

FRAMEWORK REFERENCE NUMBER - SP-21- 001

FRAMEWORK AGREEMENT

-between-

**THE SCOTTISH MINISTERS ACTING THROUGH SCOTTISH PROCUREMENT
(THE “AUTHORITY”)**

-and-

**DA LANGUAGES LTD
(THE “CONTRACTOR”)**

-relating to the supply of-

INTERPRETING, TRANSLATION AND TRANSCRIPTION SERVICES

-for the benefit of-

THE SCOTTISH MINISTERS AND OTHER PUBLIC BODIES

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PREAMBLE:

ONE The Authority requires the supply of Services to Framework Public Bodies;

TWO On 21 July 2021 the Authority's contract notice relating to the Services was published in Find a Tender Service with reference number 2021/S 000-017233;

THREE On 21 July 2021 the Authority issued its ITT to potential Contractors (including the Contractor) in respect of the supply of Services;

FOUR On 25 August 2021 the Contractor submitted its Tender;

FIVE On the basis of the Tender, the Authority has selected the Contractor DA Languages Ltd to supply the Services under this Framework Agreement;

SIX In accordance with the Public Contracts (Scotland) Regulations 2015, this Framework Agreement establishes Standard Terms of Supply under which Call-off Contracts may be entered into for the supply of Services;

SEVEN This Framework Agreement also includes:

- a Statement of Requirements setting out the Services that the Contractor has undertaken to provide , including Service Levels setting out particular levels of service that the Contractor has undertaken to meet;
- a Pricing Schedule setting out details of the pricing of the Services;
- Award Procedures prescribing the mandatory procedures for entering into Call-off Contracts; and
- Management Arrangements for the strategic management of the relationship between the Authority and the Contractor.

SECTION A

1. Definitions and Interpretation

1.1. In this Framework Agreement unless the context otherwise requires the following terms have the meanings given to them below:

“Affiliate” means in relation to a body corporate, any other entity which directly or indirectly controls, is controlled by, or is under direct or indirect control with, that corporate body from time to time;

“Authority” means the Scottish Ministers, acting through Scottish Procurement.

“Authority Protected Information” means any information provided by the Authority to the Contractor which:

- carries a protective marking such as “Official”, “Secret” or “Top Secret”; or
- is exempt information as set out in Part 2 of FOISA (disregarding for that purpose whether a provision of Part 2 does not confer absolute exemption within the meaning of section 2(2) of FOISA).

“Authority Requirements” means the operational requirements, functions and characteristics of the Framework set out in Schedule 1 (Statement of Requirements).

“Award Procedures” means the procedures for entering into Call-off Contracts set out at Schedule 3.

“Baseline Personnel Security Standard” means the pre-employment controls for all civil servants, members of the Armed Forces, temporary staff and government contractors generally.

“Call-off Contract” means any contract for the Supply of Services between a Framework Public Body and the Contractor entered into in accordance with the Award Procedures and based on the Standard Terms of Supply.

“Commencement Date” has the meaning given in clause 4.1.

“Contracting Authority” has the meaning given in regulation 2 of the Public Contracts (Scotland) Regulations 2015;

“Contractor” means DA Languages Ltd, Stratham House, Talbot Road, Stretford, Greater Manchester, M32 0FP, company registration number 06207784.

“Contractor Sensitive Information” means any information provided by the Contractor to the Authority (disregarding any protective marking or assertion of confidentiality) which:

- is specified as Contractor Sensitive Information in Schedule 7 and has not lost its sensitivity according to the justifications and durations set out in that Schedule; and
- is exempt information pursuant to sections 33(1) or 36, 38 or 39 of FOISA (having regard for that purpose to the public interest there might be in disclosing such information as referred to in section 2(1)(b) of FOISA).

“Control” has the meaning given in section 450 of the Corporation Tax Act 2010.

“Data Controller”, “Data Processor”, “Data Subject” and “Data Subject Access Requests” have the meanings given in the Data Protection Laws.

“Data Protection Laws” means any law, statute, subordinate legislation, regulation, order, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body which relates to the protection of individuals with regard to the processing of Personal Data to which a Party is subject including the Data Protection Act 2018 and any statutory modification or re-enactment thereof and the UK GDPR.

“Default” means any breach of the obligations of the Contractor (including but not limited to material breach) or any negligent act, omission or statement of the Contractor in connection with or in relation to this Framework Agreement.

“Employee Liabilities” means all claims (whether in delict, contract, under statute or otherwise), demands, actions, orders, complaints, proceedings and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment by way of settlement and costs and expenses and legal costs reasonably incurred in connection with any claim or investigation (including any investigation by the Equality and Human Rights Commission or other enforcement, regulatory, or supervisory body and of implementing any requirements which may arise from such investigation) including:

- claims for redundancy payments, unlawful deduction of wages, claims for equal pay, unfair, wrongful or constructive dismissal compensation; and
- compensation for discrimination on grounds of sex, sexual orientation, race, disability, religion or belief, gender reassignment, marriage or civil partnership, pregnancy and maternity and age or less favourable treatment of part-time workers or fixed term employees.

“Employee Liability Information” has the meaning given in TUPE.

“Environmental Information Regulations” means the Environmental Information (Scotland) Regulations 2004.

“Exit Management” means the obligations and rights of the Parties to ensure a smooth transition of the Framework from the Contractor to the Authority or any Replacement Contractor as set out in Clause 44 (Exit Management) and Schedule 8 (Exit Management).

“Exit Plan” means the exit management plan developed by the Contractor and approved by the Authority in accordance with Clause 44 (Exit Management).

“Exit Management Date” means each of the following:

- (a) the date of a Termination Notice; and
- (b) if no Termination Notice has been served in relation to this Agreement except for any Partial Termination, the expiry of the later of the Initial Term and any extension of the Agreement agreed in writing.

“FOISA” means the Freedom of Information (Scotland) Act 2002.

“Force Majeure” means any event or occurrence which is outside the reasonable control of the Party concerned and which is not attributable to any act or failure to take preventative action by that Party, including industrial action, fire, flood, violent storm, pestilence, explosion, malicious damage, armed conflict, acts of terrorism, nuclear, biological or chemical warfare, or any other disaster, natural or man-made.

“Framework Agreement” or “Agreement” means this framework agreement between the Authority and the Contractor consisting of clauses and 11 Schedules.

"Framework Public Bodies" means the Scottish Ministers (including Agencies), Scottish Non-Departmental Public Bodies, offices in the Scottish Administration which are not ministerial offices, cross-border public authorities within the meaning of section 88(5) of the Scotland Act 1998, The Office for the Secretary of State for Scotland, the Scottish Parliamentary Corporate Body, councils constituted under section 2 of the Local Government etc. (Scotland) Act 1994, , bodies registered as social landlords under the Housing (Scotland) Act 2001, Scottish health boards or special health boards, Student Loans Company Limited, the Commissioner of Northern Lighthouse operating as the Northern Lighthouse Board, Scottish Futures Trust, Equality and Human Rights Commission, Business Stream Ltd, the Business Gateway National Unit at the Convention of Scottish Local Authorities, further or higher education institutions being fundable bodies within the meaning of section 6 of the further and Higher Education (Scotland) Act 2005, any public body established by or under the Scotland Act 1998 or any Act of the Scottish Parliament, any association of or formed by one or more of the foregoing, bodies financed wholly or mainly by one or more of the foregoing, bodies subject to management supervision by one or more of the foregoing and bodies more than half of the board of directors or members of which, or, in the case of a group of individuals, more than half of those individuals, being appointed by one or more of the foregoing. In addition to the contracting authorities listed, the framework agreement will be available to charities entered on the Scottish Charity Register and voluntary organisations entered on the Membership Database of the Scottish Council for Voluntary Organisations.

Information about agencies of the Scottish Ministers , Scottish Non-Departmental Public Bodies and offices in the Scottish Administration which are not ministerial offices are listed at

<http://www.scotland.gov.uk/Topics/Government/public-bodies/about/Bodies>

Overview of the governance structure of public procurement for Scotland, including the Public Procurement Group.

<https://www.gov.scot/publications/public-procurement-governance/>

"Framework Contractors" means the Contractor, Global Connections (Scotland) Ltd and Global Language Services Ltd

“Incoming Employees” means individuals whose employment transfers to the Contractor on the commencement of the provision of the Services by operation of TUPE.

“Information Commissioner” means the Commissioner as set out in Part 5 of the Data Protection Act 2018

“Intellectual Property Rights” means patents, inventions, trade marks, service marks, logos, design rights (whether registerable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, trade or business names, moral rights and other similar rights or obligations whether registerable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off.

“ITT” means the Authority's invitation to tender dated 21 July 2021.

“Law” means (a) any applicable statute or proclamation or any delegated or subordinate legislation;

(b) any enforceable community right within the meaning of section 2 of the European Communities Act 1972;

(c) any applicable guidance, direction, determination or regulations with which the Authority and/or the Contractor is bound to comply;

(d) any applicable judgment of a relevant court of law which is a binding precedent in Scotland; and

(e) any requirements of any regulatory body,

in each case in force at any time during the period of the Framework Agreement in Scotland.

“Management Arrangements” means the arrangements for the strategic management of the relationship between the Authority and the Contractor, including arrangements for monitoring of the Contractor's compliance with the Statement of Requirements, the Service Levels, the Award Procedures and the terms of this Framework Agreement, set out in Schedule 4.

“Outgoing Employees” means individuals whose employment transfers from the Contractor on the ceasing of the provision of the Services by the Contractor by operation of TUPE.

“Party” to this Framework Agreement means either of the Authority or the Contractor and does not include any other party who may have the benefit of this Framework Agreement.

“Personal Data” has the meaning given in the Data Protection Laws.

“Pricing Schedule” means the details of the pricing of the Services as at the Commencement Date set out in Schedule 2.

“Processing” has the meaning given in the Data Protection Laws and cognate expressions shall be construed accordingly.

“**Relevant Transfer**” has the meaning given in regulation 2(1) of TUPE.

“**Replacement Contractor**” means any third party contractor appointed by the Authority from time to time in succession to the Contractor.

“**Request for Information**” means a request for information within the meaning of section 8 of FOISA or the Environmental Information Regulations and any attempted or apparent such request.

“**Schedule**” means a schedule annexed to this Framework Agreement.

“**Services**” means the services as are to be supplied by the Contractor to Framework Public Bodies as set out in the Statement of Requirements.

“**Service Levels**” means the particular levels of service that the Contractor has undertaken to meet, and identified as service levels in the Statement of Requirements.

“**SPD**” means the Single Procurement Document completed by the Contractor and sent to the Authority on 25 August 2021.

“**Statement of Requirements**” means the specification of the Services that the Contractor has undertaken to provide set out in Schedule 1.

“**Standard Terms of Supply**” means the standard terms and conditions for Call-off Contracts set out in Schedule 5.

“**Staff**” means all employees, agents, consultants and individual contractors of the Contractor, and Affiliate of the Contractor and/or of any sub-contractor;

“**Staffing Information**” means such information as the Authority may request in an anonymised format or otherwise including:

- ages;
- dates of commencement of employment or engagement;
- sex;
- job or role descriptions and objectives of role;
- details of whether they are employed, self employed contractors or consultants, agency workers or otherwise;
- the identity of the employer or relevant contracting party;
- their relevant contractual notice periods and any other terms relating to termination of employment including redundancy procedures and redundancy payments;
- their wages, salaries and profit sharing arrangements as applicable;
- details of other employment-related benefits including (without limitation) medical insurance, life assurance, pension or other retirement benefit schemes, share option schemes and company car schedules applicable to them;
- any outstanding or potential contractual, statutory or other liabilities in respect of such individuals (including in respect of personal injury claims);
- details of any such individuals on long term sickness absence, parental leave, maternity leave or other authorised long term absence;

- copies of all relevant documents and materials relating to such information, including copies of relevant contracts of employment (or relevant standard contracts if applied generally in respect of such employees); and
- any other Employee Liability Information.

“**Tender**” means the tender submitted by the Contractor to the Authority in response to the ITT dated 21 July 2021.

“**Termination Notice**” means a notice to terminate this Framework Agreement or part of the Framework either immediately or at a date specified in the notice.

“**Third country**” means a country or territory outside the United Kingdom.

“**Transparency Information**” means the Transparency Reports and the content of this Framework Agreement.

“**Transparency Reports**” means a report in accordance with Schedule 7 Part 1 (Transparency Reports) containing the contract information as set out in the table for that Part for publication by the Authority in the interests of transparency.

“**TUPE**” means the Transfer of Undertakings (Protection of Employment) Regulations 2006.

“**UK GDPR**” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27th April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018 and as amended by the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019.

“**Working Day**” means a day other than a Saturday, Sunday or bank holiday in Scotland, within the meaning of the Banking and Financial Dealings Act 1971.

“**Working Hour**” means an hour between 0900 hours and 1700 hours on a Working Day.

1.2. The interpretation and construction of this Framework Agreement is subject to the following provisions:

- 1.2.1. words importing the singular meaning include, where the context so admits, the plural and vice versa;
- 1.2.2. words importing the masculine include the feminine and neuter;
- 1.2.3. reference to a clause is a reference to the whole of that clause unless stated otherwise;
- 1.2.4. references to any statute, enactment, order, regulation or other similar instrument are construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent enactment, modification, order, regulation or instrument or re-enacted;
- 1.2.5. references to any person include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assignees or transferees;

1.2.6. the words “include”, “includes” and “including” are to be construed as if they were immediately followed by the words “without limitation”; and

1.2.7. headings are included in this Framework Agreement for ease of reference only and do not affect the interpretation or construction of this Framework Agreement.

2. Condition Precedent: Requirement for Parent Company Guarantee

It shall be a condition of this Framework Agreement that, if required by the Authority, the Contractor shall deliver a validly executed parent company guarantee in the form set out in Schedule 6 to this Framework Agreement. The rights and obligations of the Parties shall have no force or effect unless the parent company guarantee has been properly executed and delivered to the Authority. The parties acknowledge that if this condition has not been fulfilled any performance of this Framework Agreement by the Contractor shall be at the risk of the Contractor and the Authority shall not be liable for and the Contractor irrevocably waives any entitlement to payment of any fees, expenses or other payments in relation to such performance. Where the Contractor has failed to fulfil this condition within 14 days of the date of last subscription of the Framework Agreement the Authority shall have the right to terminate the Framework Agreement by notice in writing to the Contractor.

3. Nature of this Agreement

3.1. This Agreement is a framework agreement within the meaning of regulation 2(1) of the Public Contracts (Scotland) Regulations 2015. Call-off Contracts are public contracts within the meaning of that regulation.

3.2. This Agreement is a multi supplier framework agreement and the contractors that are party to it are the Framework Contractors. No other contractors are party to the Framework Agreement.

3.3. This Agreement is a multi-user framework agreement and the public bodies that are party to it are the Framework Public Bodies. No other public bodies are party to the Framework Agreement.

3.4. Save to the extent specifically provided for in this Agreement, the Contractor acknowledges that it is not the exclusive supplier of the Services to the Framework Public Bodies and as such no guarantee of work or volume of work has been granted by any Framework Public Body.

3.5. The Contractor acknowledges that the Framework Public Bodies are separate legal persons and as such the Authority has no liability in relation to the performance or non-performance of other Framework Public Bodies' obligations under this Framework Agreement or any Call-off Contracts.

4. Period

4.1. The period of this Framework Agreement is from and including 12 November 2021 (the “Commencement Date”) to and including 11 November 2025 unless it is terminated earlier.

4.2. The period of Call-off Contracts is addressed in the Standard Terms of Supply. The period of a Call-off Contract may continue notwithstanding that the Framework Agreement has expired or terminated.

5. Break

The Authority may terminate the Contractor’s interest in the Framework Agreement at any time by giving not less than 3 months’ notice to the Contractor.

6. Statement of Requirements and Service Levels and Cyber Security Requirements

6.1 The Statement of Requirements sets out the Services that the Contractor has undertaken to provide. The Statement of Requirements includes Service Levels setting out particular levels of service that the Contractor has undertaken to meet.

6.2 The Contractor shall comply with Schedule 11 (Cyber Security Requirements).

7. Price

7.1. The Pricing Schedule sets out details of the pricing of the Services as at the Commencement Date.

7.2. The prices in the Pricing Schedule may be varied in accordance with the arrangements set out in the Pricing Schedule.

7.3. Accordingly, the Contractor may not unilaterally increase the prices in the Pricing Schedule. But nothing in this Framework Agreement prevents the Contractor from improving on the prices in the Pricing Schedule for the purposes of a Call-off Contract.

8. Award Procedures

8.1. The Award Procedures may be invoked by any Framework Public Body and Call-off Contracts may be entered into at any time during the period of the Framework Agreement.

8.2. But the Award Procedures may not be invoked and Call-off Contracts may not be entered into with the Contractor if:

8.2.1. the period of the Framework Agreement has expired;

8.2.2. the Contractor's interest in the Framework Agreement has been terminated; or

8.2.3. the Contractor's appointment to provide Services to Framework Public Bodies has been suspended in accordance with clause 9.2 (Management Arrangements).

8.3. The Framework Public Bodies and the Contractor must comply with the Award Procedures and must establish each Call-off Contract without amendment to the Standard Terms of Supply.

8.4. The Contractor must maintain the capacity to enter into and perform Call-off Contracts throughout the period of the Framework Agreement.

9. Management Arrangements

9.1. The Management Arrangements set out the arrangements for the strategic management of the relationship between the Authority and the Contractor, including arrangements for monitoring of the Contractor's compliance with the Statement of Requirements, the Service Levels, the Award Procedures and the terms of this Framework Agreement.

9.2. The Authority may by notice to the Contractor suspend the Contractor's appointment to provide Services to Framework Public Bodies for a notified period of time:

9.2.1. if the Authority becomes entitled to terminate this Framework Agreement under clause 42 (Termination Rights) or 43 (Termination on Insolvency or Change of Control); or

9.2.2. in any other circumstance provided for in the Management Arrangements.

- 9.3. Suspension under clause 9.2 shall terminate upon cessation of all of any circumstances referred to in subclauses 9.2.1 and 9.2.2.
- 9.4. The Contractor must continue to perform existing Call-off Contracts during any period of suspension under clause 9.2.

10. Official Secrets Acts

The Contractor undertakes to abide and procure that the Contractor's employees abide by the provisions of the Official Secrets Acts 1911 to 1989.

SECTION B

11. Contractor's Status

At all times during the term of this Framework Agreement the Contractor is an independent Contractor and nothing in this Framework Agreement establishes a contract of employment, a relationship of agency or partnership or a joint venture between the Parties. Accordingly, neither Party is authorised to act in the name of, or on behalf of, or otherwise bind the other Party save as expressly permitted by the terms of this Framework Agreement.

12. Notices

- 12.1. Any notice or other communication which is to be given by a Party to the other under this Framework Agreement must be:

12.1.1. given in writing;

12.1.2. addressed in accordance with clause 12.3; and

12.1.3. sent by letter (delivered by hand, first class post or by recorded delivery or special delivery), fax or e-mail.

- 12.2. Provided the relevant communication is not returned or rejected as undelivered, the notice or communication is deemed to have been given:

12.2.1. 2 Working Days after the day on which the letter was posted; or

12.2.2. 4 Working Hours, in the case of fax or e-mail.

- 12.3. For the purposes of this clause, the address of each Party is:

12.3.1. For the Authority:
Scottish Government
Scottish Procurement, 5 Atlantic Quay, 150 Broomielaw, Glasgow, G2 8LU
Contact –

12.3.2. For the Contractor:
DA Languages Ltd, Stratham House, Talbot Road, Stretford, Greater Manchester, M32 0FP
Contact –

- 12.4. Either Party may change its address details by serving a notice in accordance with this clause.

13. Recovery of Sums Due

Wherever under this Framework Agreement any sum of money is recoverable from or payable by the Contractor to the Authority, the Authority may deduct that sum from any sum due to the Contractor whether under a Call-off Contract or otherwise.

14. Data Protection

- 14.1. The Contractor will, in conjunction with the Authority and in its own right and in respect of the Services, ensure it will be compliant with the Data Protection Laws.
- 14.2. Both Parties agree to negotiate in good faith any such amendments to this Framework Agreement that may be required to ensure that both Parties meet all their obligations under Data Protection Laws. The provisions of this clause 14 are without prejudice to any obligations and duties imposed directly on the Parties under Data Protection Laws and the Parties agree to comply with those obligations and duties.
- 14.3. The Parties acknowledge that the Contractor may Process Personal Data in delivery of Services under a Call-off Contract under this Framework Agreement. For the purposes of any such Processing, Parties agree that the Contractor acts as the Data Processor and the Authority acts as the Data Controller in relation to the data described in Schedule 9.
- 14.4. The Contractor will provide the Authority with the contact details of its data protection officer or other designated individual with responsibility for data protection and privacy to act as the point of contact for the purpose of observing its obligations under the Data Protection Laws.
- 14.5. To comply with section 31(3) of the Public Services Reform (Scotland) Act 2010, the Authority publishes an annual statement of all payments over £25,000. In addition, in line with openness and transparency, the Scottish Government publishes a monthly report of all payments over £25,000. The Contractor should note that where a payment is made in excess of £25,000 there will be disclosure (in the form of the name of the payee, the date of the payment, the subject matter and the amount of payment) in the both the monthly report and the annual Public Services Reform (Scotland) Act 2010 statement.

15. Transparency and Freedom of Information

15.1 The Contractor acknowledges that the Authority is subject to the requirements of FOISA and the Environmental Information Regulations. The Contractor shall:

(a) provide all necessary assistance and cooperation as the Authority may reasonably request to enable the Authority to comply with its obligations under FOISA and Environmental Information Regulations;

(b) transfer to the Authority all Requests for Information relating to this Agreement that the Contractor receives as soon as practicable and in any event within 2 Working Days of receipt;

(c) provide the Authority with a copy of all information held on behalf of the Authority which is requested in a Request For Information and which is in the Contractor's possession or control. The information must be provided within 5 Working Days (or such other period as the Authority may reasonably specify) in the form that the Authority requires.

(d) not respond directly to a Request For Information addressed to the Authority unless authorised in writing to do so by the Authority.

15.2 If the Request for Information appears to be directed to information held by the Authority, the Contractor must promptly inform the applicant in writing that the Request for Information can be directed to the Authority.

15.3 If the Authority receives a Request for Information concerning the Framework Agreement, the Authority is responsible for determining at its absolute discretion whether the information requested is to be disclosed to the applicant or whether the information requested is exempt from disclosure in accordance with FOISA or the Environmental Information Regulations.

15.4 The Contractor acknowledges that the Authority may, acting in accordance with the Authority's Code of Practice on the Discharge of Functions of Public Authorities issued under section 60(5) of FOISA (as may be issued and revised from time to time), be obliged under FOISA or the Environmental Information Regulations to disclose information requested concerning the Contractor or the Framework Agreement:

15.4.1 in certain circumstances without consulting the Contractor, or

15.4.2 following consultation with the Contractor and having taken its views into account.

15.5 Where 15.4.1 applies the Authority must take reasonable steps, if practicable, to give the Contractor advance notice of the fact of disclosure or, failing that, draw the fact of disclosure to the attention of the Contractor after such disclosure to the extent that it is permissible and reasonably practical for it to do.

15.6 Where a Request for Information concerns Contractor Sensitive Information specified in Schedule 7 (having regard to the justifications and durations set out there), the Authority must take reasonable steps, where practicable, to consult with the Contractor before disclosing it pursuant to a Request for Information.

15.7 The Contractor acknowledges that Transparency Reports and the content of this Agreement including any Amendments, agreed from time to time, (together the "Transparency Information") are not Contractor Sensitive Information. However, if the Authority believes that publication of any element of the Transparency Information should be treated as Contractor Sensitive Information the Authority may, in its discretion exclude such information from publication.

15.8 Notwithstanding any other provision of this Agreement, the Contractor hereby gives consent for the Authority to publish to the general public, the Transparency Information in its entirety. The Authority shall, prior to publication, consult with the Contractor on the manner and format of publication and to inform its decision regarding any redactions but shall have the final decision in its absolute discretion.

15.9 The Contractor shall assist and co-operate with the Authority to enable the Authority to publish the Transparency Information including the preparation of Transparency Reports.

15.10 The Authority shall publish the Transparency Information in a format that assists the general public in understanding the relevance and completeness of the information being published to ensure the public obtain a fair view on how the Agreement is being performed, having regard to the context of the wider commercial relationship with the Contractor.

15.11 The Contractor agrees that any further Information it holds that is not included in the Transparency Reports but is reasonably relevant to or that arises from the provision of the Services shall be provided to the Authority upon request, unless the cost of doing so would exceed the appropriate limit prescribed under section 12 of FOISA. The Authority may disclose such information under FOISA and the EIRs and may (except for Commercially Sensitive Information, Confidential Information, (subject to clause 17.3.3) publish such Information. The Contractor shall provide to the Authority within 5 working days (or such other period as the Authority may reasonably specify) any such Information requested by the Authority.

16. Authority Protected Information

- 16.1. The Contractor must:
- 16.1.1. treat all Authority Protected Information as confidential and safeguard it accordingly, implementing appropriate technical and organisational measures to protect Authority Protected Information against disclosure;
 - 16.1.2. only use the Authority Protected Information for the purposes of performing its obligations under the Framework Agreement;
 - 16.1.3. only disclose the Authority Protected Information to such Contractor Representatives that are directly involved in the performance of the Framework Agreement and need to know the information; and
 - 16.1.4. not disclose any Authority Protected Information without the prior written consent of the Authority.
- 16.2. The Contractor must immediately notify the Authority of any breach of security concerning the Authority Protected Information. The Contractor must fully co-operate with the Authority in any investigation that the Authority considers necessary to undertake as a result of any such breach of security.
- 16.3. Clause 16.1 does not apply to the extent that:
- 16.3.1. disclosure is required by law or by order of any competent court or tribunal;
 - 16.3.2. information is in the possession of the Contractor without restriction as to its disclosure prior to its disclosure by the Authority;
 - 16.3.3. information is obtained from a third party (who lawfully acquired it) without restriction as to its disclosure;
 - 16.3.4. information is already in the public domain at the time of disclosure otherwise than by a breach of the Framework Agreement; or
 - 16.3.5. information is independently developed without access to the Authority Protected Information.
- 16.4. Breach of this clause or the Official Secrets Acts 1911 to 1989 by the Contractor is a material breach for the purposes of clause 42 (Termination Rights).

17. Contractor Sensitive Information

- 17.1. The Authority must:
- 17.1.1. treat all Contractor Sensitive Information as confidential and safeguard it accordingly; and
 - 17.1.2. not disclose any Contractor Sensitive Information to any other person without the prior written consent of the Contractor.
- 17.2. Clause 17.1 does not apply to the extent that:
- 17.2.1. disclosure is required by law or by order of any competent court or tribunal;
 - 17.2.2. information is in the possession of the Authority without restriction as to its disclosure prior to its disclosure by the Contractor;

- 17.2.3. information is obtained from a third party (who lawfully acquired it) without restriction as to its disclosure;
 - 17.2.4. information is already in the public domain at the time of disclosure otherwise than by a breach of the Framework Agreement; or
 - 17.2.5. information is independently developed without access to the Contractor Sensitive Information.
- 17.3. Nothing in this Framework Agreement prevents the Authority from disclosing any Contractor Sensitive Information or any other information concerning the Contractor or the Framework Agreement:
- 17.3.1. pursuant to a Request for Information concerning the information (see clause 15 (Transparency and Freedom of Information));
 - 17.3.2. in accordance with the Authority's publication scheme (within the meaning of section 23 of FOISA) as reviewed from time to time;
 - 17.3.3. in accordance with the requirements of Part 3 of the Public Services Reform (Scotland) Act 2010;
 - 17.3.4. in accordance with any future policies of the Authority concerning the routine disclosure of government information in the interests of transparency;
 - 17.3.5. to any consultant, contractor or other person engaged by the Authority, for example to conduct a gateway review;
 - 17.3.6. in response to a Parliamentary Question from a Member of the Scottish Parliament, a Member of the United Kingdom Parliament or any other department, office or agency of Her Majesty's Government in Scotland or the United Kingdom, and their servants or agents, when disclosing such information to either the Scottish Parliament or the United Kingdom Parliament it is recognised and agreed by both parties that the Authority shall if the Authority sees fit disclose such information but is unable to impose any restrictions upon the information that the Authority provides to Members of the Scottish Parliament, or Members of the United Kingdom Parliament; or
 - 17.3.7. for the purpose of any examination by any auditors of the Authority (including Audit Scotland, the Auditor General for Scotland and the Scottish Parliament) of the economy, efficiency and effectiveness with which the Authority has used its resources.
- 17.4. The Contractor consents to the publication of the Framework Agreement by the Authority, subject to such redactions as the Authority may decide to make. The Authority may consult with the Contractor to inform its decisions concerning redaction (for example to exclude any Contractor Sensitive Information) but any decisions taken by the Authority are final and conclusive.

18. Audit

- 18.1. The Contractor must retain and maintain until 5 years after the end of the Framework Agreement period full and accurate records of the Framework Agreement including the Orders placed, the Services provided and payments made and reimbursed under it.
- 18.2. The Contractor must on request, and without any charge to the Authority, afford the Authority, or the Authority's representatives, such access to those records as may reasonably be requested by the Authority in connection with the Framework Agreement.

19. Publicity

The Contractor must not make any press announcement or otherwise publicise the Framework Agreement in any way, except with the written consent of the Authority.

SECTION C

20. Key Individuals

- 20.1. The Contractor acknowledges that the Key Individuals are essential to the proper provision of the Services to the Authority.
- 20.2. The Key Individuals must not be released from providing the Services without the approval of the Authority, except by reason of long-term sickness, maternity, paternity, adoption or parental leave, termination of employment or equivalent extenuating circumstances. Where such extenuating circumstances arise or are foreseeable, the Contractor must immediately give notice of that fact to the Authority.
- 20.3. The Contractor may propose a replacement to a Key Individual (and must do so when a Key Individual is to be released from providing the Services), in which case:
 - 20.3.1. appropriate arrangements must be made to minimise any adverse impact on the Framework Agreement which could be caused by the change in Key Individuals (including, wherever possible, a transfer period of sufficient duration to allow for the transfer of know-how and skills); and
 - 20.3.2. the replacement must be of at least equal status and of equivalent qualifications, experience, training and skills to the Key Individual being replaced and must be fully competent to carry out the responsibilities of that person in relation to the Services.
- 20.4. Any proposed replacement to a Key Individual is subject to the approval of the Authority. Subject to the Contractor's compliance with this clause, the Authority must not unreasonably withhold such approval.

21. Offers of Employment

- 21.1. For the duration of the Framework Agreement and for a period of 12 months thereafter the Contractor must not employ or offer employment to any of the Authority's employees who have been associated with the Framework Agreement and/or the contract management of the Framework Agreement without the Authority's prior approval.
- 21.2. This clause does not prevent the Contractor from employing or offering employment to any person who has applied for employment in response to an advertisement placed in the normal course of business and not placed with the objective of soliciting the Authority's employees.

22. Staff transfer at commencement

- 22.1. The Parties agree that the commencement of the provision of the Services by the Contractor does not involve a Relevant Transfer.

23. Staff transfer on expiry or termination

- 23.1. The Parties agree that the ceasing of the provision of the Services by the Contractor does not involve a Relevant Transfer.

24. Security

- 24.1 The Contactor must comply with the Authority's policies concerning Baseline Personnel Security Standard clearance and such modifications to those policies or replacement policies as are notified to the Contractor from time to time.
- 24.2 The Contractor must notify the Authority of any matter or other change in circumstances which might adversely affect future Baseline Personnel Security Standard clearance.

SECTION D

25. Parties' pre-existing Intellectual Property Rights

Except as expressly provided for in the Framework Agreement, neither Party acquires any interest in or license to use the other Party's Intellectual Property Rights as they subsist at the Commencement Date or as developed independently of the Framework Agreement.

26. Specially Created Intellectual Property Rights

- 26.1. All Intellectual Property Rights in Deliverables and any reports, guidance, specification, instructions, toolkits, plans, data, drawings, databases, patents, patterns, models, designs or other material prepared by or for the Contractor on behalf of the Authority for use, or intended use, in relation to the performance by the Contractor of its obligations under the Framework Agreement belong to the Authority.
- 26.2. The Contractor assigns to the Authority, with full title guarantee, all Intellectual Property Rights which may subsist in the materials referred to in clause 27.1. This assignment takes effect on the Commencement Date or as an assignment of future rights that will take effect immediately on the coming into existence of the Intellectual Property Rights produced by the Contractor. The Contractor must execute all documentation necessary to effect this assignment.

27. Licences of Intellectual Property Rights

- 27.1. The Contractor grants to the Authority a royalty-free, irrevocable and non-exclusive licence (with a right to sub-licence) to use any Intellectual Property Rights owned or developed prior to the Commencement Date and which the Authority reasonably requires in order to enjoy the benefit of the Services.
- 27.2. The Contractor grants to the Authority a perpetual, royalty-free, irrevocable and exclusive license to use all Intellectual Property Rights referred to in clause 27.1 above (Specially Created Intellectual Property Rights).
- 27.3. The Contractor must ensure that the third party owner of any Intellectual Property Rights that are or which may be used to perform the Framework Agreement grants to the Authority a royalty-free, irrevocable and non-exclusive licence or, if itself a licensee of those rights, grants to the Authority an authorised and equivalently wide sub-licence, to use, reproduce, modify, develop and maintain the Intellectual Property Rights. Such licence or sub-licence must be non-exclusive, perpetual, royalty free and irrevocable.

28. Claims relating to Intellectual Property Rights

- 28.1. The Contractor must not infringe any Intellectual Property Rights of any third party in providing the Services or otherwise performing its obligations under the Framework Agreement and must ensure that the provision of the Services and the use or possession of the Deliverables does not infringe such Intellectual Property Rights.
- 28.2. The Contractor must promptly notify the Authority if any claim or demand is made or action brought against the Contractor for infringement or alleged infringement of any Intellectual

Property Right which may affect the use or possession of the Deliverables or which may affect the provision of the Services.

- 28.3. Where a claim to which this clause applies is made, the Contractor must, at its expense, use its best endeavours to:
- 28.3.1. modify the Services or Deliverables or substitute alternative Services or Deliverables (in any case without reducing performance or functionality) so as to avoid the infringement or alleged infringement of the Intellectual Property Rights; or
 - 28.3.2. procure the grant of a licence or licences from the pursuer, claimant or complainer, on terms acceptable to the Authority, so as to avoid the infringement or alleged infringement of the Intellectual Property Rights of the pursuer, claimant or complainer.
- 28.4. The Contractor must not without the consent of the Authority make any admissions which may be prejudicial to the defence or settlement of any claim to which this clause applies.

29. Assignment and Change of Control

- 29.1. The Contractor may not assign its interest in the Framework Agreement without the prior written consent of the Authority.
- 29.2. The Contractor must notify the Authority:
- 29.2.1. whenever it proposes to undergo a change of Control, or a change of control is likely to occur;
 - 29.2.2. immediately following a change of Control that has occurred; and
 - 29.2.3. where it proposes to make any change to its sub-contractor named by the Contractor in its tender.
- 29.3. Subject to clause 30.5, the Authority may assign, novate or otherwise dispose of its rights and obligations under the Framework Agreement or any part thereof to:
- (a) any Contracting Authority; or
 - (b) any other body established by the Crown or under statute in order substantially to perform any of the functions that had previously been performed by the Authority; or
 - (c) any private sector body which substantially performs the functions of the Authority,
- provided that any such assignment, novation or other disposal shall not increase the burden of the Contractor's obligations under the Framework Agreement.
- 29.4. Any change in the legal status of the Authority such that it ceases to be a Contracting Authority shall not, subject to clause 30.5, affect the validity of the Framework Agreement. In such circumstances, the Framework Agreement shall bind and inure to the benefit of any successor body to the Authority.
- 29.5. If the rights and obligations under the Framework Agreement are assigned, novated or otherwise disposed of pursuant to clause 30.3 to a body which is not a Contracting Authority or if there is a change in the legal status of the Authority such that it ceases to be a Contracting Authority (in the remainder of this clause both such bodies being referred to as the "**Transferee**"):
- (a) the rights of termination of the Authority in clauses 42 (Termination Rights) and 43 (Termination on Insolvency and Change of Control) shall be available to the

Contractor in the event of respectively, the bankruptcy or insolvency, or Default of the Transferee; and

- (b) the Transferee shall only be able to assign, novate or otherwise dispose of its rights and obligations under the Framework Agreement or any part thereof with the prior consent in writing of the Contractor.
- 29.6 The Authority may disclose to any Transferee any Confidential Information of the Contractor which relates to the performance of the Contractor's obligations under the Framework Agreement. In such circumstances the Authority shall authorise the Transferee to use such Confidential Information only for purposes relating to the performance of the Contractor's obligations under the Framework Agreement and for no other purpose and shall take all reasonable steps to ensure that the Transferee gives a confidentiality undertaking in relation to such Confidential Information.

30. Sub-Contracting

- 30.1. The Authority approves the appointment of the sub-contractors specified in Schedule 10 (Approved Sub-contractors) in respect of the obligations specified in that Schedule.
- 30.2. The Contractor may not sub-contract its obligations under the Framework Agreement to other sub-contractors without the prior written consent of the Authority. Sub-contracting of any part of the Framework Agreement shall not relieve the Contractor of any obligation or duty attributable to the Contractor under the Framework Agreement. The Contractor shall be responsible for the acts and omissions of its sub-contractors as though they are its own.
- 30.3. Where the Contractor enters into a sub-contract the Contractor must ensure that a provision is included which:
 - 30.3.1. requires payment to be made of all sums due by the Contractor to the sub-contractor within a specified period not exceeding 30 days from the receipt of a valid invoice as defined by the sub-contract requirements and provides that, where the Authority has made payment to the Contractor in respect of Services and the sub-contractor's invoice relates to such Services then, to that extent, the invoice must be treated as valid and, provided the Contractor is not exercising a right of retention or set-off in respect of a breach of contract by the sub-contractor or in respect of a sum otherwise due by the sub-contractor to the Contractor, payment must be made to the sub-contractor without deduction;
 - 30.3.2. notifies the sub-contractor that the sub-contract forms part of a larger contract for the benefit of the Authority and that should the sub-contractor have any difficulty in securing the timely payment of an invoice, that matter may be referred by the sub-contractor to the Authority;
 - 30.3.3. requires that all contracts with subcontractors and suppliers which the subcontractor intends to procure, and which the subcontractor has not before the date of this Framework Agreement, already planned to award to a particular supplier are advertised through the Public Contracts Scotland procurement portal (www.publiccontractsscotland.gov.uk) and awarded following a fair, open, transparent and competitive process proportionate to the nature and value of the contract; and
 - 30.3.4. is in the same terms as that set out in this clause 30.3 (including for the avoidance of doubt this clause 30.3.4) subject only to modification to refer to the correct designation of the equivalent party as the Contractor and sub-contractor as the case may be.

30.4. The Contractor shall include in every sub-contract:

30.4.1 a right for the Contractor to terminate that sub-contract if the relevant sub-contractor fails to comply in the performance of its contract with legal obligations in the fields of environmental, social or employment law or if any of the termination events (involving substantial modification of the Contract or contract award despite the existence of exclusion grounds specified in clause 42.4 (Termination Rights) occur; and

30.4.2 a requirement that the sub-contractor includes a provision having the same effect as 30.4.1 in any sub-contract which it awards.

In this Clause 30.4, 'sub-contract' means any contract between two or more contractors, at any stage of remoteness from the Authority in a sub-contracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Framework Agreement.

30.5. Where requested by the Authority, copies of any sub-contract must be sent by the Contractor to the Authority as soon as reasonably practicable.

30.6. Where the Contractor proposes to enter into a sub-contract it must:

30.6.1 advertise its intention to do so in at least one trade journal, and the Public Contracts Scotland Portal; and

30.6.2 follow a procedure leading to the selection of the sub-contractor which ensures reasonable competition following principles of equal treatment, non-discrimination and transparency and which ensures that such procedure is accessible by small and medium enterprises.

31A. Supply Chain Transparency and Protections

Knowledge of the supply chain

31A.1. In performing its role as a reseller, the Contractor will use its reasonable endeavours to ensure that the suppliers operating in its supply chain (the "Contractor's Suppliers") prepare and maintain a written supplier code of conduct or supplier policy that addresses the following.

- child labour,
- forced labour,
- working hours,
- wages,
- discrimination,
- health and safety,
- freedom of association,
- collective bargaining,
- disciplinary practices,
- humane treatment of workers,
- training,
- engagement with NGOs, and
- worker grievance procedures .

The Contractor will provide the Authority with a copy of the Contractor's Suppliers codes of conduct or supplier policies on request.

31A.2. The Contractor will use its reasonable endeavours to ensure that the Contractor's Suppliers prepare and maintain appropriate policies and procedures to identify, manage and mitigate labour and human rights risks in their supply chains relevant to this Framework Agreement (the "Contractor Supply Chain").

31A.3. The Contractor will, within 20 Working Days of the Framework Commencement Date, provide the Authority with the names, locations and details of the roles of suppliers (including details of the factories used by suppliers and specific components produced in each factory) within the Contractor Supply Chain. The Contractor will notify the Authority of any changes as soon as reasonably practicable.

31A.4. The Authority will have the right to share with participating framework public bodies all information provided by the Contractor in relation to these Supply Chain Protection provisions.

Supply chain working conditions

31A.5. The Contractor will submit an annual written report to the Authority outlining the Contractor's objectives, targets and specific actions for monitoring and improving labour standards and working conditions within the Contractor Supply Chain.

31A.6. The Contractor will take all reasonable steps to ensure that all Goods supplied under this Contract are produced in accordance with all International Labour Organisation (ILO) conventions that have been ratified by the country of their origin.

31A.7. In respect of the Contractor Supply Chain and the Contractor's Suppliers, the Contractor must ensure the following:

31A.7.1. forced, bonded (including debt bonded) or indentured labour, involuntary or exploitative prison labour, slavery or trafficking of persons is not permitted;

31A.7.2. child labour is not used in any stage of manufacturing or in the provision of services or supplies;

31A.7.3. workers do not undertake excessive working hours. For the purposes of this Framework Agreement, working hours must not exceed the maximum set by local law; a working week must not be more than 60 hours per week, including overtime, except in emergency or unusual situations and workers shall be allowed at least one day off every seven days;

31A.7.4. compensation paid to workers shall comply with all applicable wage laws, including those relating to minimum wages, overtime hours and legally mandated benefits; in compliance with local laws, workers shall be compensated for overtime at pay rates greater than regular hourly rates; that deductions from wages as a disciplinary measure shall not be permitted; that for each pay period, workers shall be provided with a timely and understandable wage statement that includes sufficient information to verify accurate compensation for work performed; and that all use of temporary, dispatch and outsourced labour will comply with local laws;

31A.7.5. all workers must have the right to form and join trade unions, of their own choosing, to bargain collectively and to engage in peaceful assembly and the right of workers to refrain from such activities must be respected;

31A.7.6. workers must not be subject to any harsh or inhumane treatment, including any sexual harassment, sexual abuse, corporal punishment, mental or physical coercion or verbal abuse of workers; nor is there to be the threat of any such treatment;

31A.7.7. workers must not be subject to harassment or unlawful discrimination;

and

31A.7.8. workers must be provided with safe and healthy working conditions.

31A.8. In respect of the Contractor Supply Chain and the Contractor's Suppliers, the Contractor will use its reasonable endeavours to ensure the following:

31A.8.1. compliance with all applicable whistleblowing laws, statutes and regulations in force from time to time in the jurisdiction where the Goods are manufactured;

31A.8.2. implementation of an appropriate (e.g. anonymous) whistleblowing policy which encourages openness and ensures support and protection from detrimental treatment for workers which raise genuine concerns.

Managing risks in the supply chain

31A.9. The Contractor will use its reasonable endeavours to require the Contractor's Suppliers to audit, evaluate and report in writing to the Contractor not less than once every twelve (12) months on performance against the Contractor's Suppliers' codes of conduct and or supplier policies and their policies on labour and human rights impacts in respect of the Contractor Supply Chain. The Contractor shall provide the Authority on request with a copy of any such reports in so far as they relate to the Contractor Supply Chain.

31A.10. The Contractor will use its reasonable endeavours to ensure that the Contractor's Suppliers undertake a defined program of supply-chain audits. Audits must be undertaken by third party accredited certification bodies and independently verified. These audits must either include or be supplemented by external consultation and engagement with local labour unions or civil society organisations/NGOs, and off-site worker interviews to gain a more accurate understanding of working conditions. The Contractor shall provide the Authority on request with a copy of any such audits, and supplementary evidence where relevant, in its possession or control in so far as they relate to the Contractor Supply Chain.

Corrective and preventive measures to ensure social responsibility in the supply chain

31A.11. The Contractor will use its reasonable endeavours to ensure the outcomes of the Contractor's Suppliers supply-chain audits are subject to corrective actions by the Contractor's Suppliers in a timely manner. The Contractor shall provide the Authority on request with details in its possession or control of any actions taken or proposed to be taken in so far as they relate to the Contractor Supply Chain .

31A.12. The Contractor will use its reasonable endeavours to actively engage with the Contractor Supply Chain to ensure continuous improvement in labour and human rights standards and supplier compliance with such standards .

31A.13. The Contractor will use its reasonable endeavours to ensure that the Contractor's Suppliers communicate and publicly report progress in addressing labour and human rights issues within the Contractor Supply Chain not less than once every twelve (12) months .

Measures to control the supply chain

31A.14. The Contractor will use its reasonable endeavours to ensure that the Contractor's Suppliers' sourcing policies address labour and human rights impacts during the extraction phase of production and include the use of conflict free smelters in accordance with the [Responsible Minerals Initiative](#). The Contractor will use its reasonable endeavours to ensure that the Contractor's Suppliers provide and maintain a written list of tantalum, tin, tungsten, and gold smelters/refiners reported by the Contractor Supply Chain and provide the Authority on request with details.

31A.15. The Contractor will use its reasonable endeavours to ensure that the Contractor's

Suppliers implement and adhere to the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (as the same may be updated from time to time) and produce a publicly viewable annual summary of their due diligence and risk management measures consistent with this guidance.

31A.16. The Contractor will use its reasonable endeavours to provide the Authority on request with evidence of direct and ongoing collaboration by the Contractor's Suppliers with external organisations (such as NGOs, civil society organisations and governments) to address labour and human rights impacts on the Contractor Supply Chain.

Supply chain contract termination

31A.17. The Contractor will use its reasonable endeavours to ensure that all contracts in the Contractor Supply Chain give the Authority a right to terminate the sub-contract if the supplier fails to comply with legal obligations in the fields of environmental, social, labour or human rights law.

32. Amendment

32.1. The Framework Agreement may be amended only by the written agreement of both Parties. Accordingly, the Contractor may not unilaterally amend the Framework Agreement.

SECTION E

33. Warranties and Representations

The Contractor warrants and represents that:

- 33.1.1. it has full capacity and authority and all necessary consents (including where its procedures so require, the consent of its parent company) to enter into and perform its obligations under the Framework Agreement and that the Framework Agreement is executed by a duly authorised representative of the Contractor;
- 33.1.2. in entering the Framework Agreement it has not committed any offence under the Bribery Act 2010 or of fraud or uttering at common law or any other kind referred to in the Public Contracts (Scotland) Regulations 2015;
- 33.1.3. it has not committed any breach of the Employment Relations 1999 Act (Blacklists) Regulations 2010 or section 137 of the Trade Union and Labour Relations (Consolidation) Act 1992, or committed any breach of the Data Protection Laws by unlawfully processing personal data in connection with any blacklisting activities;
- 33.1.4. as at the Commencement Date, all information contained in the SPD and Tender remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Authority prior to execution of the Framework Agreement;
- 33.1.5. no claim is being asserted and no litigation, alternative dispute resolution procedure or administrative proceeding is presently in progress or, to the best of its knowledge and belief, pending or threatened against it or any of its assets which will or might have a material adverse effect on its ability to perform its obligations under the Framework Agreement;
- 33.1.6. it is not subject to any contractual obligation, compliance with which is likely to have a material adverse effect on its ability to perform its obligations under the Framework Agreement;
- 33.1.7. no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Contractor or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator,

manager, administrator or similar officer in relation to any of the Contractor's assets or revenue; and

33.1.8. as at the Commencement Date, all insurances that must be effected under the Standard Terms of Supply have been effected.

34. Indemnity

34.1 Without prejudice to any rights or remedies of the Authority, the Contractor will indemnify the Authority against any and all claims, proceedings, actions, damages, costs, expenses and any other loss and liabilities which may arise out of, or in consequence of, any Default of the Contractor, its agents and employees.

35. Limitation of Liability

35.1. Neither Party is liable to the other Party under the Framework Agreement for any:

35.1.1. loss of profits, business, revenue or goodwill; or

35.1.2. indirect or consequential loss or damage.

35.2. But clause 35.1 does not exclude any liability of the Contractor for additional operational, administrative costs or expenses or wasted expenditure resulting from the Default of the Contractor.

35.3. The liability of either Party under the Framework Agreement for Defaults is limited to £1 million per incident and unlimited in total.

35.4. But neither Party excludes or limits liability to the other Party for:

35.4.1. death or personal injury caused by its negligence;

35.4.2. misrepresentation;

35.4.3. any breach of any obligations implied by section 12 of the Sale of Goods Act 1979 or sections 2 or 11B of the Supply of Goods and Services Act 1982.

36. Insurance

36.1. The Contractor must effect and maintain with a reputable insurance company:

36.1.1. public liability insurance in the sum of not less than 1 million GBP;

36.1.2. professional indemnity insurance in the sum of not less than 1 million GBP and

36.1.3. employer's liability insurance in accordance with any legal obligation for the time being in force.

36.2. Such insurance must be maintained for the duration of the Framework Agreement and for a minimum of 5 years following the expiry or termination of the Framework Agreement.

36.3. The Contractor must give the Authority, on request, copies of all insurance policies referred to in this clause or a broker's verification of insurance to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.

37. Dispute Resolution

37.1. The Parties must attempt in good faith to resolve any dispute or difference between them arising out of or in connection with the Framework Agreement, including any question

regarding its existence, validity or termination, in accordance with the Management Arrangements.

- 37.2. Any dispute or difference arising out of or in connection with this Framework Agreement, including any question regarding its existence, validity or termination, which cannot be resolved in accordance with the Management Arrangements, shall be determined by the appointment of a single arbitrator to be agreed between the Parties, or failing agreement within fourteen days after either Party has given to the other a written request to concur in the appointment of an arbitrator, by an arbitrator to be appointed by the Scottish Arbitration Centre on the written application of either Party. The seat of arbitration shall be Scotland. The language used in the arbitral proceedings shall be English.
- 37.3. Any arbitration under clause 35.2 is subject to the Arbitration (Scotland) Act 2010.

38. Severability

If any provision of the Framework Agreement is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision is severed and the remainder of the provisions of the Framework Agreement continue in full force and effect as if the Framework Agreement had been executed with the invalid, illegal or unenforceable provision eliminated.

39. Waiver and Cumulative Remedies

- 39.1. Any failure of either Party to insist upon strict performance of any provision of the Framework Agreement, or the failure of either Party to exercise, or any delay in exercising, any right or remedy does not constitute a waiver of that right or remedy and does not cause a diminution of the obligations established by the Framework Agreement.
- 39.2. Accordingly, no waiver is effective unless it is expressly stated to be a waiver and communicated to the other Party in writing in accordance with clause 12 (notices).
- 39.3. The rights and remedies provided by this Framework Agreement are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

40. Force Majeure

- 40.1. Neither Party is liable to the other Party for any delay in performing, or other failure to perform, its obligations under the Framework Agreement to the extent that such delay or failure is a result of Force Majeure. Nonetheless, each Party must use all reasonable endeavours to continue to perform its obligations under the Framework Agreement for the duration of such Force Majeure. However, if Force Majeure prevents either Party from performing its material obligations under the Framework Agreement for a period in excess of 6 months, either Party may terminate the Framework Agreement with immediate effect by notice.
- 40.2. Any delay or other failure by the Contractor in performing its obligations under the Framework Agreement which results from any failure or delay by a Contractor Representative is only to be regarded as due to Force Majeure if that Contractor Representative is itself impeded by Force Majeure from complying with an obligation to the Contractor.
- 40.3. If either Party becomes aware of Force Majeure which gives rise to, or is likely to give rise to, any delay or failure on its part as described in clause 40.1, it must immediately notify the other Party of the Force Majeure and the estimated period for which the failure or delay is to continue.

- 40.4. The only events that afford relief from liability for failure or delay under the Framework Agreement are Force Majeure events.

41. Disruption

- 41.1 The Contractor shall take reasonable care to ensure that in the performance of its obligations under the Framework Agreement it does not disrupt the operations of the Authority, its employees or any other Contractor employed by the Authority.
- 41.2 The Contractor shall immediately inform the Authority of any actual or potential industrial action, whether such action be by their own employees or others, which affects or might affect its ability at any time to perform its obligations under the Framework Agreement.
- 41.3 In the event of industrial action by the Staff, the Contractor shall seek Approval to its proposals to continue to perform its obligations under the Framework Agreement.
- 41.4 If the Contractor's proposals referred to in clause 40.3 are considered insufficient or unacceptable by the Authority acting reasonably, then the Authority may by notice terminate the Framework Agreement with immediate effect.

42. Termination Rights

- 42.1. The Authority may terminate the Contractor's interest in the Framework Agreement by notice to the Contractor with immediate effect if the Contractor commits a Default and if:
- 42.1.1. the Contractor has not remedied the Default to the satisfaction of the Authority within 20 Working Days, or such other period as may be specified by the Authority, after issue of a notice specifying the Default and requesting it to be remedied;
 - 42.1.2. the Default is not in the opinion of the Authority, capable of remedy; or
 - 42.1.3. the Default is a material breach of the Framework Agreement.
- 42.2. The Authority may also terminate the Contractor's interest in the Framework Agreement:
- 42.2.1. in accordance with any provision of the Schedules;
 - 42.2.2. in accordance with any provisions of the Standard Terms of Supply relating to the following activities:
 - 42.2.2.1. entering, attending or occupying the Authority's premises;
 - 42.2.2.2. making use of the Authority's property or information technology systems, or giving the Authority the use of the Contractor's property or information technology systems;
 - 42.2.2.3. having dealings with the Authority's employees, Contractors, suppliers or contractors;
 - 42.2.2.4. soliciting the Authority's employees;
 - 42.2.2.5. making representations or giving professional advice to the Authority;
 - 42.2.2.6. generating information for or giving information to the Authority;
 - 42.2.2.7. receiving information from or holding information on behalf of the Authority; and
 - 42.2.2.8. carrying out publicity or marketing activities;

- 42.2.3. where a Call-off Contract with the Contractor under this Framework Agreement has been terminated prior to the termination date of that Call-off Contract.
- 42.2.4. where, at any time before the term of the Framework Agreement, the Contractor or any person falling within the description set out in paragraph (2) of regulation 58 of The Public Contracts (Scotland) Regulations 2015 commits or is convicted of an offence referred to in paragraph (1) of that regulation.
- 42.3 The Authority may terminate the Framework Agreement if a Call-off Contract is terminated because of a Default by the Contractor.
- 42.4 The Authority may terminate the Contract in the event that:
- (a) the Contract has been subject to substantial modification which would have required a new procurement procedure in accordance with regulation 72(9) (modification of contracts during their term) of the Public Contracts (Scotland) Regulations 2015; or
 - (b) the Contractor has, at the time of contract award, been in one of the situations referred to in regulation 58(1) (exclusion grounds) of the Public Contracts (Scotland) Regulations 2015, including as a result of the application of regulation 58(2) of those regulations, and should therefore have been excluded from the procurement procedure.
- 42.5 The Authority may also terminate the Framework Agreement in the event of a failure by the Contractor to comply in the performance of its obligations under the Framework Agreement with legal obligations in the fields of environmental, social or employment law.

43. Termination on Insolvency and Change of Control

- 43.1. The Authority may terminate the Contractor's interest in the Framework Agreement with immediate effect by notice where in respect of the Contractor:
- 43.1.1. a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignment for the benefit of, its creditors;
 - 43.1.2. a shareholders' meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding-up is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation);
 - 43.1.3. a petition is presented for its winding up (which is not dismissed within 14 days of its service) or an application is made for the appointment of a provisional liquidator or a creditors' meeting is convened pursuant to section 98 of the Insolvency Act 1986;
 - 43.1.4. a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets;
 - 43.1.5. an application order is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given;
 - 43.1.6. it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986;

- 43.1.7. being a “small company” within the meaning of section 382 of the Companies Act 2006, a moratorium comes into force pursuant to schedule A1 to the Insolvency Act 1986;
 - 43.1.8. a debt relief order is entered into; or
 - 43.1.9. any event similar to those listed above occurs under the law of any other jurisdiction.
- 43.2. The Authority may terminate the Contractor’s interest in the Framework Agreement by notice with immediate effect within 6 months of:
- 43.2.1. being notified that a change of Control has occurred in accordance with clause 30 (Assignment and Change of Control); or
 - 43.2.2. where no such notification has been given, the date that the Authority becomes aware of the change of control.
- 43.3. But the Authority may not terminate the Contractor’s interest in the Framework Agreement under clause 43.2 where approval of the change of control has been granted by notice by the Authority.

44. Exit Management

The Contractor shall perform its relevant Exit Management obligations as part of the Framework whether applicable on either the expiry or early termination of this Agreement

44.1 The Contractor agrees that if it breaches (or attempts or threatens to breach) its obligation to provide Exit Management, the Authority and their respective customers and stakeholders shall be irreparably harmed. In such circumstance, the Contractor agrees that the Authority may proceed directly to court notwithstanding anything to the contrary in the dispute resolution procedure outlined in Clause 37 (Dispute Resolution). If a court of competent jurisdiction finds that the Contractor has breached (or attempted or threatened to breach) any such obligation, the Contractor agrees that without any additional findings of irreparable injury, or other conditions to interdict, the Contractor shall not oppose the entry of an appropriate order compelling performance by the Contractor and restraining the Contractor from any further breaches or attempted or threatened breaches of its obligations in relation to Exit Management.

44.2 A draft of the Exit Plan shall be produced by the Contractor and supplied to the Authority within [three (3) months] after the Commencement Date and shall include or address the matters specified in Clause 44.3. The Authority shall provide to the Contractor the Authority’s comments on the plan within one (1) month of the Authority’s receipt of the plan. The Contractor shall take into account the comments and suggestions of the Authority and shall issue the final version of the Exit Plan to the Authority within ten (10) Working Days of receipt of the Authority’s comments.

44.3 The Contractor shall throughout the period of the Agreement review, maintain and continuously update the Exit Plan which shall include:

44.3.1 the activities required to enable the Authority to re-tender the Authority Requirements and/or the provision of the Services;

44.3.2 the activities necessary to support any Replacement Contractor or the Authority in carrying out any necessary due diligence relating to all or part of the Services;

44.3.3 details of the Exit Management to be provided by the Contractor prior to the Exit Management Date;

44.3.4 support for the Replacement Contractor or the Authority during their preparation of any relevant plan for the transition of the System to the Replacement Contractor or Authority, including prior to and during such transition period;

44.3.5 the maintenance of a 'business as usual' environment for the Authority during the period when Exit Management obligations are applicable; and

44.3.6 all other necessary activities to support the preparation for, and execution of, a smooth and orderly Exit Management and transfer of all or part of the Services to either a Replacement Contractor or the Authority.

44.4 No amendment of the Exit Plan shall be made without prior written consent of the Authority.

45. Compliance with the Law and Changes in the Law

45.1 The Contractor shall, in complying with all obligations incumbent upon it in terms of the Framework Agreement or any other contract with the Authority, comply in all respects with, and shall ensure that the Contractor's agents, employees and representatives whomsoever comply with the Law.

45.2 Without prejudice to the generality of sub-clause 1 above (general compliance with the Law provision), the Contractor must not unlawfully discriminate against any person in terms of the Equality Act 2010 in its activities relating to the Framework Agreement or any other contract with the Authority.

45.3 The Contractor shall take all reasonable steps to ensure the observance of the provisions of sub-clause 1 above by all of their servants, employees, agents, consultants and sub-contractors.

45.4 If the cost to the Contractor of the performance of its obligations under the Framework Agreement shall be increased or reduced by reason of the making after the date of the Framework Agreement of any relevant Law that shall be applicable to the Framework Agreement the amount of such increase shall be borne by the Contractor.

46. Offences

46.1. The Contractor must not commit or attempt to commit any offence:

46.1.1. under the Bribery Act 2010;

46.1.2. of fraud, uttering, or embezzlement at common law; or

46.1.3. of any other kind referred to in regulation 58(1) of the Public Contracts (Scotland) Regulations 2015.

46.2. Breach of clause 46.1 is a material breach for the purposes of clause 42 (Termination Rights).

46A. Compliance With Anti-Slavery And Human Trafficking Laws

46A.1. In performing its obligations under this Framework Agreement, the Contractor shall:

46A.1.1. comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force, including the Modern Slavery Act 2015 and the Human Trafficking and Exploitation (Scotland) Act 2015;

46A.1.2. not engage in any activity, practice or conduct that would constitute an offence under the Human Trafficking and Exploitation (Scotland) Act 2015 if such activity, practice

or conduct were carried out in the UK;

46A.1.3. include in contracts with its direct subcontractors and contractors provisions which are at least as onerous as those set out in this clause;

46A.1.4. notify the Authority as soon as it becomes aware of any actual or suspected slavery or human trafficking in a supply chain which has a connection with this Agreement;

46A.1.5. maintain a complete set of records to trace the supply chain of all Goods and Services provided to the Authority; and

46A.1.6. provide the Authority and its third party representatives access to such records.

46A.2 The Contractor represents and warrants that it has not been convicted of any offence involving slavery and human trafficking nor has it been the subject of any investigation, inquiry or enforcement proceedings regarding any offence or alleged offence of or in connection with slavery and human trafficking.

46A.3. The Contractor shall prepare and deliver to the Customer, each year, an annual slavery and human trafficking report setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its business.

46A.4. The Authority may terminate this Agreement with immediate effect by giving written notice to the Contractor if the Contractor commits a breach of this clause.

47. Tax Arrangements

- 47.1 Where the Contractor is liable to be taxed in the UK in respect of consideration received under this contract, it shall at all times comply with the Income Tax (Earnings and Pensions) Act 2003 (ITEPA) and all other statutes and regulations relating to income tax in respect of that consideration.
- 47.2 Where the Contractor is liable to National Insurance Contributions (NICs) in respect of consideration received under this Framework Agreement, it shall at all times comply with the Social Security Contributions and Benefits Act 1992 (SSCBA) and all other statutes and regulations relating to NICs in respect of that consideration.
- 47.3 The Authority may, at any time during the term of this Framework Agreement, request the Contractor to provide information which demonstrates how the Contractor complies with sub-clauses 47.1 and 47.2 above or why those clauses do not apply to it.
- 47.4 A request under sub-clause 47.3 above may specify the information which the Contractor must provide and the period within which that information must be provided.
- 47.5 The Authority may supply any information which it receives under clause 47 to the Commissioners of Her Majesty's Revenue and Customs for the purpose of the collection and management of revenue for which they are responsible.
- 47.6 The Contractor shall take all reasonable steps to ensure the observance of the provisions of this clause 47 by all of their servants, employees, agents, consultants and sub-contractors.
- 47.7 Where the Contractor enters into any sub-contract with any of its servants, employees, agents, consultants and/or sub-contractors, the Contractor must ensure that a provision is included which is in the same terms as this clause 47 subject only to modification to refer to the correct designation of the equivalent party as the Contractor.

48. Blacklisting

The Contractor must not commit any breach of the Employment Relations Act 1999 (Blacklists) Regulations 2010 or section 137 of the Trade Union and Labour Relations (Consolidation) Act 1992, or commit any breach of the Data Protection Laws by unlawfully processing personal data in connection with any blacklisting activities. Breach of this clause is a material default which shall entitle the Authority to terminate the Framework Agreement.

49. Conflicts of interest

- 49.1. The Contractor must take appropriate steps to ensure that the Authority is not placed in a position where, in the reasonable opinion of the Authority, there is an actual or potential conflict between the interests of the Contractor and the duties owed to the Authority under the Framework Agreement.
- 49.2. The Contractor must disclose by notice to the Authority full particulars of any actual or potential conflict of interest which may arise and must take such steps as are necessary to avoid or remove the conflict of interest.
- 49.3. Breach of this clause by the Contractor is a material breach for the purposes of clause 42 (Termination Rights).

50. Consequences of Expiry or Termination

- 50.1. Where the Authority terminates the Contractor's interest in the Framework Agreement under clause 42 (Termination Rights) and makes other arrangements for the supply of Services, the Contractor indemnifies the Authority against all costs incurred in making those arrangements.

- 50.2. The termination of this Framework Agreement in accordance with clause 42 (Termination Rights) and/or clause 43 (Termination on Insolvency and Change of Control) or its expiry shall not affect the accrued rights of either party.
- 50.3. Following the service of a termination notice, the Contractor shall continue to perform its obligations in accordance with the provisions of this Framework Agreement until termination.
- 50.4. The following provisions survive the expiry or termination of this Framework Agreement
 - 50.4.1. clause 1 (Definitions and Interpretation);
 - 50.4.2. clause 8 (Award Procedures);
 - 50.4.3. clause 10 (Official Secrets Acts);
 - 50.4.4. clause 13 (Recovery of Sums Due);
 - 50.4.5. clause 14 (Data Protection);
 - 50.4.6. clause 15 (Transparency and Freedom of Information);
 - 50.4.7. clause 16 (Authority Protected Information);
 - 50.4.8. clause 17 (Contractor Sensitive Information);
 - 50.4.9. clause 18 (Audit [and Records Management]);
 - 50.4.10. clause 19 (Publicity);
 - 50.4.11. clause 21 (Offers of Employment);
 - 50.4.12. clause 23 (Information about Contractor Employees);
 - 50.4.13. clause 26 (Parties pre-existing Intellectual Property Rights);
 - 50.4.14. clause 27 (Specially created Intellectual Property Rights);
 - 50.4.15. clause 28 (Licences of Intellectual Property Rights);
 - 50.4.16. Clause 29 (Claims relating to Intellectual Property Rights);
 - 50.4.17. clause 33 (Warranties and Representations);
 - 50.4.18. clause 34 (Indemnity);
 - 50.4.19. clause 37 (Dispute Resolution Procedure);
 - 50.4.20. clause 39 (Waiver and Cumulative Remedies);
 - 50.4.21. clause 47 (Tax arrangements);
 - 50.4.22. this clause 50 (Consequences of Termination);
 - 50.4.23. clause 52 (Governing Law and Jurisdiction); and
 - 50.4.24. schedule 11, part 11, paragraph 1 (Contractor's Warranty).

- 50.5. Immediately upon termination of the Framework Agreement for any reason whatsoever the Contractor shall render such reasonable assistance to the Authority or third party nominated by the Authority, if requested, as may be necessary to effect an orderly assumption by a Replacement Contractor of the Services previously performed by the Contractor under the Framework Agreement. The Contractor shall not be entitled to charge for such termination. The amount of costs, damage and loss incurred or suffered by the Authority as a result of termination may be recovered by the Authority from the Contractor and shall include (but not be restricted to):
- 50.5.1 any additional operational and administrative costs and expenses incurred by the Authority by virtue of such termination of the Framework Agreement;
 - 50.5.2 the costs and expenses incurred by the Authority in providing, or procuring that another body provide the Framework Agreement Services on a Temporary basis until the completion of a re-tendering process; and
 - 50.5.3 the costs and expenses incurred by or on behalf of the Authority in performing the re-tendering process.
- 50.6. On expiry or termination of the Framework Agreement the Contractor must:
- 50.6.1 immediately return to the Authority all Authority Property and Authority Protected Information in its possession; and
 - 50.6.2 destroy or delete any copies of Authority Protected Information (whether physical or electronic) in its possession.

51. Entire Agreement

- 51.1 This Framework Agreement constitutes the entire agreement between the Parties in respect of the matters dealt with herein. This Framework Agreement supersedes all prior negotiations between the Parties and all representations and undertakings made by one Party to the other, whether written or oral, except that this clause does not exclude liability in respect of any misrepresentation (whether in the SPD or Tender or otherwise).
- 51.2 In the event of, and only to the extent of, any conflict between the clauses of this Framework Agreement, the Schedules and any document referred to in this Framework Agreement, the following order of precedence applies:
- 51.2.1 the clauses of this Framework Agreement;
 - 51.2.2 the Standard Terms of Supply;
 - 51.2.3 the other Schedules; and
 - 51.2.4 any other document referred to in the clauses of this Framework Agreement.

52. **Governing Law and Jurisdiction**

This Framework Agreement is governed by and interpreted in accordance with Scots law and, subject to clause 37 (Dispute Resolution), the Parties submit to the exclusive jurisdiction of the Scottish courts.

IN WITNESS WHEREOF these presents typewritten on this and the 35 preceding pages together with the 10 Schedules annexed hereto are executed as follows:

SIGNED for and on behalf of the Scottish Ministers **SIGNED** for and on behalf of DA Languages Ltd

At.....

At:

On.....

On:

Signature..

Signature..

Full name ...

Full name:

Position ...

Position:

Address...

Address:

In the presence of

In the presence of

Signature.....

Signature

Full name ..

Full name:

Address..

Address:

This and the following 30 pages comprise Schedule 1 to the Framework Agreement between the Scottish Ministers and **DA Languages Ltd**

SCHEDULE 1 – STATEMENT OF REQUIREMENTS AND SERVICE LEVELS

GLOSSARY OF TERMS

“Account Manager” – A named individual who acts as a single point of contact for Framework Public Bodies for all operational queries and complaints relating to delivery of the Agreement. The Account Manager will be held responsible to ensure that all requests are dealt with, to the Framework Public Bodies satisfaction, in a timely manner

“Authority” means the Scottish Ministers, acting through Scottish Procurement.

“Assignment” – The period during which the Interpreter, Translator or Transcriber is supplied by the Contractor to render services to the Framework Public Body.

“Scottish Procurement” – Scottish Procurement is responsible for facilitating User Intelligence Groups and collaborative procurement exercises for goods and services classified following the review of public procurement in Scotland ([The Public Procurement Reform Programme 2006-2016](#))

“Strategic Contract Manager” – The individual who will act on behalf of Framework Public Bodies, and serve as the sole point of contact, for all contractual matters relating to this Framework Agreement. The Strategic Contract Manager will take receipt of consolidated management information, and will facilitate framework review meetings with the Contractors’ Account Manager. They will monitor agreed service levels, ensure the satisfactory resolution of any strategic contractual disputes or complaints and will work on an on-going basis with the Framework Public Bodies’ Contract Manager to confirm that consistent levels of service are delivered.

“Framework Public Body/Bodies” – The Framework Agreement will be available for use by the Scottish Ministers (including Agencies), Scottish Non-Departmental Public Bodies, offices in the Scottish Administration which are not ministerial offices, cross-border public authorities within the meaning of section 88(5) of the Scotland Act 1998, the Scotland Office, the Scottish Parliamentary Corporate Body, councils constituted under section 2 of the Local Government etc. (Scotland) Act 1994, bodies registered as social landlords under the Housing (Scotland) Act 2001, Scottish health boards or special health boards, Student Loans Company Limited, the Commissioner of Northern Lighthouse operating as the Northern Lighthouse Board, Scottish Futures Trust, Equality and Human Rights Commission, Business Stream Ltd, the Business Gateway National Unit at the Convention of Scottish Local Authorities, further or higher education institutions being fundable bodies within the meaning of section 6 of the Further and Higher Education (Scotland) Act 2005, any public body established by or under the Scotland Act 1998 or any Act of the Scottish Parliament, any association of or formed by one or more of the foregoing, bodies financed wholly or mainly by one or more of the foregoing, bodies subject to management supervision by one or more of the foregoing and bodies more than half of the board of directors or members of which, or, in the case of a group of individuals, more than half of those individuals, being appointed by one or more of the foregoing. In addition to the contracting authorities listed, the Framework Agreement will be available to charities entered on the Scottish Charity Register and voluntary organisations entered on the Membership Database of the Scottish Council for Voluntary Organisations.

Information about agencies of the Scottish Ministers, Scottish Non-Departmental Public Bodies and offices in the Scottish Administration which are not ministerial offices are listed at <http://www.gov.scot/Topics/Government/public-bodies/about>

Information about the Review of Public Procurement in Scotland and links to the other Centres of Expertise are available at:

<http://www.gov.scot/Topics/Government/Procurement>

“Framework Public Body’s Contract Manager” – The individual who takes operational responsibility for the day-to-day management of the contract; typically a Manager within the Framework Public Body’s organisation. The Framework Public Body’s Contract Manager – or nominated individual – will liaise directly with Contractor(s) for all services including local management information. They will work with the Strategic Contract Manager and Framework Public Bodies across the Scottish Public Sector to monitor overall customer satisfaction, continuous improvement and development of best practice.

“User Intelligence Group (UIG)” – Within the McClelland Report it was recommended that organisations establish UIG’s to help co-ordinate requirements and specifications so that procurement functions can rationalise the content of tenders and contracts to obtain best value. The UIG provides feedback on the services provided to the wider internal user community and – under procurement supervision – is a forum in which Contractors can demonstrate their offerings.

1. Overview of Requirements

1.1 This Framework Agreement is for the provision of Interpreting, Translation and Transcription Services.

1.2 The Contractor will be expected not only to meet the requirements established within this statement of requirements but also to ensure the delivery of a high quality service to the Framework Public Bodies using this framework. The Contractor will be expected to demonstrate that the service and value received by the Framework Public Bodies is significantly and demonstrably greater than could be achieved by going elsewhere.

1.3 This Framework is aligned to the Scottish Government’s National Performance Framework and National Outcomes, which articulate the Government’s Purpose ‘To focus on creating a more successful country with opportunities for all of Scotland to flourish through increased wellbeing, and sustainable and inclusive economic growth’.

<https://nationalperformance.gov.scot/>

1.4 The Framework Agreement will be available for use by the Scottish Ministers (including Agencies), Scottish Non-Departmental Public Bodies, offices in the Scottish Administration which are not ministerial offices, cross-border public authorities within the meaning of section 88(5) of the Scotland Act 1998, the Scotland Office, the Scottish Parliamentary Corporate Body, councils constituted under section 2 of the Local Government etc. (Scotland) Act 1994, bodies registered as social landlords under the Housing (Scotland) Act 2001, Scottish health boards or special health boards, Student Loans Company Limited, the Commissioner of Northern Lighthouse operating as the Northern Lighthouse Board, Scottish Futures Trust, Equality and Human Rights Commission, Business Stream Ltd, the Business Gateway National Unit at the Convention of Scottish Local Authorities, further or higher education institutions being fundable bodies within the meaning of section 6 of the Further and Higher Education (Scotland) Act 2005, any public body established by or under the Scotland Act 1998 or any Act of the Scottish Parliament, any association of or formed by one or more of the foregoing, bodies financed wholly or mainly by one or more of the foregoing, bodies subject to management supervision by one or more of the foregoing and bodies more than half of the board of directors or members of which, or, in the case of a group of individuals, more than half of those individuals, being appointed by one or more of the foregoing. In addition to the contracting authorities listed, the Framework Agreement will be available to charities entered on the Scottish Charity Register and voluntary organisations entered on the Membership Database of the Scottish Council for Voluntary Organisations.

1.5 The Authority does not guarantee that any or all of the Framework Public Bodies will opt to use this Framework, nor does the Authority guarantee any volumes of usage throughout the life of this Framework Agreement.

1.6 The Framework Agreement will be managed centrally by the Scottish Procurement and Property Directorate (SPPD) on behalf of the Authority.

1.7 The purpose of this Statement of Requirements is to provide a description of the Services that the Contractor shall be required to deliver to Framework Public Bodies under this Framework Agreement.

1.8 Any Services listed within this Schedule, but not listed in Framework Agreement Schedule 2 – Pricing Schedule, shall be provided free of charge.

2. Period of Framework

2.1 The Framework Agreement duration is for a period of 4 years or until it is sooner terminated by the Scottish Ministers.

2.2 The Framework Public Body reserves the right, if the Contractor is unable to fulfil its obligations under the contract, to make a separate contract(s) for the services specified and to reclaim any additional costs incurred.

3. Commencement of Full Operations

3.1 The Contractor will spend the time between the award date and the commencement date working with Framework Public Bodies to establish the necessary systems and processes.

4. Legislative Requirements

4.1 The Contractor shall assist the Authority and Framework Public Bodies in meeting their obligations in respect of any legislative requirements including but not limited to Equality Act 2010, Corporate Manslaughter Act, IR35 (Intermediaries Legislation) and any other legislation which may be in force from time to time.

5. Use of Framework

5.1 The services shall be provided to the Authority, the Framework Public Bodies and other nominated individuals such as Consultants working on behalf of the Authority and the Framework Public Bodies.

5.2 The Contractor should note that the Framework/Contract(s) for all the Services are purely for business use. Under no circumstances should the employees of the Authority or Framework Public Bodies or other nominated individuals authorised by the Authority and/or the Framework Public Bodies utilise the services for private use, unless stipulated otherwise by the Framework Public Body.

5.3 Business use will include the purchase of Services which is paid for by the Framework Public Body.

6. Implementation

6.1 The Contractor shall:

- Provide and manage an implementation plan detailing all aspects of the Services. The Contractor's implementation plan shall include all main activities and timescales required for a successful implementation including:
 - I. Mobilisation, liaison and communication
 - II. Project plan & implementation proposals
 - III. Assessing & monitoring success
 - IV. Systems integration
 - V. Capacity to gear up for Framework/Contract start

6.2 The Contractor will inform the Authority and Framework Public Body immediately if there are any actual or anticipated delays which are likely to threaten implementation on the agreed date.

6.3 Provide and manage a communications plan that shall be used throughout the implementation project, identifying the personnel, tools and key milestones involved including interaction with the Framework Public Body on a local/national/regional level maximising buy-in.

6.4 Provide information on any potential challenges with regard to labour law requirements relevant to this Framework/Contract.

7. Scope of Requirements

7.1 The Authority requires the Contractors to provide comprehensive face to face, video and telephone spoken language interpreting services, and document translation and transcription services to fulfil the current and evolving needs of the Framework Public Bodies.

7.2 The scope of face to face/video interpreting services required will include, but is not limited to, provision of interpreting services for:

- tribunals and court or hearing proceedings for accused persons and Crown witnesses in criminal court proceedings;
- investigations of unexplained deaths for bereaved relatives;
- attendance to prisoners in police custody with potentially immediate call handling and allocation of interpreters (with expectation that the face to face element needs to be within 2 hours);
- attendance to victims, witnesses or suspects related to a police incident;
- attendance to prisoners within a prison;
- patients attending medical appointments as inpatients and outpatients;
- children's hearings and court proceedings related to childrens hearings.

7.3 The Contractor will provide a video interpreting service available to the Framework Public Bodies. This will include a scheduled video interpreting service for Framework Public Body assignments booked in advance. This can be either via the Framework Public Body video portal or via the Contractor video portal. The decision on which method to be used will be determined by the Framework Public Body.

7.4 The Contractor will provide a telephone interpreting service available to the Framework Public Bodies. This will include immediate telephone interpreting for the Framework Public Body who need to use an interpreter immediately over the telephone and scheduled telephone interpreting service for Framework Public Body assignments booked in advance. This could involve three way telephone interpreting.

7.5 The Contractor will provide all interpreting services through suitably qualified and experienced personnel for a wide range of languages.

7.6 The Contractor will provide all interpreting services when required as instructed to do so by Framework Public Bodies, which may include times outside normal office hours, weekends and public holidays.

7.7 The Contractor will provide all interpreting services at urban and rural premises located across Scotland, including the Highlands and Islands.

7.8 The scope of translation and transcription services required includes a highly accurate translation and transcription of style documentation, tapes and other forms of electronic media.

7.9 The Contractor will provide translation and transcription services for documents that are sensitive or confidential in nature including, but not limited to, court documentation and

correspondence, children's hearings documentation and correspondence, medical and health reports, etc

7.10 Framework Public Bodies that use the services being provided will require various services.

7.11 The Contractor will provide Framework Public Bodies with cost centre billing. The number of cost centres will vary for each Framework Public Body.

7.12 The Contractor shall identify areas open to improvement, report and regularly update the Framework Public Bodies on all areas.

7.13 The following services are not included in the scope of this requirement:

- British Sign Language
- English to English transcription

8. Interpreting Services

8.1 The Contractor will provide a comprehensive face to face, video and telephone interpreting service from English into a wide range of spoken languages and dialects and from those languages and dialects into English or other languages as requested by Framework Public Bodies.

8.2 Languages listed at Annex 1 are those that have been required previously. The Contractor will provide interpreting services for those languages and dialects as well as other languages not on this list.

8.3 The Contractor will ensure that the interpreter provided will be available from the planned assignment commencement date and time until discharged by the representative of the Framework Public Body, eg until the case on which that interpreter has been assigned has been concluded.

8.4 The Contractor will maintain adequate numbers of suitably qualified interpreters to meet the service requirements of this Framework Agreement.

8.5 The Contractor will ensure that interpreters available to be used under this Framework Agreement meet the necessary criteria for competency, qualifications, experience, security clearance etc.

8.6 Where a Framework Public Body requires interpreters to have signed the Framework Public Body's 'Code of Conduct/Practice', the Contractor will ensure interpreters will have seen, read, understood and signed, and retained, a copy of the Code of Conduct.

8.7 The Contractor will store a copy of the signed Code of Conduct/Practice for each interpreter and make each available to the Authority and Framework Public Bodies if requested. An example of a code of conduct is attached at Annex 3.

9. Interpreters Qualifications & Experience

9.1 The Contractor will provide interpreters who hold the relevant qualifications and experience as required by the Framework Public Body.

9.2 As an example, the Scottish Courts & Tribunals Service, The Crown Office and Procurator Fiscal and the Scottish Children's Reporter Administration will require interpreters holding the Diploma in Public Service Interpreting (DPSI) - Scottish Law.

9.3 Interpreting services are also required for languages where the DPSI qualification is not available. In these circumstances the Contractor will provide competent interpreters holding equivalent qualifications and experience to that of an interpreter holding the DPSI.

9.4 The Authority recognises that exceptional circumstances may occur where demand for interpreters holding the DPSI will outweigh supply. In these circumstances the Contractor will provide competent interpreters holding equivalent qualifications and experience to that of an interpreter holding the DPSI.

9.5 Where the Contractor can only provide an interpreter that does not hold the DPSI or the necessary qualification as requested by the Framework Public Body, the Contractor will provide justification that the interpreter holds an equivalent combination of qualifications and experience to that of an interpreter for the Framework Public Body to review prior to confirming the order. The written statement should include the Contractor's confirmation that they have assessed the interpreter to be suitable to undertake the specific assignment.

9.6 Examples of possible equivalent qualifications and experience to that of the DPSI can be found at Annex 2.

9.7 In circumstances where the Contractor can only provide an interpreter that does not hold the necessary qualification as required by the Framework Public Body, the Framework Public Body has sole discretion to accept or refuse services from the interpreter proposed.

9.8 The Authority or any Framework Public Body will not be responsible directly for any costs associated with interpreters obtaining the relevant qualifications and experience.

9.9 For criminal justice sector instructions, Interpreters must adhere to the Scottish Criminal Justice System Code of Practice. Details of the protocol can be seen in Annex 3.

10. Interpreters Disclosure/Security Vetting

10.1 The Contractor will provide interpreters who hold, as a minimum, a valid Standard disclosure certificate from Disclosure Scotland.

10.2 Framework Public Bodies may require alternative security vetting types.

10.3 Disclosure certificates are valid for one year from the date of issue. Assignments commencing more than one year after the date of issue will require the interpreter to repeat the relevant disclosure process.

10.4 The Contractor will provide evidence that the interpreter holds the requested disclosure certificate/security clearance for the Framework Public Body to review prior to confirming the order.

10.5 The Authority or any Framework Public Body will not be responsible for any costs associated with interpreters obtaining the relevant disclosure certificates.

10.6 The Authority recognises that there may be circumstances where a Framework Public Body will require an interpreter holding a different level of disclosure or security vetting. In these circumstances the Framework Public Body will notify the Contractor of the required disclosure/vetting level in the order form and the Contractor will provide an interpreter holding the requested disclosure/vetting level.

11. Location – Face to Face Interpreting

11.1 The Contractor will provide an interpreter (excluding telephone/video interpreting) from within 45 miles of the location that the assignment is required.

11.2 This is to enable assignments to be allocated to local interpreters who live in the area and so can travel most economically to the location that the assignment is required.

11.3 The Authority recognises that exceptional circumstances may occur where an interpreter is required to be provided from farther than 45 miles of the location that the assignment is required. In these circumstances the Contractor will provide justification why that is the case for the Framework Public Body to review prior to confirming the order.

11.4 In circumstances where the Contractor can only provide an interpreter from farther than 45 miles of the location that the assignment is required, the Framework Public Body has sole discretion to accept or refuse services from the interpreter proposed.

11.5 Where the Contractor can only provide a face to face interpreter from farther than 45 miles of the location that the assignment is required, and the Framework Public Body has accepted to use that interpreter, the Framework Public Body must pay travel and subsistence costs in accordance with the Travel and Subsistence Arrangements detailed at Schedule 2 of the Framework Agreement.

12. Availability of Face to Face Interpreters

12.1 The Contractor will provide an interpreter in accordance with the Framework Public Body's instruction following not less than 5 calendar days notice and receipt of the Framework Public Body's confirmation of the order unless otherwise agreed in advance with the Framework Public Body.

12.2 The Contractor shall provide the Framework Public Bodies with a single point of contact for this service

12.3 The Framework Public Body will provide the Contractor not less than 5 calendar days' notice that an assignment is required. Due to the nature of the Framework Public Bodies day to day business, there will be instances where short notice – for example 24 hours or same day – requests for interpreting services will be necessary and unavoidable.

12.4 In circumstances where the Framework Public Body does not provide the Contractor 5 calendar days' notice for assignments, the Contractor will provide an interpreter at the date and time specified by the Framework Public Body in the order.

12.5 The majority of services required under this Framework Agreement are to be available between 8am – 6pm Monday to Friday of each week and on bank holidays if required.

12.6 The Authority recognises that the Framework Public Body may require services are delivered outside of these hours. In these circumstances, the Contractor will deliver the services at the date and time specified by the Framework Public Body in the order.

13. Availability of Video Interpreters

13.1 The Contractor will provide an interpreter in accordance with the Framework Public Body's instruction following not less than 5 calendar days notice and receipt of the Framework Public Body's confirmation of the order unless otherwise agreed in advance with the Framework Public Body.

13.2 The Contractor shall provide the Framework Public Bodies with a single point of contact for this service.

13.3 The Supplier must ensure its Video Interpreting Service is compatible with common conferencing technology for example but not limited to, Web Camera, Tablet Device, Smartphone, Video Phone and Video Conferencing kit.

13.4 The Framework Public Body will provide the Contractor not less than 5 calendar days' notice that an assignment is required. Due to the nature of the Framework Public Bodies' day to day business, there will be instances where short notice – for example 24 hours or same day – requests for video interpreting services will be necessary and unavoidable.

13.5 In circumstances where the Framework Public Body does not provide the Contractor 5 calendar days' notice for assignments, the Contractor will provide an interpreter at the date and time specified by the Framework Public Body in the order.

13.6 The majority of services required under this Framework Agreement are to be available between 8am – 6pm Monday to Friday of each week and on bank holidays if required.

13.7 The Authority recognises that the Framework Public Body may require services are delivered outside of these hours. In these circumstances, the Contractor will deliver the services at the date and time specified by the Framework Public Body in the order.

13.8 The Contractor must ensure that they provide, United Kingdom (UK)-based interpreters and additionally, all UK-based interpreters must have permission to work in the UK (section 8 of the Asylum and Immigration Act).

13.9 The Supplier shall ensure that all Interpreters must be in an appropriately secure environment when servicing video calls, free from noise and with full consideration for the Buyer's data security guidelines.

14. Availability of Telephone Interpreters

14.1 Telephone Interpreting Services shall be available 24 hours a day 7 days a week, every day of the year, including all UK and Scottish Public Holidays. This could involve three way telephone interpreting.

14.2 The Contractor shall provide the Framework Public Bodies with a single point of contact for this service including a unique Freephone number. The Contractor's telephone service shall require a dedicated non premium rate, and/or a 01, 02, 03 prefix, no call connection charge, and a telephone number which must be accessible from UK landlines and mobile telephones.

14.3 The Contractor shall provide the Framework Public Bodies with immediate telephone interpreting for Framework Public Body customers and non-English speakers who need to use an interpreter immediately over the telephone.

14.4 The Contractor shall provide the Framework Public Bodies with a scheduled telephone interpreting service for customers who prefer to book an interpreter in advance of an assignment.

14.5 The Contractor must ensure that they provide, United Kingdom (UK)-based interpreters and, additionally, all UK-based interpreters must have permission to work in the UK (section 8 of the Asylum and Immigration Act).

14.6 The Contractor shall ensure that all telephone interpreters must be in an appropriately secure environment when servicing calls, free from noise and with full consideration for the Framework Public Body's data security guidelines.

15. Cancellation

15.1 Cancellation of an assignment shall be at no cost to the authority up to and including 24 hours prior to the date and time that the assignment is due to commence.

15.2 Where the Framework Public Body cancels an order with less than 24 hours' notice, cancellation fees will apply in accordance with the Cancellation Arrangements detailed at Schedule 2.

16. Translation and Transcription Services

16.1 The Contractor will provide a comprehensive and highly accurate translation and transcription service from English into a wide range of spoken languages and from those languages into English or other languages as requested by Framework Public Bodies.

16.2 The Contractor will provide secondary proof reading for translations as and when requested by the Framework Public Body.

16.3 Languages listed at Annex 1 are those that are most commonly required. The Contractor will provide translation services for those languages as well as other languages not on this list.

16.4 The translation and transcription service provided will include:

- a) Text to text
- b) Text to braille – or other tactile or touch formats
- c) Speech (audio) to text including tape recordings and other electronic media, audio
- d) Video to text
- e) Text to speech (audio) – including tape recordings and other electronic media, audio and video

16.5 Material to be translated and transcribed will include but not necessarily be limited to:

- a) Court documentation
- b) Children’s Hearings documentation
- c) Correspondence and other court related documentation from EU and other Governments, their courts and prosecution authorities
- d) Policy papers from EU and other Governments
- e) Correspondence to and from customers and the general public, both within and outwith the UK
- f) Departmental websites
- g) Publications (including digital resources)
- h) Forms and leaflets
- i) Posters
- j) Press advertisements
- k) Digital TV Channels
- l) Confidential Hearing Documentation
- m) Social Work Reports
- n) Medical/Health reports and documents
- o) Patient Information

16.6 The Contractor will provide a secure and confidential translation and transcription service.

16.7 Contractors shall ensure that they have sufficient safeguards and measures in place to deal with materials carrying a security or confidential classification and otherwise sensitive documents, including but not limited to IT security procedures.

16.8 Translators and transcribers used for security classified or sensitive documents are to be vetted and the security credentials of these translators and transcribers shall be notified in advance in writing to the Framework Public Body before relevant work commences.

16.9 The Contractor will provide a translation and transcription service that maintains consistency of style and terminology throughout the duration of this Framework Agreement.

16.10 The Contractor will utilise electronic media as appropriate in the delivery of translation and transcription services under this Framework Agreement.

16.11 The Contractor will utilise electronic media in order to implement measures that reduce translation and transcription spend as well as improve turnaround times for pro-forma letters and frequently repeated documents.

16.12 The Contractor will ensure that Framework Public Bodies are not charged more than once for the cost to translate standard text which has already been translated.

16.13 The Contractor will implement improvements for quality and turnaround times for the translation and transcription service throughout the duration of this Framework Agreement.

17. Translation and Transcription Qualifications & Experience

17.1 The Contractor will provide translators and transcribers holding the Diploma in Translation for the language required.

17.2 If requested, the Contractor will provide evidence that the translators or transcribers hold the Diploma in Translation certificate for the Framework Public Body to review prior to confirming the order.

18. Translation and Transcription Disclosure/Security Vetting Requirements

18.1 The Contractor will provide translators who hold, as a minimum, a valid Standard disclosure certificate from Disclosure Scotland.

18.2 Framework Public Bodies may require alternative security vetting types.

18.3 Disclosure certificates are valid for one year from the date of issue. Assignments commencing more than one year after the date of issue will require the translator to repeat the relevant disclosure process.

18.4 The Contractor will provide evidence that the translator holds the requested disclosure certificate for the Framework Public Body to review prior to confirming the order.

18.5 The Authority or any Framework Public Body will not be responsible for any costs associated with translators obtaining the relevant disclosure certificates.

18.6 The Authority recognises that there may be circumstances where a Framework Public Body will require an translator holding a different level of disclosure or security vetting. In these circumstances the Framework Public Body will notify the Contractor of the required disclosure/vetting level in the order form and the Contractor will provide an translator holding the requested disclosure/vetting level.

19. Translation and Transcriptions Location

19.1 The Contractor will ensure translations and transcriptions are completed by UK-based translators and transcribers.

19.2 Translation and transcription services will not be carried out by non-UK-based translators and transcribers unless otherwise agreed in advance with the Framework Public Body.

20. Translation and Transcriptions Turnaround

20.1 The Contractor will deliver completed translations and transcriptions not later than 10 calendar days from receipt of the Framework Public Body's confirmation of the order.

20.2 The Authority recognises that the Framework Public Body may require that translations and transcriptions are completed in less than 10 calendar days. In these circumstances, the Contractor will deliver completed translations and transcriptions in the time specified by the Framework Public Body in the order.

20.3 The Authority recognises that Framework Public Bodies will have large scale requirements for translations and transcriptions that cannot be completed in 10 calendar days. In these circumstances the Contractor will propose a delivery date for the Framework Public Body to consider prior to confirming the order and will deliver completed translations and transcriptions in the time specified by the Framework Public Body in the order.

20.4 In circumstances where translations and transcriptions cannot be completed in 10 calendar days, the Framework Public Body has sole discretion to accept or refuse the proposed delivery date.

21. Quality

21.1 To protect the interest of the Framework Public Bodies and their customers, it is imperative that the quality of service provided is of the highest order. To this end the Contractor will demonstrate a strong commitment to quality and to improving quality of the services available to be delivered under this Framework Agreement throughout its duration.

21.2 The Contractor will provide details of their quality plan to Framework Public Bodies and this will set out the steps to be taken to ensure delivery of the required level of performance.

21.3 The Contractor shall have robust quality procedures and systems in place to ensure the successful delivery of the Services and shall:

- Prior to Commencement of Full Operations, devise and implement an approved Quality Assurance Plan covering the duration of the Framework(s)/Contract(s)
- Implement and measure quality control procedures to assure MI integrity
- Measure and report on Service Levels
- Identify opportunities to improve Service Levels, indicating clearly any associated costs and quantifying value where possible

21.4 Given the diverse range of Framework Public Bodies who will access this Framework Agreement, Contractors shall give appropriate consideration to any potential diversity and equality impacts and risks and be capable of demonstrating how they will address these in delivery of the services.

22. Qualifications & Experience

22.1 The Contractor will maintain sufficient numbers of interpreters, translators and transcribers who hold the qualifications specified at Section 8 above that are available to be used to deliver services required under this Framework Agreement.

22.2 The Contractor will ensure that interpreters, translators and transcribers are:

- a) Qualified in the languages they interpret, translate or transcribe, with a specialism in any specialist terminology, current idioms and dialects;
- b) Maintain and develop their command of English and the other language(s) they interpret, translate or transcribe;
- c) Have an understanding and experience of the particular subject on which they are working.

23. Contractor Staff

23.1 The Contractor will ensure all staff that are handling data, information or assets relating to this Framework Agreement hold, as a minimum, a valid Standard Disclosure certificate from Disclosure Scotland.

23.2 The Contractor will provide evidence that staff hold the requested disclosure certificate for the Authority or Framework Public Body to review on request.

23.3 The Contractor will allow the Authority or the Framework Public Body sight of staff valid original certificates prior to staff being allowed to handle data, information or assets relating to this Framework Agreement.

23.4 The Authority or any Framework Public Body will not be responsible for any costs associated with staff obtaining the relevant disclosure certificate.

23.5 The Contractor will ensure that staff handling data, information or assets relating to this Framework Agreement have agreed to abide by any terms stipulated by Framework Public Bodies.

24. Pricing

24.1 The Pricing Schedule sets out details of the pricing as at the Commencement Date.

24.2 The Prices contained within the Pricing Schedule are firm from commencement until the first anniversary of the Framework commencement date.

24.3 Accordingly, the Contractor may not unilaterally increase the prices in the Pricing Schedule. But nothing in this Framework Agreement prevents the Contractor from improving on the prices in the Pricing Schedule for the purposes of a Call-off Contract.

24.4 Pricing for the second, third and fourth years of the framework will be linked to the CPI index. Prices may be varied, up or down, on the anniversary of the Framework commencement date. Increases to prices will not exceed the average percentage movement of the CPI during the preceding 12 month period.

24.5 The Contractor will provide written request, including full justification, for any variation to prices not less than two months after the anniversary of the commencement date. Scottish Ministers will only accept any variation to prices where it is deemed the variation represents value for money.

25. Risk Management Plan and Processes

25.1 The Contractor shall continuously assess any risks against the Framework/Contract provision with the Authority and the Framework Public Body and shall share their risk management plan including Risk Register with the Authority and Framework Public Body. This may include, as a minimum, the following, with exact reporting requirements to be agreed with individual Framework Public Bodies:

- Identification of Risk
- Classification of Risk (likelihood, impact, risk category)
- Control of Risk through Prevention/Detection/Mitigation/Elimination
- Review and Reporting of Risk

26. Data Protection & Information Security

26.1 The data that the Contractor will handle under this Framework Agreement will be classed as Official or Official - Sensitive and should be treated with care, taking into account relevant legislation, at all times. Further information on Government Security Classifications and Framework Agreements can be found at:

<https://www.gov.uk/government/publications/government-security-classifications>

26.2 The Contractor will ensure the confidentiality of the data stored and/or communicated as part of this Framework Agreement, including both electronic and paper-based data.

26.3 The Contractor will employ effective administration and record control processes in order to underpin service delivery whilst also ensuring data is protected in compliance with the requirements of the Data Protection Act 2018.

<https://www.gov.uk/data-protection/the-data-protection-act>

26.4 The Contractor will ensure procedures and processes are in place to ensure security of client data, enabling them to work with Framework Public Bodies with high Information Technology (IT) security requirements to deliver services, ensuring continuity and protection against cyber-

attacks. This must include commercial grade full disk encryption for all data and secure email for data in transit.

26.5 Contractors as a minimum must have:

- Processes in place ensuring security of client data including processes for assessing future risks;
- Acceptable Destruction policies and processes for deleting data when translation is complete;
- Procedures in place for Disaster Recovery Testing, including the dates, duration and frequency;
- Methods for the back-up of delivering services should an incident occur including human resources/ workforce and access to equipment;
- Appropriate commercial licences for software in place;
- Methods in place to mitigate cyber-attack and crime using online technologies including processes relating to Boundary Firewalls and Internet Gateways, Secure Configuration, Access Control, Malware Protection and Patch Management

26.6 Information on the Scottish Government Cyber Resilience Strategy can be found by following this link:

[**A Cyber Resilience Strategy for Scotland**](#)

26.7 For further information please see the UK Governments Cyber Essentials Scheme and consider the information included within the scheme.

[**Cyber Essentials Scheme**](#)

26.8 Any interpreters, translators and transcribers used in relation to the Framework must comply with the clauses in this section. It is the responsibility of the Contractor to ensure that their interpreters, translators and transcribers meet their obligations under clause 14.2 to 14.10 of the entire Framework Agreement.

26.9 The subjects of the data that the Contractor will handle under this Framework Agreement will be subjects including, but not necessarily limited to, offenders, accused persons, vulnerable children and young people involved in the Children's Hearing System, patient health and medical information.

26.10 The Contractor will ensure access to protectively marked information is correctly managed and safeguarded.

26.11 The Data Protection Register is a register of data controllers held by the ICO and can be found at <https://ico.org.uk>

26.12 Some Framework Public Bodies are included under the Scottish Government entry in the Data Protection Register held by the ICO. Other Framework Public Bodies have their own entry in the Data Protection Register held by the ICO.

26.13 The Contractor will enter a Data Controller/Data Processor contract prior to handling any data from those Framework Public Bodies that are included under the Scottish Government entry in the Data Protection Register held by the ICO.

26.14 A template Data Controller/Data Processor Model Contract that the Contractor will enter with Framework Public Bodies that are part of the Information Commissioner's Office (ICO) Data Protection Register Entry is included at Schedule 5.9 of the Standard Terms of Supply.

26.15 Other Framework Public Bodies that are not included under the Scottish Government entry in the Data Protection Register held by the ICO may also choose to use the template Data Controller/Data Processor Model Contract, adapt the template for their own purposes or use a

different Data Controller/Data Processor contract specific to their organisation. In these circumstances, the Contractor will enter into the necessary Data Controller/Data Processor contract with that Framework Public.

26.16 The Framework Public Body will have sole discretion to determine the Data Controller/Data Processor contract that the Contractor will enter with that Framework Public Body in order to comply with the relevant legislation.

26.17 The Authority or Framework Public Body may conduct an audit and or a site visit of the Contractor's premises to allow validation and the environment used to store the data shared with them.

26.18 The Contractor and their staff and sub-contractors must comply with the security requirements notified by each framework public body which may include signature of a non-disclosure agreement or other measures as required.

27. Business Continuity Plans

27.1 The Contractor will maintain business continuity plans which will be implemented in the event of disruption of services.

28. Incident Reporting

28.1 As soon as the Contractor becomes aware, it shall immediately report any incident affecting the delivery of the Service(s) to the Framework Public Body. The Contractor will undertake an immediate investigation and will provide feedback in writing on findings, including corrective actions required and trends observed, to the Framework Public Body within 24 hours of the incident being reported by telephone/e-mail.

28.2 Serious incidents can be categorised as but not limited to:

- Any breach of security which may affect the security of data supplied by the Framework Public Body to the Contractor;
- Failure to deliver the required Services

28.3 This list is indicative only and the Framework Public Body may provide for further categories of serious incidents at the Call-Off level.

28.4 The Contractor shall, in the event of a serious incident, provide from within Contractor's senior management, a single point of contact person within 1 hour of notification.

28.5 It shall be the responsibility of the contact person to pursue the investigation and mitigation of the incident to the satisfaction of the Framework Public Body and shall be required to provide progress updates to the Framework Public Body on request.

28.6 In addition to the above notification requirements, the Contractor shall have in place an effective and efficient incident handling procedure for dealing with security breaches in the provision of Service(s) to the Framework Public Body and these should be agreed by the Framework Public Body and Contractor in advance. As a minimum it must include but not be limited to:

- Early identification of any loss of data;
- Early notification to Framework Public Body on any security breaches;
- Set procedures in place to conduct thorough premises searches;
- Ability to provide immediate feedback on investigations to Framework Public Body contacts that may be requested at any time from the notification;
- Internal escalation procedures in place to notify senior contract managers and security managers;

- Ability within workforce planning to provide on-site management and assistance to ascertain the causes of the security breach and implement any immediate remedial actions in mitigation;
- Final reporting writing procedures in agreement with the Framework Public Body;
- Full co-operation with any requests for written reports and information pertaining to security incidents that may be requested by the Information Commissioner

29. Management Information Requirements

29.1 The Contractor will be required to produce management information in relation to the overall performance of the Framework Agreement for the Authority, and an individual management information report for each Framework Public Body.

29.2 The Authority management information report will be required to be provided on a quarterly basis, 10 working days after the quarter end.

29.3 The Framework Agreement Management Information Report will include, as a minimum, the following details:

- a) Identity of Framework Public Bodies using this Framework Agreement;
- b) Spend under this Framework Agreement by each Framework Public Body on each of the services available under this Framework Agreement: interpreting, translation and transcription;
- c) Number of orders received from each Framework Public Body for each of the services available under this Framework Agreement broken down by language;
- d) Number of orders for interpreter assignments in languages for which Diploma in Public Service Interpreting is available that were completed using interpreters holding the Diploma;
- e) Numbers of orders for interpreter assignments fulfilled by an equivalent qualified interpreter;
- f) Number of interpreters provided from farther than 45 miles of the location that the assignment is required;
- g) Number of translation and transcription assignments fulfilled using translators or transcribers holding the Diploma in Translation
- h) Telephone interpreting call answer times, time taken to connect to interpreter and duration of dialogue with interpreters.
- i) Payment of sub-contractors within 30 days

29.4 The Contractor will adjust content, format and style for the quarterly reports as required and on request by Framework Public Bodies throughout the duration of this Framework Agreement.

29.5 All information should be provided electronically and will be available in an agreed format to enable the Authority and the Framework Public Bodies to manipulate the data as they require.

29.6 The Contractor will provide access to real time management information to both the Authority and the Framework Public Bodies along with the ability to analyse said information or in the event that this is not available the Contractor will provide requested management information within two working days. This is information required in addition to the standard quarterly information provided.

29.7 There will be no additional charges for any additional management information requirements requested.

29.8 Data and/or information to support the answering of freedom of information (FOI) questions, First Minister Questions (FMQs), Parliamentary Questions (PQs) and Ministerial Correspondence Submission (MACCS) will be provided within 1 working day to the Framework Public Body, as and when required.

29.9 The Contractor will be expected to hold and to be able to make readily available to the Authority and the Framework Public Body historical data covering the entire period of the Framework.

30. Account management

30.1 The Contractor is required to provide a dedicated Strategic Account Manager who will be the main point of contact for the Authority. The Strategic Account Manager will:

- Attend quarterly, or as otherwise agreed, review meetings with the Authority, in person at the Authority's premises or other locations as determined by the Authority
- Attend regular catch-up meetings with the Authority, in person or by telephone/videoconference
- Resolve any on-going operational issues which have not been resolved by the Contractor or Account Manager(s) and therefore require escalation
- Ensure that the costs involved in delivering the framework are as low as possible, whilst always meeting the required standards of service and quality

30.2 The Contractor is also required to provide a dedicated Account Manager for every Framework Public Body using the framework, if required by the Framework Public Body. The service to be provided will be agreed with each Framework Public Body and may include:

- Regular review meetings, which may be in person at the Framework Public Body's premises, by video-conference, webinar or telephone;
- Regular catch-up meetings/telephone calls to discuss current and on-going issues;
- Work with the Framework Public Body's Contract Manager to resolve any on-going operational issues;
- Work with the Framework Public Body's Contract Manager to pro-actively introduce initiatives to:
 - Create efficiencies in processes
 - Improve the environmental performance of the contract.

30.3 It is expected that end users will contact the Contractor in the first instance to resolve any operational issues. The Account Manager will act as a point of escalation to be contacted either by end users or by the Framework Public Body's contract manager should there be issues that the Contractor needs to resolve.

30.4 Further details of the roles and responsibilities of the Contractor, Authority and Framework Public Bodies are provided under the section 'Framework/Contract and Commercial Management'.

31. Framework/Contract & Commercial Management

31.1 Both the Framework Agreement and associated call-off contract activity are subject to Contract and Commercial Management which is carried out by the Authority, the Contractor and the Framework Public Body and is a requirement under both the Framework Agreement and call-off contracts. It consists of the mobilisation, management, transition and closure in relation to the Framework/Contract(s).

31.2 The roles and responsibilities of the Contractor, Framework Public Body and Authority to deliver Framework/Contract & Commercial Management are detailed below.

31.3 The Contractor's Roles & Responsibilities are as follows:

- Assisting with the development of the Framework/Contract management plan;

- Providing Account Manager(s) to manage the Framework/Contract with the Authority and individual Framework Public Bodies;
- The nominated Account Manager(s) shall communicate with the Framework Public Body and the Authority;
- Launching the Framework/Contract to the Framework Public Body with the Authority;
- Meeting, monitoring and reporting on the Framework Public Body spend under the Framework/Contract to the Authority on a quarterly basis, including providing individual and consolidated spend information to the Authority as required;
- Meeting, continually improving, monitoring and reporting on the Contractor performance under the Framework Agreement to the Authority on a quarterly basis. Contractor must provide individual Framework Public Body and consolidated Framework Public Body performance management information to the Authority;
- Working with each Framework Public Body to develop and agree specific requirements and format for tailored management information reports and further developing these reports where required;
- Maintain, prepare and submit additional management information reports to each Framework Public Body tailored to meet their needs, showing only information that is relevant to that particular Framework Public Body. The format of the required information shall be agreed between the Framework Public Body and the Contractor;
- Attending Framework/Contract management meetings as required with the Authority/Framework Public Body;
- Resolving issues and complaints in line with timescales as indicated under Performance Management below;
- Supporting and enabling the Authority and/or the Framework Public Body to carry out amendments/extensions/reviews/audits/spot checks of the Framework/Contract as required;
- Supporting and enabling the transition and closure of the Framework/Contract as appropriate e.g. TUPE information;
- Providing feedback and input in the form of lessons learned into the Authority to enable continuous improvement;
- Working with the Framework Public Body and Authority as required to provide accurate and timely information relevant to freedom of information requests, parliamentary questions, ministerial correspondence and other requests for information within one working day. Expenditure related requests should represent the actual expenditure paid to date for the period requested by the Framework Public Body;
- Ensuring a member of each Framework Public Body's' Account Team is available by telephone within 4 hours;
- Adhere to the Invoicing Requirements detailed within the Specification of Requirements;

- Undertake a billing run, on a monthly basis, or as agreed with individual Framework Public Body. The date of the month to be agreed with each Framework Public Body;
- Provide a Debtor Report when requested;
- Engage at a Senior level in Contractor Relationship Management activity led by the Authority;
- Support and enable the Authority and/or Framework Public Bodies to carry out reviews and spot checks on service, quality and performance under this Framework Agreement by providing, on request, information including but not necessarily limited to details of each of the interpreters, translators and transcribers
 - Level of qualifications
 - Level of experience in the specialism required
 - Languages spoken

31.4 The Framework Public Body Roles & Responsibilities are as follows:

- Assisting with the development of the Framework/Contract management plan;
- Providing a Contract Manager to support managing the Framework with the Authority and Contractor;
- Supporting/attending Framework/Contract launch events if required;
- Verifying spend under the Framework to the Authority on a quarterly basis;
- Monitoring and reporting on the Contractor performance under the Framework to the Authority on quarterly basis against the agreed performance management measures
- Working with the Contractor to develop and agree specific requirements and format for tailored management information reports;
- Request, receive and review additional management information reports and provide feedback for any additional information to be included or further development of format where required;
- Attending and contributing to User Intelligence Group (UIG) meetings run by the Authority;
- Attending and contributing to Framework/Contract management meetings;
- Resolving operational issues and complaints;
- Supporting the Authority in carrying out amendments reviews, audits and spot checks of the Framework/Contract as required;
- Contributing to Framework/Contract amendments/ for the Authority to take forward;
- Supporting and enabling the transition and closure of the Framework/Contract;
- Providing feedback to the Authority and Contractor on resolving issues, risks and complaints as well as engaging in lessons learned and continuous

improvement;

- Working with the Authority and Contractor as required to provide accurate and timely information relevant to freedom of information requests, parliamentary questions or ministerial correspondence;
- Working with the Contractor to agree specific requirements for Finance processes and day to day operational requirements;
- Support Contractor Relationship Management activity between the Contracting Authority and the Contractor if required.

31.5 The Authority's Roles & responsibilities are as follows:

- Preparing the Framework/Contract management plan;
- Preparing the Framework/Contract points of contact;
- Preparing and communicating Framework information to the Framework Public Body and the Contractor;
- Launching the Framework to the Framework Public Body with the Contractor;
- Facilitating the implementation of the Framework and ensuring implementation plans are followed;
- Receipting, reviewing, managing and reporting on the Framework Public Body spend under the Framework/Contract to senior management on a quarterly basis, including providing individual and consolidated spend information as required;
- Receipting, reviewing, managing, continuous development and reporting on the Contractor performance under the Framework/Contract to senior management on a quarterly basis;
- Chairing User Intelligence Group Meetings;
- Chairing Framework management meetings as required, facilitating the way forward for issues, risks and actions;
- Supporting the resolution of issues and complaints in line with timescales as indicated under Performance Management, below;
- Carrying out reviews/amendments/extensions/audits/spot checks of the Framework/Contract with input from Framework Public Bodies as required;
- Managing the transition and closure of the Framework;
- Collating lessons learnt from the Framework Public Body and Contractor and feeding this into future procurements to enable continuous improvement;
- Working with the Framework Public Body and Contractor as required to provide accurate and timely information relevant to freedom of information requests, parliamentary questions or ministerial correspondence;
- Lead Contractor Relationship Management activity between the Authority and the Contractor and keep Framework Public Bodies informed as required.

Framework & Commercial Management will be carried out by the Authority, the Contractor and the Framework Public Body. It consists of the mobilisation, management, transition and closure in relation to the Contract content.

32. Post Framework/Contract Expiry

32.1 The Contractor will continue to submit spend and performance information to the Contracting Authority until all open Orders under the Framework have expired.

32.2 When the Framework has expired, the Framework Public Body will manage the Call Off Contract until expiry of the contract.

33. Performance Management

33.1 For the purpose of Performance Monitoring of the Service, the Authority may apply a Balance Scorecard (BSC) mechanism.

33.2 The Balanced Scorecard mechanism allows for the overall performance of the Service to be monitored as opposed to the focus being placed on one particular area.

33.3 The Balanced Scorecard is a fair, open and transparent means of delivering the Authority's obligations to monitor and report on the performance of the Service.

33.4 As operated under the Balance Scorecard mechanism, Performance Management consists of the monitoring, managing and communicating of the performance of Framework which may include the following performance measures:-

Performance Category	Performance Measure			
Delivery	1	Confirm Assignment	Confirms assignment details to Framework Public Bodies within 24 hours of receipt of instruction, or as otherwise agreed.	98%
	2	Completed Translations & Transcriptions	Delivers completed translations and transcriptions no later than 10 calendar days from receipt of Framework Public Bodies confirmation of order	98%
	3	Supporting Information	Supporting information for Fols, FMQs, PQs and MACCS to be provided within 1 working day from request	98%
	4	Payment of Sub Contractors	Prompt payment of Sub-Contractors and/or consortia members (if applicable). Maximum of 30 days from receipt of payment from Framework Public Bodies, 10 days target	100% within 30 days
Quality	4	Management Information	Provides accurate quarterly information to the Authority within 10 working days after the end of the quarter end	99%
	5	Complaints/ Issues / Disputes	Provides feedback in writing on investigative findings, including corrective actions required and trends observed, to the Framework Public Body within 24 hours of the incident being reported by telephone/e-mail.	100%
	6	Serious Incidents	Provides Senior Management single point of contact person within one hour of notification of serious incident.	100%

33.5 The Authority shall notify the Contractor within 3 months of the Framework commencement date, the appropriate weightings to be used to measure the overall performance based on the Service Level Agreements (Key Performance Indicators).

33.6 The Contractor will apply the mechanisms of the Balanced Scorecard on a quarterly basis and a timetable shall be provided to the Authority within 3 months of the Framework commencement date.

33.7 The Authority will monitor the outcome of the Balanced Scorecard regime, consulting with Framework Public Bodies as they deem appropriate.

34. Complaints

34.1 The Contractor will record and ensure action is taken to resolve complaints and issues as well as take action to avoid future complaints and issues.

34.2 The Contractor will maintain written details of any complaints received and how they are handled and make these available to the specific Framework Public Body and Authority as requested. Where the Contractor becomes aware of an issue or pattern of events that would have

a negative effect on one or more of the Framework Public Bodies, they should immediately notify the Authority to discuss corrective action.

34.3 Where a complaint is made directly to the Authority in relation to the Framework, the Authority will pass this information to the Contractor and Framework Public Body and if deemed necessary assist them in the complaint investigation.

34.4 Where a complaint is made or issue is raised directly to the Framework Public Body in relation to Framework Public Body Contract Management, the Framework Public Body will adhere to their own complaints policy and procedure.

34.5 The Authority Contract Manager may make recommendations to the Framework Public Body and instruct the Contractor to remedy identified problems. Such recommendations / instructions will be discussed with the Contractor and Framework Public Body and a timescale for remedy agreed. Should the recommendation impact on service delivery a Framework amendment may be required.

35. Continuous Improvement

35.1 The Contractor will deliver continuous improvement in the services provided under this contract, throughout the full duration of the Framework Agreement.

35.2 The Contractor shall identify areas open to improvement, report and regularly update the Framework Public Bodies on all areas.

35.3 The Contractor will positively promote and market the Framework Agreement to all relevant Public Bodies.

35.4 The Authority recognises continuous improvement as on-going quantitative improvements delivered for:

- Reduction in whole life costs to the Authority and Framework Public Bodies;
- Service quality enhancements including:
 - Reliability
 - Delivery method
 - Quality assurance
 - User satisfaction
- Reviewing current processes and practices to ensure value for money and efficiencies are realised;
- Assisting in change management where appropriate.

35.5 Continuous improvement will be monitored by the Authority as part of the process for framework management and review.

35.6 The Contractor will develop and implement a Continuous Professional Development Plan in order to ensure continued development and improvement in the quality and experience of their interpreters.

36. Fair Work First

36.1 The Public Sector in Scotland is committed to the delivery of high quality public services, and recognises that this is critically dependent on a workforce that is well-rewarded, well-motivated, well-led, has access to appropriate opportunities for training and workforce development, is diverse and inclusive, and can influence decision making.

36.2 These factors are also important for workforce recruitment and retention, and thus continuity of service. Public Bodies in Scotland are adopting fair work practices, which include:

- appropriate channels for effective voice, such as trade union recognition;
- investment in workforce development;
- no inappropriate use of zero hours contracts;
- action to tackle the gender pay gap and create a more diverse and inclusive workplace; and,
- providing fair pay for workers (for example, payment of the real Living Wage).

36.3 In order to ensure the highest standards of service quality in this contract we expect suppliers to commit to progressing towards adopting the five Fair Work First criteria in the delivery of this contract as part of a fair and equitable employment and reward package

37. Sustainability/Environmental

37.1 The Framework Agreement supports the Scottish Government's National Performance Framework, and the National Outcomes which articulate the Government's Purpose - We aim to:

- create a more successful country;
- give opportunities to all people living in Scotland;
- increase the wellbeing of people living in Scotland;
- create sustainable and inclusive growth;
- reduce inequalities and give equal importance to economic, environmental and social progress.

37.2 This Framework supports the following National Outcomes, and Contractors are expected to support the Authority's aim to achieve these. That people:

- grow up loved, safe and respected so that they realise their full potential;
- live in communities that are inclusive, empowered, resilient and safe;
- are creative and their vibrant and diverse cultures are expressed and enjoyed widely;
- have a globally competitive, entrepreneurial, inclusive and sustainable economy
- are well educated, skilled and able to contribute to society;
- value, enjoy, protect and enhance their environment;
- have thriving and innovative businesses, with quality jobs and fair work for everyone;
- are healthy and active;
- respect, protect and fulfil human rights and live free from discrimination;
- are open, connected and make a positive contribution internationally;
- tackle poverty by sharing opportunities, wealth and power more equally.

<http://www.gov.scot/About/Performance/scotPerforms/outcome>

37.3 The Contractor will be required, where practical, to:

- minimise the environmental impacts in the delivery of the services;
- contribute to a more circular economy;
- provide relevant opportunities for community benefits;
- provide opportunities for the involvement of SMEs and/or third sector organisations in delivery of this framework;
- provide assurance regarding workforce matters.

37.4 The Authority considers the delivery of this service supports the Scottish Government's overall Sustainable Procurement Policy. This may include schemes such as:

- Electronic invoicing;

- Video conferencing for meetings;
- Green travel policies;
- Promoting careers in the interpreting and translation industry;
- Providing training opportunities and support to achieve qualifications;
- Supporting local communities e.g. sponsorship of local clubs etc.;
- Using social enterprises to support delivery of services.

Further details on Scottish Government's Sustainable Procurement Policy are available at:

[Procurement Reform \(Scotland\) Act 2014: Statutory Guidance](#)

and

[Sustainable Procurement/Procurement Journey](#)

37.5 In order to ensure the highest standards of sustainability in this Framework Agreement, we expect the Contractor to take a similarly positive approach to sustainability-related matters.

38. Added Value

38.1 The Contractor shall work with the Framework Public Bodies to implement a strategic approach to the management of costs within their own organisation.

38.2 The Contractor shall identify areas open to improvement, report and regularly update the Framework Public Bodies on all areas.

39. eCommerce

39.1 The effective use of technology is at the heart of procurement reform and Scottish Procurement is leading a number of core initiatives to ensure that public procurement delivers value for money and contributes to the Scottish economy.

39.2 The Scottish Government's eCommerce Shared Service brings together all the steps involved in doing business with the public sector in Scotland. It is a collaborative electronic environment, that promotes improved capability across public procurement in Scotland. As well as enabling business to be conducted more simply, consistently and effectively, it plays a key strategic role in delivering and sustaining procurement benefits and best practices. The use of technology presents greater opportunities for procurement managers to influence business by streamlining and standardising procurement process, delivering more effective contracts, monitoring procurement activity and collaborating more effectively.

39.3 The eCommerce Shared Service delivers Purchase-to-Pay (P2P) capability through the following systems:

- PECOS P2P system provides a consistent interface to suppliers through standard order, receipt and invoice functionality. It enables business workflows and audited approval processes to be implemented to ensure compliance to procurement and finance guidelines.
- Catalogue Content Management (CCM) hub hosts electronic catalogues for contracts at national, sectoral and local level. It increases compliance to contracts, drives out appropriate contract management information and embeds standard procedures and processes. The hub allows suppliers and procurement teams to easily manage the upload, validation, approval and publication of electronic catalogues for use by public sector bodies. The hub also enables the distribution of catalogues in a variety of formats, e.g PECOS, Civica and Parabilis to allow the upload of catalogues into different P2P systems. CCM is currently being used by the procurement Centres of Expertise and a number of individual Contracting Authorities.

- eInvoicing is an electronic service that facilitates the exchange of information between buyers and suppliers. It allows invoices and related documents to be issued, received and reconciled electronically through a secure channel.

Each of the systems are available to all Scottish Public Sector Authorities.

39.4 PECOS P2P has been deployed to approximately 92 Scottish public sector Contracting Authorities including local authorities, central government, NHS, universities and colleges.

39.5 PECOS P2P and CCM provide a number of key benefits to Contractors:

- standard and consistent interfaces to the public sector in the presentation of catalogues, the receipt of purchase orders and payment mechanisms (including eInvoicing and Purchase Cards);
- where P-Cards are utilised, suppliers can receive payment in as little as 3 days from when the goods are dispatched from warehouse; • where catalogues are used, the supplier only needs to amend content once and it then flows to all Contract Authorities using that catalogue;
- receipt of accurate and standard purchase orders which should reduce the number of invoice mismatches; and
- development of eCommerce capabilities to support further business opportunities.

39.6 Supplier eEnablement is the process of enabling suppliers to conduct business electronically through the eCommerce Shared Service. A clear and consistent approach is used by the Service in the e-enablement of suppliers to remove duplication of effort and mixed messages.

39.7 There are a number of different options available to suppliers in the provision of content, transmission of orders and payment of goods/services.

39.8 Content Options:

- eCatalogue - simple to create, using a standard excel template to detail products, pricing, UNSPSC (commodity) coding, images etc.;
- Punch-Out - where a transactional website has already been developed by the supplier, PECOS P2P shall connect to this website allowing users to create a shopping basket and bring back the details to complete the requisition within PECOS P2P;
- Non-Catalogue - allows requisitioners to enter free-text requisitions where none of the above content options are available.

39.9 Purchase Order Transmission Options:

- Post – a paper purchase order is produced by PECOS P2P and posted to the supplier.
- Fax - PECOS P2P creates an electronic fax purchase order that is sent automatically to the supplier.
- E-mail - PECOS P2P produces an PDF purchase order that is automatically sent to the supplier's e-mail in-box.

- cXML - PECOS P2P sends a cXML file directly to the supplier's back office system (please note that there is a one-off charge for this method but allows multiple Contracting Authorities to use the connection).

Preferred option of transmission should be aligned with supplier capability and which option will be most efficient to support business needs.

39.10 Payment Options:

- Paper Invoice - Supplier submits a paper invoice to the organisation as standard for each purchase order received.
- Embedded Purchase Card - This payment option allows the supplier to charge the cost of the goods/services provided to a VISA/MasterCard electronic Purchasing Card (ePC) belonging to a Contracting Authority . The supplier shall receive payment from VISA/MasterCard therefore negating the need to provide an invoice to the Contracting Authority.
- Consolidated Electronic Invoice - Supplier submits a single invoice covering multiple purchase orders in an electronic file.
- Self-Billing - Once the Goods Received Note (GRN) has been entered on PECOS P2P, a payment instruction is automatically sent to the Contracting Authority's finance system to make payment to the supplier for the goods/services received.
- Electronic Invoices - Supplier submits an electronic invoice either directly to PECOS P2P/relevant system(cXML) and/or via the SG eInvoicing Solution, which can go again direct to PECOS P2P or a Contracting Authority's finance system.

39.11 The Contractor when providing catalogue data or punch-out solution is required to maintain price and product data in accordance with that agreed in the Framework, including any updates.

39.12 The Contractor is required to work with the Authority and the Framework Public Bodies in the promotion of process efficiencies.

39.13 However due to the nature of this collaborative procurement, the Framework Public Bodies are at different stages of automation. Accordingly, the Contractor should still be able to provide 'traditional' forms of communication, such as, order via telephone and facsimile, paper timesheets and invoices.

39.14 Scottish Ministers (through the eCommerce Shared Service) have introduced and are aspiring to reach a level of 100% e-invoicing. The Contractor shall be required to work with the Authority and Framework Public Bodies in implementation and roll-out of e-invoicing during the lifetime of the Framework Agreement.

40. Framework Transition

40.1 The Contractor will develop and agree with the Authority a Termination & Closure Plan for this Framework Agreement not later than six months after the commencement of this Framework Agreement.

40.2 The Termination & Closure Plan will ensure smooth transition of work, documents and information to the Authority, or any subsequent third party nominated by the Authority at the Framework Agreement expiry date, date of termination or during the mobilisation of any future Contract or Framework Agreement for same or similar services.

40.3 The exit strategy will provide details of all procedures and activities necessary for a seamless transition of responsibility from the Contractor and from this Framework Agreement.

40.4 The exit strategy shall include a full review of the status of the Contract and shall provide practical guidance and steps to be taken by both the Authority and the Contractor to ensure that costs and disruption to both the Authority and Framework Public Bodies are minimised.

40.5 The Contractor shall ensure that any material provided by, or paid for by the Authority, is returned within 14 calendar days of the Framework Agreement expiry date or date of termination.

40.6 The Contractor and the Authority shall act in accordance with the exit strategy in the event of expiry, or early termination of this Framework Agreement.

40.7 The Authority's role is transferred to any Framework Public Body that places an order prior to the Framework Agreement expiry date or date of termination for services to be delivered under this Framework Agreement at a date after the Framework Agreement expiry date or date of termination at the Framework Agreement expiry date or date of termination.

40.8 The Contractor will continue to submit spend and performance information to the Authority until all orders for services to be delivered under this Framework Agreement have been fulfilled.

Annex 1 to Schedule 1 – Languages

The Contractor will provide interpreting services for these languages as well as other languages not on this list.

Algerian	Latvian
Albanian	Lingala
Amharic	Lithuanian
Arabic	Malay
Armenian	Malayalam
Bajuni	Maltese
Belarusian	Mandarin
Bengali	Mandinka
Berber	Mirpuri
Bosnian	Mongolian
Bulgarian	Ndebele
Braille	Nepalese
Cantonese	Norwegian
Chichewa	Oromo
Czech	Polish
Danish	Portuguese
Dari	Punjabi
Dutch	Pushto
Edo	Roma
English –Easy read/audio/large print	Romanian
Estonian	Russian
Ewe	Scottish Gaelic
Farsi (Afghan)	Serb-Croatian
Farsi (Persian)	Seychelles-Creole
Filipino	Shona
French	Sinhalese
Fujian	Slovak
Fula	Somali
Ga	Spanish
Gaelic	Sudanese
Georgian	Swahili
German	Swedish
Greek	Sylheti (Bengali)
Gua	Tagalog
Gujarati	Tajik
Hakka	Tamil
Hebrew	Telugu
Hindi	Thai
Hungarian	Tigrinya
Igbo	Twi
Italian	Turkish
Japanese	Ukrainian
Kikuyu	Urdu
Kinyarwanda	Uzbek
Konkani	Vietnamese
Korean	Wolof
Krio	Yoruba
Kurdish (Sorani)	
Kurdish (Kurmanji)	
Kurdish (Badni)	

Annex 2 to Schedule 1 – Examples of Qualifications, Experience and Possible Equivalents

Diploma in Public Service Interpreting:

- Full DPSI in Scottish Law (all papers).
- Full DPSI in Health or Local Government
- Standard Level Requirements should also be met

Equivalents to Diploma in Public Service Interpreting:

The following qualifications could be considered equivalents, dependant on the relevant sector:

- IOL Certificate in Community Interpreting
- Metropolitan Police Test
- Diploma in Police Interpreting (DPI)
- Interpreting Degree (BA/MSc/MA)
- Other Degree with Interpreting Component
- Letter of Credit/Partial DPSI in Scottish Law (passes in at least Units 1, 2 & 3 required)
- Language Degree
- Scottish Law Degree

Interpreters will also have to have experience of working in the sector they are being assigned to. For example, in the criminal justice sector, experience of interpreting in courts will be required.

In addition to the examples of equivalent qualifications above, the following key points should also be considered:

- Standard Level Requirements must also be met
- Evidence of a qualification that meets the requirements of the National Occupational Standards for Interpreting
- Evidence of other relevant qualifications
- Track record of relevant Experience

Standard Level Interpreting Requirements:

- English Language competence evidenced
- Foreign Language competence evidenced
- Completion of mandatory sector interpreter training and induction process (where applicable)
- Demonstrable successful public sector interpreting experience gained

* The above equivalent qualifications and relevant experience are examples only. The Framework Public Body has the final decision on whether they consider the interpreter's qualifications and experience are suitable for the assignment.

Annex 3 to Schedule 1 – Code of Conduct for Interpreters, Translators and Transcribers working in the Scottish Criminal Justice System

This Code of Conduct sets out the standards which are expected of you when accepting assignments from one of the criminal justice partners or signatories to this code of conduct.

(1) Competence – You are expected to:

- have a written and spoken command of both languages, including any specialist terminology, current idioms and dialect
- be familiar with any cultural backgrounds relevant to the assignment
- understand police station and court procedures for those organisations where it is required.

(2) Procedure – you will:

- convey the exact meaning of what has been said without adding, omitting or changing anything; making explanation only where a cultural misunderstanding may be occurring, or where there is no direct equivalent for a particular term. Only in exceptional circumstances should a summary be given (and only if consent is given by all parties) provided the meaning of what is being summarised is not distorted
- declare any difficulties you have with dialect or technical terms and if these cannot be satisfactorily remedied, withdraw from the assignment
- not give advice, legal or otherwise, to an accused person or witness in the case, nor enter into discussion with them (other than to confirm language/dialect match)
- not delegate work, nor accept delegated work (or work for another party in the proceedings) without the prior consent of the party engaging you/the other interpreter's services or in court proceedings without leave of the court.
- be reliable and punctual at all times
- declare immediately any previous involvement in the assignment and any involvement or relationship with the accused or any witness in the case
- Interrupt the proceedings only:
 - To ask for clarification;
 - To point out that a party may not have understood something;
 - To alert the parties to a missed cultural reference;
 - To advise the court (or police officers) that there is no equivalent terms in the language concerned, to the term being used;
 - To advise the court (or police officers) that you require a break, due to the potential lapses in concentration to occur during lengthy periods of simultaneous or consecutive interpreting.

(3) Ethical and Professional Issues – you will:

- respect confidentiality at all times and not seek to take advantage of any information disclosed during your work
- act in an impartial and professional manner
- not discriminate between parties (to their advantage or disadvantage) either directly or indirectly on the grounds of race, colour, ethnic origin, age, nationality, religion or belief, gender, sexual orientation or disability

- disclose any information, including any criminal record, which may make you unsuitable for any particular assignment
- disclose immediately if the person for whom you are interpreting, or their immediate family is known or related to you
- declare any business, financial, family or other interests which you might have in the matter being handled
- not accept any form of reward (whether in cash or otherwise) for interpreting work, other than payment by the party engaging your services.

(4) Confidentiality –

Any information you obtain in the course of your assignment is confidential and is not to be given by you to anyone other than the party who instructed you, whether during the assignment or after it has finished, unless you are given written permission to do so.

You must also comply with the Data Protection Act 2018, particularly Part 3, Section 40 – the sixth data protection principle – Information Security – you must have appropriate security to prevent personal data that you hold being accidentally or deliberately compromised and be ready to respond to any breach of security swiftly and effectively.

You will not use any information you obtain in the course of your assignment for any purpose other than as authorised by the party instructing you. The right to all such information rests with the party instructing you and permission to access and use this information can only be given by that party. If you feel that you may require to disclose information obtained in the assignment due to a need for additional support or guidance, you should write to the party who instructed you for permission to disclose such information.

You must keep safe any documents provided to you in the course of an assignment; you must make sure they are not copied, in whole or in part, and you must return them to the party who instructed you at the end of the assignment.

(5) Insurance

You are advised to have your own professional indemnity insurance cover as the instructing party will not be responsible for any claims made against it, or against you on the grounds (for example) of incompetent interpreting or unprofessional conduct.

This and the following 4 pages comprise Schedule 2 to the Framework Agreement between the Scottish Ministers and DA Languages Ltd

SCHEDULE 2 - PRICING SCHEDULE

Face to Face Interpreting Services - DPSI & Equivalent Rate/Hour	
	£ excl. VAT
In Office Hours (8am – 6pm) - Pre Booked - Price per Hour	
Weekday Evening (6-12pm) - Price per Hour	
Weekday Night (12pm-8am) – Price per hour	
Weekend/Holidays (12pm Friday – 8am Monday) – Price per hour	
Cancellation Fee* - single/one off Price (less than 24 hours' notice)	
Face to Face Interpreting Services - Standard Interpreter Rate/Hour	
	£ excl. VAT
In Office Hours (8am – 6pm) - Pre Booked - Price per Hour	
Weekday Evening (6-12pm) – Price per Hour	
Weekday Night (12pm-8am) – Price per Hour	
Weekend/Holidays (12pm Friday – 8am Monday) – Price per Hour	
Cancellation Fee* - single/one off Price (less than 24 hours' notice)	
Remote Video Interpreting/Minute	
	£ excl VAT
Price per Minute using Framework Public Body Systems	
Price per Minute using Supplier Systems	
Telephone Interpreting Services/Minute	
	£ excl VAT
Price Per Minute Pre Booked	
Price Per Minute On Demand	
Translation Services/Word	
	£ excl VAT
Price Per Word Primary Translations (against the submitted document word count)	
Price Per Word Secondary Proof Reading	
Transcription/Hour	
	£excl VAT
Price Per Hour	

Pricing and Price Variations

1. The Prices contained within the Pricing Schedule are firm from commencement until the first anniversary of the Framework commencement date.
2. Accordingly, the Contractor may not unilaterally increase the prices in the Pricing Schedule. But nothing in this Framework Agreement prevents the Contractor from improving on the prices in the Pricing Schedule for the purposes of a Call-off Contract.
3. Pricing for the second, third and fourth years of the framework will be linked to the CPI index. Prices may be varied, up or down, on the anniversary of the Framework commencement date. Increases to prices will not exceed the average percentage movement of the CPI during the preceding 12 month period.
4. The Contractor will provide written request, including full justification, for any variation to prices not less than two months after the anniversary of the commencement date. Scottish Ministers will only accept any variation to prices where it is deemed the variation represents value for money.

Face to Face Interpreting

5. Prices are fixed hourly rates for delivery of interpreting services in accordance with the minimum standards specified in the Statement of Requirements
6. Hourly rates are inclusive of all costs associated with delivery of interpreting services in accordance with the minimum standards specified in the Statement of Requirements at Schedule including, but not necessarily limited to, all management fees, all travel and other normal out of pocket expenses
7. A minimum fee of 2 hours x the agreed fixed hourly rate will be payable to the Interpreter where the duration of an attendance at a face to face interpreting assignment lasts less than 2 hours.
8. Hourly rates are fixed i.e. not subject to variation for the complete duration of the first year of the framework, and exclusive of VAT
9. A one off cancellation fee will apply in circumstances where the Framework Public Body cancels an order with less than 24 hours' notice

Remote Video Interpreting

10. Prices are fixed rates for delivery of remote video interpreting for delivery of interpreting services in accordance with the minimum standards specified in the Statement of Requirements at Schedule 1.
11. The Framework Public Body shall only pay from the time connected to the Interpreter and shall be charged by the minute. There will be no minimum call duration charges.
12. Rates are inclusive of all costs associated with delivery of interpreting services in accordance with the minimum standards specified in the Statement of Requirements at Schedule 1 including, but not necessarily limited to all management fees.
13. Rates are fixed i.e. not subject to variation for the complete duration of the first year of the Framework, and exclusive of VAT.

Telephone Interpreting

14. Prices are fixed rates for delivery of telephone interpreting services in accordance with the minimum standards specified in the Statement of Requirements at Schedule 1.
15. The Framework Public Body shall only pay from the time connected to the Interpreter and shall be charged by the minute. There will be no minimum call duration charges.
16. Rates are fixed i.e. not subject to variation for the complete duration of the first year of the Framework, and exclusive of VAT.

Translation

17. Prices are fixed for delivery of translation services in accordance with the minimum standards specified in the Statement of Requirements at Schedule 1..
18. Prices are inclusive of all costs associated with delivery of translation services in accordance with the minimum standards specified in the Statement of Requirements at Schedule 1 including, but not necessarily limited to, all management fees, all travel and other normal out of pocket expenses
19. Prices are for translation into and out of English
20. Prices will be applied on a pro rata basis against the submitted document word count e.g. the price for a completed translation from a submitted document with 750 words will be:
Rate per submitted word x 750
21. Prices are fixed i.e. not subject to variation for the complete duration of the first year of the Framework, and exclusive of VAT

Transcription

22. Prices are fixed for delivery of transcription services in accordance with the minimum standards specified in the Statement of Requirements at Schedule 1.
23. Prices are inclusive of all costs associated with delivery of transcription services in accordance with the minimum standards specified in the Statement of Requirements at Schedule 1 including, but not necessarily limited to, all management fees, all travel and other normal out of pocket expenses
24. Prices are for transcription into and out of English
25. Prices will be applied on a pro rata basis against the length of the media to be transcribed e.g. the price for transcription of a CD comprising 1.5 hours of audio will be: Rate per hour x 1.5
26. Prices are fixed i.e. not subject to variation for the complete duration of the first year of the Framework, and exclusive of VAT

Travel & Subsistence Arrangements for Interpreters

27. The Contractor will provide a face-to-face interpreter from within 45 miles of the location that the assignment is required. Where ever possible local interpreters will be provided.

28. The Authority recognises that in exceptional circumstances an interpreter may be sourced from more than 45 miles of the location of the assignment. In these circumstances the Contractor will provide justification why that is the case for the Framework Public Body to review prior to confirming the order.
29. In circumstances where the Contractor can only provide an interpreter from more than 45 miles of the location of the assignment the Framework Public Body has sole discretion to accept or refuse services from the interpreter proposed.
30. Where the Framework Public Body accepts such an interpreter, the Framework Public Body will pay travel and subsistence costs.
31. Once it has been established and agreed that the journey is unavoidable, and prior to the journey being undertaken, the Framework Public Body must be content that that the most effective method of travel is selected from the following:
 - public transport (including bus, rail, air and ferry)
 - official allocated car if available
 - hired car
 - taxi hire
 - privately owned motor vehicle

The aim is to use the most efficient, economic and environmentally sound means of travel, whilst minimising chargeable time. The Contractor must consider the range of fare options available. This should include special fare promotions, day returns, saver and season tickets and any other fares offers where their use does not impair the efficiency of the journey being undertaken. Low carbon transport is favoured.

32. The Framework Public Body must satisfy themselves that journey and means of travel are fair and reasonable before the journey is undertaken. If the journey is undertaken without prior approval from the Framework Public Body, or the means of travel used are different from what is agreed then travel and subsistence is unlikely to be paid.

Travel expenses

33. Travel and subsistence rates payable for journeys that meet the criteria below reflect the rates payable to public servants. Our expectation is that interpreters should receive the maximum of these rates where possible. This will be agreed in advance with the Framework Public Body.
34. Travel by public transport is encouraged and will be paid at cost and on presentation of properly receipted invoices only.
35. Only rail travel by Standard class will be paid, only air travel by Economy class will be paid.
36. Where travel by car is unavoidable, motor mileage rates will be paid consistent with the following rates:

Mileage Type	Rate
Motor Mileage Rate	£0.45 per mile
Passenger Supplement	£0.05 per passenger
Equipment Supplement	£0.02 per mile

37. Mileage will be paid for the total distance of the journey less the 45 miles each way (90 miles return).

38. Travel by air will be restricted to exceptional circumstances and must be agreed in advance with the Framework Public Body
39. Travel Time will only be paid in the following circumstances and must be agreed in advance with the Framework Public Body:
 - Where the Contractor is required to source an interpreter from outwith the 45 miles each way maximum distance **and** travel to and from that assignment exceeds 90 minutes each way
 - Where an overnight stay is required to fulfil an assignment (travel time will be paid on the day of travel)
40. In both circumstances detailed at clause 39 above, travel time will be paid at 50% of the applicable hourly rate for the assignment and will be limited to the actual time spent travelling.
41. For the purposes of travel time, the point of origin for the journey will be the closest to the place of the assignment from either;
 - the place of business of the Contractor
 - the home of the interpreter

Subsistence

42. 24 hour subsistence will only be paid where all three of the following circumstances apply and must be agreed in advance with the Framework Public Body:
 - Where an interpreter incurs costs for overnight accommodation
 - Where the Contractor is required to source an interpreter from outwith the 45 miles each way maximum distance; and
 - Where travel to and from that assignment exceeds 90 minutes each way
43. 24 hour subsistence comprises the receipted cost of bed, breakfast and dinner up to a capped limit. The current capped limit is:
 - £75.00 for Bed and breakfast
 - £23.50 for dinner
44. Expenditure incurred on alcoholic drinks will not be reimbursed.
45. Claims for 24 hour subsistence must be supported by an original itemised receipt attached to the invoice. Claims that are not supported by an itemised original receipt attached to the invoice will not be reimbursed unless a satisfactory explanation is provided to the Framework Public Body in writing.
46. The Authority recognises that in exceptional circumstances an interpreter may be unable to secure bed and breakfast costs within the capped limits. The interpreter involved must have made reasonable efforts to find suitable accommodation at the business venue within the capped limits. This includes having attempted to secure accommodation using the services of the Framework Public Bodies travel booking agent. In each instance where subsistence is likely to be incurred over the capped limits then prior approval of the Framework Public Body must be requested and obtained in advance. In these circumstances the Contractor will provide justification why that is the case for the Framework Public Body to review prior to confirming the order. In such circumstances the Framework Public Body has sole discretion to accept or refuse services from the interpreter proposed.

This and the following 5 pages comprise Schedule 3 to the Framework Agreement between the Scottish Ministers and DA Languages Ltd

SCHEDULE 3 – AWARD PROCEDURES

CALL-OFF CONTRACT AWARD OPTIONS

1. Call-off Contracts may be awarded under this Framework in one of two ways:

- by the Direct Award ranked option for a single or one off requirement;

OR

- by the Mini-Competition option, inviting all Framework Contractors, to place a Duration Call-Off Contract for all requirements during a stated contract period, except to the extent that the successful supplier is unable to meet a specific requirement.

2. All Call-Off Contracts must be awarded prior to the expiry of the Framework, however a Call-Off Contract may run beyond the expiry of the Framework Agreement.

DIRECT AWARD RANKED OPTION

3. The Framework Public Body may choose the Direct Award option and go to the first ranked Framework Contractor in the first instance, subject to the following:

- Stated requirement for a Call-Off Contract for a single or one off requirement/order;
- Service Requirements as stated by the Framework Public Body;
- On the basis of the Standard Terms of Supply (Schedule 5);
- On the basis of the prices detailed in Schedule 2 of the Entire Agreement.

Direct Award for an Individual Call-Off Contract for a single requirement/order

4. The Direct Award option for a single requirement/order may be used by Framework Public Bodies who have a single or one off type requirement for interpreting, translation and transcription services.

5. In these instances, the Framework Public Body must approach the first ranked Contractor with details of their Service Requirements (e.g. qualifications & experience, disclosure, location, availability and turnaround). Maximum Framework pricing detailed at Schedule 2 will apply to the Direct Award option. Prices cannot be discounted when using this option.

6. In the event that the Contractor ranked first is unable to supply for the single requirement/order, in terms of meeting the criteria as detailed by the Framework Public Body, the Framework Public Body may then offer the requirement to the Contractor ranked number two. Should the second ranked Contractor be unable to fulfil the requirement, the Framework Public Body may then offer the requirement to the Contractor ranked number three.

7. The Standard Terms of Supply detailed at Schedule 5 will automatically apply to any Direct Award Call-Off Contract. Framework Public Bodies should complete a Schedule 5.9 informing the supplier of any data protection requirements.

8. An example template order form for a Direct Award Call-Off is attached in Annex A of this Schedule 3.

MINI COMPETITION OPTION – Duration Call-Off Contract

9. Where the Framework Public Body's requirements are not met in full by the terms set out in the Framework Agreement, or the Framework Public Body wishes to amend or better the terms, the Framework Public Body may choose to undertake a Mini-Competition inviting all Contractors on the Framework to bid for the work for a set period of time, making an award to the highest scoring bidder, based on stated criteria and subject to the following:

- Requirement for a Duration Call-Off Contract for all requirements during a stated contract period except to the extent that the successful supplier is unable to meet a specific requirement;
- Service Requirements as detailed by the Framework Public Body;
- Standard Terms of Supply (Schedule 5) – to be completed.

10. The Contractor may not unilaterally increase the pricing in the Framework Pricing Schedule, but nothing in the Framework Agreement prevents the Contractor from improving on the pricing in the Framework Pricing Schedule for the purposes of a Duration Call-off Contract awarded via a Mini-Competition.

11. The provisions detailed at Schedule 2 (Pricing) of the Entire Agreement in relation to travel and subsistence should not be changed for the purposes of a Duration Call-Off Contract.

Framework Public Body's Obligations when utilising the Mini-Competition Option

12. Framework Public Bodies shall:

- Invite proposals, from all Contractors appointed to the Framework, when utilising the Mini-Competition option, to meet its Service Requirements in accordance with the conditions herein,

And;

- Set weightings for the Award Criteria in the Mini-Competition invitation, against the following:

Technical Criteria (X% weighting shall be set by Framework Public Bodies at Mini-Competition).

Commercial Criteria (X% weighting shall be set by Framework Public Bodies at Mini-Competition).

- Consult in writing with all the Contractors appointed to the Framework and invite them, within a specified time limit, to submit a Mini-Competition proposal in writing;
- A Framework Public Body should consider the introduction of additional terms, (for example, sustainable benefits, community benefits, specific data protection provisions not already covered by the Framework Agreement terms). Full details must be provided to Contractors in the invitation document;
- Set a time limit for the receipt of the Mini-Competition proposals which takes into account factors such as the complexity of the subject matter of the Service Requirements and the time needed to submit proposals;
- Keep each Mini-Competition proposal confidential until the expiry of the time limit for the receipt of Mini-Competition proposals;
- Apply the Award Criteria and weightings to the compliant proposals submitted through the Mini-Competition as the basis of its decision to award a Call-Off Contract for its Service Requirements.

Framework Contractors' Obligations in Mini-Competition Option

13. The Contractor will, in writing, by the time and date specified by the Framework Public Body, provide the Framework Public Body with either:

- a statement to the effect that it does not wish to submit a proposal in relation to the stated Service Requirements;

OR

- a proposal with full details and pricing in respect of the required Service Requirements.

14. The Contractor agrees that all Mini-Competition proposals submitted by the Contractor in relation to a Mini-Competition shall remain open for acceptance for thirty (30) days (or such other period specified in the Mini-Competition invitation issued by the Framework Public Body).

15. Notwithstanding the fact that the Framework Public Body has followed the procedure set out above, the Framework Public Body shall be entitled at all times to decline to make an award for its Service Requirements. Nothing in this Framework Agreement shall oblige any Framework Public Body to place any Call-Off Contract for Services.

Awarding a Duration Contract from a Mini-Competition

16. As a result of the Mini-Competition, the highest scoring compliant Contractor may be awarded the Duration Call-off Contract. In the event of a tie the Framework Public Body reserves the right to appoint the Contractor who obtains the highest technical/quality score (or such other criteria specified in the Mini-Competition invitation issued by the Framework Public Body).

17. On the basis set out above, the Framework Public Body may proceed by awarding a Duration Call-Off Contract to the successful Contractor in accordance with the following:

- Standard Terms of Supply (Schedule 5) – to be completed;
- Service Requirements (as stated by the Framework Public Body); and
- The charges payable for the Service Requirements in accordance with the proposal submitted by the successful Contractor, and in accordance with the Framework Agreement.

18. For a Duration Call-Off Contract, the Framework Public Body and the successful Contractor must complete and sign a Schedule 5 - Standard Terms of Supply, (incorporating the Service Requirements as stated by the Framework Public Body).

19. Future Service Requirements under the Duration Call-Off Contract will continue to be placed with the Contractor originally awarded the Duration Call-Off Contract (i.e. the highest scoring Contractor under the Mini Competition), subject to that Contractor's ability to continue to meet those requirements.

20. During the stated Duration Call-Off Contract period, in the event that the successful Contractor is unable to fulfil an individual requirement/order in terms of meeting the criteria as detailed by the Framework Public Body, the Framework Public Body may then revert to the Direct Award Ranked Option as detailed above for the individual requirement.

RESPONSIBILITY FOR AWARDS

21. The Framework Public Body and the Contractor acknowledge that each Framework Public Body is independently responsible for the conduct of its award of all/any Call-Off Contracts under the Framework Agreement and that the Authority is not responsible or accountable for and shall have no liability whatsoever in relation to:

- the conduct of the Framework Public Body in relation to the Framework Agreement;

OR

- the performance or non-performance of any Call-Off Contracts between the Contractor and the Framework Public Body entered into pursuant to the Framework Agreement.

EXAMPLE TEMPLATE FOR INFORMATION ONLY**CALL OFF ORDER FORM FOR DIRECT AWARD RANKED OPTION****PART A – FOR COMPLETION BY FRAMEWORK PUBLIC BODY**

Framework Public Body	
Contract Manager and address for Notices	Name: Address: Tel: Email:
Invoice Address (if different)	
Order Number	To be quoted on all correspondence relating to this Order Form:
Order Date	

REQUIREMENTS
Commencement Date:
Details of Interpreting, Translation & Transcription Services required, including minimum acceptable qualification requirements:
Invoicing frequency:
Disclosure/Security requirements:
Other security requirements (e.g. security standards, signed code of conduct/practice, induction process/training) (optional):
Milestones (optional):
Service Levels (optional – only complete if you require additional Service Levels):
Additional information for monthly reports (optional, if required):
Completion Date:
The Call-Off Contract shall be awarded in accordance with this Order Form. The Standard Terms and Conditions (Schedule 5) for Interpreting, Translation & Transcription Services, Reference SP-21-001 shall apply to this order.

For and on behalf of the Framework Public Body:

Name and Title	
Signature	
Date	

PART B – FOR COMPLETION BY CONTRACTOR

Contractor	
Contract Manager and address for Notices	Name: Address: Tel: Fax: Email:

Contractor's Response
Contractor's response to the Statement of Requirements: As per attached Contractor Response.
Confirm Commencement Date:
List Key Personnel:

The Contractor's Response is appended.

For and on behalf of the Contractor:

Name and Title	
Signature	
Date	

This and the following 4 pages comprise Schedule 4 to the Framework Agreement between the Scottish Ministers and DA Languages Ltd

SCHEDULE 4 – MANAGEMENT ARRANGEMENTS

41. Both the Framework Agreement and associated Call-off Contract activity are subject to Contract and Commercial Management which is carried out by the Authority, the Contractor and the Framework Public Body and is a requirement under both the Framework Agreement and Call-off Contracts. It consists of the mobilisation, management, transition and closure in relation to the Framework/Call-off Contract(s).

42. The level of Framework Public Body Contract Management may differ depending on the value of the Call-off Contract and level of risk involved.

43. The Authority shall be responsible for the Strategic Contract Management of the Framework Agreement and each Framework Public Body shall be responsible for their day to day contract management of Orders which form the Call-off Contract.

44. The roles and responsibilities of the Contractor, Framework Public Body and Authority to deliver Framework and Call-off Contract Management are detailed below.

44.1 The Contractor's Roles & Responsibilities are as follows:

- Assisting with the development of the Framework/Call-off Contract management plan;
- Providing Account Manager(s) to manage the Framework/Call-off Contract with the Authority and individual Framework Public Bodies;
- The nominated Account Manager(s) shall communicate with the Framework Public Body and the Authority;
- Launching the Framework/Call-off Contract to the Framework Public Body with the Authority;
- Monitoring and reporting on the Framework Public Body spend under the Framework/Call-off Contract to the Authority on a Quarterly basis, including providing individual and consolidated spend information to the Authority as required;
- Meeting, continually improving, monitoring and reporting on the Contractor performance under the Framework Agreement to the Authority on a bi-annual basis. Contractor must provide individual Framework Public Body and consolidated Framework Public Body performance management information to the Authority;
- Working with each Framework Public Body to develop and agree specific requirements and format for tailored management information reports and further developing these reports where required;
- Maintain, prepare and submit additional management information reports to each Framework Public Body tailored to meet their needs, showing only information that is relevant to that particular Framework Public Body. The format of the required information shall be agreed between the Framework Public Body and the Contractor;

- Attending Framework/Call-off Contract management meetings as required with the Authority/Framework Public Body;
- Resolving issues and complaints in line with timescales as indicated under Performance Management below;
- Supporting and enabling the Authority and/or the Framework Public Body to carry out amendments/extensions/reviews/audits/spot checks of the Framework/Call-off Contract as required;
- Supporting and enabling the transition and closure of the Framework/Call-off Contract as appropriate e.g. TUPE information;
- Providing feedback and input in the form of lessons learned into the Authority to enable continuous improvement;
- Working with the Framework Public Body and Authority as required to provide accurate and timely information relevant to freedom of information requests, parliamentary questions, ministerial correspondence and other requests for information within one working day. Expenditure related requests should represent the actual expenditure paid to date for the period requested by the Framework Public Body;
- Ensuring a member of each Contractor's Account Team is available by telephone to Framework Public Bodies by telephone within 4 hours;
- Adhere to the Invoicing Requirements detailed within the Statement of Requirements;
- Undertake a billing run, on a monthly basis, or as agreed with individual Framework Public Body. The date of the month to be agreed with each Framework Public Body,
- Provide a Debtor Report when requested;
- Engage at a Senior level in Contractor Relationship Management activity led by the Authority

44.2 ~~I~~Assisting with the development of the Framework/Call-off Contract management plan;

- ~~A~~Assisting with the development of the Framework/Call-off Contract management plan;
- ~~P~~roviding a Contract Manager to support managing the Framework with the Authority and Contractor;
- Supporting/attending Framework/Call-off Contract launch events if required;
- Verifying spend under the Framework to the Authority on a Quarterly basis;
- Monitoring and reporting on the Contractor performance under the Framework to the Authority on Quarterly basis against the agreed performance management measures via a balanced scorecard or survey type mechanism;

- Working with the Contractor to develop and agree specific requirements and format for tailored management information reports;
- Ensuring resources are available to assist the Contractor in reviewing mail processes and to assist in implementing approved changes;
- Request, receive and review additional management information reports and provide feedback for any additional information to be included or further development of format where required;
- Attending and contributing to User Intelligence Group (UIG) meetings run by the Authority;
- Attending and contributing to Framework/Call-off Contract management meetings;
- Resolving operational issues and complaints;
- Supporting the Authority in carrying out amendments, extensions, reviews, audits and spot checks of the Framework/Call-off Contract as required;
- Contributing to Framework/Call-off Contract amendments/extensions for the Authority to take forward;
- Supporting and enabling the transition and closure of the Framework/Call-off Contract;
- Providing feedback to the Authority and Contractor on resolving issues, risks and complaints as well as engaging in lessons learned and continuous improvement.
- Working with the Authority and Contractor as required to provide accurate and timely information relevant to freedom of information requests, parliamentary questions or ministerial correspondence;
- Working with the Contractor to agree specific requirements for Finance processes and day to day operational requirements.
- Support Contractor Relationship Management activity between the Contracting Authority and the Contractor if required.

44.3 **Assisting with the development of the Framework/Call-off Contract management plan;**

- **Preparing the Framework/Call-off Contract management plan;**
- Preparing the Framework/Call-off Contract points of contact;
- Preparing and communicating Framework information to the Framework Public Body and the Contractor;
- Launching the Framework to the Framework Public Body with the Contractor;
- Facilitating the implementation of the Framework and ensuring

implementation plans are followed;

- Receipting, reviewing, managing and reporting on the Framework Public Body spend under the Framework/Call-off Contract to senior management on a quarterly basis, including providing individual and consolidated spend information as required;
- Receipting, reviewing, managing (investigating score discrepancies), continuous development and reporting on the Contractor performance under the Framework/Call-off Contract to senior management on a bi-annually basis;
- Chairing User Intelligence Group Meetings
- Chairing Framework management meetings as required facilitating the way forward for issues, risks and actions;
- Supporting the resolution of issues and complaints in line with timescales as indicated under Performance Management, below;
- Carrying out reviews/amendments/extensions/audits/spot checks of the Framework/Call-off Contract with input from Framework Public Bodies as required;
- Managing the transition and closure of the Framework;
- Collating lessons learnt from the Framework Public Body and Contractor and feeding this into future procurements to enable continuous improvement;
- Working with the Framework Public Body and Contractor as required to provide accurate and timely information relevant to freedom of information requests, parliamentary questions or ministerial correspondence;
- Lead Contractor Relationship Management activity between the Authority and the Contractor and keep Framework Public Bodies informed as required.
- Framework & Commercial Management will be carried out by the Authority, the Contractor and Customer. It consists of the mobilisation, management, transition and closure in relation to the Contract content.

45. Post Framework/Contract Expiry

45.1 The Contractor will continue to submit spend and performance information to the Contracting Authority until all open Orders/Call-off Contracts under the Framework have expired.

45.2 When the Framework has expired the Framework Public Body will manage the Call-off Contract until expiry of the Call-off Contract.

46. Performance Management

46.1 For the purpose of Performance Monitoring of the Service, the Authority may apply a balance scorecard or user survey type mechanism.

46.2 The balanced scorecard or user survey mechanism allows for the overall performance

of the Service to be monitored as opposed to the focus being placed on one particular area.

46.3 The balanced scorecard or user survey is a fair, open and transparent means of delivering the Authority's obligations to monitor and report on the performance of the Service.

46.4 As operated under the balance scorecard or survey mechanism, Performance Management consists of the monitoring, managing and communicating of the performance of Framework which may include the following performance measures:

Performance Category	Performance Measure			
Delivery	1	Confirm Assignment	Confirms assignment details to Framework Public Bodies within 24 hours of receipt of instruction, or as otherwise agreed.	98%
	2	Completed Translations & Transcriptions	Delivers completed translations and transcriptions no later than 10 calendar days from receipt of Framework Public Bodies confirmation of order	98%
	3	Supporting Information	Supporting information for Fols, FMQs, PQs and MACCS to be provided within 1 working day from request	98%
	4	Management of sub-contractors (if applicable)	Prompt payment of Sub-Contractors and/or consortia members (if applicable). Maximum of 30 days from receipt of payment from Framework Public Bodies, 10 days target	100% within 30 days
Quality	4	Management Information	Provides accurate quarterly information to the Authority within 10 working days after the end of the quarter end	99%
	5	Complaints / Issues / Disputes	Provides feedback in writing on investigative findings, including corrective actions required and trends observed, to the Framework Public Body within 24 hours of the incident being reported by telephone/e-mail.	100%
	6	Serious Incidents	Provides Senior Management single point of contact person within one hour of notification of serious incident.	100%

- The Authority will monitor the outcome of the balanced scorecard or user survey process, consulting with Framework Public Bodies as they deem appropriate.

SCHEDULE 5

This and the following X pages comprise Schedule 5 to the Framework Agreement between the Purchaser and (enter contractor name)

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PREAMBLE:

ONE The Purchaser requires the provision of services;

TWO This Contract established standard terms of supply for the provision of services:

THREE The Contract also includes: [Note : Amend the list of bullet points as required](#)

- a Statement of Requirements setting out the Services that the Service Provider has undertaken to provide , including Service Levels setting out particular levels of service that the Service Provider has undertaken to meet;
- a Pricing Schedule setting out details of the pricing of the Services;
- details of Key Individuals involved in the provision of the Services;
- details of approved sub-contractors as at Contract award;
- details of the Service Provider's information which is deemed to be Service Provider Sensitive Information;
- Ordering Procedures prescribing the procedures for ordering particular Services; and
- Management Arrangements for the strategic management of the relationship between the Parties.

SUBSTANTIVE PROVISIONS:

SECTION A: INTRODUCTORY PROVISIONS

1. Definitions and Interpretation

1.1 In the Contract, unless the context otherwise requires, the following terms have the meanings given to them below:

“**Assignee**” has the meaning given in clause 32.2 (Assignment).

“**Baseline Personnel Security Standard**” means the pre-employment controls for all civil servants, members of the Armed Forces, temporary staff and government contractors generally.

“**Commencement Date**” has the meaning given in clause 4.1 (Period).

“**Contract**” means this Contract between the Parties consisting of clauses and (enter number of Schedules) Schedules.

“**Contracting Authority**” has the meaning given in regulation 2 of the Public Contracts (Scotland) Regulations 2015;

“**Control**” has the meaning given in section 450 of the Corporation Tax Act 2010.

“**Data Controller**”, “**Data Processor**”, “**Data Subject**” and “**Data Subject Access Request**” have the meanings given in the Data Protection Laws.

“**Data Protection Laws**” means any law, statute, subordinate legislation, regulation, order, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body which relates to the protection of individuals with regard to the processing of Personal Data to which a Party is subject including the Data Protection Act 2018 and any statutory modification or re-enactment thereof and the UK GDPR.

“**Default**” means any breach of the obligations of a Party (including material breach) or any negligent act, omission or statement of a Party in connection with or in relation to the Contract.

“**Deliverable**” means any thing to be delivered by the Service Provider to the Purchaser and identified as a deliverable in accordance with the Ordering Procedures.

“**Employee Liabilities**” means all claims (whether in delict, contract, under statute or otherwise), demands, actions, orders, complaints, proceedings and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment by way of settlement and costs and expenses and legal costs reasonably incurred in connection with any claim or investigation (including any investigation by the Equality and Human Rights Commission or other enforcement, regulatory, or supervisory body and of implementing any requirements which may arise from such investigation) including:

- claims for redundancy payments, unlawful deduction of wages, claims for equal pay, unfair, wrongful or constructive dismissal compensation; and
- compensation for discrimination on grounds of sex, sexual orientation, race, disability, religion or belief, gender reassignment, marriage or civil partnership, pregnancy and maternity and age or less favourable treatment of part-time workers or fixed term employees.

“**Employee Liability Information**” has the meaning given in TUPE.

“Environmental Information Regulations” means the Environmental Information (Scotland) Regulations 2004 (and any subordinate regulations made under them from time to time or any superseding or amending regulations) together with any guidance and/or codes or practice issued by the Information Commissioner, the Scottish Information Commissioner and/or any relevant government department in relation to such regulations.

“Equipment” means equipment, plant, tackle, materials and other items supplied and used by the Service Provider’s Representatives in the performance of the Service Provider’s obligations under the Contract.

“Exit Management” means the obligations and rights of the Parties to ensure a smooth transition of the Contract from the Service Provider to the Purchaser or any Replacement Service Provider as set out in Clause 59 (Exit Management) and Schedule 10 (Exit Management).

“Exit Plan” means the exit management plan developed by the Service Provider and approved by the Purchaser in accordance with Clause 59 (Exit Management).

“Exit Management Date” means each of the following:

- (a) the date of a Termination Notice; and
- (b) if no Termination Notice has been served in relation to this Contract except for any Partial Termination, the expiry of the later of the Initial Term and any extension of the Contract agreed in writing.

“FOISA” means the Freedom of Information (Scotland) Act 2002 and any subordinate legislation made under this Act from time to time or any superseding or amending enactments or regulations, together with any guidance and/or codes of practice issued by the Information Commissioner, the Scottish Information Commissioner and/or any relevant government department in relation to such legislation.

“Force Majeure” means any event or occurrence which is outside the reasonable control of the Party concerned and which is not attributable to any act or failure to take preventative action by that Party, including industrial action, fire, flood, violent storm, pestilence, explosion, malicious damage, armed conflict, acts of terrorism, nuclear, biological or chemical warfare, or any other disaster, natural or man-made.

“UK GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27th April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018 and as amended by the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019.

“Good Industry Practice” means standards, practices, methods and procedures conforming to legal and regulatory requirements and the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar type of undertaking as the Service Provider under the same or similar circumstances.

“Incoming Employees” means individuals whose employment transfers to the Service Provider on the commencement of the provision of the Services by operation of TUPE.

“Information Commissioner” means the Commissioner as set out in Part 5 of the Data Protection Act 2018.

“Intellectual Property Rights” means patents, inventions, trade marks, service marks, logos, design rights (whether registerable or otherwise), applications for any of the

foregoing, copyright, database rights, domain names, trade or business names, moral rights and other similar rights or obligations whether registerable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off.

“**ITT**” means the Purchaser’s invitation to tender dated (enter date ITT issued).

“**Judicial Order**” means an ineffectiveness order or an order shortening the duration of the contract made in relation to the Contract under Chapter 6 of the Public Contracts (Scotland) Regulations 2015.

“**Key Individuals**” means the Service Provider Representatives identified as being key individuals for the provision of the Services as set out in Schedule 5.5.

“**Law**” means:

- (a) any applicable statute or proclamation or any delegate or subordinate legislation;
- (b) any enforceable right forming part of retained EU law within the meaning of the European Union (Withdrawal) Act 2018;
- (c) any applicable guidance, direction, determination, or regulations with which the Purchaser and/or the Service Provider is bound to comply;
- (d) any applicable judgment of a relevant court of law which is a binding precedent in Scotland; and
- (e) and requirements of any regulatory body;

in each case in force during the period of the Contract in Scotland.

“**Management Arrangements**” means the arrangements for the strategic management of the relationship between the Parties, including arrangements for monitoring of the Service Provider’s compliance with the Statement of Requirements, the Service Levels, the Ordering Procedures and the terms of the Contract, set out in Schedule 5.4.

“**Milestone**” means any event or task which must be completed by a particular date, such as the delivery of a Deliverable, identified as a milestone in accordance with the Ordering Procedures.

“**Order**” means an order for particular Services placed in accordance with the Ordering Procedures.

“**Ordering Procedures**” means the procedures for ordering particular Services set out at Schedule 5.3.

“**Outgoing Employees**” means individuals whose employment transfers from the Service Provider on the ceasing of the provision of the Services by the Service Provider by operation of TUPE.

“**Party**” means either of the Purchaser or the Service Provider.

“**Personal Data**” has the meaning given in the Data Protection Laws.

“**Pricing Schedule**” means the details of the pricing of the Services set out in Schedule 5.2.

“**Processing**” has the meaning given in the Data Protection Laws and cognate expressions shall be construed accordingly.

“Purchaser” means the (enter name of buying/contracting organisation).

“Purchaser Property” means any corporeal moveable property issued or made available to the Service Provider by the Purchaser in connection with the Contract.

“Purchaser Protected Information” means any information provided by the Purchaser to the Service Provider which:

- carries a protective marking such as “Official”, “Secret” or “Top Secret”; or
- is exempt information as set out in Part 2 of FOISA (disregarding for that purpose whether a provision of Part 2 does not confer absolute exemption within the meaning of section 2(2) of FOISA).

“Relevant Transfer” has the meaning given in regulation 2(1) of TUPE.

“Replacement Service Provider” means any third party service provider appointed to perform the Services by the Purchaser from time to time.

“Request for Information” means a request for information within the meaning of section 8 of FOISA or the Environmental Information Regulations and any attempted or apparent such request.

“Schedule” means a schedule annexed to, and forming part of, the Contract.

“Service Levels” means the Service Levels identified as such in the Statement of Requirements.

“Service Provider” means (enter Service Provider legal name and details).

“Service Provider Representatives” means all persons engaged by the Service Provider in the performance of its obligations under the Contract including:

- its employees and workers (including persons employed by a third party but working for and under the control of the Service Provider);
- its agents, Service Providers and carriers; and
- any sub-contractors of the Service Provider (whether approved under clause 34 (Sub-contracting) or otherwise) and any employees of and workers of any such sub-contractors wholly or mainly assigned to carrying out activities in provision of the Services under the Contract.

“Service Provider Sensitive Information” means any information provided by the Service Provider to the Purchaser (disregarding any protective marking or assertion of confidentiality) which:

- is specified as Service Provider Sensitive Information in Schedule 5.7 and has not lost its sensitivity according to the justifications and durations set out in that Schedule; and
- is exempt information pursuant to sections 33(1) or 36, 38 or 39 of FOISA (having regard for that purpose to the public interest there might be in disclosing such information as referred to in section 2(1)(b) of FOISA).

“Services” means the Services as are to be supplied by the Service Provider to the Purchaser as set out in the Specification and as may be ordered in accordance with the Ordering Procedures.

“Statement of Requirements” means the Purchaser’s general requirements for the provision of services [including Service Levels] set out in Schedule 5.1.

“Staffing Information” means such information as the Purchaser may request in an anonymised format or otherwise including:

- ages;
- dates of commencement of employment or engagement;
- sex;
- job or role descriptions and objectives of role;
- details of whether they are employed, self employed contractors or consultants, agency workers or otherwise;
- the identity of the employer or relevant contracting party;
- their relevant contractual notice periods and any other terms relating to termination of employment including redundancy procedures and redundancy payments;
- their wages, salaries and profit sharing arrangements as applicable;
- details of other employment-related benefits including (without limitation) medical insurance, life assurance, pension or other retirement benefit schemes, share option schemes and company car schedules applicable to them;
- any outstanding or potential contractual, statutory or other liabilities in respect of such individuals (including in respect of personal injury claims);
- details of any such individuals on long term sickness absence, parental leave, maternity leave or other authorised long term absence;
- copies of all relevant documents and materials relating to such information, including copies of relevant contracts of employment (or relevant standard contracts if applied generally in respect of such employees); and
- any other Employee Liability Information.

“Third country” means a country or territory outside the United Kingdom.

“Transparency Information” means the Transparency Reports and the content of this Contract.

“Transparency Reports” means a report in accordance with Schedule 5.7 Part 1 (Transparency Reports) containing the contract information as set out in the table for that Part for publication by the Purchaser in the interests of transparency

“TUPE” means the Transfer of Undertakings (Protection of Employment) Regulations 2006.

“UK GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27th April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018 and as amended by the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019.

“Working Day” means a day other than a Saturday, Sunday or bank holiday in Scotland, within the meaning of the Banking and Financial Dealings Act 1971.

“Working Hour” means an hour between 0900 hours and 1700 hours on a Working Day.

1.2 The interpretation and construction of the Contract is subject to the following provisions:

1.2.1 words importing the singular meaning include, where the context so admits, the plural and vice versa;

1.2.2 words importing the masculine include the feminine and neuter;

1.2.3 reference to a clause is a reference to the whole of that clause unless stated otherwise;

1.2.4 references to any statute, enactment, order, regulation or other similar instrument are construed as a reference to the instrument as amended by any subsequent instrument or re-enacted;

1.2.5 references to any person include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assignees or transferees;

1.2.6 reference to “expiry or termination” of the Contract includes the making of a Judicial Order;

1.2.7 the words “include”, “includes” and “including” are to be construed as if they were immediately followed by the words “without limitation”; and

1.2.8 headings are included in the Contract for ease of reference only and do not affect the interpretation or construction of the Contract.

2. **Condition Precedent: Requirement for a Parent Company Guarantee**

It shall be a condition of this Contract that, if required by the Purchaser, the Service Provider shall deliver a validly executed parent company guarantee in the form set out in Schedule 8 to this Contract. The rights and obligations of the Parties shall have no force or effect unless the parent company guarantee has been properly executed and delivered to the Purchaser. The parties acknowledge that if this condition has not been fulfilled any performance of this Contract by the Service Provider shall be at the risk of the Service Provider and the Purchaser shall not be liable for and the Service Provider irrevocably waives any entitlement to payment of any fees, expenses or other payments in relation to such performance. Where the Service Provider has failed to fulfil this condition within 14 days of the date of last subscription of the Contract the Purchaser shall have the right to terminate the Contract by notice in writing to the Service Provider.

3. Nature of the Contract

- 3.1 The Contract is a public services contract within the meaning of regulation 2(1) of the Public Contracts (Scotland) Regulations 2015.
- 3.2 For the purposes of this call off Contract the supplier is the exclusive provider of the services detailed in the Statement of Requirements.

4. Period

- 4.1 The period of the Contract is from and including (enter commencement date) (the “**Commencement Date**”) to and including (enter initial expiry date), unless it is terminated earlier or extended under clause 4.2.

17.1.1

- 4.2 The Purchaser may, by giving notice to the Service Provider, extend the period of the Contract to a date falling no later than (enter longstop expiry date). Subject to that constraint, the Purchaser may extend the period of the Contract on more than one occasion. *(If not applicable, the Purchaser should delete this clause)*

5. Break

The Purchaser may terminate the Contract at any time by giving not less than 3 months' notice to the Service Provider.

6. Statement of Requirement and Service Levels

The Service Provider must comply with the Statement of Requirements. In particular, the Service Provider must meet or exceed the Service Levels.

7. Pricing Schedule

- 7.1 The Pricing Schedule sets out details of the pricing of the Services.
- 7.2 The prices in the Pricing Schedule may be varied in accordance with the arrangements set out in the Pricing Schedule.
- 7.3 Accordingly, the Service Provider may not unilaterally increase the prices in the Pricing Schedule. But nothing in the Contract prevents the Service Provider from improving on the prices in the Pricing Schedule for the purposes of a particular Order.

8. Ordering Procedures and Management Arrangements

- 8.1 The Ordering Procedures may be invoked by the Purchaser at any time during the period of the Contract.
- 8.2 The Parties must comply with the Ordering Procedures.
- 8.3 The Service Provider must maintain the capacity to supply the Services throughout the period of the Contract.
- 8.4 The Parties must comply with the Management Arrangements.

SECTION B: MISCELLANEOUS PROVISIONS INCLUDING THOSE RELATING TO PRICE, PAYMENT AND INFORMATION

9. Service Provider's Status

At all times during the period the Service Provider is an independent service provider and nothing in the Contract establishes a contract of employment, a relationship of agency or partnership or a joint venture between the Parties or between the Purchaser and any Service Provider Representative. Accordingly, neither Party is authorised to act in the name of, or on behalf of, or otherwise bind the other Party save as expressly permitted by the terms of the Contract.

10. Notices

10.1 Any notice or other communication which is to be given by a Party to the other under the Contract must be:

10.1.1 given in writing;

10.1.2 addressed in accordance with clause 10.3; and

10.1.3 sent by letter (delivered by hand, first class post or by recorded delivery or special delivery), fax or e-mail.

10.2 Provided the relevant communication is not returned or rejected as undelivered, the notice or communication is deemed to have been given:

10.2.1 2 Working Days after the day on which the letter was posted; or

10.2.2 4 Working Hours after the communication was sent, in the case of fax or email.

10.3 For the purposes of this clause, the address of each Party is:

10.3.1 For the Purchaser:

(enter name and contact details for notices, including full address)

10.3.2 For the Service Provider:

(enter name and contact details for notices, including full address)

10.4 Either Party may change its address details by serving a notice in accordance with this clause.

10.5 Notices under clause 58.1 (Termination on Insolvency or Change of Control) may be sent to the Purchaser's trustee, receiver, liquidator or administrator, as appropriate.

11. Price

11.1 In consideration of the Service Provider's performance of its obligations relating to an Order, the Purchaser must pay:

11.1.1 the price due in accordance with the Pricing Schedule and the Ordering Procedures; and

11.1.2 a sum equal to the value added tax chargeable at the prevailing rate.

- 11.2 The Service Provider may not suspend the provision of services if it considers that the Purchaser has failed to pay the price due.

12. Payment and Invoicing

- 12.1 The Purchaser must pay all sums due to the Service Provider within 30 days of receipt of a valid invoice.
- 12.2 The Service Provider must render invoices (enter invoicing frequency).
- 12.3 The Service Provider must ensure that each invoice contains appropriate Contract and Order references and a detailed breakdown of the Services provided. The Service Provider must supply such other documentation reasonably required by the Purchaser to substantiate any invoice.
- 12.4 Value added tax, where applicable, must be shown separately on all invoices as a strictly net extra charge.
- 12.5 Interest is payable on the late payment of any undisputed sums of money in accordance with the Late Payment of Commercial Debts (Interest) Act 1998. In the case of sums due by the Purchaser, the sums referred to in this clause must be properly invoiced by the Service Provider.
- 12.6 In this clause 12, 'valid invoice' includes an electronic invoice meeting all the requirements set out in regulation 70A of the Public Contracts (Scotland) Regulations 2015 or regulation 44A of the Concession Contracts (Scotland) Regulations 2016.

13. Recovery of Sums Due

- 13.1 Wherever under the Contract any sum of money is recoverable from or payable by the Service Provider to the Purchaser, the Purchaser may deduct that sum from any sum due to the Service Provider whether under the Contract or otherwise.
- 13.2 The Service Provider must make any payments due to the Purchaser without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Service Provider has a valid court order requiring an amount equal to such deduction to be paid by the Purchaser to the Service Provider.

14. Data Protection

- 14.1 The Service Provider acknowledges that Personal Data described in the scope of Schedule 9 (Data Protection) may be Processed in connection with the Services under this Contract. For the purposes of any such Processing, Parties agree that the Service Provider acts as the Data Processor and the Purchaser acts as the Data Controller.
- 14.2 Both Parties agree to negotiate in good faith any such amendments to this Contract that may be required to ensure that both Parties meet all their obligations under Data Protection Laws. The provisions of this clause 14 are without prejudice to any obligations and duties imposed directly on the Service Provider under Data Protection Laws and the Service Provider hereby agrees to comply with those obligations and duties.
- 14.3 The Service Provider will, in conjunction with the Purchaser and in its own right and in respect of the Services, make all necessary preparations to ensure it will be compliant with Data Protection Laws.
- 14.4 The Service Provider will provide the Purchaser with the contact details of its data protection officer or other designated individual with responsibility for data protection and privacy to act as the point of contact for the purpose of observing its obligations under the Data Protection Laws.

- 14.5 The Service Provider must:
- 14.5.1 process Personal Data only as necessary in accordance with obligations under the Contract and any written instructions given by the Purchaser (which may be specific or of a general nature), including with regard to transfers of Personal Data to a third country other than within the European Economic Area unless required to do so by European Union or domestic law or Regulatory Body to which the Service Provider is subject; in which case the Service Provider must, unless prohibited by that law, inform the Purchaser of that legal requirement before processing the Personal Data only to the extent, and in such manner as is necessary for the performance of the Service Provider's obligations under this Contract or as is required by the Law;
 - 14.5.2 subject to clause 14.5.1 only process or otherwise transfer any Personal Data in or to any third country other than within the European Economic Area with the Purchaser's prior written consent;
 - 14.5.3 take all reasonable steps to ensure the reliability and integrity of any Service Provider Representatives who have access to the Personal Data and ensure that the Service Provider Representatives:
 - 45.
 - (a) are aware of and comply with the Service Provider's duties under this clause;
 - (b) are subject to appropriate confidentiality undertakings with the Service Provider or the relevant Sub-contractor;
 - © are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Purchaser or as otherwise permitted by this Contract; and
 - (d) have undergone adequate training in the use, care, protection and handling of Personal Data.
 - 14.5.4 implement appropriate technical and organisational measures including those in accordance with Article 32 of the UK GDPR to protect Personal Data against unauthorised or unlawful Processing and against accidental loss, destruction, damage, alteration or disclosure, such measures being appropriate to the harm which might result from any unauthorised or unlawful Processing accidental loss, destruction or damage to the Personal Data and having regard to the nature of the Personal Data which is to be protected.
- 14.6 The Service Provider shall not engage a sub-contractor to carry out Processing in connection with the Services without prior specific or general written authorisation from the Purchaser. In the case of general written authorisation, the Service Provider must inform the Purchaser of any intended changes concerning the addition or replacement of any other sub-contractor and give the Purchaser an opportunity to object to such changes.
- 14.7 If the Service Provider engages a sub-contractor for carrying out Processing activities on behalf of the Purchaser, the Service Provider must ensure that same data protection obligations as set out in this Contract are imposed on the sub-contractor by way of a written and legally binding contract, in particular providing sufficient guarantees to implement appropriate technical and organisational measures. The Service Provider shall remain fully liable to the Purchaser for the performance of the sub-contractor's performance of the obligations.

- 14.8 The Service Provider must provide to the Purchaser reasonable assistance including by such technical and organisational measures as may be appropriate in complying with Articles 12-23 of the UK GDPR.
- 14.9 The Service Provider must notify the Purchaser if it:
- (a) receives a Data Subject Access Request (or purported Data Subject Access Request);
 - (b) receives a request to rectify, block or erase any Personal Data;
 - (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Laws;
 - (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Contract; or
 - (e) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by law or regulatory order;
- and such notification must take place as soon as is possible but in any event within 3 business days of receipt of the request or any other period as agreed in writing with the Purchaser from time to time.
- 14.10 Taking into account the nature of the Processing and the information available, the Service Provider must assist the Purchaser in complying with the Purchaser's obligations concerning the security of personal data, reporting requirements for data breaches, data protection impact assessments and prior consultations in accordance with Articles 32 to 36 of the UK GDPR. These obligations include:
- (a) ensuring an appropriate level of protection through technical and organisational measures that take into account the circumstances and purposes of the processing as well as the projected probability and severity of a possible infringement of the law as a result of security vulnerabilities and that enable an immediate detection of relevant infringement events.
 - (b) notifying a Personal Data breach to the Purchaser without undue delay and in any event no later than 24 hours after becoming aware of a Personal Data breach;
 - (c) assisting the Purchaser with communication of a personal data breach to a Data Subject;
 - (d) supporting the Purchaser with preparation of a data protection impact assessment;
 - (e) supporting the Purchaser with regard to prior consultation of the Information Commissioner .
- 14.11 At the end of the provision of Services relating to processing the Service Provider must, on written instruction of the Purchaser, delete or return to the Purchaser all Personal Data and delete existing copies unless European Union or domestic law requires storage of the Personal Data.
- 14.12 The Service Provider must:
- (a) provide such information as is necessary to enable the Purchaser to satisfy itself of the Service Provider's compliance with this clause 14;

(b) allow the Purchaser, its employees, auditors, authorised agents or advisers reasonable access to any relevant premises, during normal business hours, to inspect the procedures, measures and records referred to in this clause 14 and contribute as is reasonable to those audits and inspections;

(c) inform the Purchaser, if in its opinion, an instruction from the Purchaser infringes any obligation under Data Protection Laws.

- 14.13 The Service Provider must maintain written records including in electronic form, of all Processing activities carried out in performance of the Services or otherwise on behalf of the Purchaser containing the information set out in Article 30(2) of the UK GDPR .
- 14.14 If requested, the Service Provider must make such records referred to clause 14.13 available to the Information Commissioner on request and co-operate with the Information Commissioner in the performance of its tasks.
- 14.15 Parties acknowledge that the inspecting party will use reasonable endeavours to carry out any audit or inspection under clause 14.14 with minimum disruption to the Service Provider's day to day business.
- 14.16 To comply with section 31(3) of the Public Services Reform (Scotland) Act 2010, the Purchaser an annual statement of all payments over £25,000. In addition, in line with openness and transparency, the Scottish Government publishes a monthly report of all payments over £25,000. The Service Provider should note that where a payment is made in excess of £25,000 there will be disclosure (in the form of the name of the payee, the date of the payment, the subject matter and the amount of payment) in the both the monthly report and the annual Public Services Reform (Scotland) Act 2010 statement.

15. Transparency and Freedom of Information

- 15.1 The Service Provider acknowledges that the Purchaser is subject to the requirements of FOISA and the Environmental Information Regulations. The Service Provider shall:
- (a) provide all necessary assistance and cooperation as the Purchaser may reasonably request to enable the Purchaser to comply with its obligations under FOISA and Environmental Information Regulations;
- (b) transfer to the Purchaser all Requests for Information relating to this Contract that the Service Provider receives as soon as practicable and in any event within 2 Working Days of receipt;
- (c) provide the Purchaser with a copy of all information held on behalf of the Purchaser which is requested in a Request For Information and which is in the Service Provider's possession or control. The information must be provided within 5 Working Days (or such other period as the Purchaser may reasonably specify) in the form that the Purchaser requires.
- (d) not respond directly to a Request For Information addressed to the Purchaser unless authorised in writing to do so by the Purchaser.
- 15.2 If the Request for Information appears to be directed to information held by the Purchaser, the Service Provider must promptly inform the applicant in writing that the Request for Information can be directed to the Purchaser.
- 15.3 If the Purchaser receives a Request for Information concerning the Contract, the Purchaser is responsible for determining at its absolute discretion whether the information requested is to be disclosed to the applicant or whether the information requested is exempt from disclosure in accordance with FOISA or the Environmental Information Regulations.

- 15.4 The Service Provider acknowledges that the Purchaser may, acting in accordance with the Purchaser's Code of Practice on the Discharge of Functions of Public Authorities issued under section 60(5) of FOISA (as may be issued and revised from time to time), be obliged under FOISA or the Environmental Information Regulations to disclose information requested concerning the Service Provider or the Contract:
- 15.4.1 in certain circumstances without consulting the Service Provider, or
 - 15.4.2 following consultation with the Service Provider and having taken its views into account.
- 15.5 Where 15.4.1 applies the Purchaser must take reasonable steps, if practicable, to give the Service Provider advance notice of the fact of disclosure or, failing that, draw the fact of disclosure to the attention of the Service Provider after such disclosure to the extent that it is permissible and reasonably practical for it to do.
- 15.6 Where a Request for Information concerns Service Provider Sensitive Information specified in Schedule 5.7 (having regard to the justifications and durations set out there), the Purchaser must take reasonable steps, where practicable, to consult with the Service Provider before disclosing it pursuant to a Request for Information.
- 15.7 The Service Provider acknowledges that Transparency Reports and the content of this Contract including any Amendments, agreed from time to time, (together the "Transparency Information") are not Service Provider Sensitive Information. However, if the Purchaser believes that publication of any element of the Transparency Information should be treated as Service Provider Sensitive Information the Purchaser may, in its discretion exclude such information from publication.
- 15.8 Notwithstanding any other provision of this Contract, the Service Provider hereby gives consent for the Purchaser to publish to the general public, the Transparency Information in its entirety. The Purchaser shall, prior to publication, consult with the Service Provider on the manner and format of publication and to inform its decision regarding any redactions but shall have the final decision in its absolute discretion.
- 15.9 The Service Provider shall assist and co-operate with the Purchaser to enable the Purchaser to publish the Transparency Information including the preparation of Transparency Reports.
- 15.10 The Purchaser shall publish the Transparency Information in a format that assists the general public in understanding the relevance and completeness of the information being published to ensure the public obtain a fair view on how the Contract is being performed, having regard to the context of the wider commercial relationship with the Service Provider.
- 15.11 The Service Provider agrees that any further Information it holds that is not included in the Transparency Reports but is reasonably relevant to or that arises from the provision of the Services shall be provided to the Purchaser upon request, unless the cost of doing so would exceed the appropriate limit prescribed under section 12 of FOISA. The Purchaser may disclose such information under FOISA and the EIRs and may (except for Commercially Sensitive Information, Confidential Information (subject to clause 17.3.3) publish such Information. The Service Provider shall provide to the Purchaser within 5 working days (or such other period as the Purchaser may reasonably specify) any such Information requested by the Purchaser.

16. Purchaser Protected Information

- 16.1 The Service Provider must:

- 16.1.1 treat all Purchaser Protected Information as confidential and safeguard it accordingly, implementing appropriate technical and organisational measures to protect Purchaser Protected Information against disclosure;
 - 16.1.2 only use the Purchaser Protected Information for the purposes of performing its obligations under the Contract;
 - 16.1.3 only disclose the Purchaser Protected Information to such Service Provider Representatives that are directly involved in the performance of the Contract and need to know the information; and
 - 16.1.4 not disclose any Purchaser Protected Information without the prior written consent of the Purchaser.
- 16.2 The Service Provider must immediately notify the Purchaser of any breach of security concerning the Purchaser Protected Information. The Service Provider must fully cooperate with the Purchaser in any investigation that the Purchaser considers necessary to undertake as a result of any such breach of security.
- 16.3 Clause 16.1 does not apply to the extent that:
- 16.3.1 disclosure is required by law or by order of any competent court or tribunal;
 - 16.3.2 information is in the possession of the Service Provider without restriction as to its disclosure prior to its disclosure by the Purchaser;
 - 16.3.3 information is obtained from a third party (who lawfully acquired it) without restriction as to its disclosure;
 - 16.3.4 information is already in the public domain at the time of disclosure otherwise than by a breach of the Contract; or
 - 16.3.5 information is independently developed without access to the Purchaser Protected Information.
- 16.4 Breach of this clause or the Official Secrets Acts 1911 to 1989 by the Service Provider is a material breach for the purposes of clause 57.1.3 (Termination Rights).

17. Service Provider Sensitive Information

- 17.1 The Purchaser must:
- 17.1.1 treat all Service Provider Sensitive Information as confidential and safeguard it accordingly; and
 - 17.1.2 not disclose any Service Provider Sensitive Information to any other person without the prior written consent of the Service Provider.
- 17.2 Clause 17.1 does not apply to the extent that:
- 17.2.1 disclosure is required by law or by order of any competent court or tribunal;
 - 17.2.2 information is in the possession of the Purchaser without restriction as to its disclosure prior to its disclosure by the Service Provider;
 - 17.2.3 information is obtained from a third party (who lawfully acquired it) without restriction as to its disclosure;
 - 17.2.4 information is already in the public domain at the time of disclosure otherwise than by a breach of the Contract; or

- 17.2.5 information is independently developed without access to the Service Provider Sensitive Information.
- 17.3 Nothing in this Contract prevents the Purchaser from disclosing any Service Provider Sensitive Information or any other information concerning the Service Provider or the Contract:
- 17.3.1 pursuant to a Request for Information concerning the information (see clause 15 (Transparency and Freedom of Information));
 - 17.3.2 in accordance with the Purchaser's publication scheme (within the meaning of section 23 of FOISA) as reviewed from time to time;
 - 17.3.3 in accordance with the requirements of Part 3 of the Public Services Reform (Scotland) Act 2010;
 - 17.3.4 in accordance with any future policies of the Purchaser concerning the routine disclosure of government information in the interests of transparency;
 - 17.3.5 to any consultant, Service Provider or other person engaged by the Purchaser, for example to conduct a gateway review;
 - 17.3.6 in response to a Parliamentary Question from a Member of the Scottish Parliament, a member of the United Kingdom Parliament, or any other department, office or agency of Her Majesty's Government in Scotland or the United Kingdom, and their servants or agents, and when disclosing such information to either the Scottish Parliament or the United Kingdom Parliament it sees fit disclose such information but is unable to impose any restrictions upon the information that the Purchaser provides to Members of the Scottish Parliament or Members of the United Kingdom Parliament; or
 - 17.3.7 for the purpose of any examination by any auditors of the Purchaser (including Audit Scotland, the Auditor General for Scotland and the Scottish Parliament) of the economy, efficiency and effectiveness with which the Purchaser has used its resources.
- 17.4 The Service Provider consents to the publication of the Contract by the Purchaser, subject to such redactions as the Purchaser may decide to make. The Purchaser may consult with the Service Provider to inform its decisions concerning redaction (for example to exclude any Service Provider Sensitive Information) but any decisions taken by the Purchaser are final and conclusive.
- 18. Audit**
- 18.1 The Service Provider must retain and maintain until 5 years after the end of the Contract period full and accurate records of the Contract including the Orders placed, the Services provided and payments made and reimbursed under it.
 - 18.2 The Service Provider must on request, and without any charge to the Purchaser, afford the Purchaser, or the Purchaser's representatives, such access to those records as may reasonably be requested by the Purchaser in connection with the Contract.

OR (delete as appropriate)

18. Audit and Records Management

18.1 In this Clause 68, the following terms have the following meanings:-

The 'Act' means the Public Records (Scotland) Act 2011; and

'Records Management Plan' means the plan prepared by the Purchaser and approved by the Keeper of the Records of Scotland under section 1 of the Act.

18.2 The Service Provider must retain and maintain until 5 years after the end of the Contract period full and accurate records of the Contract including the Orders placed, the Services provided and payments made and reimbursed under it.

18.3 The Service Provider must on request, and without any charge to the Purchaser, afford the Purchaser, or the Purchaser's representatives, such access to those records as may reasonably be requested by the Purchaser in connection with the Contract.

18.4 The Service Provider shall, for the duration of the Contract, provide the Purchaser with all assistance requested by the Purchaser acting reasonably to assist the Purchaser in complying with its obligations under the Act and with the Purchaser's Records Management Plan where such compliance is in respect of records created or to be created by the Service Provider on behalf of the Purchaser in terms of this Contract. This assistance will be at no cost to the Purchaser.

18.5 At the end of the Contract, the Service Provider shall transfer the records in question to the Purchaser, such transfer to include full ownership of the records including all Intellectual Property Rights in relation thereto. The transfer shall be at no cost to the Purchaser. The Service Provider shall ensure that all relevant information reasonably required to locate individual items within the records, including metadata and database schema, are also offered to the Purchaser on the same terms.

18.6 If the Service Provider shall become bankrupt (whether voluntarily or compulsorily), unable to pay its debts, insolvent or make arrangements with its creditors or if any resolution is adopted for the winding up of any party, or if a receiver, administrator or administrative receiver is appointed over the whole or any part of its assets or if either party goes into liquidation (whether voluntarily or compulsorily), otherwise than for the purposes of amalgamation or reconstruction or any form of execution levied upon its assets, then immediately upon the occurrence of any of these events, the records which would, in terms of clause 68.5 fall to be offered to the Purchaser shall be deemed to be held on trust by the Service Provider on behalf of the Purchaser. The Service Provider shall thereafter, if and when so required by the Purchaser, transfer the records in question to the Purchaser, such transfer to be on the same terms as would apply to a transfer made in terms of clause 68.5.]

19. Publicity

The Service Provider must not make any press announcement or otherwise publicise the Contract in any way, except with the written consent of the Purchaser.

SECTION C: PROVISION OF SERVICES

20. Provision of the Services

20.1 The Service Provider must provide the Services:

20.1.1 in accordance with the Statement of Requirements, the Service Levels and the Ordering Procedures;

20.1.2 in accordance with the particular requirements of each Order; and

- 20.1.3 to the satisfaction of the Purchaser acting reasonably.
- 20.2 The Service Provider acknowledges that the Purchaser relies on the skill, care, diligence and judgment of the Service Provider in the supply of the Services and the performance of its obligations under the Contract.
- 20.3 For each Order for the provision of services, subject to any contrary requirements of the Purchaser communicated in accordance with the Ordering Procedures, the provisions of this Section C apply.
- 20.4 The period for any Order agreed in accordance with the Ordering Procedures may be brought to an earlier end upon 3 months' notice by the Purchaser.

21. Deliverables and Milestones

- 21.1 The Service Provider must provide the Services, including any Deliverables:
 - 21.1.1 at the date(s), time(s) and location(s) required by the Purchaser; and
 - 21.1.2 in good time to meet any Milestones required by the Purchaser.
- 21.2 When the Service Provider believes acting reasonably that it has provided any Deliverable or completed any Milestone in accordance with the Contract it must notify the Purchaser.
- 21.3 The Purchaser may thereafter by notice to the Service Provider:
 - 21.3.1 accept the provision of the Deliverable or the completion of the Milestone (as appropriate), having regard to any acceptance criteria communicated in accordance with the Ordering Procedures; or
 - 21.3.2 providing reasons, reject the provision of the Deliverable or the completion of the Milestone.
- 21.4 Where the Purchaser rejects the completion of a Milestone or provision of a Service or Deliverable in accordance with clause 21.3.2, the Service Provider must at its expense immediately rectify or remedy any defects and/or delays.
- 21.5 Risk and ownership in any Deliverables that are corporeal moveables and in any physical media in which any Deliverables are delivered vests in the Purchaser upon acceptance in accordance with this clause.
- 21.6 Whether the defect or delay is due to the Purchaser or not, the Service Provider shall deploy all additional resources to address the consequences of the default or delay. Where such default or delay is solely due to the Purchaser, any additional costs in respect of the said additional resources shall be agreed between the parties both acting reasonably.

SECTION D: STAFF INVOLVED IN THE PROVISION OF SERVICES

22. Key Individuals

- 22.1 The Service Provider acknowledges that the Key Individuals are essential to the proper provision of the Services to the Purchaser.
- 22.2 The Key Individuals must not be released from providing the Services without the approval of the Purchaser, except by reason of long-term sickness, maternity, paternity, adoption or parental leave, termination of employment or equivalent extenuating circumstances. Where such extenuating circumstances arise or are foreseeable, the Service Provider must immediately give notice of that fact to the Purchaser.

- 22.3 The Service Provider may propose a replacement to a Key Individual (and must do so when a Key Individual is to be released from providing the Services), in which case:
- 22.3.1 appropriate arrangements must be made to minimise any adverse impact on the Contract which could be caused by the change in Key Individuals (including, wherever possible, a transfer period of sufficient duration to allow for the transfer of know-how and skills); and
- 22.3.2 the replacement must be of at least equal status and of equivalent qualifications, experience, training and skills to the Key Individual being replaced and must be fully competent to carry out the responsibilities of that person in relation to the Services.
- 22.4 Any proposed replacement to a Key Individual is subject to the approval of the Purchaser. Subject to the Service Provider's compliance with this clause, the Purchaser must not unreasonably withhold such approval.

23. Offers of Employment

- 23.1 For the duration of the Contract and for a period of 12 months thereafter the Service Provider must not employ or offer employment to any of the Purchaser's employees who have been associated with the Contract and/or the contract management of the Contract without the Purchaser's prior approval.
- 23.2 This clause does not prevent the Service Provider from employing or offering employment to any person who has applied for employment in response to an advertisement placed in the normal course of business and not placed with the objective of soliciting the Purchaser's employees.

24. Staff transfer at commencement

- 24.1 The Parties agree that the commencement of the provision of the Services by the Service Provider does not involve a Relevant Transfer.

25. Information about employees

- 25.1 The Purchaser may at any time by notice require the Service Provider to disclose such information as the Purchaser may require to the Purchaser or at the direction of the Purchaser to any prospective Replacement Service Provider relating to the manner in which the Services are organised or about any employee who is wholly mainly assigned to carrying out activities in provision of the Services, whether employed by the Service Provider or Service Provider Representatives ("**Assigned Employee**"). The information required by the Purchaser about Assigned Employees may include Employee Liability Information and/or Staffing Information.
- 25.2 The Service Provider must disclose by notice all such information as is required by the Purchaser under clause 25.1, within such reasonable period specified by the Purchaser. The Service Provider acknowledges that the Data Protection Laws do not prevent the disclosure of anonymised data that is not Personal Data.
- 25.3 The Service Provider warrants for the benefit of the Purchaser and any Replacement Service Provider that all information provided pursuant to this clause shall be true and accurate in all material respects at the time of providing the information. The Purchaser may at any time require the Service Provider to confirm whether information provided under this clause remains true and accurate in all material respects or ask it to provide updated information.

25.4 The Purchaser shall be permitted to use and disclose all of the information provided by the Service Provider under this clause for the purpose of rendering the Services and/or inviting bids from any prospective Replacement Service Provider.

26. Staff transfer on expiry or termination

26.1 The Parties agree that the ceasing of the provision of the Services by the Service Provider does not involve a Relevant Transfer.

27. Security

27.1 The Service Provider must comply with the Purchaser's policies concerning Baseline Personnel Security Standard clearance and such modifications to those policies or replacement policies as are notified to the Service Provider from time to time.

27.2 The Service Provider must notify the Purchaser of any matter or other change in circumstances which might adversely affect future Baseline Personnel Security Standard clearance.

SECTION E: PROVISIONS RELATING TO INTELLECTUAL PROPERTY AND GOVERNANCE

28. Parties' pre-existing Intellectual Property Rights

Except as expressly provided for in the Contract, neither Party acquires any interest in or license to use the other Party's Intellectual Property Rights as they subsist at the Commencement Date or as developed independently of the Contract.

29. Specially Created Intellectual Property Rights

29.1 All Intellectual Property Rights in Deliverables and any reports, guidance, specification, instructions, toolkits, plans, data, drawings, databases, patents, patterns, models, designs or other material prepared by or for the Service Provider on behalf of the Purchaser for use, or intended use, in relation to the performance by the Service Provider of its obligations under the Contract belong to the Purchaser.

29.2 The Service Provider assigns to the Purchaser, with full title guarantee, all Intellectual Property Rights which may subsist in the materials referred to in clause 29.1. This assignment takes effect on the Commencement Date or as an assignment of future rights that will take effect immediately on the coming into existence of the Intellectual Property Rights produced by the Service Provider. The Service Provider must execute all documentation necessary to effect this assignment.

30. Licences of Intellectual Property Rights

30.1 The Service Provider grants to the Purchaser a royalty-free, irrevocable and non-exclusive licence (with a right to sub-licence) to use any Intellectual Property Rights owned or developed prior to the Commencement Date and which the Purchaser reasonably requires in order to enjoy the benefit of the Services.

30.2 The Service Provider grants to the Purchaser a perpetual, royalty-free, irrevocable and exclusive license to use all Intellectual Property Rights referred to in clause 29.1 above (Specially Created Intellectual Property Rights).

30.3 The Service Provider must ensure that the third party owner of any Intellectual Property Rights that are or which may be used to perform the Contract grants to the Purchaser a royalty-free, irrevocable and non-exclusive licence or, if itself a licensee of those rights, grants to the Purchaser an authorised and equivalently wide sub-licence, to use, reproduce, modify, develop and maintain the Intellectual Property Rights. Such licence or sub-licence must be non-exclusive, perpetual, royalty free and irrevocable.

31. Claims relating to Intellectual Property Rights

- 31.1 The Service Provider must not infringe any Intellectual Property Rights of any third party in providing the Services or otherwise performing its obligations under the Contract and must ensure that the provision of the Services and the use or possession of the Deliverables does not infringe such Intellectual Property Rights.
- 31.2 The Service Provider must promptly notify the Purchaser if any claim or demand is made or action brought against the Service Provider for infringement or alleged infringement of any Intellectual Property Right which may affect the use or possession of the Deliverables or which may affect the provision of the Services.
- 31.3 Where a claim to which this clause applies is made, the Service Provider must, at its expense, use its best endeavours to:
- 31.3.1 modify the Services or Deliverables or substitute alternative Services or Deliverables (in any case without reducing performance or functionality) so as to avoid the infringement or alleged infringement of the Intellectual Property Rights; or
 - 31.3.2 procure the grant of a licence or licences from the pursuer, claimant or complainer, on terms acceptable to the Purchaser, so as to avoid the infringement or alleged infringement of the Intellectual Property Rights of the pursuer, claimant or complainer.
- 31.4 The Service Provider must not without the consent of the Purchaser make any admissions which may be prejudicial to the defence or settlement of any claim to which this clause applies.

32. Assignment

- 32.1 The Service Provider may not assign its interest in the Contract or any part of it without the prior written consent of the Purchaser.
- 32.2 Notwithstanding clause 32.1, the Service Provider may assign to another person (an "**Assignee**") the right to receive the price due to the Service Provider under the Contract subject to:
- 32.2.1 deduction of sums in respect of which the Purchaser exercises its right of recovery under clause 13 (Recovery of Sums Due); and
 - 32.2.2 all the related rights of the Purchaser under the Contract in relation to the recovery of sums due but unpaid.
- 32.3 The Service Provider must notify or ensure that any Assignee notifies the Purchaser of any variations to the arrangements for making payments or for handling invoices, in each case in good time to enable the Purchaser to redirect payments or invoices accordingly. In the absence of such notification the Purchaser is under no obligation to vary its arrangements for making payments or for handling invoices.
- 32.4 Subject to clause 32.6, the Purchaser may assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof to:
- (a) any Contracting Authority; or

(b) any other body established by the Crown or under statute in order substantially to perform any of the functions that had previously been performed by the Purchaser; or

(c) any private sector body which substantially performs the functions of the Purchaser,

provided that any such assignment, novation or other disposal shall not increase the burden of the Service Provider's obligations under the Contract.

32.5 Any change in the legal status of the Purchaser such that it ceases to be a Contracting Authority shall not, subject to clause 32.6, affect the validity of the Contract. In such circumstances, the Contract shall bind and inure to the benefit of any successor body to the Purchaser.

32.6 If the rights and obligations under the Contract are assigned, novated or otherwise disposed of pursuant to clause 32.4 to a body which is not a Contracting Authority or if there is a change in the legal status of the Purchaser such that it ceases to be a Contracting Authority (in the remainder of this clause both such bodies being referred to as the "Transferee"):

(a) the rights of termination of the Purchaser in clauses 57 (Termination Rights) and 58 (Termination on Insolvency and Change of Control) shall be available to the Service Provider in the event of respectively, the bankruptcy or insolvency, or Default of the Transferee; and

(b) the Transferee shall only be able to assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof with the prior consent in writing of the Service Provider.

32.7 The Purchaser may disclose to any Transferee any Confidential Information of the Service Provider which relates to the performance of the Service Provider's obligations under the Contract. In such circumstances the Purchaser shall authorise the Transferee to use such Confidential Information only for purposes relating to the performance of the Service Provider's obligations under the Contract and for no other purpose and shall take all reasonable steps to ensure that the Transferee gives a confidentiality undertaking in relation to such Confidential Information.

33. Change of Control

The Service Provider must notify the Purchaser:

33.1 whenever it proposes to undergo a change of Control, or a change of control is likely to occur; and

33.2 immediately following a change of Control that has occurred.

34. Sub-Contracting

34.1 The Purchaser approves the appointment of the sub-contractors specified in Schedule 6 (Approved Sub-contractors) in respect of the obligations specified in that Schedule.

34.2 The Service Provider may not sub-contract its obligations under the Contract to other sub-contractors without the prior written consent of the Purchaser. Sub-contracting of any part of the Contract shall not relieve the Service Provider of any obligation or duty attributable to the Service Provider under the Contract. The Service Provider shall be responsible for the acts and omissions of its sub-Service Providers as though they are its own.

- 34.3 Where the Service Provider enters into a sub-contract the Service Provider must ensure that a provision is included which:
- 34.3.1 requires payment to be made of all sums due by the Service Provider to the sub-contractor within a specified period not exceeding 30 days from the receipt of a valid invoice as defined by the sub-contract requirements and provides that, where the Purchaser has made payment to the Service Provider in respect of Services and the sub-contractor's invoice relates to such Services then, to that extent, the invoice must be treated as valid and, provided the Service Provider is not exercising a right of retention or set-off in respect of a breach of contract by the sub-contractor or in respect of a sum otherwise due by the sub-contractor to the Service Provider, payment must be made to the sub-contractor without deduction;
 - 34.3.2 notifies the sub-contractor that the sub-contract forms part of a larger contract for the benefit of the Purchaser and that should the sub-contractor have any difficulty in securing the timely payment of an invoice, that matter may be referred by the sub-contractor to the Purchaser;
 - 34.3.3 requires that all contracts with subcontractors and suppliers which the subcontractor intends to procure, and which the subcontractor has not before the date of this Contract, already planned to award to a particular supplier are advertised through the Public Contracts Scotland procurement portal (www.publiccontractsscotland.gov.uk) and awarded following a fair, open, transparent and competitive process proportionate to the nature and value of the contract; and
 - 34.3.4 s in the same terms as that set out in this clause 34.3 (including for the avoidance of doubt this clause 34.3.4) subject only to modification to refer to the correct designation of the equivalent party as the Service Provider and sub-contractor as the case may be.
- 34.4 The Service Provider shall also include in every sub-contract:
- 34.4.1 a right for the Service Provider to terminate that sub-contract if the relevant sub-contractor fails to comply in the performance of its contract with legal obligations in the fields of environmental, social or employment law or if any of the termination events (involving substantial modification of the Contract or contract award despite the existence of exclusion grounds) specified in clause 57.3 (Termination Rights) occur; and
 - 34.4.2 a requirement that the sub-contractor includes a provision having the same effect as 34.4.1 in any sub-contract which it awards.
- In this clause 34.4, 'sub-contract' means a contract between two or more service providers, at any stage of remoteness from the Purchaser in a sub-contracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Contract.
- 34.5 Where requested by the Purchaser, copies of any sub-contract must be sent by the Service Provider to the Purchaser as soon as reasonably practicable.
- 34.6 Where the Service Provider proposes to enter into a sub-contract it must:
- 34.6.1 advertise its intention to do so in at least one trade journal, [at least one newspaper circulating in [*refer to locality*]] and the Public Contracts Scotland Portal; and
 - 34.6.2 follow a procedure leading to the selection of the sub-contractor which ensures reasonable competition following principles of equal treatment, non-discrimination and transparency and which ensures that such procedure is accessible by small and medium enterprises.

34A. Supply Chain Transparency and Protections

Knowledge of the supply chain

34A.1. In performing its role as a reseller, the Service Provider will use its reasonable endeavours to ensure that the suppliers operating in its supply chain (the "Service Provider's Suppliers") prepare and maintain a written supplier code of conduct or supplier policy that addresses the following.

- child labour,
- forced labour,
- working hours,
- wages,
- discrimination,
- health and safety,
- freedom of association,
- collective bargaining,
- disciplinary practices,
- humane treatment of workers,
- training,
- engagement with NGOs, and
- worker grievance procedures .

The Service Provider will provide the Purchaser with a copy of the Service Provider's suppliers codes of conduct or supplier policies on request.

34A.2. The Service Provider will use its reasonable endeavours to ensure that the Service Provider's Suppliers prepare and maintain appropriate policies and procedures to identify, manage and mitigate labour and human rights risks in their supply chains relevant to this Contract (the "Service Provider Supply Chain").

34A.3. The Service Provider will, within 20 Working Days of the Contract Commencement Date, provide the Purchaser with the names, locations and details of the roles of suppliers (including details of the factories used by suppliers and specific components produced in each factory) within the Service Provider Supply Chain. The Service Provider will notify the Purchaser of any changes as soon as reasonably practicable.

34A.4. Not used.

Supply chain working conditions

34A.5. The Service Provider will submit an annual written report to the Purchaser outlining the Service Provider's objectives, targets and specific actions for monitoring and improving labour standards and working conditions within the Service Provider Supply Chain.

34A.6. The Service Provider will take all reasonable steps to ensure that all Goods supplied under this Contract are produced in accordance with all International Labour Organisation (ILO) conventions that have been ratified by the country of their origin.

34A.7. In respect of the Service Provider Supply Chain and the Service Provider's Suppliers, the Service Provider must ensure the following:

- 34A.7.1. forced, bonded (including debt bonded) or indentured labour, involuntary or exploitative prison labour, slavery or trafficking of persons is not permitted;

34A.7.2. child labour is not used in any stage of manufacturing or in the provision of services or supplies;

34A.7.3. workers do not undertake excessive working hours. For the purposes of this Contract, working hours must not exceed the maximum set by local law; a working week must not be more than 60 hours per week, including overtime, except in emergency or unusual situations and workers shall be allowed at least one day off every seven days;

34A.7.4. compensation paid to workers shall comply with all applicable wage laws, including those relating to minimum wages, overtime hours and legally mandated benefits; in compliance with local laws, workers shall be compensated for overtime at pay rates greater than regular hourly rates; that deductions from wages as a disciplinary measure shall not be permitted; that for each pay period, workers shall be provided with a timely and understandable wage statement that includes sufficient information to verify accurate compensation for work performed; and that all use of temporary, dispatch and outsourced labour will comply with local laws;

34A.7.5. all workers must have the right to form and join trade unions, of their own choosing, to bargain collectively and to engage in peaceful assembly and the right of workers to refrain from such activities must be respected;

34A.7.6. workers must not be subject to any harsh or inhumane treatment, including any sexual harassment, sexual abuse, corporal punishment, mental or physical coercion or verbal abuse of workers; nor is there to be the threat of any such treatment;

34A.7.7. workers must not be subject to harassment or unlawful discrimination; and

34A.7.8. workers must be provided with safe and healthy working conditions.

34A.8. In respect of the Service Provider Supply Chain and the Service Provider's Suppliers, the Service Provider will use its reasonable endeavours to ensure the following:

34A.8.1. compliance with all applicable whistleblowing laws, statutes and regulations in force from time to time in the jurisdiction where the Goods are manufactured;

34A.8.2. implementation of an appropriate (e.g. anonymous) whistleblowing policy which encourages openness and ensures support and protection from detrimental treatment for workers which raise genuine concerns.

Managing risks in the supply chain

34A.9. The Service Provider will use its reasonable endeavours to require the Service Provider's Suppliers to audit, evaluate and report in writing to the Service Provider not less than once every twelve (12) months on performance against the Service Provider's Suppliers' codes of conduct and or supplier policies and their policies on labour and human rights impacts in respect of the Service Provider Supply Chain. The Service Provider shall provide the Purchaser on request with a copy of any such reports in so far as they relate to the Service Provider Supply Chain.

34A.10. The Service Provider will use its reasonable endeavours to ensure that the Service Provider's Suppliers undertake a defined program of supply-chain audits. Audits must be undertaken by third party accredited certification bodies and independently verified. These audits must either include or be supplemented by external consultation and engagement with local labour unions or civil society organisations/NGOs, and off-site worker interviews to gain a more accurate understanding of working conditions. The Service Provider shall provide the Purchaser on request with a copy of any such audits, and supplementary evidence where relevant, in its possession or control in so far as they relate to the Service Provider Supply Chain.

Corrective and preventive measures to ensure social responsibility in the supply chain

34A.11. The Service Provider will use its reasonable endeavours to ensure the outcomes of the Service Provider's Suppliers supply-chain audits are subject to corrective actions by the Service Provider's Suppliers in a timely manner. The Service Provider shall provide the Purchaser on request with details in its possession or control of any actions taken or proposed to be taken in so far as they relate to the Service Provider Supply Chain .

34A.12. The Service Provider will use its reasonable endeavours to actively engage with the Service Provider Supply Chain to ensure continuous improvement in labour and human rights standards and supplier compliance with such standards .

34A.13. The Service Provider will use its reasonable endeavours to ensure that the Service Provider's Suppliers communicate and publicly report progress in addressing labour and human rights issues within the Service Provider Supply Chain not less than once every twelve (12) months .

Measures to control the supply chain

34A.14. The Service Provider will use its reasonable endeavours to ensure that the Service Provider's Suppliers' sourcing policies address labour and human rights impacts during the extraction phase of production and include the use of conflict free smelters in accordance with the [Responsible Minerals Initiative](#). The Service Provider will use its reasonable endeavours to ensure that the Service Provider's Suppliers provide and maintain a written list of tantalum, tin, tungsten, and gold smelters/refiners reported by the Service Provider Supply Chain and provide the Purchaser on request with details.

34A.15. The Service Provider will use its reasonable endeavours to ensure that the Service Provider's Suppliers implement and adhere to the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (as the same may be updated from time to time) and produce a publicly viewable annual summary of their due diligence and risk management measures consistent with this guidance.

34A.16. The Service Provider will use its reasonable endeavours to provide the Purchaser on request with evidence of direct and ongoing collaboration by the Service Provider's Suppliers with external organisations (such as NGOs, civil society organisations and governments) to address labour and human rights impacts on the Service Provider Supply Chain.

Supply chain contract termination

34A.17. The Service Provider will use its reasonable endeavours to ensure that all contracts in the Service Provider Supply Chain give the Purchaser a right to terminate the sub-contract if the supplier fails to comply with legal obligations in the fields of environmental, social, labour or human rights law.

35. Amendment

35.1 The Contract may be amended only by the written agreement of both Parties. Accordingly, the Service Provider may not unilaterally amend the Contract.

- 35.2 Clause 7 (Pricing Schedule) makes special provision for the variation of the Pricing Schedule.

SECTION F SERVICE PROVIDER CONDUCT REQUIREMENTS

36. Compliance with the Law etc.

In providing the Services and otherwise when performing the Contract, the Service Provider must comply in all respects with:

- 36.1 all applicable law;
- 36.2 any applicable requirements of regulatory bodies;
- 36.3 Good Industry Practice; and
- 36.4 Schedule 5.11 (Cyber Security Requirements).

37. Official Secrets Acts

The Service Provider undertakes to abide and procure that the Service Provider's employees abide by the provisions of the Official Secrets Acts 1911 to 1989.

38. Service Provider's responsibility for staff etc.

- 38.1 The Service Provider is responsible for the acts and omissions of all Service Provider Representatives relating to the Contract as though such acts and omissions are the Service Provider's own.
- 38.2 The Service Provider must ensure that all Service Provider Representatives:
 - 38.2.1 are appropriately experienced, skilled, qualified and trained;
 - 38.2.2 carry out their activities connected with the Contract faithfully and diligently and with all with due skill, care and diligence; and
 - 38.2.3 obey all lawful and reasonable directions of the Purchaser when carrying out activities under the Contract.

39. Access to the Purchaser's premises

- 39.1 Any access to, or occupation of, the Purchaser's premises which the Purchaser may grant the Service Provider from time to time is on a non-exclusive licence basis free of charge. The Service Provider must use the Purchaser's premises solely for the purpose of performing its obligations under the Contract and must limit access to the Purchaser's premises to such individuals as are necessary for that purpose.
- 39.2 The Service Provider must comply with the Purchaser's policies concerning Baseline Personnel Security Standard clearance and such modifications to those policies or replacement policies as are notified to the Service Provider from time to time.
- 39.3 At the Purchaser's written request, the Service Provider must provide a list of the names and addresses of all persons who may require admission to the Purchaser's premises in connection with the Contract, specifying the capacities in which they are concerned with the Contract and giving such other particulars as the Purchaser may reasonably request.
- 39.4 The Service Provider must ensure that any individual Service Provider Representative entering the Purchaser's premises has completed the process for obtaining Baseline Personnel Security Standard clearance. The Service Provider acknowledges that the

Purchaser has the right to deny entry to any individual that has not completed the process for obtaining Baseline Personnel Security Standard clearance.

- 39.5 In accordance with the Purchaser's policies concerning visitor access, entry to the Purchaser's premises may be granted to individual Service Provider Representatives for the purposes of meetings, notwithstanding that the process for obtaining Baseline Personnel Security Standard clearance has not commenced or completed.
- 39.6 The Purchaser may, by notice to the Service Provider, refuse to admit onto, or withdraw permission to remain on, the Purchaser's premises any Service Provider Representative whose admission or continued presence would, in the opinion of the Purchaser acting reasonably, be undesirable.
- 39.7 The Purchaser must provide advice and assistance acting reasonably to the Service Provider to facilitate the Service Provider's compliance with this clause.
- 39.8 All decisions of the Purchaser under this clause are final and conclusive.

40. Service Provider's Equipment

- 40.1 The Service Provider must provide all Equipment necessary to perform any required activities on the Purchaser's premises or otherwise necessary for the provision of Services.
- 40.2 But the Service Provider must not, without the Purchaser's approval:
 - 40.2.1 bring Equipment onto the Purchaser's premises; or
 - 40.2.2 leave Equipment on the premises.
- 40.3 Any Equipment brought onto the Purchaser's premises:
 - 40.3.1 remains the property of the Service Provider; and
 - 40.3.2 is at the Service Provider's own risk and the Purchaser has no liability for any loss of or damage to the Equipment unless the Service Provider is able to demonstrate that such loss or damage was caused or contributed to by the Purchaser's Default.
- 40.4 The Service Provider must keep all Equipment brought onto the Purchaser's premises in a safe, serviceable and clean condition. The Purchaser may at any time require the Service Provider to remove from the Purchaser's premises any Equipment which in the opinion of the Purchaser acting reasonably is either hazardous, noxious or not in accordance with the Contract and substitute proper and suitable Equipment at the Service Provider's expense as soon as reasonably practicable.
- 40.5 On completion of any required activities on the Purchaser's premises or at the end of a Working Day (as appropriate), the Service Provider must at its own expense:
 - 40.5.1 remove all Equipment; and
 - 40.5.2 leave the premises in a clean, safe and tidy condition, clearing away all rubbish arising out of the Service Provider's activities.
- 40.6 The Service Provider is solely responsible for making good any damage to the Purchaser's premises or any objects contained therein, other than wear and tear, which is caused by the Service Provider.

41. Purchaser Property

- 41.1 Where the Purchaser issues Purchaser Property to the Service Provider, the Purchaser Property remains at all times the property of the Purchaser.
- 41.2 The Service Provider undertakes the safe custody of the Purchaser Property and to that end must:
- 41.2.1 keep the Purchaser Property in good order and condition (excluding wear and tear);
 - 41.2.2 comply with any particular security requirements communicated to the Purchaser in relation to the Purchaser Property;
 - 41.2.3 use any Purchaser Property solely in connection with the Contract and for no other purpose; and
 - 41.2.4 store the Purchaser Property separately and ensure that it is clearly identifiable as belonging to the Purchaser.
- 41.3 The Purchaser Property is deemed for the purposes of clause 41.2.1 to be in good order and condition when received by the Service Provider unless the Service Provider notifies the Purchaser otherwise within 5 Working Days of receipt.
- 41.4 The Service Provider must not:
- 41.4.1 modify or replace the Purchaser Property;
 - 41.4.2 use the Purchaser Property as security for a loan or other obligation;
 - 41.4.3 sell, or attempt to sell or part with possession of the Purchaser Property; or
 - 41.4.4 allow anyone to obtain a lien over, or right to retain, the Purchaser Property.
- 41.5 The Service Provider licences the Purchaser to enter any premises of the Service Provider during Working Hours on reasonable notice to recover any Purchaser Property.
- 41.6 The Service Provider undertakes the due return of the Purchaser Property and as such is liable for all loss of, or damage to, the Purchaser Property (excluding wear and tear), unless such loss or damage was caused or contributed to by the Purchaser's Default. The Service Provider must notify the Purchaser promptly and, in any event within 2 Working Days, upon becoming aware of any defects appearing in or losses or damage occurring to the Purchaser Property.

42 Health and Safety etc.

- 42.1 While on the Purchaser's premises, the Service Provider must comply with the Purchaser's policies concerning health and safety and fire and such modifications to those policies or replacement policies as are notified to the Service Provider from time to time.
- 42.2 The Service Provider must immediately inform the Purchaser in the event of any incident occurring in the performance of its obligations under the Contract on the Purchaser's premises where that incident causes any personal injury or damage to property which could give rise to personal injury. The Service Provider must then promptly notify the Purchaser of that fact.
- 42.3 The Purchaser must promptly notify the Service Provider of any health and safety hazards which may exist or arise at the Purchaser's premises and which may affect the Service Provider in the performance of its obligations under the Contract.

42.4 The Service Provider must promptly make available its statutory health and safety policy statement to the Purchaser on request.

43 Offences

43.1 The Service Provider must not commit or attempt to commit any offence:

43.1.1 under the Bribery Act 2010;

43.1.2 of fraud, uttering, or embezzlement at common law; or

43.1.3 of any other kind referred to in regulation 58(1) of the Public Contracts (Scotland) Regulations 2015.

43.2 Breach of clause 43.1 is a material breach for the purposes of clause 57.1.3 (Termination Rights).

43A. Compliance with Anti-Slavery and Human Trafficking Laws

43A.1. In performing its obligations under this Contract, the Service Provider shall:

43A.1.1. comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force, including the Modern Slavery Act 2015 and the Human Trafficking and Exploitation (Scotland) Act 2015;

43A.1.2. not engage in any activity, practice or conduct that would constitute an offence under the Human Trafficking and Exploitation (Scotland) Act 2015 if such activity, practice or conduct were carried out in the UK;

43A.1.3. include in contracts with its direct sub-contractors and contractors provisions which are at least as onerous as those set out in this clause;

43A.1.4. notify the Purchaser as soon as it becomes aware of any actual or suspected slavery or human trafficking in a supply chain which has a connection with this Contract;

43A.1.5. maintain a complete set of records to trace the supply chain of all Goods and Services provided to the Purchaser; and

43A.1.6. provide the Purchaser and its third party representatives access to such records.

43A.2 The Service Provider represents and warrants that it has not been convicted of any offence involving slavery and human trafficking nor has it been the subject of any investigation, inquiry or enforcement proceedings regarding any offence or alleged offence of or in connection with slavery and human trafficking.

43A.3. The Service Provider shall prepare and deliver to the Customer, each year, an annual slavery and human trafficking report setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its business.

43A.4. The Purchaser may terminate this Contract with immediate effect by giving written notice to the Service Provider if the Service Provider commits a breach of this clause.

44. Tax Arrangements

44.1 Where the Service Provider is liable to be taxed in the UK in respect of consideration received under this contract, it shall at all times comply with the Income Tax

(Earnings and Pensions) Act 2003 (ITEPA) and all other statutes and regulations relating to income tax in respect of that consideration.

- 44.2 Where the Service Provider is liable to National Insurance Contributions (NICs) in respect of consideration received under this contract, it shall at all times comply with the Social Security Contributions and Benefits Act 1992 (SSCBA) and all other statutes and regulations relating to NICs in respect of that consideration.
- 44.3 The Purchaser may, at any time during the term of this contract, request the Service Provider to provide information which demonstrates how the Service Provider complies with sub-clauses 44.1 and 44.2 above or why those clauses do not apply to it.
- 44.4 A request under sub-clause 44.3 above may specify the information which the Service Provider must provide and the period within which that information must be provided.
- 44.5 The Purchaser may supply any information which it receives under clause 44 to the Commissioners of Her Majesty's Revenue and Customs for the purpose of the collection and management of revenue for which they are responsible.
- 44.6 The Service Provider shall take all reasonable steps to ensure the observance of the provisions of this clause 44 by all of their servants, employees, agents, consultants and sub-contractors.
- 44.7 Where the Service Provider enters into any sub-contract with any of its servants, employees, agents, consultants and/or sub-contractors, the Service Provider must ensure that a provision is included which is in the same terms as this clause 44 subject only to modification to refer to the correct designation of the equivalent party as the Service Provider.

45. Discrimination

The Service Provider must not unlawfully discriminate against any person within the meaning of the Equality Act 2010 in its activities relating to the Contract or any other contract with the Purchaser.

46. Blacklisting

The Service Provider must not commit any breach of the Employment Relations Act 1999 (Blacklists) Regulations 2010 or section 137 of the Trade Union and Labour Relations (Consolidation) Act 1992, or commit any breach of the Data Protection Laws by unlawfully processing personal data in connection with any blacklisting activities. Breach of this clause is a material default which shall entitle the Purchaser to terminate the Contract.

47. Sustainability etc.

- 47.1 The Service Provider should propose measures to deliver any sustainable benefits as follows: [\(Purchaser to complete as appropriate\)](#):

48. Conflicts of interest

- 48.1 The Service Provider must take appropriate steps to ensure that the Purchaser is not placed in a position where, in the reasonable opinion of the Purchaser, there is an actual or potential conflict between the interests of the Service Provider and the duties owed to the Purchaser under the Contract.
- 48.2 The Service Provider must disclose by notice to the Purchaser full particulars of any actual or potential conflict of interest which may arise and must take such steps as are necessary to avoid or remove the conflict of interest.

- 48.3 Breach of this clause by the Service Provider is a material breach for the purposes of clause 57.1.3 (Termination Rights).

SECTION G FINAL PROVISIONS

49. Warranties and Representations

The Service Provider warrants and represents that:

- 49.1 it has full capacity and authority and all necessary consents (including where its procedures so require, the consent of its parent company) to enter into and perform its obligations under the Contract and that the Contract is executed by a duly authorised individual;
- 49.2 in entering the Contract it has not committed any offence under the Bribery Act 2010 or of fraud or uttering at common law or any other kind referred to in the Public Contracts (Scotland) Regulations 2015;
- 49.3 it has not committed any breach of the Employment Relations 1999 Act (Blacklists) Regulations 2010 or section 137 of the Trade Union and Labour Relations (Consolidation) Act 1992, or committed any breach of the Data Protection Laws by unlawfully processing personal data in connection with any blacklisting activities;
- 49.4 as at the Commencement Date, all information contained in the SPD and Tender remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Purchaser prior to execution of the Contract;
- 49.5 no claim is being asserted and no litigation, alternative dispute resolution procedure or administrative proceeding is presently in progress or, to the best of its knowledge and belief, pending or threatened against it or any of its assets which will or might have a material adverse effect on its ability to perform its obligations under the Contract;
- 49.6 it is not subject to any contractual obligation, compliance with which is likely to have a material adverse effect on its ability to perform its obligations under the Contract;
- 49.7 no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Service Provider or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Service Provider's assets or revenue;
- 49.8 it owns, has obtained or is able to obtain, valid licences for all Intellectual Property Rights that are necessary for the performance of its obligations under the Contract;
- 49.9 in the 3 years prior to the Commencement Date:
- 49.9.1 it has conducted all financial accounting and reporting activities in compliance in all material respects with the generally accepted accounting principles that apply to it in any country where it files accounts;
- 49.9.2 it has been in full compliance with all applicable securities and tax laws and regulations in the jurisdiction in which it is established;
- 49.10 it has not done or omitted to do anything which could have a material adverse effect on its assets, financial condition or position as an ongoing business concern or its ability to fulfil its obligations under the Contract;

- 49.11 it has made appropriate inquiries (for example as regards the Purchaser's premises) so as to be satisfied in relation to all matters connected with the performance of its obligations under the Contract;
- 49.12 it is familiar with the Purchaser's policies concerning Baseline Personnel Security Standard clearance and health and safety and fire as they apply at the Commencement Date;
- 49.13 it has in place appropriate technical and organisational measures to safeguard any Purchaser Protected Information provided by the Purchaser;
- 49.14 there are no actual or potential conflicts between the interests of the Service Provider and the duties owed to the Purchaser under the Contract, save as may have been specifically disclosed in writing to the Purchaser prior to execution of the Contract; and
- 49.15 it is deemed to have inspected any premises at which the services are to be performed as set out in the Specification (the 'Premises') before tendering so as to have understood the nature and extent of the Services to be carried out and is deemed to be satisfied in relation to all matters connected with the Services and the Premises.

50. Indemnity

50.1 The Service Provider shall indemnify the Purchaser against all claims, proceedings, actions, damages, costs, charges, expenses and any other liabilities which may arise out of, or in consequence of, any Default of the Service Provider.

50.2 The Purchaser shall indemnify the Service Provider in respect of all claims, proceedings, actions, damages, fines, costs, expenses or other liabilities which may arise out of, or in consequence of, a breach of the Data Protection Laws where the breach is the direct result of the Service Provider acting in accordance with the Purchaser's specific written instructions. This indemnity provision shall not apply if the Service Provider-

(a) acts on the Purchaser's specific written instructions but fails to notify the Purchaser in accordance with clause 14.12(c) of this Contract;

(b) fails to comply with any other obligation under the Contract.

51. Limitation of Liability

51.1. Neither Party is liable to the other Party under the Contract for any:

51.1.1. loss of profits, business, revenue or goodwill; or

51.1.2. indirect or consequential loss or damage.

51.2. But clause 51.1 does not exclude any liability of the Service Provider for additional operational, administrative costs or expenses or wasted expenditure resulting from the Default of the Service Provider.

51.3. The liability of either Party under the Contract for Defaults is limited to [\(enter liability limit cap\)](#).

51.4. But neither Party excludes or limits liability to the other Party for:

51.4.1. death or personal injury caused by its negligence;

51.4.2. misrepresentation;

51.4.3. any breach of any obligations implied by section 12 of the Sale of Goods Act 1979 or sections 2 or 11B of the Supply of Goods and Services Act 1982; or

51.4.4. any breach of any obligations under Data Protection Laws.

52. Insurances

52.1. The Service Provider must effect and maintain with a reputable insurance company:

52.1.1. public liability insurance in the sum of not less than (enter [PLI insurance sum](#));

52.1.2. professional indemnity insurance in the sum of not less than (enter [PII insurance sum](#)); and

52.1.3. employer's liability insurance in accordance with any legal obligation for the time being in force.

52.2. Such insurance must be maintained for the duration of the Contract and for a minimum of 5 years following the expiry or termination of the Contract.

52.3. The Service Provider must give the Purchaser, on request, copies of all insurance policies referred to in this clause or a broker's verification of insurance to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.

53. Force Majeure

53.1. Neither Party is liable to the other Party for any delay in performing, or other failure to perform, its obligations under the Contract to the extent that such delay or failure is a result of Force Majeure. Nonetheless, each Party must use all reasonable endeavours to continue to perform its obligations under the Contract for the duration of such Force Majeure. However, if Force Majeure prevents either Party from performing its material obligations under the Contract for a period in excess of (enter [Force Majeure longstop period](#)), either Party may terminate the Contract with immediate effect by notice.

53.2. Any delay or other failure by the Service Provider in performing its obligations under the Contract which results from any failure or delay by a Service Provider Representative is only to be regarded as due to Force Majeure if that Service Provider Representative is itself impeded by Force Majeure from complying with an obligation to the Service Provider.

53.3. If either Party becomes aware of Force Majeure which gives rise to, or is likely to give rise to, any delay or failure on its part as described in clause 53.1, it must immediately notify the other Party of the Force Majeure and the estimated period for which the failure or delay is to continue.

53.4. The only events that afford relief from liability for failure or delay under the Contract are Force Majeure events.

Guidance notes: Force majeure clauses anticipate certain "acts of God" and provide contractually for what is to happen. This is a fairly standard provision requiring notice to be given of Force Majeure events and preventing an innocent Party that is unable to perform its obligations from being in breach of contract. The common law doctrine of "frustration" is disapplied and the clause expressly provides a longstop period (which must be filled in) after which the Contract may be terminated.

54. Dispute Resolution

54.1. The Parties must attempt in good faith to resolve any dispute between them arising out of or in connection with the Contract in accordance with the Management Arrangements.

24.2. Any dispute or difference arising out of or in connection with the Contract, including any question regarding its existence, validity or termination, which cannot be resolved in accordance with the Management Arrangements, shall be determined by the appointment of a single arbitrator to be agreed between the Parties, and failing agreement within 14 days after either Party has given to the other a written request to concur in the appointment of an arbitrator, by an arbitrator to be appointed by the Scottish Arbitration Centre on the written application of either Party. The seat of the arbitration shall be in Scotland. The language used in the arbitral proceedings shall be English.

24.3. Any arbitration under clause 54.2 is subject to the Arbitration (Scotland) Act 2010.

55. Severability

If any provision of the Contract is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision is severed and the remainder of the provisions of the Contract continue in full force and effect as if the Contract had been executed with the invalid, illegal or unenforceable provision eliminated.

56. Waiver and Cumulative Remedies

56.1. Any failure of either Party to insist upon strict performance of any provision of the Contract, or the failure of either Party to exercise, or any delay in exercising, any right or remedy does not constitute a waiver of that right or remedy and does not cause a diminution of the obligations established by the Contract.

56.2. Accordingly, no waiver is effective unless it is expressly stated to be a waiver and communicated to the other Party in writing in accordance with clause 10 (notices).

56.3. A waiver of any Default is not a waiver of any subsequent Default.

56.4. The rights and remedies provided by the Contract are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy is not to be deemed an election of such remedy to the exclusion of other remedies.

57. Termination Rights

57.1. The Purchaser may terminate the Contract by notice to the Service Provider with immediate effect if the Service Provider commits a Default and:

57.1.1. the Service Provider has not remedied the Default to the satisfaction of the Purchaser within 20 Working Days, or such other period as may be specified by the Purchaser, after issue of a notice specifying the Default and requesting it to be remedied;

57.1.2. the Default is not in the opinion of the Purchaser, capable of remedy; or

57.1.3. the Default is a material breach of the Contract.

57.2. The Purchaser may also terminate the Contract in accordance with any provisions of the Schedules.

57.3. The Purchaser may terminate the Contract in the event that:

(a) the Contract has been subject to substantial modification which would have required a new procurement procedure in accordance with regulation 72(9) (modification of contracts during their term) of the Public Contracts (Scotland) Regulations 2015; or

(b) the Service Provider has, at the time of contract award, been in one of the situations referred to in regulation 58(1) (exclusion grounds) of the Public

Contracts (Scotland) Regulations 2015, including as a result of the application of regulation 58(2) of those regulations, and should therefore have been excluded from the procurement procedure.

- 57.4. The Purchaser may also terminate the Contract in the event of a failure by the Service Provider to comply in the performance of the Services with legal obligations in the fields of environmental, social or employment law.
- 57.5. The Purchaser may also terminate the Contract where, at any time before the term of the Contract, the Service Provider or any person falling within the description set out in paragraph (2) of regulation 58 of the Public Contracts (Scotland) Regulations 2015 commits an offence referred to in paragraph (1) of that regulation.

58. Termination on Insolvency and Change of Control

- 58.1. The Service Provider shall notify in writing immediately, and the Purchaser may terminate the Contract with immediate effect by notice, where in respect of the Service Provider:
 - 58.1.1. a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignation for the benefit of, its creditors;
 - 58.1.2. a shareholders' meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding-up is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation);
 - 58.1.3. a petition is presented for its winding up (which is not dismissed within 14 days of its service) or an application is made for the appointment of a provisional liquidator or a creditors' meeting is convened pursuant to section 98 of the Insolvency Act 1986;
 - 58.1.4. a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets;
 - 58.1.5. an application order is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given;
 - 58.1.6. it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986;
 - 58.1.7. being a "small company" within the meaning of section 382 of the Companies Act 2006, a moratorium comes into force pursuant to schedule A1 to the Insolvency Act 1986;
 - 58.1.8. a debt relief order is entered into; or
 - 58.1.9. any event similar to those listed above occurs under the law of any other jurisdiction.
- 58.2. The Purchaser may terminate the Contract by notice with immediate effect within 6 months of:
 - 58.2.1. being notified that a change of Control has occurred in accordance with clause 33.2 (Change of Control); or
 - 58.2.2. where no such notification has been given, the date that the Purchaser becomes aware of the change of control.
- 58.3. But the Purchaser may not terminate the Contract under clause 58.2 where approval of the change of control has been granted by notice by the Purchaser.

59. Exit Management

The Service Provider shall perform its relevant Exit Management obligations as part of the Contract whether applicable on either the expiry or early termination of this Contract.

59.1 The Service Provider agrees that if it breaches (or attempts or threatens to breach) its obligation to provide Exit Management, the Purchaser and their respective customers and stakeholders shall be irreparably harmed. In such circumstance, the Service Provider agrees that the Purchaser may proceed directly to court notwithstanding anything to the contrary in the dispute resolution procedure outlined in Clause 54 (Dispute Resolution). If a court of competent jurisdiction finds that the Service Provider has breached (or attempted or threatened to breach) any such obligation, the Service Provider agrees that without any additional findings of irreparable injury, or other conditions to interdict, the Service Provider shall not oppose the entry of an appropriate order compelling performance by the Service Provider and restraining the Service Provider from any further breaches or attempted or threatened breaches of its obligations in relation to Exit Management.

59.2 A draft of the Exit Plan shall be produced by the Service Provider and supplied to the Purchaser within [three (3) months] after the Commencement Date and shall include or address the matters specified in Clause 59.3. The Purchaser shall provide to the Service Provider the Purchaser's comments on the plan within one (1) month of the Purchaser's receipt of the plan. The Service Provider shall take into account the comments and suggestions of the Purchaser and shall issue the final version of the Exit Plan to the Purchaser within ten (10) Working Days of receipt of the Purchaser's comments.

59.3 The Service Provider shall throughout the period of the Contract review, maintain and continuously update the Exit Plan which shall include:

59.3.1 the activities required to enable the Purchaser to re-tender the Purchaser Requirements and/or the provision of the Services;

59.3.2 the activities necessary to support any Replacement Service Provider or the Purchaser in carrying out any necessary due diligence relating to all or part of the Services;

59.3.3 details of the Exit Management to be provided by the Service Provider prior to the Exit Management Date;

59.3.4 support for the Replacement Service Provider or the Purchaser during their preparation of any relevant plan for the transition of the System to the Replacement Service Provider or Purchaser, including prior to and during such transition period;

59.3.5 the maintenance of a 'business as usual' environment for the Purchaser during the period when Exit Management obligations are applicable; and

59.3.6 all other necessary activities to support the preparation for, and execution of, a smooth and orderly Exit Management and transfer of all or part of the Services to either a Replacement Service Provider or the Purchaser.

59.4 No amendment of the Exit Plan shall be made without prior written consent of the Purchaser.

60. Consequences of Expiry or Termination

60.1. Where the Purchaser terminates the Contract under clause 57 (Termination Rights) and makes other arrangements for the provision of services, the Service Provider indemnifies the Purchaser against all costs incurred in making those arrangements.

60.2. Where the Purchaser terminates the Contract under clause 5 (Break), the Purchaser indemnifies the Service Provider against any unavoidable losses directly resulting from the termination of the Contract (excluding loss of profit).

60.3. Any indemnity given by the Purchaser under clause 60.2 is subject to the Service Provider:

60.3.1. taking all reasonable steps to mitigate its loss;

60.3.2. taking all reasonable steps to recover its losses under any insurance policies held by it; and

60.3.3. submitting a fully itemised and costed list of losses which it seeks to recover from the Purchaser together with supporting evidence.

60.4. Except as provided for in clauses 50 (General Indemnity), 60.1 and 60.2 «F69: and the Management Arrangements», no indemnity is given or special payment is to be made by either Party to the other Party on expiry or termination of the Contract.

60.5. On expiry or termination of the Contract the Service Provider must:

60.5.1. immediately return to the Purchaser all Purchaser Property and Purchaser Protected Information in its possession; and

60.5.2. destroy or delete any copies of Purchaser Protected Information (whether physical or electronic) in its possession.

60.6. The following provisions survive the expiry or termination of the Contract:

60.6.1. clause 1 (Definitions and Interpretation);

60.6.2. clause 13 (Recovery of Sums Due);

60.6.3. clause 14 (Data Protection);

60.6.4. clause 15 (Transparency and Freedom of Information);

60.6.5. clause 16 (Purchaser Protected Information);

60.6.6. clause 17 (Service Provider Sensitive Information);

60.6.7. clause 18 (Audit [and Records Management]);

60.6.8. clause 19 (Publicity);

60.6.9. clause 23 (Offers of Employment);

60.6.10. clause 25 (Information about Service Provider Employees);

60.6.11. clause 26 (Staff transfer on expiry or termination);

60.6.12. clause 28 (Parties' pre-existing Intellectual Property Rights);

60.6.13. clause 29 (Specially Created Intellectual Property Rights);

60.6.14. clause 30 (Licences of Intellectual Property Rights);

60.6.15. clause 31 (Claims relating to Intellectual Property Rights);

60.6.16. clause 37 (Official Secrets Acts);

60.6.17. clause 40 (Service Provider's Equipment);

60.6.18. clause 41 (Purchaser Property);

60.6.19. clause 44 (Tax arrangements);

60.6.20. [clause 47 (Sustainability)];

60.6.21. clause 49 (Warranties and Representations);

60.6.22. clause 50 (Indemnity);

60.6.23. clause 51 (Limitation of Liability);

- 60.6.24. clause 52 (Insurances);
- 60.6.25. clause 54 (Dispute Resolution);
- 60.6.26. clause 56 (Waiver and Cumulative Remedies);
- 60.6.27. this clause 60;
- 60.6.28. clause 62 (Governing Law and Jurisdiction); and
- 60.6.29. paragraph 2 (Service Provider's Warranty) of Schedule 11 (Cyber Security Requirements).

60.7. If a Judicial Order is made, the provisions of the Management Arrangements referring to that possibility apply.

60.8. Immediately upon termination of the Contract for any reason whatsoever the Service Provider shall render such reasonable assistance to the Purchaser or third party nominated by the Purchaser, if requested, as may be necessary to effect an orderly assumption by a Replacement Service Provider of the Services previously performed by the Service Provider under the Contract. The Service Provider shall be entitled to charge for such termination services in accordance with [\[DN: ref some sort of method of calculating the price\]](#).

61. Entire Agreement

61.1. The Contract constitutes the entire agreement between the Parties in respect of the matters dealt with herein. The Contract supersedes all prior negotiations between the Parties and all representations and undertakings made by one Party to the other, whether written or oral, except that this clause does not exclude liability in respect of any misrepresentation (whether in the SPD or Tender or otherwise).

61.2. In the event of, and only to the extent of, any conflict between the clauses of the Contract, the Schedules and any document referred to in the Contract, the following order of precedence applies:

61.2.1. the clauses of the Contract;

61.2.2. the Schedules; and

61.2.3. any other document referred to in the Contract.

62. Governing Law and Jurisdiction

The Contract is governed by and interpreted in accordance with Scots law and, subject to clause 54 (Dispute Resolution), the Parties submit to the exclusive jurisdiction of the Scottish courts.

IN WITNESS WHEREOF these presents typewritten on this and the [\(enter no of pages before this page\)](#) preceding pages together with the [\(enter no of Schedules\)](#) Schedules annexed are executed as follows:

SIGNED for and on behalf of the (organisation name) **SIGNED** for and on behalf of (Service Provider name)

At.....

At.....

On.....

On.....

Signature.....

Signature.....

Full name

Full name.....

Position

Position.....

Address.....

Address.....

In the presence of

In the presence of

Signature.....

Signature.....

Full name

Full name.....

Address.....

Address.....

This and the following X pages comprise Schedule 1 to the foregoing Contract between the Purchaser and (enter Service Provider name)

SCHEDULE 5.1 –STATEMENT OF REQUIREMENTS AND SERVICE LEVELS

Insert Statement of Requirements and Service Levels where these differ from the Framework Agreement document – Statement of Requirements and Service Levels – Schedule 1

OR

Insert “ As per Framework Agreement – Statement of Requirements and Service Levels - Schedule 1”.

This and the following X pages comprise Schedule 2 to the foregoing Contract between the Purchaser and (enter Service Provider's name)

SCHEDULE 5.2 - PRICING SCHEDULE

Insert Pricing Schedule where prices differ from Schedule 2 to the Entire Agreement

This and the following X pages comprise Schedule 3 to the foregoing Contract between the Purchaser and (enter Service Provider's name)

SCHEDULE 5.3 – ORDERING PROCEDURES

Insert Ordering Procedures where these differ from the Framework Agreement – Ordering Procedures – Schedule 3.

This and the following X pages comprise Schedule 4 to the foregoing Contract between the Purchaser and (enter Service Providers's name)

SCHEDULE 5.4 – MANAGEMENT ARRANGEMENTS

Insert details of Management Arrangements where these differ from the Framework Agreement document – Management Arrangements – Schedule 4.

OR

Insert “ As per Framework Agreement document – Management Arrangements – Schedule 4”.

This and the following X pages comprise Schedule 5 to the foregoing Contract between the Purchaser and (enter Service Provider's name)

SCHEDULE 5.5 – KEY INDIVIDUALS

Insert details of any Key Individuals where these differ from the Framework Agreement document – Key Individuals - Schedule 5.

OR

Insert “As per Framework Agreement – Key Individuals – Schedule 5”.

This and the following X pages comprise Schedule 6 to the foregoing Contract between the Purchaser and (enter Service Provider's name)

SCHEDULE 5.6 – APPROVED SUB-CONTRACTORS

Insert details of Approved Sub-contractors, where these differ for the Framework Agreement document – Approved Sub-Contractors – Schedule 6.

OR

Insert “As per Framework Agreement – Approved Sub-Contractors – Schedule 6”.

approved Sub-Contractor(s)

Relevant obligations

1. e.g. Subco Limited (SC123456)

e.g. high risk consultancy services

This and the following X pages comprise Schedule 7 to the foregoing Contract between the Purchaser and (enter Service Provider name)

SCHEDULE 5.7 – TRANSPARENCY REPORTS AND SERVICE PROVIDER SENSITIVE INFORMATION

Insert details of Transparency Reports and Service Provider nsitive Information where this differs from the Framework Agreement document – Transparency Reports and Service Provider Sensitive Information – Schedule 7;

OR

Insert “As per the Framework Agreement – Trnsparency Reports and Service Provider Sensitive Information – Schedule 7”.

Part 1- Transparency Reports

The Purchaser will routinely publish information in relation to the Contract. This information will be released in Transparency Reports. An **example** of the type and frequency of the information is as follows:

TRANSPARENCY REPORTS (to be completed by the Purchaser within 3 months of Contract Award)

TITLE	CONTENT	FORMAT	FREQUENCY
<i>(Contract Document)</i>			
<i>(Performance)</i>			
<i>(Charges)</i>			
<i>(Major subcontractors)</i>			
<i>(Technical)</i>			
<i>(Performance management)</i>			

Part 2

SERVICE PROVIDER SENSITIVE INFORMATION

Type of information specified as Service Provider Sensitive Information	Reason why information is sensitive	Duration of sensitivity

This page comprises Schedule 8 to the foregoing Contract between the Scottish Ministers and (enter Service Provider's name)

SCHEDULE 5.8 – NOT USED

This and the following X pages comprise Schedule 9 to the foregoing Contract between the Purchaser and (enter Service Provider's name)

SCHEDULE 5.9 – DATA PROTECTION

To be completed for each call off Contract where processing of data applies.

Data Processing provision as required by Article 28(3) of the UK GDPR.

This Part includes certain details of the Processing of Personal Data in connection with the Services:

17.1.2 Subject matter and duration of the Processing of Personal Data

17.1.3 The subject matter and duration of the Processing of Personal Data are set out in the Contract.

17.1.4

17.1.5 The nature and purpose of the Processing of Personal Data

17.1.6 [Include description here]

17.1.7 The types of Personal Data to be Processed

17.1.8

17.1.9 [Include list of data types here]

17.1.10 The categories of Data Subject to whom Personal Data relates

17.1.11 [Include categories of data subjects here]

17.1.12 The obligations and rights of the Purchaser

The obligations and rights of the Purchaser as the Data Controller are set out in Clause 14 of the Contract.

This and the following X pages comprise Schedule 10 to the foregoing Contract between the Purchaser and (enter Service Provider's name)

SCHEDULE 5.10 – EXIT MANAGEMENT

For completion where requirements differ from the Framework Agreement – Exit Management – Schedule 10.

OR

Insert “As per the Framework Agreement – Exit Management – Schedule 10”.

This and the following X pages comprise Schedule 5.11 to the foregoing Contract between (Purchaser to insert name of Organisation) and (Purchaser to insert name of Service Provider)

PURCHASER TO DELETE/INSERT ANY ADDITIONAL CYBER REQUIREMENTS AS APPLICABLE

SCHEDULE 5.11 – CYBER SECURITY REQUIREMENTS

Guidance notes: Text in red requires to be amended/updated by the Purchaser to reflect the specific circumstances of the Contract.

Definitions

The defined terms used in this Schedule 5.11 shall have the following meanings:

“**Cyber Security Incident**” means anything, event, act or omission which gives, or may give, rise to:

- (i) unauthorised access to any information system, data or electronic communications network (including breach of an applicable security policy);
- (ii) reduced integrity of an information system, data or electronic communications network;
- (iii) unauthorised use of any information system or electronic communications network for the processing (including storing) of data;
- (iv) disruption or change of the operation (including takeover of control, malicious disruption and/or denial of service) of an information system or electronic communications network;
- (v) unauthorised changes to firmware, software or hardware;
- (vi) unauthorised destruction, damage, deletion or alteration of data residing in an information system or electronic communications network;
- (vii) removal or limiting the availability of, or possibility to use, data residing in an information system or electronic communications network;
- (viii) the appropriation, publication, dissemination or any other use of data by persons unauthorised to do so; or
- (ix) a breach of the Computer Misuse Act 1990, the Network and Information Systems Regulations 2018, the GDPR or the Data Protection Act 2018, the Privacy and Electronic Communications (EC Directive) Regulations 2003, the Communications Act 2003, the Official Secrets Act 1911 to 1989, or any other applicable legal requirements in connection with cybersecurity and/or privacy

in connection with the Services and/or the Contract;

- (a) “**Cyber Security Requirements**” means the Purchaser’s requirements in connection with cyber security as set out in **Section A (Cyber Security Requirements)** of the Annex to this Schedule 11, and **[the Statement of Requirements]**;

1. SERVICE PROVIDER’S WARRANTY

The Service Provider warrants and undertakes that it shall meet and comply with the Cyber Security Requirements in connection with the provision of the Services and the Contract **as stated in the Framework Agreement and in this Schedule 5.11** (including in respect of any certification or accreditation).

2. SERVICE PROVIDER’S OBLIGATIONS

2.1 The Service Provider shall implement and maintain all security measures:

- (a) as may be required under applicable laws (including the Network and Information Systems Regulations 2018);
- (b) to enable it to discharge its obligations under **the Framework Agreement and this Schedule 5.11**; and
- (c) to ensure there are no Cyber Security Incidents

in all cases to the Purchaser's reasonable satisfaction and in accordance with Good Industry Practice.

2.2 The Service Provider shall notify the Purchaser promptly of any changes in its ability to meet the Cyber Security Requirements, including any changes to certifications and accreditations.

2.3 **The Service Provider shall assist the Purchaser to comply with any applicable cyber security requirements, codes, policies and practices in connection with the Services and/or the Contract.**

Guidance notes: the Purchaser should consider whether paragraph 2.3 should be included in the contract.

3 CYBER SECURITY INCIDENTS

3.1 The Service Provider shall notify the Purchaser immediately as soon as it knows or believes that a Cyber Security Incident has or may have taken place and shall provide full details of the incident and any mitigation measures already taken and intended to be taken by it and (where applicable) any mitigation measures recommended by it to be taken by the Purchaser. Where such initial notification is not in writing, then the Service Provider shall provide the Purchaser with a written notification setting out the details required under this paragraph 3.1 promptly and in any case within **[twelve (12)]** hours from the initial notification.

Guidance notes: In paragraph 3.1, the Purchaser should consider (taking into account any obligation it may have to notify any cyber security incident) the time period within which it requires written notification of a cyber security incident.

3.2 Following a Cyber Security Incident, the Service Provider shall:

- (a) use its best endeavours to mitigate the impact of the Cyber Security Incident;
- (b) investigate the Cyber Security Incident completely and promptly, and shall keep the Purchaser fully informed of the progress and findings of its investigation;
- (c) where required to do so, inform any applicable regulator of the Cyber Security Incident; and
- (d) take any action deemed necessary by the Purchaser in the circumstances, including complying with any additional security measures deemed appropriate by the Purchaser.

3.3 **The Service Provider shall perform its obligations under this paragraph 3 at no additional charge to the Purchaser, unless it can show that the Cyber Security Incident was caused solely by an act or omission of the Purchaser.**

Guidance notes: the Purchaser should consider whether paragraph 3.3 should be included in the Contract.

4 INFORMATION AND AUDIT

- 4.1 Promptly upon request, the Service Provider shall provide to the Purchaser such information and records in connection with the Service Provider's obligations under this Schedule 5.11 as the Purchaser may request.
- 4.2 The Service Provider agrees (and procures that its sub-contractors agree) that the Purchaser, its agents and its representatives may conduct such audits as are considered necessary by the Purchaser acting reasonably, including for the following purposes:
- (a) to ascertain the impact of any Cyber Security Incident;
 - (b) to review and verify the integrity, confidentiality and security of any data relating to the Contract; or
 - (c) to review the Service Providers and/or any sub-contractor's compliance with its obligations under this Schedule 5.11.
- 4.3 The Service Provider shall (and shall ensure that any sub-contractor shall) provide the Purchaser, its agents and representatives with all reasonable co-operation and assistance in relation to audits, including:
- (a) all data and/or records requested by the Purchaser;
 - (b) access to any relevant premises and to any equipment owned/controlled by the Service Provider, any associated or group company and any sub-contractor and, where such premises and/or equipment are outwith the control of the Service Provider, shall secure sufficient rights of access for the Purchaser, its agents and representatives as are necessary to allow audits to take place; and
 - (c) access to any relevant individuals.
- 4.4 The Purchaser shall use its reasonable endeavours to:
- (a) provide at least [10 days'] notice of its intention to conduct an audit (but is not obliged to do so); and
 - (b) ensure that the conduct of each audit does not unreasonably disrupt the Service Provider and/or sub-contractor or delay the performance of the Contract.
- 4.5 The parties shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this paragraph 4 [unless an audit identifies a breach of the terms of this Schedule 5.11 by the Service Provider and/or sub-contractor, in which case the Service Provider shall reimburse the Purchaser on demand for all the Purchaser's reasonable costs and expenses incurred in conducting the audit].

Guidance notes: The Service Provider may not be able to facilitate an audit of its sub-contractors in all cases, (for example, this may not be possible if the Service Provider is using some major public cloud providers). In such circumstances, the Purchaser should consider carefully its requirements with regard to assurance.

5 BREACH OF CYBER SECURITY REQUIREMENTS

- 5.1 A breach of this Schedule 5.11 by the Service Provider is a material breach for the purposes of clause 57.1.3 (Termination Rights).
- 5.2 If the Service Provider fails to comply with the provisions of this Schedule 5.11, the Purchaser may take any action it considers appropriate or necessary (and the Service Provider shall comply with the Purchaser's requests in this respect), including:

- (a) suspending the whole or any part of the Service Provider's obligations under the Contract;
- (b) requiring that specific sub-contractors connected with such breach be removed from their involvement with the Services and the Contract and cease to have any access to the Purchaser's Protected Information and any Personal Data Processed in connection with the Services under the Contract;
- (c) requesting the Service Provider return and/or arrange the evidenced secure and permanent destruction of the Purchaser's Protected Information and any Personal Data Processed in connection with the Services under the Contract; and
- (d) implementing additional or alternative measures, both technical and organisational, to protect and secure the Purchaser's Protected Information and any Personal Data Processed in connection with the Services under the Contract.

ANNEX
CYBER SECURITY REQUIREMENTS (Delete as applicable)

The cyber security requirements applicable to the Contract are set out in the Framework Agreement and any additional requirements are set out in this Annex. Section A (*Cyber Security Requirements*) includes the Purchaser's additional requirements in connection with cyber security.

Section A: Cyber Security Requirements

Overview of any additional requirements over and above those set out in the framework agreement:

Insert as applicable

The Service Provider shall meet the following requirements over and above those set out in the framework agreement:

Insert as applicable

This and the following 2 pages comprise Schedule 6 to the Framework Agreement between the Scottish Ministers and (enter Contractor name)

SCHEDULE 6 – PARENT COMPANY GUARANTEE – NOT USED

1. We [here insert the full name of the parent company], a company incorporated under the Companies Acts (Company number []) and having our Registered Office at [] refer to the Framework Agreement concluded between the Scottish Ministers and [insert name of contractor], a company incorporated under the Companies Acts (Company number [] and having its Registered Office at [] (“the Company”) of which we are the ultimate holding company, for the provision [*specify nature of goods or services*] (“the Framework Agreement”) and in security of the Company’s obligations thereunder guarantee the same in the following manner:-

2. We guarantee that the Company shall perform all its obligations contained in the Framework Agreement.

3. If the Company shall in any respect fail to perform its obligations under the Framework Agreement or shall commit any breach thereof, we undertake, on demand by the Scottish Ministers, to perform or to take whatever steps may be necessary to achieve performance of said obligations under the Framework Agreement and shall indemnify and keep indemnified the Scottish Ministers against any loss, damages, claims, costs and expenses which may be incurred by them by reason of any such failure or breach on the part of the Company.

4. Our guarantee and undertakings hereunder shall be unconditional and irrevocable, and without prejudice to the foregoing generality we shall not be released or discharged from our liability hereunder by:

4.1 any waiver or forbearance by the Scottish Ministers of or in respect of any of the Company’s obligations under the Framework Agreement whether as to payment, time, performance or otherwise howsoever, or by any failure by the Scottish Ministers to enforce the Framework Agreement or this instrument, or

4.2 any alteration to, addition to or deletion from the Framework Agreement or the scope of the obligations to be performed under the Framework Agreement, or

4.3 any change in the relationship between ourselves and the Company; or

4.4 the bankruptcy, insolvency, liquidation, amalgamation, reconstruction, reorganisation, administrative or other receivership or dissolution of the Company, and any equivalent or analogous proceeding by whatever name known and in whatever jurisdiction,

4.5 and our guarantee and undertakings shall continue in force until all the Company’s obligations under the Framework Agreement and all our obligations hereunder have been duly performed.

5. This Guarantee shall be construed and take effect in accordance with Scots Law.

6. Our obligations under this Guarantee may be enforced by the Scottish Ministers at their discretion without first having taken any steps or proceedings against the Company or any other person.

7. We shall, on demand by the Scottish Ministers, execute such documents or take such action as the Scottish Ministers may require, for protecting the Scottish Ministers rights under this Guarantee.

8. If at any time any provision of this Guarantee is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, the legality, validity or enforceability of the other provisions of this Guarantee shall not be affected or impaired.

9. No single or partial exercise by the Scottish Ministers of any right, power or remedy provided by law or under this Guarantee shall preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

10. The rights, powers and remedies provided in this Guarantee are cumulative with, and not exclusive of, any rights, powers and remedies provided by law.

11. All notices and other communications required or permitted to be given in terms of this Framework Agreement, or any proceedings relating to it, shall be in writing and will be sufficiently served:

11.1 if delivered by hand; or

11.2 if sent by fax; or

11.3 if sent by prepaid recorded or special delivery post; or

11.4 if sent by email

to the address specified below or to such other address as is from time to time notified to the other party in accordance with the provisions of this Clause 11:

Scottish Ministers:

[to be completed]

[Guarantor]

[to be completed]

12. Any such notice or communication shall be deemed to have been served,

12.1 if delivered by hand, on the date of delivery;

12.2 if sent by fax, 4 working hours after the time at which the fax was sent;

12.3 if sent by pre-paid recorded or special delivery post, on the date of delivery; or

12.4 if sent by electronic mail, 4 working hours after the time at which the email was sent,

provided that, if in accordance with the above provisions, any such notice or communication is delivered or received outside working hours on any working day, such notice or communications shall be deemed to have been served at the start of the working hour on the next working day thereafter.

For the purposes of this Clause 12:

'working day' means a day other than a Saturday, Sunday or bank holiday in Scotland, within the meaning of the Banking and Financial Dealings Act 1971; and

'working hour' means an hour between 0900 hours and 1700 hours on a working day.

13. Each person giving a notice or making a communication hereunder by fax or email shall promptly confirm such notice or communication by post to the person to whom such notice or communication was addressed but the absence of any such confirmation shall not affect the validity of any such notice or communication or time upon which it is deemed to have been served: IN WITNESS WHEREOF these presents typewritten on this and the [2] preceding pages are executed as follows:

SIGNED for and on behalf of [DN: insert name of the Company]

At.....

On.....

Signature.....

Full name

Position

Address.....

.....

In the presence of

Signature.....

Full name

Address.....

.....

This page comprises Schedule 7 to the Framework Agreement between the Scottish Ministers and DA Languages Ltd

SCHEDULE 7 – TRANSPARENCY REPORTS AND CONTRACTOR SENSITIVE INFORMATION

Part 1- Transparency Reports

The Authority will routinely publish information in relation to the Framework, this information will be released in Transparency Reports. An example of the type and frequency of the information is as follows:

TRANSPARENCY REPORTS (to be completed by the Authority within 3 months of Contract Award)

TITLE	CONTENT	FORMAT	FREQUENCY
Publication of Contract			Only Once

CONTRACTOR SENSITIVE INFORMATION

Type of information specified as Contractor Sensitive Information	Reason why information is sensitive	Duration of sensitivity

This page comprises Schedule 8 to the Framework Agreement between the Scottish Ministers and DA Languages Ltd

SCHEDULE 8 – EXIT STRATEGY

1. Contract re-tender and re-negotiation

The Contractor shall carry out services necessary to allow Authority to undertake the competitive re-bid of a framework agreement, or to take over the provision of the Services itself.

2. Assistance with termination

2.1 The Exit Plan shall be produced and delivered by the Contractor to the Authority in accordance with the steps defined in clause 44.2.

2.2 The Contractor shall throughout the period of the Framework Agreement, maintain and continuously update the Exit Plan which shall include the contents listed in clause 44.3.

3. Post termination

In accordance with clause 50 (Consequences of termination), following the termination of the Framework Agreement the Contractor shall return to the Authority all Authority Property and Authority Protected Information in the Contractor's possession and destroy or delete any copies of Authority Protected Information (whether physical or electronic) in its possession, and a duly authorised officer of the Contractor shall certify that this has been done.

This page comprises Schedule 9 to the Framework Agreement between the Scottish Ministers and
(enter Contractor name)

SCHEDULE 9 – DATA PROTECTION – NOT USED

Guidance notes: This schedule is only required in the event that data is processed in connection with the Framework. Otherwise, Not Used.

This page comprises Schedule 10 to the Framework Agreement between the Scottish Ministers and DA Languages Ltd

SCHEDULE 10 – APPROVED SUB-CONTRACTORS

approved Sub-contractors

Relevant obligations

This and the following 4 pages comprise Schedule 11 to the Framework Agreement between the Scottish Ministers and DA Languages Ltd

SCHEDULE 11 CYBER SECURITY REQUIREMENTS

Definitions

The defined terms used in this Schedule 11 shall have the following meanings:

“Cyber Security Incident” means any thing, event, act or omission which gives, or may give, rise to:

- (i) unauthorised access to any information system, data or electronic communications network (including breach of an applicable security policy);
- (ii) reduced integrity of an information system, data or electronic communications network;
- (iii) unauthorised use of any information system or electronic communications network for the processing (including storing) of data;
- (iv) disruption or change of the operation (including takeover of control, malicious disruption and/or denial of service) of an information system or electronic communications network;
- (v) unauthorised changes to firmware, software or hardware;
- (vi) unauthorised destruction, damage, deletion or alteration of data residing in an information system or electronic communications network;
- (vii) removal or limiting the availability of, or possibility to use, data residing in an information system or electronic communications network;
- (viii) the appropriation, publication, dissemination or any other use of data by persons unauthorised to do so; or
- (ix) a breach of the Computer Misuse Act 1990, the Network and Information Systems Regulations 2018, the UK GDPR or the Data Protection Act 2018, the Privacy and Electronic Communications (EC Directive) Regulations 2003, the Communications Act 2003, the Official Secrets Act 1911 to 1989, or any other applicable legal requirements in connection with cybersecurity and/or privacy

in connection with the Services and/or the Framework Agreement;

“Cyber Security Requirements” means the Authority’s requirements in connection with cyber security as set out in Section A (*Cyber Security Requirements*) of the Annex to this Schedule 11, and the Specification;

“Good Industry Practice” in relation to any undertaking and any circumstances, means the exercise of skill, diligence, prudence, foresight and judgment and the making of any expenditure that would reasonably be expected from a skilled person in the same type of undertaking under the same or similar circumstances.

1. CONTRACTOR’S WARRANTY

- 1.1. The Contractor warrants and undertakes that it shall meet and comply with the Cyber Security Requirements in connection with the provision of the Services and the Framework Agreement (including in respect of any certification or accreditation).

2. CONTRACTOR’S OBLIGATIONS

- 2.1. The Contractor shall implement and maintain all security measures:
 - (a) as may be required under applicable laws (including the Network and Information

Systems Regulations 2018);

(b) to enable it to discharge its obligations under this Schedule 11; and

(c) to ensure there are no Cyber Security Incidents

in all cases to the Authority's reasonable satisfaction and in accordance with Good Industry Practice.

2.2. The Contractor shall notify the Authority promptly of any changes in its ability to meet the Cyber Security Requirements, including any changes to certifications and accreditations.

2.3. The Contractor shall assist the Authority to comply with any applicable cyber security requirements, codes, policies and practices in connection with the Services and/or the Framework Agreement.

3. CYBER SECURITY INCIDENTS

3.1. The Contractor shall notify the Authority immediately as soon as it knows or believes that a Cyber Security Incident has or may have taken place and shall provide full details of the incident and any mitigation measures already taken and intended to be taken by it and (where applicable) any mitigation measures recommended by it to be taken by the Authority. Where such initial notification is not in writing, then the Contractor shall provide the Authority with a written notification setting out the details required under this paragraph 3.1 promptly and in any case within twelve 12 hours from the initial notification.

3.2. Following a Cyber Security Incident, the Contractor shall:

- (a) use its best endeavours to mitigate the impact of the Cyber Security Incident;
- (b) investigate the Cyber Security Incident completely and promptly, and shall keep the Authority fully informed of the progress and findings of its investigation;
- (c) where required to do so, inform any applicable regulator of the Cyber Security Incident; and
- (d) take any action deemed necessary by the Authority in the circumstances, including complying with any additional security measures deemed appropriate by the Authority.

3.3. The Contractor shall perform its obligations under this paragraph 3 at no additional charge to the Authority, unless it can show that the Cyber Security Incident was caused solely by an act or omission of the Authority.

4. INFORMATION AND AUDIT

4.1. Promptly upon request, the Contractor shall provide to the Authority such information and records in connection with the Contractor's obligations under this Schedule 11 as the Authority may request.

4.2. The Contractor agrees (and procures that its sub-contractors agree) that the Authority, its agents and its representatives may conduct such audits as are considered necessary by the Authority acting reasonably, including for the following purposes:

- (a) to ascertain the impact of any Cyber Security Incident;
- (b) to review and verify the integrity, confidentiality and security of any data relating to the Framework Agreement; or

- (c) to review the Contractor's and/or any sub-contractor's compliance with its obligations under this Schedule 11.
- 4.3. The Contractor shall (and shall ensure that any sub-contractor shall) provide the Authority, its agents and representatives with all reasonable co-operation and assistance in relation to audits, including:
- (a) all data and/or records requested by the Authority;
 - (b) access to any relevant premises and to any equipment owned/controlled by the Contractor, any associated or group company and any sub-contractor and, where such premises and/or equipment are outwith the control of the Contractor, shall secure sufficient rights of access for the Authority, its agents and representatives as are necessary to allow audits to take place; and
 - (c) access to any relevant individuals.
- 4.4. The Authority shall use its reasonable endeavours to:
- (a) provide at least 10 days' notice of its intention to conduct an audit (but is not obliged to do so); and
 - (b) ensure that the conduct of each audit does not unreasonably disrupt the Contractor and/or sub-contractor or delay the performance of the Framework Agreement.
- 4.5. The parties shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this paragraph 4 [unless an audit identifies a breach of the terms of this Schedule 11 by the Contractor and/or sub-contractor, in which case the Contractor shall reimburse the Authority on demand for all the Authority's reasonable costs and expenses incurred in conducting the audit.]

5. BREACH OF CYBER SECURITY REQUIREMENTS

- 5.1. A breach of this Schedule 11 by the Contractor is a material breach for the purposes of clause 42 (Termination Rights).
- 5.2. If the Contractor fails to comply with the provisions of this Schedule 11, the Authority may take any action it considers appropriate or necessary (and the Contractor shall comply with the Authority's requests in this respect), including:
- (a) suspending the whole or any part of the Contractor's obligations under the Framework Agreement;
 - (b) requiring that specific sub-contractors connected with such breach be removed from their involvement with the Services and this Agreement and cease to have any access to the Purchaser's Protected Information and any Personal Data Processed in connection with the Services under the Framework Agreement;
 - (c) requesting the Contractor return and/or arrange the evidenced secure and permanent destruction of the Purchaser's Protected Information and any Personal Data Processed in connection with the Services under the Framework Agreement; and
 - (d) implementing additional or alternative measures, both technical and organisational, to protect and secure the Purchaser's Protected Information and any Personal Data Processed in connection with the Services under the Framework Agreement.

CYBER SECURITY REQUIREMENTS

The cyber security requirements applicable to the Framework Agreement are set out in this Annex. Section A (*Cyber Security Requirements*) includes the Authority's requirements in connection with cyber security

Section A: Cyber Security Requirements

The Contractor shall meet the following requirements:

The data that the Contractor will handle under this framework agreement will be classed as Official and should be treated with care, taking into account relevant legislation, at all times. Further information on Government Security Classifications and framework agreements can be found at:

[Scottish Procurement Policy Note 3/2014 - Implementing the new Government Information Security Classifications policy](#)

The Contractor will ensure the confidentiality of the data stored and/or communicated as part of this framework agreement, including both electronic and paper-based data.

The Contractor will employ effective administration and record control processes in order to underpin service delivery whilst also ensuring data is protected in compliance with the requirements of the Data Protection Act 1998.

<https://www.gov.uk/data-protection/the-data-protection-act>

The Contractor will ensure procedures and processes are in place to ensure security of client data, enabling them to work with Framework Public Bodies with high Information Technology (IT) security requirements to deliver services, ensuring continuity and protection against cyber-attacks. Contractors as a minimum must have:

- Processes in place ensuring security of client data including processes for assessing future risks;
- Procedures in place for Disaster Recovery Testing, including the dates, duration and frequency;
- Methods for the back-up of delivering services should an incident occur including manpower and access to equipment;
- Methods in place to mitigate against cyber-attack and crime using online technologies including processes relating to Boundary Firewalls and Internet Gateways, Secure Configuration, Access Control, Malware Protection and Patch Management;

Information on the Scottish Government Cyber Resilience Strategy can be found by following this link: [A Cyber Resilience Strategy for Scotland](#)

For further information please see the UK Governments [Cyber Essentials Scheme](#) and consider the information included within the scheme.

Any Sub-Contractors in relation to the Framework must comply with the clauses in this section. It is the responsibility of the Contractor to inform the Authority how their sub- contractors meet their obligations under clause 13.3 and 13.4.