier or any Delivery Partner in connection with this Agreement or any Contract.
- 37.2 The terms of any insurance or the amount of cover shall not relieve the Supplier of any liabilities arising under this Agreement or any Contract, nor shall it limit or affect the Supplier's obligations to any Contracting Authority.

PART 8: TERMINATION AND CONTINUING OBLIGATIONS

38 TERMINATION FOR MATERIAL BREACH

- 38.1 Without prejudice to any of its other rights and remedies, the Authority shall have the right to terminate the Agreement with immediate effect by giving written Notice to the Supplier where the Supplier is in material breach of its obligations under this Agreement and that breach is determined by the Authority to be:
 - 38.1.1 incapable of remedy (other than by the payment of money); or
 - 38.1.2 capable of remedy but the Supplier fails to remedy that breach to the satisfaction of the Authority within twenty (20) Business Days (or such other period as the Authority may specify) after receipt of written notice specifying the breach and requiring it to be remedied.

- 38.2 Without prejudice to Condition 38.1, circumstances may (as determined by the Authority) constitute a material breach of this Agreement:
- 38.2.1 the Supplier commits any breach (other than of a trivial nature) of:
- (a) Condition 3 (Warranties, Representations and Undertakings);
 - (b) Condition 8 (Conflict of Interest);
 - (c) Condition 9 (Prohibited Acts);
 - (d) Condition 10 (Payment of Tax and Promoting Tax Compliance);
 - (e) Condition 12 (Supplier Change of Control);
 - (f) Condition 14 (Publicity and Branding);
 - (g) Condition 22 (Record Keeping);
 - (h) Condition 23 (Confidentiality and Disclosure of Information);
 - (i) Condition 24 (Controlled Information);
 - (j) Conditions 28 - 34 (Security Obligations), save where termination is exercised under Condition 39 (Termination for Breach of Security Obligations); or
 - (k) any other provision expressly identified in this Agreement as giving rise to termination for material breach;
- 38.2.2 any representation or warranty given by the Supplier is materially untrue or misleading and the Supplier fails to provide details of mitigating factors which the Authority reasonably determines to be acceptable;
- 38.2.3 the Supplier is found to be non-compliant with Schedule 4 (Commercial Processes and Pricing) and fails to remedy that non-compliance within a reasonable period after being notified, or is persistently non-compliant with Schedule 4 despite having been given written notice, including through repeated non-compliance across multiple Commercial Processes or material non-compliance with requirements applicable to a Commercial Process.
- 38.2.4 following a Contracting Authority's acceptance of a Supplier's Response, the Supplier fails or refuses to perform the resulting Contract and the Authority reasonably determines such failure or refusal to be unreasonable;
- 38.2.5 a Contracting Authority terminates a Contract for the Supplier's material breach of that Contract; and
- 38.2.6 the Supplier commits persistent breaches of this Agreement or any Contract which, whether or not material in themselves, the Authority reasonably considers have had, or are likely to have, an adverse effect on the proper performance of the Supplier's obligations.
- 38.3 Where the Authority has terminated this Agreement under this Condition 38, the Authority may recover from the Supplier any Losses it incurs as a result of the Supplier's material breach of this Agreement. Such Losses may include (in addition to those Losses identified pursuant to Condition 36.6 (Liabilities)):
- 38.3.1 the costs and expenses reasonably incurred by the Authority in procuring, establishing, or implementing any alternative sourcing route or replacement solution which, in the reasonable opinion of the Authority, are necessary;
- 38.3.2 any additional costs incurred by the Authority or by any Contracting Authority in procuring equivalent goods, services, or other requirements from another supplier; or

38.3.3 where the termination arises from a breach of Condition 9 (Prohibited Acts), recover from the Supplier, in addition to any other losses recoverable under this Condition 38.3, the amount or value of any gift, consideration, commission or other benefit given, received or offered in connection with that breach.

39 TERMINATION FOR BREACH OF SECURITY OBLIGATIONS

- 39.1 Without prejudice to any of its other rights and remedies, where a breach of this Agreement falling within Condition 28.5 (Security Obligations) occurs, the Authority may, in its sole discretion, terminate this Agreement in accordance with this Condition 39.
- 39.2 Where such breach is assessed by the Authority as capable of remedy, the Authority shall give the Supplier written notice requiring the breach to be remedied within a period specified by the Authority. The Supplier shall promptly take all steps necessary to remedy the breach, including (where applicable):
- 39.2.1 the removal, replacement or retraining of affected Supplier Personnel, including any personnel of a Delivery Partner;
 - 39.2.2 the removal or replacement of any affected Delivery Partner;
 - 39.2.3 the implementation of additional controls; and
 - 39.2.4 the provision of evidence demonstrating that the breach has been fully resolved.
- 39.3 If the Authority determines, in its sole discretion, that any breach by the Supplier is:
- 39.3.1 not capable of remedy; or
 - 39.3.2 not remedied by the Supplier within the period specified by the Authority; or
 - 39.3.3 creates, or may create, any security, operational or reputational risk, including as a result of the conduct of any Supplier Personnel or Delivery Partner,
- then, without prejudice to any of its other rights or remedies, the Authority may treat such breach as a material breach for the purposes of Condition 38 (Termination for Material Breach) and may terminate this Agreement accordingly.

40 TERMINATION FOR FINANCIAL STANDING AND INSOLVENCY

- 40.1 The Authority may terminate the Agreement with immediate effect by giving written notice to the Supplier where:
- 40.1.1 in the reasonable opinion of the Authority there is a material detrimental change in the financial standing and/or the credit rating of the Supplier which:
 - (a) adversely impacts on the Supplier's ability to supply the Services under this Agreement; or
 - (b) could reasonably be expected to have an adverse impact on the Supplier's ability to supply the Services under this Agreement; or
 - 40.1.2 an Insolvency Event affecting the Supplier occurs.

41 TERMINATION ON CHANGE OF CONTROL

- 41.1 The Authority may terminate the Agreement with immediate effect by giving written notice to the Supplier:
- 41.1.1 in accordance with Condition 12 (Supplier Change of Control); or

- 41.1.2 where notification has not been made in accordance with Condition 12, the date that the Authority becomes aware that a change of Control is anticipated or is in contemplation or has occurred.

42 TERMINATION ON REASSESSMENT OF ELIGIBILITY AND SUITABILITY

- 42.1 The Authority may reassess the Supplier's ongoing compliance with the Eligibility Criteria in accordance with Schedule 2 (Eligibility Criteria), and its overall suitability to participate in the Agreement at any time during the Term, including:
- 42.1.1 reassessing the Supplier's technical capability and capacity to perform the Services; and
 - 42.1.2 having regard to the Supplier's participation in, and engagement with, Commercial Processes (including any exclusion from such processes) and its responsiveness to the Authority in connection with the Agreement, including in accordance with Schedule 3 (Agreement Management).
- 42.2 Where, following such reassessment, the Authority reasonably considers that the Supplier:
- 42.2.1 no longer meets the Eligibility Criteria; or
 - 42.2.2 is no longer suitable or willing to continue participating in the Agreement,
- but no material breach has occurred, the Authority may terminate this Agreement by giving written notice to the Supplier.
- 42.3 Any termination under this Condition 42 shall take effect:
- 42.3.1 immediately, where the Supplier has been given an opportunity to respond in connection with such reassessment in accordance with Schedule 2 (Eligibility Criteria) or Schedule 3 (Agreement Management); or
 - 42.3.2 where no such opportunity has been provided, no earlier than twenty (20) Business Days after the date of the notice given under Condition 42.2, during which time the Supplier shall have the opportunity to submit representations and mitigating evidence demonstrating its continued suitability, and the Authority shall give due consideration to any such representations prior to confirming or withdrawing such termination.

43 TERMINATION FOR CONVENIENCE

- 43.1 The Authority shall have the right at any time and for any reason to terminate this Agreement by giving the Supplier written notice to expire at the end of twenty (20) Business Days.

44 SUPPLIER INITIATED TERMINATION

- 44.1 The Supplier may terminate its appointment under this Agreement by giving the Authority not less than twenty (20) Business Days written notice, in accordance with Condition 50 (Notices).

45 PARTIAL TERMINATION

- 45.1 Where the Authority exercises any right to terminate this Agreement, the Authority shall be entitled to terminate in full or in part. Any partial termination shall take effect only where, in the reasonable opinion of the Authority, the remaining provisions of this Agreement are capable of operating effectively and independently to deliver the intended purpose of the Agreement.

46 SUSPENSION OF SUPPLIER'S APPOINTMENT

- 46.1 Where the Authority is entitled to terminate this Agreement, or is considering whether grounds exist to do so, or to exercise any other rights or remedies available to it, the Authority may, in its sole discretion, suspend the Supplier's appointment to this Agreement by giving notice in writing to the Supplier.
- 46.2 Any suspension shall be without prejudice to any right of termination or other rights or remedies which have already accrued, or subsequently accrue, to the Authority.
- 46.3 The Parties acknowledge that suspension shall not affect the Supplier's obligation to perform any existing Contracts concluded prior to the suspension notice.
- 46.4 The Authority may, by giving written notice, reinstate the Supplier's appointment at any time within a period of six (6) months from the date of suspension. If the Authority does not reinstate the Supplier's appointment within that period, the Supplier's appointment under this Agreement shall be deemed to have been terminated with effect from the date falling six (6) months after the date of suspension.

47 CONSEQUENCES OF SUSPENSION, TERMINATION OR EXPIRY

- 47.1 Notwithstanding the service of a notice to suspend or terminate, the Supplier shall continue to fulfil its obligations under this Agreement until the Expiry Date or, where earlier, the effective date of termination, and for such additional period as, in the reasonable opinion of the Authority, is necessary for the Supplier to fulfil any outstanding obligations under this Agreement.
- 47.2 From the date of issue of a notice to suspend or to terminate this Agreement, the Authority may exclude the Supplier from:
- 47.2.1 participating in any Commercial Process; or
 - 47.2.2 being awarded any Contract.
- The Supplier shall not be eligible to participate in any Commercial Process commenced during the period in which such notice is in effect, unless expressly agreed with the Authority.
- 47.3 The Parties agree that the service of any notice to suspend the Supplier's appointment to this Agreement and/or to terminate this Agreement shall not:
- 47.3.1 in the event of suspension, result in an extension of the Term;
 - 47.3.2 relieve the Supplier of its obligations under any Contract concluded prior to the date of such suspension or termination; or
 - 47.3.3 cause any Contract to automatically terminate.
- 47.4 The Supplier shall not be entitled to any compensation, reimbursement, loss of profit, loss of opportunity or other payment arising out of or in connection with the suspension or termination of this Agreement, howsoever caused, including (for the avoidance of doubt) any compensation for overhead recovery, mobilisation costs or other costs incurred in connection with such suspension or termination.
- 47.5 Within ten (10) Business Days of the date of termination or expiry of this Agreement, the Supplier shall provide to the Authority such records and information as the Authority may reasonably require to identify all Authority Information in the Supplier's possession, custody or control, including the Contracting Authority to which such Authority Information relates and the nature and format of that information.

- 47.6 On termination or expiry of this Agreement, and on suspension where reasonably required by the Authority, the Supplier shall promptly return, securely delete or otherwise dispose of such Authority Information in accordance with any instructions provided, including in relation to format, method of transfer or destruction, and any required certification of completion.
- 47.7 Where Condition 47.6 applies, the Supplier may retain one copy of such Authority Information to the extent reasonably necessary to comply with its obligations under this Agreement or applicable legislation, for a period not exceeding twelve (12) months (or such other period as approved by the Authority), provided that such retained information remains subject to the confidentiality, security and data protection obligations set out in this Agreement.
- 47.8 Nothing in this Condition 47 shall restrict the ability of any Contracting Authority to exercise any rights of suspension or termination under any Contract awarded by that Contracting Authority.

48 REAPPLYING TO THE AGREEMENT

- 48.1 Where a Supplier's appointment to the Agreement has been terminated (and not suspended), the Supplier may apply for readmission to the Agreement at any time, provided that:
- 48.1.1 it satisfies the Eligibility Criteria in force at the time of reapplication, including Condition 3 (Warranties, Representations and Undertakings);
 - 48.1.2 any applicable time restrictions on reapplication (including any minimum period specified by the Authority at the time of termination) have been satisfied; and
 - 48.1.3 the Supplier provides such additional information or evidence as the Authority may reasonably require to demonstrate that:
 - (a) the grounds for its prior termination no longer apply; and
 - (b) it is suitable in all respects for readmission.
- 48.2 Any reapplication by a Supplier under this Condition 48 shall be treated as a new application for appointment to the Agreement and shall be assessed in accordance with the criteria and procedures in force at the time of reapplication. Any successful reapplication shall result in a new appointment, and no rights, claims or status arising from any prior appointment shall carry over.
- 48.3 For the avoidance of doubt, suspension of a Supplier's appointment shall not give rise to any right to reapply under this Condition 48.

49 CONTINUING OBLIGATIONS

- 49.1 Termination or expiry of this Agreement does not affect any rights, remedies, claims, or actions that have accrued prior to termination or expiry. All provisions of this Agreement that are intended to survive termination shall remain in full force and effect.
- 49.2 Without prejudice to Condition 49.1, the provisions of the following Conditions shall survive the expiry or termination of this Agreement: 11 (Recovery of Sums Due); 22 (Record Keeping); 23 (Confidentiality and Disclosure of Information); 24 (Controlled Information); 25 (Protection of Personal Data); 26 (Freedom of Information); 35 (Ownership of Intellectual Property Rights (IPR)), 36 (Liability), 47 (Consequences of Suspension, Termination or Expiry); 54 (Rights of Third Parties); 55 (Independent Contractor Status); 57 (Dispute Resolution); and 58 (Governing Law).

PART 9: MISCELLANEOUS AND GOVERNING LAW

50 NOTICES

- 50.1 All Notices given under this Agreement shall be:

- 50.1.1 in writing in the English language;
 - 50.1.2 authenticated by signature or such other method as may be agreed between the Parties;
 - 50.1.3 where served on the Supplier, be sent by e-mail to the e-mail address recorded in its Supplier Profile or by making the Notice available to the Supplier via the R-Cloud Portal; and
 - 50.1.4 where served on the Authority, be sent by e-mail to dstlcloud@dstl.gov.uk and clearly identified as a notice under this Agreement, including by stating "NOTICE OF [SUBJECT MATTER]" (or similar wording clearly indicating that the communication is a formal notice under this Agreement) in the subject line.
- 50.2 A Notice sent by the Authority to a Supplier by e-mail shall be deemed to have been received on the same Business Day on which it is sent, provided that the Authority does not receive an automated notification indicating that the e-mail has not been delivered.
- 50.3 A Notice sent by the Authority to a Supplier via the R-Cloud Portal shall be deemed to have been received when it is made available to the Supplier through the Portal.
- 50.4 A Notice sent by the Supplier to the Authority shall be deemed to have been received when an acknowledgement of receipt is issued by the Authority by e-mail, or, if no acknowledgement is issued, at 09:00 on the next Business Day following transmission.
- 50.5 If a Supplier does not receive evidence of receipt in accordance with Condition 50.4, it shall re-send the Notice or take such other steps as are necessary to ensure that the Notice is received by the Authority.

51 SEVERABILITY

- 51.1 If any provision of the Agreement is held to be invalid, illegal or unenforceable to any extent then such provision shall (to the extent that it is invalid, illegal or unenforceable) be given no effect and shall be deemed not to be included in the Agreement but without invalidating any of the remaining provisions of the Agreement.

52 WAIVER

- 52.1 No act or omission of either Party shall by itself amount to a waiver of any right or remedy unless expressly stated by that Party in writing. In particular, no reasonable delay in exercising any right or remedy shall by itself constitute a waiver of that right or remedy.
- 52.2 No waiver in respect of any right or remedy shall operate as a waiver in respect of any other right or remedy.

53 ASSIGNMENT

- 53.1 The Supplier shall not assign, novate or otherwise dispose of any rights and obligations under this Agreement without the prior written consent of the Authority.

54 THIRD PARTY RIGHTS

- 54.1 Except as expressly provided in this Agreement, no person who is not a Party to this Agreement shall have any right to enforce any term of this Agreement.
- 54.2 Where, and only where, the Agreement expressly states that a third party shall be entitled to enforce a term of the Agreement:
- 54.2.1 the third party shall be entitled to enforce that term in their own right;

- 54.2.2 the Supplier shall inform the third party as soon as is reasonably practicable of the existence of the relevant right together with any other terms (including the terms of this Condition) relevant to the exercise of that right; and
- 54.2.3 the third party's rights shall be subject to any provision in the Agreement:
- (a) that provides for the submission of disputes under the Agreement; and
 - (b) that stipulates the law and jurisdiction that will govern the Agreement.

55 INDEPENDENT CONTRACTOR STATUS

- 55.1 The Supplier (and all Supplier Personnel and Delivery Partners) shall at all times act as independent contractors and nothing in this Agreement shall create or be deemed to create a relationship of employment, worker status, agency or partnership between the Authority and the Supplier or any such personnel. The Supplier shall not hold itself out and shall ensure that all Supplier Personnel and any Delivery Partner do not hold themselves out, as having any such relationship with the Authority.
- 55.2 This Agreement is a contract for the provision of Services and not a contract of employment. The Supplier shall be fully responsible for, and shall indemnify the Authority in full against, any liability, loss, cost, claim or expense (including reasonable legal costs) arising out of or in connection with any employment-related claim or any claim based on worker status brought by any Supplier Personnel, Delivery Partner or other individual engaged by the Supplier in connection with the Agreement. The Authority may, at its option, satisfy any part of this indemnity by way of deduction from sums due to the Supplier.
- 55.3 For the duration of the Term and for a period of twelve (12) Months after the Expiry Date or, if later, the expiry or termination of any Contract, the Supplier shall not employ or offer employment to any staff of a Contracting Authority without the prior written consent of the relevant Contracting Authority, such consent not to be unreasonably withheld.

56 FURTHER ASSURANCE

- 56.1 The Supplier shall at the request of the Authority do or procure the doing of all such further acts and execute or procure the execution (as a deed or otherwise) of all such documents as may from time to time be necessary in the Authority's opinion to give full effect to the Agreement and to vest in the Authority the full benefit of the assets, rights and benefits to be transferred to the Authority under the Agreement.

57 DISPUTE RESOLUTION

- 57.1 The Parties will attempt in good faith to resolve any dispute or claim arising out of or relating to the Agreement through negotiations between the respective representatives of the Parties having authority to settle the matter, which attempts may include the use of any alternative dispute resolution procedure on which the Parties may agree.
- 57.2 If the dispute or claim is not resolved pursuant to Condition 57.1 the dispute shall be referred to arbitration. Unless otherwise agreed in writing by the Parties, the arbitration and this Condition 57.2 shall be governed by the Arbitration Act 2025. For the purposes of the arbitration, the arbitrator shall have the power to make provisional awards pursuant to Section 39 of the Arbitration Act 2025.
- 57.3 For the avoidance of doubt, anything said, done or produced in or in relation to the arbitration process (including any awards) shall be confidential between the Parties, except as may be lawfully required in judicial proceedings relating to the arbitration or otherwise.

- 57.4 This Condition 57 applies solely to disputes arising out of or in connection with this Agreement. Any dispute or claim arising out of or in connection with a Contract shall be governed by the terms of that Contract. For the avoidance of doubt, the Authority is not a party to, and shall have no responsibility for, the resolution of any dispute between the Supplier and any Other Contracting Authority arising under or in connection with any Contract.

58 GOVERNING LAW

- 58.1 Subject to Condition 57 (Dispute Resolution), this Agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it shall be governed by the laws of England.
- 58.2 Subject to Condition 57, and without prejudice to the dispute resolution process set out therein, each Party submits and agrees to the exclusive jurisdiction of the Courts of England to resolve, and the laws of England to govern, any actions proceedings, controversy or claim of whatever nature arising out of or relating to this Agreement or breach thereof.
- 58.3 Any dispute arising out of or in connection with this Agreement shall be determined within the English jurisdiction and to the exclusion of all other jurisdictions save that other jurisdictions may apply solely for the purpose of giving effect to this Condition 58 and for the enforcement of any judgment, order or award given under English jurisdiction.
- 58.4 Where the Supplier's registered office is outside England and Wales, the Supplier shall irrevocably appoint solicitors or other persons in England and Wales to accept service of process in connection with any proceedings arising out of or in connection with this Agreement.

SCHEDULE 1: DEFINITIONS

1 Application of this Schedule

- 1.1 In this Agreement, the following expressions and defined terms have the meanings given in this Schedule 1 (Definitions).
- 1.2 Unless the context otherwise requires, words in the singular include the plural and vice versa, in accordance with Condition 2 (Definitions and Interpretation).

Acceptance Notice	means the formal notification of Contract award issued by a Contracting Authority via the R-Cloud Portal, or otherwise in accordance with this Agreement, including any associated documents expressly referred to therein;
Actively Participated	means, in relation to a Commercial Process, either: (a) the submission of a Response (or equivalent submission required by the Authority); or (b) other substantive and bona fide engagement in a Commercial Process where participation is invited or reasonably expected, and excludes any purely formal, token, or non-substantive activity (including nil, placeholder, or deliberately non-competitive submissions); “Actively Participate” and “Active Participation” shall be defined accordingly;
Agreement	means this agreement between the Authority and the Supplier;
Application	means the Supplier’s application (including all supporting information and representations) submitted by the Supplier in connection with its application to be appointed to the Agreement;
Application Warranty	means the warranty given by the Supplier under Condition 3.3.1 (Warranties, Representations and Undertakings);
Appointment Date	means the date on which the Supplier’s Application is accepted by the Authority;
Authority	means the Secretary of State for Defence of the United Kingdom of Great Britain and Northern Ireland, acting as part of the Crown;
Authority Information	means any Information disclosed to the Supplier by or on behalf of a Contracting Authority under or in connection with this Agreement;
Business Day	means any day other than a Saturday, Sunday or a bank holiday in the United Kingdom, or any day falling within a period of holiday or closure notified in writing by the Authority to the Supplier in advance;
Central Government Body	means any department, office or agency of the UK central government, and any arm’s length body or other public body sponsored by or accountable to central government, including ministerial departments, non-ministerial departments, executive agencies and non-departmental public bodies;
Change of Control Notice	means a written notice issued by the Supplier under Condition 12 (Supplier Change of Control) notifying the Authority of any proposed or actual change of Control of the Supplier and/or any Delivery Partner and containing the information required under that Condition;

Charges	means the charges payable to the Supplier by a Contracting Authority under this Agreement or any Contract in consideration of the full and proper performance by the Supplier of its obligations under that Contract, calculated in a manner that is consistent with the R-Cloud Pricing Matrix;
Child Labour Legislation	means those International Labour Law Conventions concerning economic exploitation of children through the performance of work which is likely to be hazardous or to interfere with a child's health or development, including but not limited to slavery, trafficking, debt bondage or forced labour, which are ratified and enacted into domestic law and directly applicable to the Supplier in the jurisdiction(s) in which it performs the Agreement or any Contract;
Commercial Process	means any process, procedure, activity, or engagement conducted under or in connection with this Agreement, as set out in Schedule 4 (Commercial Processes and Pricing);
Contract	means the legally binding agreement entered into between a Contracting Authority and the Supplier for the provision of Services, made in accordance with the provisions of this Agreement;
Contract Price	means the total amount payable by a Contracting Authority under a Contract for the performance of the Services, excluding Value Added Tax (VAT), as determined in accordance with that Contract;
Control	means the power of a person to secure that the affairs of the Supplier are conducted in accordance with the wishes of that person (a) by the means of holding shares, or possession of voting powers in, or in relation to the Supplier; or (b) by virtue of any powers conferred by the constitutional or corporate documents, or by any other document regulating the Supplier; and a change of Control occurs if a person who Controls the Supplier ceases to do so or if another person acquires Control of the Supplier;
Controlled Information	means any information in any written or tangible form which is disclosed to the Supplier by or on behalf of a Contracting Authority under or in connection with the Agreement, and which is identified by the legend 'Controlled Information', or other approved legend notified to the Supplier. Controlled Information shall exclude information provided by oral communication;
Contracting Authority	means: (a) the Authority; and (b) any Central Government Body, and any other public sector body which is entitled to participate in, use or rely on this Agreement, including for the purposes of conducting any Commercial Process or entering into, managing or receiving Services under any Contract, and references to a Contracting Authority shall, where the context requires, include the Authority, any such body, or both;

Data Protection Legislation	means all applicable law in force from time to time in the UK relating to the processing of personal data and privacy, including but not limited to: (a) UK GDPR; (b) the Data Protection Act 2018; and (c) the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2003/2426) as amended; each to the extent that it relates to the processing of personal data and privacy;
Default	means any breach of this Agreement, failure to perform any obligation, delay, omission, misrepresentation, negligent act or omission, or other wrongful act or omission by the Supplier in connection with this Agreement, including any act or omission of a Delivery Partner for which the Supplier is responsible under this Agreement;
Delivery Partner	means any third party on which the Supplier: (a) relies on to meet the Eligibility Criteria; (b) engages to provide material support in the performance of this Agreement (including any Commercial Process); or (c) by virtue of its relationship with the Supplier in connection with this Agreement, has, or is likely to have, direct or indirect access to Authority Information in a manner that provides it with aggregated, strategic or ongoing visibility of such information beyond that required for a specific activity, task or Commercial Process and includes, where they satisfy any of paragraphs (a) to (c), any sub-contractor, collaborator, consultant or agent of the Supplier, together with all individuals employed by or otherwise directly engaged by any Delivery Partner in connection with this Agreement, including employees, workers, consultants, agents, secondees, students and other authorised representatives.
Disclosure of Tax Avoidance Schemes (DOTAS)	means the Disclosure of Tax Avoidance Schemes rules which require a promoter of tax schemes to: (a) tell HM Revenue & Customs of any specified notifiable arrangements or proposals; and (b) provide prescribed information on those arrangements or proposals within set time limits as: i. contained in Part 7 of the Finance Act 2004 and in secondary legislation made under powers contained in Part 7 of the Finance Act 2004; and as ii. extended to National Insurance Contributions by the National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012, SI 2012/1868 made under s.132A Social Security Administration Act 1992;
Eligibility Criteria	means the criteria set out in Schedule 2 (Eligibility Criteria), which the Supplier must satisfy to be eligible for appointment to, and to remain eligible under, this Agreement, as such criteria apply at the date of application and throughout the Term;

Exclusion Ground	means any circumstance or set of circumstances in relation to the Supplier or any Delivery Partner which constitutes a failure to meet, or a breach of, any of the grounds set out in Schedule 2 (Eligibility Criteria);
Expiry Date	means the date notified by the Authority to the Supplier under Condition 5.2 (Duration of the Agreement);
General Anti-Abuse Rule	means: (a) the legislation in Part 5 of the Finance Act 2013; and (b) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid national insurance contributions;
Good Industry Practice	means the standards, practices, methods and procedures that would reasonably and ordinarily be expected from a skilled and experienced supplier engaged in the provision of services of a similar nature to the Services under the same or similar circumstances;
Government Security Classification Policy (GSCP)	means the policy issued by His Majesty's Government (HMG) (as updated from time to time) which sets out the system for classifying, handling, protecting and managing government information and assets, including the classification levels (such as OFFICIAL, SECRET and TOP SECRET) and the associated requirements for their storage, transmission, processing and destruction;
Guidance	means any policies, procedures, technical requirements, standards, instructions or other supporting documents issued by or on behalf of the Authority from time to time which relate to the performance of this Agreement, including documents relating to security, information assurance or operational processes;
Halifax Abuse Principle	means the principle explained in the CJEU Case C-255/02 Halifax and others;
Information	means any information in any written or other tangible form disclosed under or in connection with the Agreement, including any information disclosed by or to the Supplier, the Authority or any Other Contracting Authority (whether or not a party to this Agreement), including information provided in connection with any Commercial Process or the award of any Contract;
Insolvency Event	with respect to any person, means: (a) that person suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or: i. (being a company or a LLP) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or ii. (being a partnership) is deemed unable to pay its debts within the meaning of section 222 of the Insolvency Act 1986; (b) that person commences negotiations with one or more of its creditors (using a voluntary arrangement, scheme of arrangement or otherwise) with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with one or more of its creditors or takes any step

	to obtain a moratorium pursuant to Section 1A and Schedule A1 of the Insolvency Act 1986 other than (in the case of a company, a LLP or a partnership) for the sole purpose of a scheme for a solvent amalgamation of that person with one or more other companies or the solvent reconstruction of that person; (c) another person becomes entitled to appoint a receiver over the assets of that person or a receiver is appointed over the assets of that person; (d) a creditor or encumbrancer of that person attaches or takes possession of, or a distress, execution or other such process is levied or enforced on or sued against, the whole or any part of that person's assets and such attachment or process is not discharged within fourteen (14) days; (e) that person suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; (f) where that person is a company, a LLP or a partnership: - a petition is presented (which is not dismissed within fourteen (14) days of its service), a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that person other than for the sole purpose of a scheme for a solvent amalgamation of that person with one or more other companies or the solvent reconstruction of that person; - an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is filed at Court or given or if an administrator is appointed, over that person; (being a company or a LLP) the holder of a qualifying floating charge over the assets of that person has become entitled to appoint or has appointed an administrative receiver; or (being a partnership) the holder of an agricultural floating charge over the assets of that person has become entitled to appoint or has appointed an agricultural receiver; or (g) any event occurs, or proceeding is taken, with respect to that person in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned above;
Intellectual Property Rights (IPR)	means all patents, utility models, rights (registered and unregistered) in any designs; applications for any of the foregoing; copyright; confidential information and trade secrets; and all rights and forms of protection of a similar nature to these or having equivalent effect anywhere in the world;
Losses	means all losses, liabilities, damages, costs and expenses (including legal and other professional fees and expenses) of any nature whatsoever and howsoever arising, whether in contract, tort (including negligence), misrepresentation or otherwise;
Management Information	means any information, data, metrics or records, whether qualitative or quantitative, relating to the Supplier's participation in this Agreement, any Commercial Process or any Contract, which the Authority may reasonably require for monitoring, assurance, audit, governance, reporting or value for money purposes;

Notice	means all notices or other forms of communication under or in connection with the Agreement;
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 on or after 1 April 2013 to be incorrect as a result of: 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 that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle; 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; or (b) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 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 date this Agreement came into effect or to a civil penalty for fraud or evasion;
Other Contracting Authority	means all Contracting Authorities except the Authority;
Party	means the Authority or the Supplier (as the case may be), or both;
Prohibited Act	means any act or omission which constitutes, whether directly or indirectly: (a) the offering, promising or giving to any Crown servant of any gift, or financial or other advantage of any kind, as an inducement or reward: i. for doing or not doing (or for having done or not having done) any act in relation to the obtaining or execution of this or any other contract with the Crown; or ii. for showing or not showing favour or disfavour to any person in relation to this or any other contract with the Crown; (b) entering into this Agreement or any other agreement with the Crown in connection with which commission has been paid or has been agreed to be paid by the Supplier or on its behalf, or to its knowledge, unless, before the agreement is entered into, full particulars of any such commission and of the terms and conditions governing its payment have been disclosed in writing to the Authority;
R-Cloud Portal	means the web application through which the Agreement is managed;
R-Cloud Pricing Matrix	means the pricing matrix maintained by the Supplier through its Supplier Profile setting out the maximum hourly rates applicable under the Agreement;
R-Cloud Taxonomy	means the structured set of science and technology (S&T) capabilities, skills and service classifications maintained by the Authority, used to describe, organise and manage Supplier expertise under this Agreement;

Relevant Tax Authority	means HM Revenue & Customs, or, if applicable, a tax authority in the jurisdiction in which the Supplier is established;
Response	means a response submitted by the Supplier as part of a Tasking Procedure;
Security Aspects Letter (SAL)	means the document issued by or on behalf of the Secretary of State for Defence which sets out the security requirements applicable to a Commercial Process (or any Contract awarded under it), including requirements relating to the protection, handling, storage, transmission and destruction of classified or sensitive information, personnel security, physical security, and information assurance, as may be amended or replaced from time to time;
Security Requirements	means all requirements, obligations, controls and standards relating to security applicable to the performance of this Agreement;
Services	means the services (including any associated goods) which the Supplier is required to perform or provide under a Contract;
Shortlisted Supplier	means a Supplier selected by a Contracting Authority to participate in a particular Commercial Process in accordance with Schedule 4 (Commercial Processes and Pricing);
Social Value	means the economic, social and environmental benefits to be delivered through the performance of the Services, in accordance with the UK Government's Social Value Model (as published by the Cabinet Office and updated from time to time), including outcomes that support public policy objectives and the wider well-being of communities;
Statement of Exclusion Grounds	means the Statement of Exclusion Grounds completed by the Supplier as part of its Application, and subsequently maintained and updated by the Supplier in its Supplier Profile;
Sub-Contract and Sub-Contractor	means a contract entered into by the Supplier or any Sub-Contractor for the purpose of performing, or contributing to the performance of, any of the Supplier's obligations under this Agreement or any Contract; and "Sub-Contractor" means any person who enters into such a contract;
Supplier	means the legal entity identified in the R-Cloud Portal, or otherwise in accordance with this Agreement, as having authorised and entered into this Agreement, together with its Supplier Personnel, but excluding any Delivery Partner;
Supplier Engagement	means any engagement, interaction, or activity undertaken between the Authority and one or more Suppliers, including discussions, information-gathering exercises, workshops, collaboration activities, or technical engagement, which does not constitute a Tasking Procedure and does not create any obligation to award or enter into a Contract;
Supplier Personnel	means all individuals employed by or otherwise directly engaged by the Supplier in connection with this Agreement, including employees, workers, consultants, agents, secondees, students, and other authorised representatives, but excluding any individuals who are personnel of a Delivery Partner;

Supplier Profile	means the information maintained by the Supplier via the R-Cloud Portal, or otherwise in accordance with this Agreement, during the Term, including its legal and contracting information, eligibility status, Taxonomy Mapping, and R-Cloud Pricing Matrix, together with any other information provided for the purposes of supporting its participation in the Agreement;
Supplier Profile Warranty	means the warranty given by the Supplier under Condition 3.3.2 (Warranties, Representations and Undertakings);
Supplier User	means any individual authorised by the Supplier to access or use the R-Cloud Portal on the Supplier's behalf, including the Supplier's employees, agency workers, contractors, consultants and representatives.
Statement of Requirements	means the statement issued by a Contracting Authority in connection with a Commercial Process describing the Services required and the requirements relating to their provision, including any specifications, deliverables, performance requirements, milestones and acceptance criteria;
Tasking Form	means the document issued by a Contracting Authority as part of a Commercial Process which sets out the requirements of that Commercial Process and any proposed Contract, including the Statement of Requirements, evaluation methodology, participation requirements, instructions to Suppliers and any other information specified by the Contracting Authority;
Tasking Procedure	means the procedure by which one or more Suppliers are invited by a Contracting Authority to submit a Response in respect of a particular requirement for Services, for the purpose of evaluating those Responses and awarding a Contract;
Taxonomy Mapping	means the selection and ongoing maintenance by a Supplier of the relevant capabilities, skills and classifications within the R-Cloud Taxonomy that accurately reflect its expertise, experience and the services it offers;
Term	means the period from the Appointment Date until the Expiry Date;
Terms of Use	means the terms, conditions, policies, instructions and requirements relating to access to and use of the R-Cloud Portal, as published by the Authority on the R-Cloud Portal and amended, updated or replaced from time to time.
UK GDPR	means the General Data Protection Regulation (Regulation (EU) 2016/679) as retained in UK law by the EU (Withdrawal) Act 2018 and the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019; and "Controller", "Data Subject", "Personal Data", "Personal Data Breach" and "Processor" shall have the same meanings as in Article 4 of the UK GDPR.

SCHEDULE 2: ELIGIBILITY CRITERIA**1 Introduction**

- 1.1 This Schedule sets out the criteria which a Supplier must meet to be eligible for appointment to, and to remain eligible under, the Agreement.
- 1.2 The Eligibility Criteria apply at the point of application and throughout the Term.

2 Eligibility Criteria

- 2.1 To be eligible for appointment to, and to remain eligible under, the Agreement, the Supplier must:
 - 2.1.1 not be subject to any Exclusion Grounds set out in the Statement of Exclusion Grounds, as determined in accordance with this Agreement;
 - 2.1.2 comply with Condition 3 (Warranties, Representations and Undertakings);
 - 2.1.3 have and maintain appropriate financial standing;
 - 2.1.4 have the necessary skills, experience and resources for the Services for which it may be contracted under this Agreement; and
 - 2.1.5 have in place appropriate policies, processes and facilities to meet the Security Requirements.

3 Demonstration of Compliance

- 3.1 The Supplier shall, upon reasonable request, provide such information or evidence as the Authority may reasonably require to demonstrate compliance with the Eligibility Criteria.

4 Assessment of Eligibility

- 4.1 For the purposes of assessing and monitoring a Supplier's compliance with the Eligibility Criteria, the Authority may rely on any information it reasonably considers relevant, including:
 - 4.1.1 information provided by the Supplier in its Application;
 - 4.1.2 information maintained by the Supplier in its Supplier Profile;
 - 4.1.3 any publicly available information; and
 - 4.1.4 information obtained or generated by the Authority in connection with the Supplier's participation in this Agreement, including through Commercial Processes and Contracts.
- 4.2 Information gathered to evaluate the Eligibility Criteria, including information contained in the Application and the Supplier Profile, shall be used for assessment and verification purposes and shall not form part of this Agreement or any Contract, unless expressly incorporated.
- 4.3 For the avoidance of doubt, the Authority may rely on such information in exercising its rights under this Agreement, including for the purposes of assessing compliance with the Eligibility Criteria, determining suitability and participation, and enforcing this Agreement, including any representations or warranties given by the Supplier.

5 Ongoing Eligibility and Conditions of Appointment

- 5.1 To remain appointed to, and eligible to participate in, the Agreement, the Supplier shall continue to meet the Eligibility Criteria set out in this Schedule throughout the Term.
- 5.2 The Supplier shall notify the Authority promptly and in accordance with Condition 50 (Notices) of any actual or potential change in circumstances which may materially affect its compliance with the

Eligibility Criteria or its continued participation in the Agreement.

6 Reassessment of Eligibility Criteria

- 6.1 The Authority may assess or reassess the Supplier's compliance with the Eligibility Criteria at any time during the Term.
- 6.2 For this purpose, the Authority may require the Supplier to provide information or evidence within a reasonable period specified by the Authority, and the Supplier shall comply with any such request.
- 6.3 The Authority may suspend the Supplier's appointment in accordance with Condition 46 (Suspension of Supplier's Appointment) during any reassessment.
- 6.4 If the Supplier:
 - 6.4.1 fails to respond within twenty (20) Business Days; or
 - 6.4.2 fails to demonstrate continued compliance with the Eligibility Criteria,the Authority may, acting reasonably:
 - 6.4.3 amend or reclassify the Supplier's Taxonomy Mapping in accordance with Schedule 3 (Agreement Management); or
 - 6.4.4 terminate this Agreement in accordance with Condition 42 (Termination on Reassessment of Eligibility and Suitability).

7 Amendments to the Eligibility Criteria

- 7.1 The Authority may, acting reasonably, amend the Eligibility Criteria from time to time, where such changes are necessary to reflect changes in law, policy, operational requirements, or the nature of the Services.
- 7.2 The Authority shall notify Suppliers of any amendment, including by publication via the R-Cloud Portal or by such other means as the Authority may reasonably determine and the amendment shall take effect from the date specified in the notice.
- 7.3 The Authority may require the Supplier to demonstrate compliance with any amended Eligibility Criteria within a reasonable period specified by the Authority.
- 7.4 If the Supplier fails to demonstrate compliance, the Authority may exercise its rights under clause 6.4 of this Schedule or Condition 42 (Termination on Reassessment of Eligibility and Suitability).

SCHEDULE 3: AGREEMENT MANAGEMENT**1 Introduction**

- 1.1 This Schedule sets out the arrangements, responsibilities, and procedures for the effective management, governance, and delivery of the Agreement.

2 Agreement Management

- 2.1 The Authority shall manage this Agreement in accordance with its terms, including the requirements set out in this Schedule, and shall establish and maintain such governance, oversight and processes as it considers appropriate for the effective management of the Agreement.
- 2.2 The Supplier shall establish and maintain appropriate management structures and processes to fulfil its obligations under the Agreement, including the requirements set out in this Schedule.

3 Application and Supplier Profile

- 3.1 The Supplier's Application forms the basis of its appointment to the Agreement and the Authority's assessment of the Supplier's eligibility and suitability to participate.
- 3.2 Where the Supplier is accepted onto the Agreement, such information provided in its Application as is relevant to the Supplier Profile shall form the basis of, and be incorporated into, the Supplier's Supplier Profile.
- 3.3 The Supplier acknowledges that the Authority may rely on the Application and the Supplier Profile for the purposes of:
- 3.3.1 assessing eligibility and suitability;
 - 3.3.2 confirming the suitability of the Supplier's Taxonomy Mapping;
 - 3.3.3 managing the Supplier's participation in the Agreement; and
 - 3.3.4 exercising its rights under this Agreement, including suspension or termination.
- 3.4 The Supplier shall:
- 3.4.1 ensure that all information provided in its Application and Supplier Profile is complete, accurate and not misleading throughout the duration of the Agreement, including by maintaining and updating its Taxonomy Mapping and R-Cloud Pricing Matrix in accordance with this Schedule;
 - 3.4.2 promptly notify the Authority if it becomes aware that any information in its Application or Supplier Profile is inaccurate, incomplete or misleading, providing sufficient detail to enable the Authority to assess the impact;
 - 3.4.3 provide any additional information reasonably requested by the Authority to verify any information within its Application or Supplier Profile.
- 3.5 The Application may not be amended except where expressly permitted under this Agreement and agreed with the Authority in writing. Any updates to related information (including the Supplier Profile or Taxonomy Mapping) shall not operate to retrospectively amend the Application.
- 3.6 The Authority may rely on the Application for the purposes of assessing the Supplier's eligibility and suitability to join the Agreement, and on the Supplier Profile for the purposes of its assessment and ongoing management of the Supplier's participation in the Agreement. The Authority shall not be required to take into account any other information relating to the Supplier unless it determines, in its

sole discretion, that it is appropriate to do so.

4 The R-Cloud Taxonomy

- 4.1 The Authority shall maintain a structured set of science and technology (S&T) capabilities, skills and service classifications, otherwise referred to as the R-Cloud Taxonomy, for the purposes of categorising Supplier expertise and capability and managing Commercial Processes under this Agreement.

Supplier Taxonomy Mapping

- 4.2 Within its Application, and thereafter through its Supplier Profile, the Supplier shall select and maintain an accurate mapping of the capabilities, skills and classifications within the R-Cloud Taxonomy that are relevant to its expertise, experience and the services it offers, otherwise referred to as Taxonomy Mapping.
- 4.3 The Supplier shall ensure that its Taxonomy Mapping is at all times complete, accurate and reflective of its relevant and credible expertise.
- 4.4 The Supplier acknowledges and agrees that its Taxonomy Mapping may be used by the Authority (and, where relevant, made available to Contracting Authorities), including to:
- 4.4.1 identify and assess Supplier expertise;
 - 4.4.2 shortlist Suppliers for participation in Commercial Processes, in accordance with Schedule 4 (Commercial Processes);
 - 4.4.3 support the management and performance of the Agreement, including monitoring Supplier participation in and engagement with Commercial Processes; and
 - 4.4.4 support broader activities of the Authority, including market analysis, reporting, and the management of the R-Cloud Taxonomy and associated S&T capabilities.
- 4.5 The Supplier may amend its Taxonomy Mapping at any time via the R-Cloud Portal as part of maintaining its Supplier Profile, provided that its Taxonomy Mapping (as amended) continues to comply with clause 4.3 of this Schedule and that any such amendments:
- 4.5.1 are made in good faith;
 - 4.5.2 accurately reflect the Supplier's relevant and credible expertise; and
 - 4.5.3 do not breach any restriction or limitation notified to the Supplier by the Authority.

Authority Rights to Review and Amend

- 4.6 The Authority reserves the right to review the Supplier's Taxonomy Mapping at any time.
- 4.7 Where the Authority reasonably determines that the Supplier's Taxonomy Mapping is:
- 4.7.1 inaccurate, incomplete, misleading, or inconsistent with the R-Cloud Taxonomy; or
 - 4.7.2 no longer accurately reflects the Supplier's relevant and credible expertise, including having regard to the Supplier's participation in, and performance within, Commercial Processes,
- the Authority may determine the appropriate Taxonomy Mapping and require the Supplier to make such amendments as the Authority considers necessary.
- 4.8 Where the Authority exercises its rights under clause 4.7, it shall, except where such amendment is

made following:

4.8.1 clause 6.4.3; or

4.8.2 clause 6 of Schedule 2 (Eligibility Criteria),

give not less than twenty (20) Business Days' written notice of such changes, and the Supplier shall not unreasonably object.

Evolution of the R-Cloud Taxonomy

4.9 The Authority may update, refine or replace the R-Cloud Taxonomy from time to time, on giving written notice to Suppliers.

4.10 The Supplier shall reasonably cooperate in updating its Taxonomy Mapping and shall notify the Authority of any downstream impacts or other updates it makes to its Taxonomy Mapping within twenty (20) Business Days or other such period required by the Authority.

Notifying Suppliers

4.11 For the purposes of this clause 4, any notice or communication may be given via the R-Cloud Portal, email, or other means as the Authority may reasonably determine, and shall constitute valid notice without the need to comply with Condition 50 (Notices).

Consequences and Limitations of Taxonomy Mapping

4.12 The Supplier acknowledges that its Taxonomy Mapping is administrative in nature and that any amendment shall not:

4.12.1 constitute a termination, partial termination or variation of this Agreement;

4.12.2 give rise to any entitlement to compensation, loss of opportunity or other payment arising out of or in connection with such amendment;

4.12.3 give rise to any entitlement or expectation in respect of the Supplier's participation in any Commercial Process, whether before or after such amendment, and shall not be relied on in connection with any participation; or

4.12.4 affect the validity or continuation of any Contract already entered into.

4.13 The Supplier acknowledges that inclusion in or mapping to any capability, skill or service classification within the R-Cloud Taxonomy is for classification and management purposes only and does not create any obligation on any Contracting Authority to invite the Supplier to participate in any Commercial Process or to award any Contract.

4.14 Nothing in this clause 4 limits the Authority's rights in respect of eligibility, suspension, removal, or termination under this Agreement, which shall operate independently of any mapping decisions made under this clause 4.

5 The R-Cloud Pricing Matrix

5.1 The Supplier shall submit a completed R-Cloud Pricing Matrix as part of its Application to the Agreement. Where the Supplier is accepted onto the Agreement, such R-Cloud Pricing Matrix shall form part of the Supplier Profile.

5.2 The Supplier's R-Cloud Pricing Matrix shall set out the maximum hourly rates for each role applicable to the Supplier. These rates shall be inclusive of all costs, overheads and profit, and exclusive of Value Added Tax (VAT).

5.3 When participating in Commercial Processes, the Supplier may propose rates lower than the hourly rates in its R-Cloud Pricing Matrix but shall not exceed such rates, except as permitted under

Schedule 4 (Commercial Processes and Pricing).

- 5.4 The Supplier shall ensure that its R-Cloud Pricing Matrix, as set out in its Supplier Profile, is at all times complete, accurate and up to date.
- 5.5 During the Term, the Supplier may request updates to its R-Cloud Pricing Matrix in accordance with any process specified by the Authority. Any proposed updates shall be subject to acceptance by the Authority in its sole discretion and shall only take effect once approved.
- 5.6 For the avoidance of doubt, the Supplier shall not exceed the hourly rates set out in its R-Cloud Pricing Matrix in any Commercial Process by reference to any planned or requested update that has not been approved by the Authority. No such update shall have retrospective effect in relation to any Response already submitted, nor shall the existence of any pending update oblige any Contracting Authority to amend or extend any deadline in connection with a Commercial Process.

6 Agreement Performance

- 6.1 The Authority may monitor Supplier participation in the Agreement on an ongoing basis.
- 6.2 Where a Supplier has not Actively Participated in any Commercial Process within a continuous period of twelve (12) months (or such other period as the Authority may reasonably specify, having regard to the nature and frequency of Commercial Processes), the Authority may reassess the Supplier's suitability to participate in the Agreement and may, where it considers it appropriate, contact the Supplier to:
 - 6.2.1 confirm whether it wishes to continue participating in the Agreement; and
 - 6.2.2 request such information as the Authority reasonably requires to confirm that the Supplier:
 - (a) continues to meet the Eligibility Criteria; and
 - (b) remains willing and able to participate in the Agreement, including, where appropriate, an explanation for its lack of Active Participation.
- 6.3 The Authority may suspend the Supplier's appointment under this Agreement in accordance with Condition 46 (Suspension of Supplier's Appointment) during any reassessment under this clause 6.
- 6.4 Where the Authority has contacted a Supplier in accordance with clause 6.2 and the Supplier:
 - 6.4.1 does not respond within twenty (20) Business Days; or
 - 6.4.2 fails to provide sufficient justification, in the opinion of the Authority, for its lack of Active Participation in Commercial Processes and how it intends to Actively Participate in Commercial Processes going forward,the Authority may, acting reasonably:
 - 6.4.3 amend the Supplier's Taxonomy Mapping in accordance with clause 4 to reflect actual or intended participation in Commercial Processes;
 - 6.4.4 suspend the Supplier's appointment under this Agreement in accordance with Condition 46 (Suspension of Supplier's Appointment); and/or
 - 6.4.5 terminate this Agreement in accordance with Condition 42 (Termination on Reassessment of Eligibility and Suitability).
- 6.5 Where the Authority has not contacted the Supplier in accordance with clause 6.2, it may still exercise its rights under this clause 6, taking into account the information available to it and, where

appropriate, whether the Supplier has been given an opportunity to respond.

7 Delivery Partners

- 7.1 Where any aspect of the Supplier's capability, Taxonomy Mapping, or participation in the Agreement relies on a Delivery Partner, such reliance shall be subject to Condition 34 (Delivery Partners and the Supply Chain), including any requirement for prior approval.
- 7.2 The Supplier shall clearly identify within its Supplier Profile any capability or capacity that is dependent on a Delivery Partner.
- 7.3 The Supplier shall promptly update its Supplier Profile and Taxonomy Mapping to reflect any changes where any Delivery Partner is removed, replaced, or becomes unavailable.

8 The R-Cloud Portal

- 8.1 The R-Cloud Portal constitutes the primary mechanism through which participation in this Agreement is conducted, including communications and Commercial Processes. The Authority may provide the Supplier with access to the Portal in accordance with the Terms of Use. The Authority may update the Terms of Use from time to time by publishing an updated version on the Portal or otherwise notifying the Supplier. The Supplier shall ensure continued compliance with the then-current version of the Terms of Use.
- 8.2 The Supplier shall:
 - 8.2.1 be responsible for obtaining, maintaining and managing the access rights, user accounts, systems, connectivity and other arrangements necessary for it and its Supplier Users to access and use the R-Cloud Portal;
 - 8.2.2 comply with, and ensure that all Supplier Users comply with, the Terms of Use; and
 - 8.2.3 notify the Authority promptly upon becoming aware of any actual or suspected unauthorised access to the Portal.
- 8.3 Any breach of the Terms of Use by a Supplier User shall be deemed to be a breach of this Agreement by the Supplier.
- 8.4 The Authority may monitor, access and administer Supplier accounts in accordance with the Terms of Use. The Supplier acknowledges and agrees that the Authority may exercise such rights where reasonably necessary for the operation, security or integrity of the Portal or any Commercial Process.
- 8.5 The Authority may suspend, restrict, remove or otherwise administer access to the Portal for the Supplier or any Supplier User in accordance with the Terms of Use.
- 8.6 During any period of suspension, the Authority may:
 - 8.6.1 exclude the Supplier from participating in one or more Commercial Processes; and
 - 8.6.2 restrict access to information, communications and functionality available through the Portal.
- 8.7 The Authority may, where it reasonably considers it appropriate, implement alternative arrangements for the conduct of any activity ordinarily conducted through the Portal, and such arrangements shall have full effect for the purposes of this Agreement.
- 8.8 Nothing in this Schedule restricts any separate right of suspension, exclusion or termination available to the Authority under this Agreement.

SCHEDULE 4: COMMERCIAL PROCESSES AND PRICING**1 Introduction**

- 1.1 This Schedule sets out the arrangements, procedures and requirements governing the conduct of Commercial Processes under this Agreement.
- 1.2 A Commercial Process may be:
 - 1.2.1 a Tasking Procedure, where a Contracting Authority intends to award a Contract; or
 - 1.2.2 a Supplier Engagement, where a Contracting Authority seeks to engage with Shortlisted Suppliers without awarding a Contract, for example to support collaboration, information exchange, the development of requirements or to inform a Contracting Authority's understanding of the market and available capabilities.

PART 1: TASKING PROCEDURE – AWARDING CONTRACTS UNDER THIS AGREEMENT**2 Scope and Purpose**

- 2.1 A Contracting Authority wishing to place a Contract for Services under this Agreement shall do so in accordance with a Tasking Procedure.
- 2.2 A Tasking Procedure may be conducted by way of:
 - 2.2.1 a Competitive Tasking Procedure, whereby a Contracting Authority invites two or more Shortlisted Suppliers to submit Responses in competition with one another for the award of a Contract.
 - 2.2.2 a Direct Award Tasking Procedure, whereby a Contracting Authority invites a single Shortlisted Supplier to submit a Response.
- 2.3 A Contracting Authority shall determine, in its sole discretion, which procedure is appropriate.

3 Shortlisting Suppliers**Competitive Tasking Procedure**

- 3.1 In a Competitive Tasking Procedure, the Contracting Authority shall use the R-Cloud Taxonomy to identify and generate a list of Shortlisted Suppliers to be invited.
- 3.2 The Contracting Authority shall select the capabilities, skills and service classifications from the R-Cloud Taxonomy that it considers relevant to the subject matter of the Tasking Procedure. Those selections shall be used to identify Suppliers whose Supplier Profiles contain the relevant capabilities, skills and service classifications.
- 3.3 The Contracting Authority shall, in its sole discretion, determine:
 - 3.3.1 which capabilities, skills and classifications are relevant to the Tasking Procedure;
 - 3.3.2 the level of match required between the selected capabilities, skills and service classifications and Supplier Profiles;
 - 3.3.3 the number of Shortlisted Suppliers to be invited to participate; and
 - 3.3.4 any additional criteria to be used when selecting Shortlisted Suppliers, taking into account any relevant considerations, including security requirements, operational needs, and applicable legal or policy requirements.
- 3.4 Only Shortlisted Suppliers shall be permitted to access and directly participate in a Tasking Procedure. For the avoidance of doubt, Shortlisted Suppliers may involve one or more Delivery

Partners in their participation in a Tasking Procedure in accordance with clause 16 of this Schedule.

- 3.5 The Contracting Authority may, at any time during a Tasking Procedure and in its sole discretion, amend the list of Shortlisted Suppliers. The Contracting Authority shall have no obligation to do so, including where any Supplier Profile, the R-Cloud Taxonomy or other relevant information changes.
- 3.6 Where the Contracting Authority amends the list of Shortlisted Suppliers after the commencement of the Tasking Procedure, it shall have no obligation to extend any deadline or otherwise amend the Tasking Procedure or any associated procurement documentation, including the Statement of Requirements.

Direct Award Tasking Procedure

- 3.7 A Contracting Authority may invite a single Shortlisted Supplier to submit a Response to a Tasking Procedure where it considers that this is appropriate, including for reasons of:
- 3.7.1 strategic defence considerations or operational readiness;
 - 3.7.2 where competition is absent for technical reasons, including due to intellectual property or exclusive rights;
 - 3.7.3 urgency;
 - 3.7.4 protection of national security interests.

4 The Tasking Procedure Process

- 4.1 The Contracting Authority shall determine the requirements and process of each Tasking Procedure, having regard to its technical and operational requirements. Subject to this Schedule, the Contracting Authority may determine the stages, evaluation methodology, timescales and participation requirements of the Tasking Procedure.
- 4.2 A Tasking Procedure may comprise one or more stages, including:
- 4.2.1 a supplier selection stage;
 - 4.2.2 a dialogue, clarification, presentation, or demonstration stage;
 - 4.2.3 a final Response stage; or
 - 4.2.4 any other stage which the Contracting Authority considers appropriate.
- 4.3 The Contracting Authority shall specify the requirements of the Tasking Procedure and the proposed Contract in the Tasking Form, including:
- 4.3.1 the Contracting Authority's Statement of Requirements;
 - 4.3.2 details of the process to be followed, including any stages to be conducted and applicable deadlines;
 - 4.3.3 instructions relating to participation in the Tasking Procedure and the submission of Responses;
 - 4.3.4 the methodology for evaluating Responses; and
 - 4.3.5 any other requirements relating to participation in the Tasking Procedure.
- 4.4 The Contracting Authority may at any time during the Commercial Process:
- 4.4.1 amend any aspect of the Tasking Procedure process, including by returning to any previous

stage of the process or amending any deadlines;

4.4.2 amend the Tasking Form, including the Statement of Requirements; and/or

4.4.3 issue clarifications or other communications relating to the Tasking Procedure.

4.5 For the avoidance of doubt, no decision, assessment, evaluation, outcome or other action taken by a Contracting Authority in relation to a Tasking Procedure shall establish any precedent for, or create any obligation in relation to, any other Tasking Procedure. A Contracting Authority may expressly refer to or rely upon information, assessments or outcomes from a previous Tasking Procedure to the extent specified in the relevant Tasking Form, provided that:

4.5.1 any reference to, or reliance upon, previously submitted information, assessments or outcomes shall apply only to the extent expressly stated in the relevant Tasking Form and only for the purposes of that Tasking Procedure; and

4.5.2 nothing in a Tasking Procedure shall amend, disapply or otherwise affect the operation of the Agreement, any other Commercial Process, or the rights of any other Contracting Authority.

5 Awarding a Contract

5.1 A Contracting Authority may award a Contract to one or more Shortlisted Suppliers by issuing an Acceptance Notice.

5.2 The Contract shall consist of:

5.2.1 the Acceptance Notice;

5.2.2 the Tasking Form, as amended during the Tasking Procedure;

5.2.3 the Supplier's Response;

5.2.4 the Conditions of Contract set out in Schedule 5 (Conditions of Contract), as amended in accordance with this Agreement;

5.2.5 Any amendment, clarification, addendum or communication issued pursuant to clause 4.4 that affects the substantive requirements of the Contract;

5.2.6 any other information expressly identified by the Contracting Authority as forming part of the Contract, including any clarification or supplementary information relating to the Contracting Authority's requirements and any clarification of the successful Supplier's Response issued or agreed during the Tasking Procedure.

5.3 In the event of any conflict or inconsistency between the documents comprising the Contract, the order of precedence shall be determined in accordance with the provisions of Schedule 5 (Conditions of Contract), as incorporated into the Contract.

6 Decision Not to Award

6.1 A Contracting Authority may, at its sole discretion, decide not to award a Contract at any stage of a Tasking Procedure.

6.2 The Supplier shall not be entitled to compensation, costs or damages solely because a Contracting Authority decides not to award a Contract.

7 Supplier Participation in Tasking Procedures

7.1 Where invited to participate in a Commercial Process, a Shortlisted Supplier shall:

7.1.1 submit its Response by the deadline specified by the Contracting Authority; or

7.1.2 notify the Contracting Authority, as soon as reasonably practicable, if it does not intend to

participate.

- 7.2 By submitting a Response, the Supplier confirms and acknowledges that:
- 7.2.1 its Response constitutes an offer capable of acceptance by the Contracting Authority in accordance with the Tasking Procedure; and
 - 7.2.2 it shall not be entitled to any additional payment, relief from its obligations or other remedy as a result of:
 - (a) any failure by the Supplier to seek clarification, undertake due diligence, or otherwise satisfy itself as to the requirements of the proposed Contract; or
 - (b) any inaccurate, incomplete or misleading information provided by the Supplier in connection with its Response.
- 7.3 Following submission of a Response, the Supplier shall notify the Contracting Authority as soon as reasonably practicable of any matter which materially affects its Response, including any planned or actual change to:
- 7.3.1 its status on the Agreement, including suspension, termination or change of Control; or
 - 7.3.2 proposed Sub-Contractors or change of Control of proposed Sub-Contractors

8 R-Cloud Pricing Matrix – Hourly Rates

- 8.1 Subject to clause 8.2, the Supplier shall submit pricing in its Response in accordance with the requirements and structure specified in the Tasking Form.
- 8.2 Pricing shall be based on:
- 8.2.1 the roles set out in the R-Cloud Pricing Matrix;
 - 8.2.2 the rates applicable to the Supplier under clause 8.4; and
 - 8.2.3 any other costs or charges expressly permitted by the Tasking Form.
- 8.3 The Supplier shall not use rates exceeding those applicable under clause 8.4, except as permitted by clause 8.5.
- 8.4 The rates applicable to a Supplier for the purposes of a Tasking Procedure shall be the rates most recently approved by the Authority and recorded in its Supplier Profile at the time that the Response is submitted. Any amendment to those rates shall have no effect unless and until approved by the Authority in accordance with Schedule 3 (Agreement Management).
- 8.5 Where the proposed Contract provides for a price variation mechanism during its term, any adjustment to rates shall be made in accordance with that mechanism. The adjusted rates may exceed those applicable to the Supplier under clause 8.4 only to the extent expressly permitted by the Contract.
- 8.6 The Contracting Authority may, at its discretion, deem a Response non-compliant, reject the Response and exclude the Supplier from the relevant Tasking Procedure where:
- 8.6.1 the Response contains rates that exceed those permitted under clause 8.4 or clause 8.5; or
 - 8.6.2 in the reasonable opinion of the Contracting Authority:
 - (a) roles have been allocated in a manner that is inappropriate or inconsistent with the nature of the Services, including the allocation of senior roles to tasks that would not reasonably require such roles; or
 - (b) the proposed allocation of time, effort or hours is excessive, unrealistic or otherwise distorted so as to affect the integrity of the pricing.

9 Sub-Contracting

- 9.1 Any Sub-Contracting arrangements shall:
- 9.1.1 support the effective delivery of the Services and the achievement of the required technical quality and outcomes;
 - 9.1.2 provide added value in meeting the Contracting Authority's requirements; and
 - 9.1.3 represent value for money for the Contracting Authority.
- 9.2 On request by the Contracting Authority, the Supplier shall provide evidence of the benefits arising from any Sub-Contracting arrangement. The Supplier shall not use Sub-Contracting arrangements in a manner that materially reduces its role in the delivery of the Services unless doing so provides a corresponding benefit to the Contracting Authority.
- 9.3 In assessing the suitability of any proposed Sub-Contracting arrangements, the Contracting Authority may have regard to the extent to which the Supplier proposes to Sub-Contract and the extent to which the Supplier itself will contribute to the delivery of the Services and the achievement of the required technical quality and outcomes.
- 9.4 The Supplier shall identify in its Response:
- 9.4.1 to the extent known at the time of submission, any proposed Sub-Contractors;
 - 9.4.2 the value of the Services proposed to be performed by Sub-Contractors, including the percentage of the total Contract Price represented by those Services;
 - 9.4.3 the role of the Supplier and the additional value to be provided by the Supplier in relation to the Services to be performed by the proposed Sub-Contractors, including any management, integration, assurance, governance, technical oversight or other services to be provided by the Supplier;
 - 9.4.4 the costs associated with managing the proposed Sub-Contractors; and
 - 9.4.5 any other information reasonably required by the Contracting Authority.
- 9.5 Subject to the exceptions at clause 9.6, the Supplier shall not submit a Response in which more than fifty per cent (50%) of the total Contract Price is attributable to Sub-Contractors.
- 9.6 A Contracting Authority may, in its sole discretion, accept a Response which exceeds the threshold referred to in clause 9.5 where:
- 9.6.1 the Contracting Authority has indicated in the relevant Tasking Form that the threshold shall not apply;
 - 9.6.2 the Supplier has requested, and the Contracting Authority has agreed to, a waiver of the threshold; or
 - 9.6.3 the Supplier submits an innovative Response which involves Sub-Contracting in excess of that threshold and the Contracting Authority considers that such approach provides added value.
- 9.7 A Supplier submitting a Response under clause 9.6.3 shall also submit a Response which complies with the threshold referred to in clause 9.5.
- 9.8 The Contracting Authority may deem a Response non-compliant, reject the Response, and exclude the Supplier from the relevant Tasking Procedure where:
- 9.8.1 the Response exceeds the threshold referred to in clause 9.5 and the Supplier has not satisfied the requirements of clause 9.6; or
 - 9.8.2 the Response does not demonstrate, to the satisfaction of the Contracting Authority, that the

proposed Sub-Contracting arrangements comply with clause 9.1.

- 9.9 For the purposes of calculating the percentage referred to in clause 9.5, the value of the following shall be excluded:
- 9.9.1 materials, consumables or commercial off-the-shelf ("COTS") equipment;
 - 9.9.2 the hire of third-party facilities; or
 - 9.9.3 any other costs stated in the relevant Tasking Form as being excluded from the calculation or otherwise agreed with the Contracting Authority prior to the submission of the relevant Response.

PART 2: SUPPLIER ENGAGEMENT – INFORMATION SHARING AND COLLABORATION

10 The Supplier Engagement Process

- 10.1 The Contracting Authority shall determine, in its sole discretion, the requirements and conduct of each Supplier Engagement, having regard to its requirements and the circumstances of the proposed procurement, including:
- 10.1.1 the format, scope and objectives of the Supplier Engagement;
 - 10.1.2 the Shortlisted Suppliers to be invited to participate;
 - 10.1.3 any timelines, rules or submission requirements; and
 - 10.1.4 any other instructions, guidance, terms or conditions relating to the Supplier Engagement.
- 10.2 The Contracting Authority shall make available to Shortlisted Suppliers, such information, materials, documentation, instructions and guidance as it considers necessary for the purposes of the Supplier Engagement, including details of any Response required, the manner of its submission and any applicable deadlines.
- 10.3 A Supplier Engagement shall not:
- 10.3.1 create any obligation on the Contracting Authority to conduct a Tasking Procedure or award a Contract; or
 - 10.3.2 create any expectation or right for a participating Supplier to be invited to participate in any subsequent Commercial Process.

11 Supplier Participation

- 11.1 Participation in any Supplier Engagement is voluntary, and Suppliers shall bear their own costs and expenses.
- 11.2 Suppliers participating in a Supplier Engagement shall:
- 11.2.1 comply with any instructions, requirements, terms or conditions notified by the Contracting Authority in relation to the engagement;
 - 11.2.2 act in good faith; and
 - 11.2.3 provide accurate, complete, and not misleading information.

PART 3: COMMERCIAL PROCESSES – GENERAL PROVISIONS

12 Use Of Artificial Intelligence

- 12.1 The Supplier shall disclose to the Contracting Authority in any Response or other submission, and

provide a description of the nature and extent of:

12.1.1 any use of artificial intelligence by the Supplier or any proposed Sub-Contractor in the preparation of that Response or submission; and

12.1.2 any intended or proposed use of artificial intelligence in the delivery of any relevant Services or in any other proposals, suggestions, approaches, solutions or services described in that Response or submission.

12.2 The Supplier shall remain solely responsible for the accuracy, completeness, legality and suitability of any Response, submission, deliverable or other material produced using artificial intelligence.

13 Social Value

13.1 Where the Contracting Authority specifies Social Value requirements for a Commercial Process, the Supplier shall comply with those requirements.

13.2 Where no Social Value requirements are specified:

13.2.1 for a Tasking Procedure, the Supplier shall propose appropriate Social Value measures in its Response; and

13.2.2 for any other Commercial Process, the Supplier may propose appropriate Social Value measures

having regard to the nature, objectives and requirements of the relevant Commercial Process.

13.3 The adoption of any Social Value measures shall be at the Contracting Authority's discretion and aligned with its Social Value priorities in force at the relevant time.

14 Participation By Contracting Authorities in Commercial Processes

14.1 Nothing in this Agreement shall oblige any Contracting Authority to award any Contract.

14.2 The Supplier acknowledges that each Contracting Authority is solely responsible for the conduct of its Commercial Processes and the award of Contracts under this Agreement, and that the Authority shall have no responsibility, accountability or liability in relation to:

14.2.1 the conduct of Other Contracting Authorities in relation to this Agreement; or

14.2.2 the performance or non-performance of any Contracts between the Supplier and Other Contracting Authorities entered into pursuant to this Agreement.

14.3 For the avoidance of doubt, nothing included or agreed by a Contracting Authority in connection with any Commercial Process shall set a precedent for, or create any obligation on:

14.3.1 the Authority in the exercise of its functions under this Agreement; or

14.3.2 any Contracting Authority,

to apply the same or similar provisions in any other Commercial Process or Contract under this Agreement.

15 Exclusion From a Commercial Process

15.1 A Contracting Authority may, in its sole discretion, determine the criteria for participation in a Commercial Process and exclude a Supplier where:

15.1.1 the Supplier does not satisfy those criteria; or

15.1.2 the Contracting Authority considers the Supplier unsuitable to participate in the relevant

Commercial Process,

having regard to the nature and requirements of that Commercial Process and any circumstances relevant to the Supplier's suitability.

- 15.2 For the avoidance of doubt, a Contracting Authority may take account of any matter relevant to a Supplier's suitability to participate in a Commercial Process, including a matter that was previously considered and accepted in connection with the Supplier's admission to, or continued participation in, this Agreement.
- 15.3 Any exclusion under clause 15.1 shall apply only in respect of the relevant Commercial Process and shall not affect the Supplier's status on, or continued participation in, the Agreement.
- 15.4 For the avoidance of doubt, decisions taken under this clause 15:
 - 15.4.1 may differ between Contracting Authorities and between Commercial Processes;
 - 15.4.2 shall not create any precedent or bind the Authority or any Contracting Authority in relation to any other Commercial Process; and
 - 15.4.3 shall not prevent the Authority or any Contracting Authority from considering the same circumstances in connection with any other assessment carried out under this Agreement.

16 Delivery Partners and the Supply Chain

- 16.1 The Supplier shall ensure that the involvement of any Delivery Partners in Commercial Processes is managed in accordance with Condition 34 (Delivery Partners and the Supply Chain) and shall remain fully responsible for the performance and compliance of Delivery Partners with all applicable obligations under this Agreement.
- 16.2 For the avoidance of doubt, Shortlisted Suppliers may involve one or more Delivery Partners that are not Shortlisted Suppliers in their participation in a Commercial Process provided that:
 - 16.2.1 the relevant Commercial Process does not prohibit the involvement of such Delivery Partners; and
 - 16.2.2 in addition to clause 16.1, the Supplier complies with any instructions, requirements, terms or conditions applicable to participation in the relevant Commercial Process.

17 The R-Cloud Portal

- 17.1 Participation in Commercial Processes shall ordinarily be conducted through the R-Cloud Portal in accordance with Schedule 3 (Agreement Management). The Contracting Authority may specify additional or alternative arrangements for all or part of a Commercial Process where it considers this appropriate or necessary.
- 17.2 The Supplier shall ensure that all Responses, submissions and other information are submitted in accordance with the requirements and instructions applicable to the relevant Commercial Process, including the prescribed method of submission and any applicable deadlines.
- 17.3 Where a Commercial Process requires a Response, submission or other information to be submitted through the R-Cloud Portal, any submission made by an alternative method (including email) shall be deemed not to have been submitted unless expressly authorised by the Contracting Authority.

SCHEDULE 5: CONDITIONS OF CONTRACT

[Note: This Schedule 5 (Conditions of Contract) is published as a separate document for ease of management and use.

Although it is not included within this document, it forms part of the Agreement and applies as if it were set out in full here.

Any reference in this Agreement to "Schedule 5 (Conditions of Contract)" is a reference to that separate document.]