

SUBCONTRACTOR AGREEMENT (“Agreement”)

COVER SHEET

Company Name (“Company”)	Click here to enter text.
Company Number (if applicable)	Click here to enter text.
Address	Click here to enter text.
Company Representative Name and Title	Click here to enter text.
Company Representative Email	Click here to enter text.
Subcontractor Name (“Subcontractor”)	Click here to enter text.
Subcontractor’s Vendor ID Number (If applicable)	Click here to enter text.
Address	Click here to enter text.
Subcontractor’s Representative Name and Title	Click here to enter text.
Subcontractor’s Representative Email	Click here to enter text.
Project Name (“Project”)	Click here to enter text.
Subcontractor Agreement Number (if applicable)	Click here to enter text.
Client (“Client”)	Foreign Commonwealth and Development Office
Head Contract date and parties (“Head Contract”)	Click here to enter text.
Head Contract Currency	Click here to enter text.
Effective Date of this Agreement (“Effective Date”)	Click here to enter a date.
Term (“Term”)	Start: Click here to enter a date. End: Click here to enter a date.
Recipient Country (“Recipient Country”)	Click here to enter text.
Jurisdiction (“Jurisdiction”)	Click here to enter text.
Agreement Currency (“Agreement Currency”)	Click here to enter text.
Total Agreement Sum - The total sum to be paid to the Contractor for the Services shall not exceed this amount.	Total: Click here to enter text.
If VAT/GST or any similar sales tax is not included in this amount, check the box.	<input type="checkbox"/> Total Agreement Sum is exclusive of VAT/GST or any similar sales tax
If any reimbursable expenses are not included in this amount, check the box.	<input type="checkbox"/> Total Agreement Sum is exclusive of any reimbursable expenses
Funding details can be found in Schedule B, Part 3.	
Records Retention Period (“Records Retention Period”)	Choose an item. Other – If other, please specify: Click here to enter text.
Payment by	Choose an item.
Damage Calculation (see clauses 5.7 and 5.8)	<input checked="" type="checkbox"/> Not applicable <input type="checkbox"/> Applicable If applicable, Percentage is: Click here to enter text. % per day
Professional Indemnity Insurance Amount (all sums in GBP)	<input type="checkbox"/> None
<input type="checkbox"/>	Total Agreement Sum 0 – 10,000 Level of Cover Required (higher of) 100,000 or 10x Total Agreement Sum
<input checked="" type="checkbox"/>	10,001 – 25,000 200,000 or 10x Total Agreement Sum

<input type="checkbox"/>	25,001 – 100,000	500,000 or 5x Total Agreement Sum
<input type="checkbox"/>	100,001 – 250,000	1,000,000 or 5x Total Agreement Sum
<input type="checkbox"/>	250,001 – 500,000	2,000,000 or 4x Total Agreement Sum
<input type="checkbox"/>	500,000 – 1,500,000	4,000,000 or 3x Total Agreement Sum
<input type="checkbox"/>	Over 1,500,000	Contact Contracts and Compliance for approval

This Agreement is governed by the laws of the Jurisdiction and the Parties submit to the jurisdiction of the courts of such place. This Agreement constitutes the entire agreement between the Parties. Any prior understanding, representation or warranty of any kind preceding the date of this Agreement is hereby superseded by this Agreement.

Signed for the Company:		Signed for the Subcontractor:	
Name:	Click here to enter text.	Name:	Click here to enter text.
Title/Role:	Click here to enter text.	Title/Role:	Click here to enter text.
Date:	Click here to enter a date.	Date:	Click here to enter a date.

TERMS AND CONDITIONS

This Agreement is made and is in full force as of the Effective Date between the Company and the Subcontractor. The Company and the Subcontractor are collectively referred to as “the Parties”.

1. BACKGROUND

- 1.1. The Company requires the Goods and/or Services provided by the Subcontractor.
- 1.2. The Subcontractor has represented that it has the necessary expertise and skills to assist the Company.
- 1.3. Based on the Subcontractor’s representations, the Company has decided to engage the Subcontractor to provide services to the Company.
- 1.4. The Subcontractor has agreed to provide the services as defined in this Agreement for the consideration, and on the terms and conditions, contained in this Agreement.

2. SCHEDULES, DEFINITIONS, AND INTERPRETATION

2.1. This Agreement is structured as follows:

- Cover Sheet
- Terms and Conditions
- Schedule A – Contact Details and Description of Services
 - Part 1: Contact
 - Part 2: Description of Services
- Schedule B - Payment
 - Part 1: Payment Terms
 - Part 2: Invoices and Taxes
 - Part 3: Rates
- Schedule C – Insurance
- Schedule D – Ethical Terms
- Schedule E – Policies and Procedures
- Schedule F – Client Terms and Conditions
 - Part 1: Standard Terms and Conditions
 - Part 2: Special Conditions
 - Part 3: Compliance Level
- Schedule G - Definitions

- 2.2. The words used in this Agreement will be defined as set out in the Definitions at Schedule G to this Agreement. If any word in Schedule G is defined specifically within the Agreement, the definition within the Agreement will prevail to the extent of any inconsistency.
- 2.3. Within this Agreement, a reference to this Agreement or another instrument will include any variation, amendment, novation, or replacement of this Agreement or the instrument to which there is a reference.
- 2.4. If there is any inconsistency between the Client Terms and Conditions (Schedule F), the Terms and Conditions of this Agreement, and the other Schedules of this Agreement, then the order of these documents as listed in this paragraph shall apply to resolve the inconsistency subject to any explicit changes to this priority set out in this Agreement.
- 2.5. In case of any ambiguities or inconsistencies in this Agreement not covered by this section, the Client Terms and Conditions, when applicable, followed by the requirement with the higher standard or which requires the higher performance or additional work or obligations will prevail.

3. ADMINISTRATIVE PROVISIONS

- 3.1. No rights or obligations of or services to be rendered by the Subcontractor under this Agreement will be assigned, transferred, or subcontracted to any third party without the prior written consent of the Company. To the extent that the Company consents to the subcontracting of any of the Subcontractor’s responsibilities (to a ‘sub-sub-contractor’) under this Agreement:
 - 3.1.1 Such subcontracting shall not relieve the Subcontractor of its obligations under this Agreement;
 - 3.1.2 The Subcontractor shall exercise due skill and care in the selection of any sub-sub-contractors to ensure that the Subcontractor is able to:
 - 3.1.2.1 manage any sub-sub-contracts in accordance with Good Industry Practice; and
 - 3.1.2.2 comply with its obligations under this Agreement in the provision of the Services.
 - 3.1.3 The terms of any such sub-sub-contract shall contain provisions:
 - 3.1.3.1 requiring the sub-sub-contractor to comply with the requirements of Schedule F at all times;

- 3.1.3.2 requiring the sub-sub-contractor to carry out all appropriate due diligence before contracting any Personnel or allocating Personnel to the Project, and will ensure that all Personnel:
 - 3.1.3.2.1 are appropriately qualified, trained and experienced to provide the Services with all reasonable skill, care and diligence;
 - 3.1.3.2.2 are vetted in accordance with the Client Staff Vetting Procedure (as provided in Schedule F, and as that term is defined in the Client Terms and Conditions in Schedule F), Good Industry Practice and the requirements of the Business Partner Code of Conduct (see Schedule E);
 - 3.1.3.2.3 are subject to pre-employment checks that include, as a minimum, employment history for the last three years, identity checks, unspent criminal convictions and right to work (including nationality and immigration status);
 - 3.1.3.3 requiring the Subcontractor to pay any undisputed sums which are due from it to the sub-sub-contractor within a specified period not exceeding thirty (30) days from the receipt of a valid invoice;
 - 3.1.3.4 requiring that any invoices submitted by a sub-sub-contractor shall be considered and verified by the Subcontractor in a timely fashion and that undue delay in doing so shall not be sufficient justification for failing to regard an invoice as valid and undisputed;
 - 3.1.3.5 conferring a right to the Company and to the Client to publish the Subcontractor's compliance with its obligation to pay undisputed invoices to the sub-sub-contractor within the specified payment period;
 - 3.1.3.6 giving the Subcontractor a right to terminate the sub-sub-contract if the sub-sub-contractor fails to comply in the performance of the sub-sub-contract with legal obligations in the fields of environmental, social or labour law; and
 - 3.1.3.7 requiring the sub-sub-contractor to include in any further sub-contract which it in turn awards suitable provisions to impose, as between the parties to that sub-contract, requirements to the same effect as those required by this clause.
- 3.2 Any modification or amendments to this Agreement will only be made by the mutual agreement of the Parties, in a written document signed by both Parties.
- 3.3 In the event that the Subcontractor consists of more than one entity, then each of those entities is jointly and severally liable for the performance of the Subcontractor's obligations under this Agreement.
- 3.4 A right under this Agreement will only be waived if the waiver is in writing and signed by the relevant Party. A waiver by either Party will not prejudice its rights in respect of any subsequent breach of this Agreement by the other Party.
- 3.5 Each provision of this Agreement will, unless the context otherwise necessarily requires, be read and construed as a separate and severable provision or part. If any provision or part is illegal, void, invalid or otherwise unenforceable for any reason then that provision or part will be severed and the remainder will be read and construed as if the severable provision or part had never existed.
- 3.6 This Agreement may be executed in any number of counterparts, each of which when executed shall constitute a duplicate original, but all the counterparts shall together constitute the one Agreement.
- 3.7 The following terms and conditions will survive the expiration or termination of this Agreement:
- 3.7.1 Clause 3.3: Joint and several liability and Clause 3.7: Survival;
 - 3.7.2 Clause 5.7 and 5.8: Services (damages portion);
 - 3.7.3 Clause 13: Intellectual Property;
 - 3.7.4 Clause 15: Publicity and Branding;
 - 3.7.5 Clause 16: Confidentiality;
 - 3.7.6 Clause 17: Data Protection;
 - 3.7.7 Clause 19: Indemnity; and
 - 3.7.8 Clause 20: Duty of Care and Insurance.
4. NOTICES AND DISPUTE RESOLUTION
- 4.1. Notices will be in writing and addressed to the other Party's Representative at the address specified in this Agreement or such other address as is subsequently notified in writing by the Party.
- 4.2. Notices will be deemed to have been received:
- 4.2.1. If sent by courier or a form of posting requiring confirmation of delivery, the date of such delivery;
 - 4.2.2. If sent by regular mail, on the third Working Day from the date mailed;
 - 4.2.3. If hand delivered by 17h00 on a Working Day in the place of receipt, that Working Day, and otherwise the following Working Day in the place of receipt; or

- 4.2.4. If sent by email, delivery as demonstrated by no intimation having been received that the notice has not been received.
- 4.3. The Company and the Subcontractor will use their best efforts in good faith to settle amicably any dispute, controversy or claim in connection with this Agreement.
- 4.4. If no agreeable settlement can be found, the dispute, controversy, or claim shall be settled by arbitration in accordance with the UNCITRAL Arbitration Rules in effect on the date of this Agreement. The appointing authority shall be the Secretary-General of the Permanent Court of Arbitration. The Parties will be bound by any arbitration award rendered as a result of such arbitration as the final adjudication of any such controversy, claim, or dispute.
- 4.5. The place of arbitration shall be the headquarters location of the Company at the time the claim is filed and the language of the arbitration will be English.
- 4.6. Should the claim involve a State, a State-controlled entity, or an intergovernmental organisation, the case shall be administered by the International Bureau of the Permanent Court of Arbitration.
5. SERVICES
- 5.1. Save as otherwise directed in writing by the Company, the Subcontractor will provide the Services during the Term of this Agreement to the satisfaction of the Company. Where any part of the Services is approved by the Client such work shall be deemed to be to the satisfaction of the Company.
- 5.2. The Subcontractor will:
- 5.2.1. ensure its Personnel exercise the highest standard of Good Industry Practice;
- 5.2.2. ensure its Personnel are of good character;
- 5.2.3. when necessary, obtain at its cost appropriate visas and work permits for its Personnel and ensure that correct visas and work permits are in place whenever its Personnel are in the Recipient Country or Countries or otherwise performing the Services;
- 5.2.4. ensure its Personnel are adequately briefed and understand the environment and culture of the Recipient Country or Countries;
- 5.2.5. notify the Company as soon as it becomes aware of any event, issue or circumstances which may adversely affect the performance of the Services;
- 5.2.6. comply with and ensure its Personnel comply with the provisions of Schedule D, Schedule E and any documents referred to in such Schedules;
- 5.2.7. assist the Company generally with its obligations to the Client, including (without limitation):
- 5.2.7.1. by promptly providing information required to be given by the Company to the Client pursuant to the Head Contract or any other associated document (including any Client code of conduct); and
- 5.2.7.2. with the preparation an Exit Plan (as defined in the Head Contract), if required by the Company;
- 5.2.8. in performing its obligations under this Contract, not embarrass the Client, the Company or the Project, or otherwise bring the Client, the Company or the Project into disrepute by engaging in any act or omission which is reasonably likely to diminish a) the trust that the public places in the Client or b) the reputation of the Company or the Project, regardless of whether or not such act or omission is related to the Subcontractor's obligations under this Agreement; and
- 5.2.9. comply with, and ensure its Personnel comply with, all Legislative Requirements affecting the performance of the Services, including Data Protection Legislation and all Legislative Requirements, official protocols and procedures of the Recipient Country, the Subcontractor's country of registration and where the Services are provided (if different).
- 5.3. The following additional provisions apply in connection with the Subcontractor's Personnel:
- 5.3.1. The Subcontractor will ensure the persons in the Personnel List set out in Schedule A perform the Services in accordance with the inputs set out in Schedule A and the terms and conditions of this Agreement;
- 5.3.2. The Subcontractor will not vary the Personnel List or replace anyone on the Personnel List without the Company's prior written approval, which will not be unreasonably withheld;
- 5.3.3. The Subcontractor will carry out all appropriate due diligence before contracting any Personnel or allocating Personnel to the Project, and will ensure that all Personnel:
- 5.3.3.1. are appropriately qualified, trained and experienced to provide the Services with all reasonable skill, care and diligence;
- 5.3.3.2. are vetted in accordance with the Client Staff Vetting Procedure (as provided in Schedule F, and as that term is defined in the Client Terms and Conditions in Schedule F), Good Industry Practice and the requirements of the Business Partner Code of Conduct (see Schedule E);

- 5.3.3.3. are subject to pre-employment checks that include, as a minimum, employment history for the last three years, identity checks, unspent criminal convictions and right to work (including nationality and immigration status);
- 5.3.3.4. obey all lawful instructions and reasonable directions issued by the Client pursuant to the Head Contract (including, if so required by the Client, the Client's ICT Policy);
- 5.3.4. If a person in the Personnel List is unable for whatever reason to complete his/her engagement with the Subcontractor or terminates his/her engagement with the Subcontractor, the Subcontractor will as soon as possible replace that person at its own cost with a person of at least equivalent experience, ability and expertise approved in writing by the Company (whose approval will not be unreasonably withheld) and, if required by the terms of the Head Contract, also approved in writing by the Client;
- 5.3.5. The Company, whether pursuant to a direction by the Client or in its own discretion, may direct the Subcontractor, at the Subcontractor's cost, to remove any person from the Project or from performing the Services. The Subcontractor accepts that the Company may not be in a position to provide reasons for this direction, and the Client and the Company will not be liable for any claim or costs in connection with the removal;
- 5.3.6. The Subcontractor, by engaging Personnel to perform part(s) of the Services, will not be relieved from any of its liabilities or obligations under this Agreement and will remain responsible for all Personnel and all work which is performed by them; and
- 5.3.7. The Subcontractor and its Personnel will not represent themselves as either the Client or the Company.
- 5.4. If unsatisfied with the quality or any other aspect of any part of the Services or any Project Material because the Services or Project Material do not comply with this Agreement (including without limitation Schedule A), the Company may, at its sole discretion, amend or reject any such part of the Services or Project Material or request amendment by the Subcontractor and it will give the reasons for such rejection or request for amendment. If required to do so by Company, the Subcontractor will correct or amend such part of the Services or the Project Material, at its own cost, within the time period that is specified by the Company in writing which will be a reasonable time period under the circumstances.
- 5.5. All contact, communication, and dealings with the Client and its representatives in relation to the Project will be through the Company and not directly through the Subcontractor or any of its Personnel unless the Company agrees otherwise with the Subcontractor in writing.
- 5.6. Where this Agreement is terminated prior to the completion of the Services (for whatever reason) the Subcontractor will supply all necessary information and explanation required by the Company in relation to the Services provided and any software used by the Subcontractor to enable the Company to use and complete the Services.
- 5.7. These clauses 5.7 and 5.8 apply where the 'Damages Calculation' field on the Cover Sheet has been ticked 'Applicable' and a percentage has been nominated. Where the Subcontractor fails to meet any deadline or Milestone for any aspect of the Services, whether due to the rejection of or request for amendment to any part of the Services or Project Material by the Company or the Client, or for any other reason (save where the Company determines that a Force Majeure Event has occurred), the Subcontractor will be liable to pay damages to the Company as compensation for the delay.
- 5.8. Where the Company requires the Subcontractor to pay damages, the amount will be a daily rate calculated on the basis of the percentage set out in the Damages Calculation field of the Cover Sheet to this Agreement, applied to that part of the Total Agreement Sum that relates to the Services in question. The damages will be payable beginning after the day the services were due up until the Services in question are performed in full in accordance with the terms of this Agreement and such damages are in addition to the rights of the Company to require the Subcontractor to complete, correct or amend the Services in question.
- 6. CONTRACT AND PERFORMANCE MONITORING
- 6.1. The Parties will meet at intervals to be determined by the Company to discuss the Subcontractor's performance of the Services and compliance with the terms of this Agreement including the Client Supply Partner Code of Conduct as referred to in Schedule F. If requested, the Subcontractor will provide a report on its compliance with the Client Supply Partner Code of Conduct prior to any such meeting.
- 6.2. Where the Company considers that the Subcontractor's performance is not satisfactory it shall be entitled to require the Subcontractor to prepare a Performance Remediation Plan ('PRP'). The PRP shall cover the issues raised by the Company and shall set out a programme (including a timetable) to resolve such issues. The PRP shall be agreed by the Parties and shall then be followed by the Subcontractor. The Company

and the Subcontractor will meet at intervals to be agreed to review progress of the tasks set in the PRP. The Company will discharge the PRP when it considers that the issues set out in the PRP have been resolved by the Subcontractor.

7. ACCESS AND AUDIT

- 7.1. The Subcontractor and its Personnel will at all times:
 - 7.1.1. keep accurate, systematic and up to date Records, including all invoices and other financial data and paperwork, relating to the performance of its obligations under this Agreement and in accordance with all requirements of the Head Contract;
 - 7.1.2. retain copies of all Records for the Records Retention Period after termination or expiration of this Agreement;
 - 7.1.3. allow all persons authorised in writing by the Company or the Client full access, at reasonable times, to premises occupied by the Subcontractor where the Services are being carried out, or where Records or Project Material are held or are available, and will permit such persons to inspect, audit, take extracts from and copy any information, Project Material or Records relating to the Services or the Project or this Agreement generally.
 - 7.1.4. provide all reasonable assistance requested by the Company or the Client:
 - 7.1.4.1. for the performance of such inspection or audit above, or any administrative or statutory review or audit relating to this Agreement, the Head Contract, the Goods and/or the Services;
 - 7.1.4.2. in relation to an audit of the Company by the Client pursuant to the terms of the Head Contract; or
 - 7.1.4.3. in relation to any audit described in Clause 7.1.3 above.
- 7.2. The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this clause, unless the audit reveals a default by the Subcontractor in which case the Subcontractor shall reimburse the Company for its reasonable costs incurred in relation to the audit.
- 7.3. To the extent required under the Head Contract, or any later Client requirement, to disclose the amount of profit derived by parties providing services to the Project, the Subcontractor shall make available to the Company (and the Client, as required) details of any profit made by the Subcontractor and/or any Affiliate in the provision of the Services.
- 7.4. The Subcontractor will provide a copy of the Subcontractor's audited accounts to the Company on request, or annually, in the absence of a request from the Company.

8. HEAD CONTRACT

- 8.1. The Subcontractor acknowledges that the Head Contract requires that this Agreement adequately protects the interests of the Client and ensures compliance with the Client's policies and other requirements.
- 8.2. The Subcontractor accepts and will follow and comply fully with and will assist the Company in complying fully with all the Client Terms and Conditions and associated documents (as referenced in Schedule F) in relation to itself and the Services or any work undertaken or actions taken pursuant to this Agreement and insofar as such terms and conditions are applicable to the Subcontractor and the Services and in addition to the other terms of this Agreement.
- 8.3. The Subcontractor will specifically assist the Company with its compliance with the Client Supply Partner Code of Conduct ("the Code"), namely by:
 - 8.3.1. complying with the Code in spirit and letter; and
 - 8.3.2. by providing, in a timely way, any information required by the Code to be given by the Company in relation to its Subcontractors and Subcontractor Personnel;
- 8.4. The Subcontractor agrees to undertake due diligence and vetting of its Personnel in accordance with Good Industry Practice and to a standard that is in compliance with the Client's Staff Vetting Procedure (see Schedule F).
- 8.5. The Subcontractor confirms its Compliance Level under the Code as at the Effective Date as set out in Schedule F, Part 3.
- 8.6. Notwithstanding Clause 3.2, where the Client Terms and Conditions are amended or updated at any time, the amended or updated version will apply to this Agreement provided the Company has informed the Subcontractor of the amendment or updating and provided a copy of such amendment or update.
- 8.7. The Subcontractor will ensure that all its employees, contractors, subcontractors, and Personnel generally are bound by and comply with the terms of this clause.
- 8.8. The Subcontractor acknowledges the right of the Client under the Contracts (Rights of Third Parties) Act, (or equivalent law in the Jurisdiction, if available) to:

- 8.8.1.enforce any of the obligations of the Subcontractor under this Agreement against the Subcontractor directly or indirectly;
- 8.8.2.exercise all rights of the Client in the Head Contract in relation to this Agreement; and
- 8.8.3.exercise all the rights of the Company set out in this Agreement.

9. WARRANTIES AND REPRESENTATIONS

- 9.1. The Subcontractor warrants, represents and undertakes for the duration of the Term that:
 - 9.1.1.It is validly incorporated, organised and subsisting in accordance with the Legislative Requirements;
 - 9.1.2.It has full capacity and authority to enter into and to perform this Agreement;
 - 9.1.3.This Agreement is executed by its duly authorised representative;
 - 9.1.4.It has and will continue to have all necessary consents and regulatory approvals (e.g. from the Regulatory Bodies) to enter into this Agreement;
 - 9.1.5.There are no actions, suits or proceedings or regulatory investigations before any court or administrative body or arbitration tribunal pending or, to its knowledge, threatened against it or any of its Affiliates that might affect its ability to perform its obligations under this Agreement;
 - 9.1.6.Its execution, delivery and performance of its obligations under this Agreement will not constitute a breach of any Legislative Requirement or obligation applicable to it and will not cause or result in a default under any agreement by which it is bound;
 - 9.1.7.Its obligations under this Agreement constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms subject to applicable bankruptcy, reorganisation, insolvency, moratorium or similar Legislative Requirements affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or law);
 - 9.1.8.All written statements and representations in any written submissions made by the Subcontractor as part of the procurement process, including without limitation its response to any due diligence questionnaire, Client or Company standard selection questionnaire and/or invitation to tender (if applicable), its tender, proposal and/or any other documents submitted remain true and accurate except to the extent that such statements and representations have been superseded or varied by this Agreement or to the extent that the Subcontractor has otherwise disclosed to the Company in writing prior to the date of this Agreement;
 - 9.1.9.It has notified the Company in writing of any Occasions of Tax Non-Compliance and any litigation in which it is involved that is in connection with any Occasion of Tax Non-Compliance;
 - 9.1.10. It has all necessary rights in and to any Licensed Software, the Third Party IPRs, the Subcontractor Background IPRs and any other materials made available by the Subcontractor (and/or any sub-sub-contractor) to the Company which are necessary for the performance of the Subcontractor's obligations under this Agreement and/or the receipt of the Services by the Company;
 - 9.1.11. It is not subject to any contractual obligation, compliance with which is likely to have a material adverse effect on its ability to perform its obligations under this Agreement;
 - 9.1.12. 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 Subcontractor 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 Subcontractor's assets or revenue
 - 9.1.13. At the Effective Date no conflict of interest exists or is likely to arise in the performance of its obligations under this Agreement and that it will use its best endeavours to ensure that no conflict of interest arises in relation to the performance of any aspect of this Agreement; and
 - 9.1.14. Its Personnel have the necessary experience, skill, knowledge, qualifications, expertise and competence to perform the Services.
- 9.2. The representations and warranties set out in this clause shall be deemed to be repeated by the Subcontractor on the start date of the Term and the Effective Date (if later than the date of signature of this Agreement) by reference to the facts then existing.
- 9.3. The representations and warranties set out in this clause shall be construed as a separate representation and warranty and shall not be limited or restricted by reference to, or inference from, the terms of any other representation, warranty or any other undertaking in this Agreement.
- 9.4. If at any time the Subcontractor becomes aware that a representation or warranty given by it under this Clause has been breached, is untrue or is misleading, it shall immediately notify the Company of the relevant occurrence in sufficient detail to enable the Company to make an accurate assessment of the situation.

- 9.5. the Subcontractor System and assets used in the performance of the Services will be:
- 9.5.1. free of all encumbrances - any exceptions must be agreed in writing with the Company; and
 - 9.5.2. Euro Compliant.
- 9.6. For the avoidance of doubt, the fact that any provision within this Agreement is expressed as a warranty shall not preclude any right of termination which the Company may have in respect of breach of that provision by the Subcontractor.
10. GOVERNANCE, POLICIES AND PROCEDURES
- 10.1. The Subcontractor confirms that it has been made aware of, has read and understood and will comply with in full all the policies, procedures and conditions listed or referred to in Schedules D, E and F.
- 10.2. Where the Subcontractor is notified of any changes in such policies, procedures and conditions it will ensure that its Personnel are duly updated.
- 10.3. The Subcontractor will also comply with and follow any Standard Operating Procedures and Guidelines, Procedural Manuals, Safety and Security Plans, or any other policies and procedures for the Project when required to do so by the Company.
- 10.4. The Subcontractor will immediately inform the Company if the Subcontractor becomes aware of any information indicating that any action in breach of the terms of this clause has been committed or may possibly be committed.
- 10.5. The Subcontractor will include the terms and requirements of Schedules D, E and F in all sub-sub-contracts or other contracts the Subcontractor makes in connection with this engagement to ensure that all individuals and other entities contracted by the Subcontractor comply with the terms of this clause.
- 10.6. The Company will be entitled to require the Subcontractor to provide reasonable evidence that it is complying with the obligations in this clause.
- 10.7. If, at any point during the Term, an Occasion of Tax Non-Compliance occurs, the Subcontractor shall:
- 10.7.1. notify the Company in writing of such fact within 5 Working Days of its occurrence;
 - 10.7.2. promptly provide to the Company:
 - 10.7.2.1. details of the steps which the Subcontractor is taking to address the Occasion of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors that it considers relevant; and
 - 10.7.2.2. such other information in relation to the Occasion of Tax Non-Compliance as the Company may reasonably require.
- 10.8. The Subcontractor will immediately notify the Company in writing if the Subcontractor is contemplating or intending to undertake or believes it will be subject to a change of Control and further shall notify the Company immediately in writing if it becomes aware of circumstances which suggest or may lead to a change of Control. Where the terms of the Head Contract require prior approval from the Client for any change of Control in the Subcontractor, the Subcontractor will provide the Company with all information and assistance that may be required in applying for such approval.

11. PAYMENT

In consideration of the Subcontractor providing the Services in accordance with this Agreement, the Company will pay the Subcontractor in accordance with the payment details set out in Schedule B.

12. PROJECT MATERIAL

The Subcontractor will:

- 12.1. ensure the safekeeping and maintenance of the Project Material including being responsible for preserving its integrity and preventing its corruption or loss;
- 12.2. not delete or remove any proprietary notices contained within or relating to Project Material;
- 12.3. ensure that the Project Material is supplied to the Company in the format(s) specified by the Company;
- 12.4. not store, copy, disclose, or use Project Material except as necessary for the performance by the Subcontractor of its obligations under this Agreement or as otherwise expressly authorised in writing by the Company;
- 12.5. use the latest versions of anti-virus definitions available from an industry accepted anti-virus software vendor to check for and delete malicious software from its ICT environment;
- 12.6. notwithstanding the above, if malicious software is found, cooperate with the Company to reduce the effect of the malicious software and, particularly if malicious software causes loss of operational efficiency or loss or corruption of Project Material, assist to mitigate any losses and to restore the Services to their desired operating efficiency. Any costs arising out of the actions of the Parties taken in compliance with the provisions of this clause will be borne by the Subcontractor except where the source of the malicious software is shown to be the Company;

- 12.7. perform secure back-ups of all Project Material and will ensure that up-to-date back-ups are stored at a secondary location, in accordance with any requirements of the Head Contract and also in accordance with any other similar rules or procedures of the Company confirmed in writing to the Subcontractor. The Subcontractor will ensure that such back-ups are available to the Company at all times, upon request;
 - 12.8. ensure that the system on which the Subcontractor holds any Project Material, including back-up data, is a secure system that complies with the requirements of the Head Contract and any other similar rules or procedures of the Company confirmed in writing to the Subcontractor;
 - 12.9. where Project Material is corrupted, lost, or sufficiently degraded so as to be unusable when under the control of the Subcontractor, and on written request from the Company:
 - 12.9.1. at the Subcontractor's expense, restore or procure the restoration of the Project Material as soon as practicable but not later than seven (7) days following the written request from the Company; and/or
 - 12.9.2. reimburse the Company for all reasonable expenses incurred by the Company in restoring or procuring the restoration of the Project Material.
 - 12.10. if at any time the Subcontractor suspects or has reason to believe that Project Material has or may become corrupted, lost or degraded in any way, notify the Company immediately and inform the Company of the remedial action the Subcontractor proposes to take; and
 - 12.11. at the expiration or termination of this Agreement, deliver to the Company or as directed by the Company, all Project Material and other property or assets of the Company and the Client, which are in the Subcontractor's possession or under its control.
13. INTELLECTUAL PROPERTY
- 13.1. Save as expressly granted elsewhere under this Agreement:
 - 13.1.1. The Company shall not acquire any right, title or interest in or to the Intellectual Property Rights of the Subcontractor or its licensors, namely:
 - 13.1.1.1. the Subcontractor Background IPR; and
 - 13.1.1.2. the Third Party IPR.
 - 13.1.2. The Subcontractor shall not acquire any right, title or interest in or to the Intellectual Property Rights of the Company, the Client or their licensors including the:
 - 13.1.2.1. Company or Client Background IPR;
 - 13.1.2.2. Company or Client Data;
 - 13.1.2.3. Project Material; and
 - 13.1.2.4. Project Name and any rights and interests in it.
 - 13.2. Where either Party acquires, by operation of Legislative Requirement, title to Intellectual Property Rights that is inconsistent with the allocation of title set out in Clause 13.1, it shall assign in writing such Intellectual Property Rights as it has acquired to the other Party on the request of the other Party (whenever made). Neither Party shall have any right to use any of the other Party's names, logos or trade marks on any of its products or services without the other Party's prior written consent.
 - 13.3. Any Project Material shall be owned by the Company (or the Client, if directed by the Company). The Company grants the Subcontractor a licence to use any Company or Client Background IPR and Project Material for the purpose of fulfilling its obligations under this Agreement during its Term.
 - 13.4. Subject to Clause 13.6, to the extent that it is necessary to enable the Client to obtain the full benefits of ownership of the Project Materials, the Subcontractor hereby grants to the Company (and the Client, if applicable) and shall procure that any relevant third party licensor shall grant to the Company (and the Client, if applicable) a perpetual, irrevocable, non-exclusive, assignable, royalty-free licence to use, sub-license and/or commercially exploit any Subcontractor Background IPRs or Third Party IPRs that are embedded in or which are an integral part of the Project Material.
 - 13.5. The Subcontractor shall promptly notify the Company if it reasonably believes that it will be unable to grant or procure the grant of the licences set out in Clause 13.4 above and the Subcontractor shall provide full details of the adverse effect this may have on the Company or Client's use of the Project Materials.
 - 13.6. Where the Subcontractor is unable to comply with Clause 13.4, the Subcontractor shall refrain from embedding or integrating any Subcontractor Background IPRs and/or Third Party IPRs with the Project Materials in such a way that could affect the Company or the Client obtaining full benefit of the ownership of those Project Materials, except where the Company has provided express written approval to do so.
 - 13.7. The Subcontractor shall, during and after the Term, on written demand, indemnify the Company and the Client against all losses incurred by, awarded against, or agreed to be paid by the Company or Client (whether before or after the making of the demand pursuant to the indemnity hereunder) arising from an IPR Claim.

- 13.8. If an IPR Claim is made or anticipated, the Subcontractor must at its own expense and the Company's sole option, either:
- 13.8.1. procure for the Company and the Client the rights in Clause 13.4 without infringing the IPR of any third party; or
 - 13.8.2. replace or modify the relevant item with non-infringing substitutes with no detriment to functionality of performance of the Services.
14. PROCUREMENT AND GOODS
- 14.1. To the extent the Services involve procurement of goods, plant, material, equipment or any tangible items (Goods) with funding made available under this Agreement, the Subcontractor shall ensure that such procurement shall:
- 14.1.1. be undertaken in accordance with best practice principles of openness, fairness and transparency;
 - 14.1.2. achieve "Value for Money", defined as the optimum combination of whole-life cost and quality to meet requirements in a fully transparent manner (and the procurement may be subject to audit by the Company or the Client);
 - 14.1.3. be carried out using strict due diligence processes that ensure the protection of the Company's and the Client's interests and reputation, with particular emphasis on anti-terrorism, anti-corruption and prevention of fraud throughout the delivery chain; and
 - 14.1.4. be on the basis that the ownership of Goods shall vest in the Company or the Client (as advised by the Company) and shall be so marked.
- 14.2. Goods may only be used in providing the Services. Personal use of Goods by the Subcontractor or its Personnel is not permitted without Company approval.
- 14.3. The Subcontractor shall keep an up to date inventory ("Asset Register") of the Goods, their condition and location and make such Asset Register available to the Company immediately on request.
- 14.4. The Subcontractor is responsible for the security, maintenance and safekeeping of the Goods, including by keeping the Goods in safe and good condition. Except as required by law or circumstance, the Subcontractor shall not insure Goods.
- 14.5. Provided any loss or damage is not due to the Subcontractors' negligence or wilful neglect, the Company or the Client shall bear the risk in respect of loss or damage, subject to the Subcontractor obtaining and paying to the Company or the Client such proper compensation as may be due from any third party in respect of such loss or damage to the Goods.
- 14.6. The Subcontractor shall notify the Company in writing as soon as the Subcontractor becomes aware of any loss or damage to any item on the Asset Register.
- 14.7. The Subcontractor shall obtain the Company's instructions on the disposal of Goods and comply with such instructions.
15. PUBLICITY AND BRANDING
- 15.1. The Subcontractor will not, without prior written approval of the Company (and, where required, the Client), make or issue any Promotional Material except to the extent required by any Legislative Requirement. Prior approval will not be unreasonably withheld by the Company.
- 15.2. The Subcontractor will submit the request for approval of Promotional Material at least 30 days prior to the intended publication or promotion. If the Company determines that any amendments are necessary to the Promotional Material, the Subcontractor will make these amendments and submit amended Promotional Material to the Company for approval.
- 15.3. The Subcontractor must ensure that all Promotional Material is accurate and not misleading in any way and complies with all requirements of the Client Terms and Conditions - Schedule F, including in respect of branding.
- 15.4. If requested, the Subcontractor will collaborate and cooperate with the Company in the preparation of any Promotional Material in accordance with the requirements of Schedule F.
16. CONFIDENTIALITY
- 16.1. The Parties acknowledge that, during the Term of this Agreement, the Parties and their Personnel may become acquainted with or have access to Confidential Information and they agree to maintain the confidence of the Confidential Information and to prevent its unauthorised disclosure to, or use by, any other person, firm, or company. The Parties will ensure compliance with this obligation by their respective Personnel.
- 16.2. The Parties will not disclose or use any Confidential Information except to the extent that such disclosure or use:

- 16.2.1. is strictly necessary for the performance of the Services;
 - 16.2.2. is required by Legislative Requirements (including where required by the Client to fulfil the requirements of the Freedom of Information Act 2000) or is reasonably required for legal proceedings;
 - 16.2.3. is authorised by prior written approval from the Party who owns the Confidential Information; or
 - 16.2.4. already is or comes into the public domain otherwise than through a Party's unauthorised disclosure or that of any of its Personnel.
- 16.3. The Parties and their Personnel will not use any Confidential Information received otherwise than for the purposes of this Agreement.
- 16.4. The Parties will only disclose Confidential Information to Personnel who are directly involved in the provision of the Services and who need to know the information and the Parties will ensure that such Personnel are aware of, and will comply with, these obligations and will sign any required confidentiality undertakings provided by the Company, the Subcontractor, and/or the Client on request. The Subcontractor (and its Personnel) may also be required to sign a confidentiality undertaking directly with the Client.
- 16.5. If a Party is required to disclose Confidential Information due to Legislative Requirements or legal proceedings, it will provide reasonable notice of such disclosure to the other Party.
- 16.6. The Parties agree that this obligation applies during the Term and after termination of the Agreement.
- 16.7. The parties acknowledge that the Client may have certain rights in respect of the disclosure of Confidential Information, as detailed in the Client Terms and Conditions - Schedule F.
- 16.8. Confidential Information excludes:
- 16.8.1. Information in the public domain prior to its disclosure to a party or material which enters into the public domain after disclosure otherwise than by default of the receiving party;
 - 16.8.2. Information known to the recipient of the information by action of a third party not in breach of any obligation of confidentiality to the provider of the information;
 - 16.8.3. Information in the recipient's possession before receipt from the provider and which was not acquired directly or indirectly from the provider; or
 - 16.8.4. Information independently developed by or for the recipient at any time, independently of the Confidential Information disclosed to it by the provider.
- 16.9. The Subcontractor shall, and shall ensure that the Subcontractor Personnel shall, comply with any relevant obligations arising under the Official Secrets Acts 1911 to 1989. The Subcontractor, if requested by the Company, shall procure that any relevant Subcontractor Personnel involved in providing the Services shall sign a statement that he or she understands that the Official Secrets Acts 1911 to 1989 shall apply to him or her both during the Term of and after the expiry or termination of this Agreement.
17. DATA PROTECTION
- 17.1. The Parties acknowledge that the factual activity carried out by each of them in relation to their obligations under this Agreement will determine the status of each Party under the Data Protection Legislation. A Party may act as a "Controller" or a "Processor" of certain Personal Data under this Agreement. It is anticipated that the roles each will play is as follows:
- 17.1.1. The Company shall be the Controller of Personal Data in relation to:
 - 17.1.1.1. Company Personnel; or
 - 17.1.1.2. any other Personal Data relating to the Project or the Services which is not the Personal Data of Subcontractor Personnel.
 - 17.1.2. The Subcontractor shall be the Controller of Personal Data in relation to Subcontractor Personnel where such data is shared pursuant to this Agreement.
 - 17.1.3. Personal Data may only be processed by the Party other than the Controller where such processing is necessary for the performance of this Agreement.
- 17.2. Where a Party is Processing on behalf of the other Party who is the Controller:
- 17.2.1. The Processor shall notify the Controller immediately if it considers that any of Controller's instructions infringe the Data Protection Legislation.
 - 17.2.2. The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment, if reasonably determined necessary by the Controller because the processing involves novel or unusual activities that the Controller (acting reasonably) deems to be a material risk to the Controller, prior to commencing any processing. Such assistance may, at the discretion of the Controller, include:
 - 17.2.2.1. a systematic description of the envisaged processing operations and the purpose of the processing;

- 17.2.2.2. an assessment of the necessity and proportionality of the processing operations in relation to the services.
 - 17.2.2.3. an assessment of the risks to the rights and freedoms of Data Subjects; and
 - 17.2.2.4. the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 17.2.3. The Processor shall, in relation to any Personal Data processed in connection with its obligations under this Agreement:
- 17.2.3.1. process that Personal Data as is only necessary in accordance with the Services or the Head Contract, unless the Processor is required to do otherwise by Legislative Requirements. If it is so required the Processor shall promptly notify the Controller before processing the Personal Data unless prohibited by Legislative Requirements;
 - 17.2.3.2. ensure that it has in place Protective Measures, which are appropriate to protect against a Data Loss Event, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures) having taken account of the:
 - 17.2.3.2.1. nature of the data to be protected;
 - 17.2.3.2.2. harm that might result from a Data Loss Event;
 - 17.2.3.2.3. state of technological development; and
 - 17.2.3.2.4. cost of implementing any measures;
 - 17.2.3.3. ensure that:
 - 17.2.3.3.1. the Processor Personnel do not process Personal Data except in accordance with this Agreement;
 - 17.2.3.3.2. it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
 - 17.2.3.3.2.1. are aware of and comply with the Processor's duties under this clause;
 - 17.2.3.3.2.2. are subject to appropriate confidentiality undertakings with the Processor or any Sub-processor;
 - 17.2.3.3.2.3. are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Controller or as otherwise permitted by this Agreement; and
 - 17.2.3.3.2.4. have undergone adequate training in the use, care, protection and handling of Personal Data; and
 - 17.2.3.4. not transfer Personal Data outside of the UK or EU unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
 - 17.2.3.4.1. the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Controller;
 - 17.2.3.4.2. the Data Subject has enforceable rights and effective legal remedies;
 - 17.2.3.4.3. the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and
 - 17.2.3.4.4. the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the processing of the Personal Data;
 - 17.2.3.5. For the avoidance of doubt, the Controller is deemed to have consented to the transfer of Personal Data to the Recipient Country for the purposes of receiving or providing the Services or any matter related to this Agreement, subject to compliance with 17.2.3.4.1 to 17.2.3.4.4.
 - 17.2.3.6. At the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Agreement unless the Processor is required by Legislative Requirements to retain the Personal Data.
- 17.2.4. The Processor shall notify the Controller without due delay and in any event within 48 hours if it:
- 17.2.4.1. receives a Data Subject Access Request (or purported Data Subject Access Request);
 - 17.2.4.2. receives a request to rectify, block or erase any Personal Data;
 - 17.2.4.3. receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;

- 17.2.4.4. receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement;
- 17.2.4.5. 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
- 17.2.4.6. becomes aware of a Data Loss Event.
- 17.2.5. Taking into account the nature of the processing, the Processor shall provide the Controller with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 17.2.4 (and insofar as possible within the timescales reasonably required by the Controller) including by promptly providing:
 - 17.2.5.1. the Controller with full details and copies of the complaint, communication or request;
 - 17.2.5.2. such assistance as is reasonably requested by the Controller to enable the Controller to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
 - 17.2.5.3. the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
 - 17.2.5.4. assistance as requested by the Controller following any Data Loss Event;
 - 17.2.5.5. assistance as requested by the Controller with respect to any request from the Information Commissioner's Office, or any consultation by the Controller with the Information Commissioner's Office.
- 17.2.6. The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this clause. This requirement does not apply where the Processor employs fewer than 250 staff, unless:
 - 17.2.6.1. the Controller determines that the processing is not occasional;
 - 17.2.6.2. the Controller determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and
 - 17.2.6.3. the Controller determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 17.2.7. Before allowing any Sub-processor to process any Personal Data related to this Agreement, the Processor must:
 - 17.2.7.1. notify the Controller in writing of the intended Sub-processor and processing;
 - 17.2.7.2. obtain the written consent of the Controller;
 - 17.2.7.3. enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause 17.2 such that they apply to the Sub-processor; and
 - 17.2.7.4. provide the Controller with such information regarding the Sub-processor as the Controller may reasonably require.
- 17.2.8. The Processor shall remain fully liable for all acts or omissions of any Sub-processor.

18. NO EMPLOYMENT OR AGENCY

- 18.1. Nothing contained in this Agreement will be construed or have effect as constituting any relationship of employer and employee between the Company and the Subcontractor.
- 18.2. Nothing in this Agreement will constitute the Subcontractor as acting as an agent of the Company. The Subcontractor will not have any right or power whatsoever to contract on behalf of the Company or bind the Company in any way in relation to third parties unless specifically authorised to do so by the Company and the Subcontractor will not hold itself out as having any such authority.
- 18.3. Nothing contained in this Agreement will constitute a partnership or joint venture between the Company and the Subcontractor.

19. INDEMNITY

- 19.1. The Subcontractor will indemnify and keep indemnified, hold harmless and defend the Company, and the officers, employees, and agents of the Company, from and against any loss, damages, expenses or costs, including costs of any settlement, arising from any Claim or any Loss suffered or incurred, including personal injury, death, legal costs and expenses, and the cost of time and resources arising from or as a consequence of:
 - 19.1.1. a breach of the terms of this Agreement;
 - 19.1.2. any third party claims relating to this Agreement except where such claims are made due to a negligent act or omission of the Company;
 - 19.1.3. any negligence by the Subcontractor or its Personnel in connection with the Services and/or this Agreement;

- 19.1.4. a breach of warranty or representation, statutory duty, and/or tortious or illegal acts or omissions by the Subcontractor or its Personnel;
 - 19.1.5. a claim made against the Company by any Subcontractor's Personnel in respect of any breach of the terms of this Agreement or any Legislative Requirements concerning remuneration, income tax, worker's compensation, annual leave, long service leave, pension or superannuation or any award, determination or agreement of a competent industrial tribunal; and/or
 - 19.1.6. any penalty imposed for breach of any Legislative Requirement in connection with the provision of the Services by the Subcontractor.
- 19.2. The Subcontractor has responsibility for and indemnifies the Company in respect of any tax, employee pension, and/or social security payments or similar payments whether payable in the Recipient Country or elsewhere relating to its Personnel together with any interest or penalties, costs or expenses incurred or arising out of or in connection with any such payments.
- 19.3. Notwithstanding any other provision of this Agreement to the contrary, neither party shall be liable to the other for any special, indirect, punitive, consequential loss or damage of any kind whatsoever including, but not limited to, loss of profits.

20. DUTY OF CARE AND INSURANCE

- 20.1. The Subcontractor owes a duty of care to the Subcontractor Personnel and is responsible for the health, safety, security of life and property and general wellbeing of such persons and their property and this includes where the Subcontractor Personnel carry out the Services.
- 20.2. The Subcontractor warrants that it will throughout the Term:
- 20.2.1. carry out appropriate risk assessments with regard to its delivery of the Services;
 - 20.2.2. provide the Subcontractor Personnel with adequate information, instruction, training and supervision (including a comprehensive induction for the Project);
 - 20.2.3. have appropriate general and emergency procedures in place to enable the Services to be provided whilst at the same time preventing damage to the Subcontractor's Personnel's health, safety, security of life and property and general wellbeing.
- 20.3. The provision of information of any kind whatsoever by the Company or the Client to the Subcontractor shall not in any respect relieve the Subcontractor from responsibility for its obligations under this clause. The positive evaluation of the Subcontractor's proposal for the provision of the Services and the award of this Agreement is not an endorsement by the Company of any arrangements which the Subcontractor has made for the health, safety, security of life and property and wellbeing of the Subcontractor Personnel in relation to the provision of the Services.
- 20.4. The Subcontractor acknowledges that the Company and the Client accept no responsibility for the health, safety, security of life and property and general wellbeing of the Subcontractor Personnel with regard to the Subcontractor Personnel carrying out the Services under this Agreement.
- 20.5. The Subcontractor shall provide training on a continuing basis for all Subcontractor Personnel, in compliance with the Client Security Policy (as defined in the Client Terms and Conditions) and the Project or Company security plan.
- 20.6. The Subcontractor will ensure that such insurance arrangements as are made to cover the Subcontractor Personnel, or any person employed or otherwise engaged by the Subcontractor, and pursuant to the Subcontractor's duty of care as referred to in this clause, are reasonable and prudent in all circumstances, including in respect of death, injury or disablement, and emergency medical expenses.
- 20.7. The Subcontractor will comply with Schedule C – Insurance.

21. TERMINATION

21.1. Termination for breach or Insolvency Event

The Company may, without prejudice to any other rights which the Company may have, terminate the whole or part of this Agreement by written notice to the Subcontractor, to be effective from the date specified in the notice, if:

- 21.1.1. an Insolvency Event occurs in relation to the Subcontractor;
- 21.1.2. a change of Control has occurred and the Subcontractor failed to notify the Company in accordance with Clause 10.8 or has not obtained approval from the Client to the change of Control where this is required by the Head Contract;
- 21.1.3. the Company is dissatisfied with the Services provided; in the case of termination due to dissatisfaction with the Services, notice will be given including the reasons for dissatisfaction and such notice will state the actions required by the Subcontractor to remedy any dissatisfaction with the Services and the time in which it must be completed or the Agreement will be terminated; where

such dissatisfaction is not subsequently remedied within the time period specified, the Company shall be entitled to confirm termination of this Agreement by written notice to the Subcontractor;

- 21.1.4. other than as set out in sub-clause 21.1.3 above, the Subcontractor breaches a provision of this Agreement and, if the breach is capable of being remedied, does not remedy such breach within five (5) Working Days (or such longer period as shall be determined by the Company as reasonable in the circumstances, determined at the Company's sole discretion) from the date of written notice by the Company to the Subcontractor requiring the breach to be remedied;
 - 21.1.5. the Subcontractor fails to comply in the performance of this Agreement with legal obligations in the fields of environmental, social or labour Legislative Requirements;
 - 21.1.6. the Subcontractor or its Personnel behave in a way that is fundamentally inconsistent with the conduct of a technical professional including serious misconduct, or conduct in private life or activities outside of the Project that is/are likely to bring the Company, the Client or the Project into disrepute;
 - 21.1.7. the Subcontractor or any of its Personnel is convicted of a criminal offence; or
 - 21.1.8. the Subcontractor provides to the Company a clear indication that it will not or is unable to perform its duties under this Agreement.
- 21.2. Upon such termination for breach, the Company will:
- 21.2.1. pay any outstanding invoices that relate to Services already provided in accordance with the terms of this Agreement (whether such invoice is tendered before or after the date of termination). The Company will also pay for any work done satisfactorily but not invoiced at the time the Company provides notice of termination on a pro rata basis (i.e. the proportion of the Inputs satisfactorily completed) but only where such payment is permitted pursuant to the terms of the Head Contract. No payment will be made where a Subcontractor milestone is not achieved or a deliverable has not been submitted or is not satisfactory; and
 - 21.2.2. be entitled to recover from the Subcontractor any Loss incurred by it as a result of the termination including all or a fair proportion, calculated on the basis of satisfactory delivery of Services, of any payment made to the Subcontractor in advance of delivery of the Services to which that payment relates.
- 21.3. Termination or suspension other than for breach or Insolvency Event
- 21.3.1. The Company may terminate or suspend the whole or part of this Agreement where a direction is made by the Client, the Head Contract is terminated or suspended, or otherwise at its sole discretion.
 - 21.3.2. Termination or suspension made pursuant to this clause must be made by notice in writing to the Subcontractor and will be effective from the date specified in the notice.
 - 21.3.3. The lifting of any suspension of this Agreement will only take place if the Client confirms its agreement to the lifting of the suspension or if the Company considers that the reasons for the suspension no longer exist or have been dealt with satisfactorily by the Subcontractor in the reasonable judgement of the Company. In any such case the Company will confirm the lifting of the suspension to the Subcontractor in writing.
- 21.4. Upon such termination or suspension other than for breach or Insolvency Event:
- 21.4.1. The Subcontractor will be entitled to payment for all work in respect of the terminated or suspended Services completed satisfactorily and in accordance with the terms of this Agreement before the effective date of termination or suspension including Services which have not been invoiced;
 - 21.4.2. In respect of the terminated or suspended Services commenced before but not completed by the effective date of termination or suspension, payment for the work already performed satisfactorily on a pro rata basis but only where such payment is permitted pursuant to the terms of the Head Contract (this will not apply where a Subcontractor milestone is not achieved or a deliverable has not been submitted or is not satisfactory); and
 - 21.4.3. The Company will be entitled to recover from the Subcontractor any payment made to the Subcontractor in advance of delivery of the Services where those Services are not delivered due to termination pursuant to this Agreement.
- 21.5. Obligations on termination for whatever reason:
- On termination of this Agreement (or at any time at the request of the Company) the Subcontractor will:
- 21.5.1. immediately deliver to the Company, without making copies in any form (except where such copies are required due to relevant Legislative Requirements), all Project Material, on whatever media and wherever located, and also any keys and other property of the Company which are in the possession of or under the control of the Subcontractor;
 - 21.5.2. leave the Project and any Project offices as directed by the Company;

- 21.5.3. irretrievably delete any information relating to the business of the Company or the Client stored on any magnetic or optical disk or memory and all matter derived from such sources which is in the possession of or under the control of the Subcontractor;
- 21.5.4. provide a signed statement that it has complied with fully with its obligations under this clause;
- 21.5.5. supply all necessary information and explanation required by the Company in relation to the Services provided, its Personnel and any software used by the Subcontractor to enable the Company to use and complete the Services;
- 21.5.6. provide reasonable assistance to the Company in connection with the handing over of the Services to another contractor; and
- 21.5.7. ensure that any Personnel of the Subcontractor comply with the terms of this clause.

22. FORCE MAJEURE

- 22.1. Neither party will be considered in breach of this Agreement to the extent that performance of their obligations is prevented by a Force Majeure Event.
- 22.2. Upon occurrence of an event considered by the Subcontractor to constitute a Force Majeure Event, it will immediately notify the Company in writing and recommend options to overcome the effects of the event. Upon receipt of the notice, the Company will make a determination, acting reasonably, as to whether the event or circumstance constitutes a Force Majeure Event and will promptly notify the Subcontractor of its determination in writing. Despite any determination by the Company, the Subcontractor will endeavour to overcome the Force Majeure Event and continue to perform its obligations under this Agreement as far as reasonably practicable, subject to the other terms of this clause.
- 22.3. If the Company determines that a Force Majeure Event has occurred the Company may suspend or terminate the whole or part of this Agreement by written notice to the Subcontractor. Where this Agreement is suspended pursuant to this clause, the Parties will work together to agree any steps to be taken and an appropriate timetable to enable continued provision of the Services affected by the Force Majeure Event.
- 22.4. Nothing in this clause shall oblige the Company to determine that a Force Majeure Event has occurred if the Client is not also willing to determine that a Force Majeure Event has occurred pursuant to the Head Contract, and the Company will be deemed to be 'acting reasonably' in accordance with Clause 22.2 should the Client make a determination accordingly.
- 22.5. The Company shall be entitled to give notice to the Subcontractor that a Force Majeure Event has occurred without receiving notice from the Subcontractor and in such case the terms of this clause shall apply.
- 22.6. Where this Agreement is terminated or suspended pursuant to this clause, the Subcontractor will be entitled to payment in accordance with the terms outlined in this Agreement and the terms of clause 21 (Termination) shall apply.

23. NON-SOLICITATION

During the term of this Agreement and for 12 months following expiration or termination, neither Party will, without the consent of the other Party, solicit or otherwise attempt to persuade any Personnel of the other Party to cease working for the other Party.

24. ASSIGNMENT OR NOVATION BY THE COMPANY

The Company may assign, novate or otherwise transfer any of its rights and/or obligations under this Agreement to a) the Client, b) a third party, or c) any replacement supplier of the Project services to the Client. Without limiting the Company's right to novate or assign its benefit and burden of this Agreement without any consent of the Subcontractor being required, the Subcontractor will, if so requested by the Company, give prompt assistance to the Company by executing any documents requested by the Company to acknowledge or otherwise bring effect to such assignment or novation.

25. TRANSPARENCY

- 25.1. The Subcontractor acknowledges that the Company endorses/supports the requirements of the IATI standard and shall assist and cooperate with the Company, to enable the Subcontractor to understand the different elements of IATI implementation and to comply with the different data, policy and technical considerations that need to be taken into account.
- 25.2. On request from the Company, the Subcontractor shall:
 - 25.2.1. publish information data to the IATI standard, that relates to a specific activity in a single, common, electronic format for the transparent, accurate, timely and comprehensive publishing of data, on all activities in the delivery chain, in the delivery of development cooperation and humanitarian aid; and

- 25.2.2. provide all necessary assistance as reasonably requested by the Company to enable the Company to respond to the IATI requirements.
- 25.3. The Subcontractor shall maintain an up-to-date and accurate record of downstream delivery partners in receipt of Company or Client funds and/or Company or Client funded inventory or assets. This record will accurately map the flow of funds from initial source to end beneficiaries. This record will be made available to the Company and/or the Client upon written request and within the time set out in the request. This record will be updated by the Subcontractor;
 - 25.3.1. as required in Schedule A;
 - 25.3.2. annually;
 - 25.3.3. when there are material changes in the delivery chain; and
 - 25.3.4. as part of any Project completion/closure process.

26. FREEDOM OF INFORMATION

- 26.1. The Subcontractor acknowledges that the Client may be subject to the requirements of the Freedom of Information Act 2000 ("FOIA"), the Environmental Information Regulations and associated codes of practice and shall assist and cooperate with the Company and the Client to enable each of them to comply with their information disclosure obligations.
- 26.2. The Subcontractor shall and shall ensure that its sub-sub-contractors shall:
 - 26.2.1. transfer to the Company all Requests for Information that it receives as soon as practicable and in any event within two (2) Working Days of receiving a Request for Information;
 - 26.2.2. provide the Company with a copy of all information in its possession or power in the form that the Company or the Client requires within five (5) Working Days (or such other period as the Company or Client may specify) of the Company's request; and
 - 26.2.3. provide all necessary assistance as reasonably requested by the Company or the Client to enable the Company or the Client to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations.
- 26.3. The Client shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Agreement or any other agreement whether the Commercially Sensitive Information and/or any other information is exempt from disclosure in accordance with the provisions of the FOIA, the Environmental Information Regulations and associated codes of practice and the parties are obliged to accept such determination by the Client.
- 26.4. In no event shall the Subcontractor respond directly to a Request for Information unless expressly authorised to do so by the Company.
- 26.5. The Subcontractor acknowledges to the Company that the Client may, acting in accordance with any code of practice issued pursuant to Section 45 of FOIA ("the FOIA Code"), be obliged under the FOIA, or the Environmental Information Regulations to disclose information concerning the Subcontractor or the Services:
 - 26.5.1. in certain circumstances without consulting the Subcontractor;
 - 26.5.2. following consultation with the Subcontractor and having taken their views into account;provided always that, where Clause 26.5.1 applies, the Company will use reasonable endeavours to ensure that the Client, in accordance with any recommendations of the FOIA Code, takes reasonable steps, where appropriate, to give the Subcontractor advanced notice, or failing that, to draw the disclosure to the Subcontractor's attention after any such disclosure.
- 26.6. The Subcontractor shall ensure that all information is retained for disclosure in accordance with this sub-clause and the following sub-clause and shall permit the Company and the Client to inspect such Records as requested by the Client from time to time;
- 26.7. The Subcontractor shall, during the Term of this Agreement and for a period of at least seven years following the expiry or termination of this Agreement, retain and maintain all information and Records:
 - 26.7.1. in accordance with Good Industry Practice and Legislative Requirements;
 - 26.7.2. in chronological order;
 - 26.7.3. in a form that is capable of audit;
 - 26.7.4. at its own expense.
- 26.8. Wherever practical, original information shall be retained and maintained in hard copy form.

27. CONFLICT OF INTEREST

- 27.1. Neither the Subcontractor nor any of the Subcontractor's Personnel shall engage in any personal, business or professional activity which conflicts or could conflict with any of their obligations in relation to this Agreement.

- 27.2. The Subcontractor and the Subcontractor's Personnel shall notify the Company immediately of any actual, perceived or potential conflict together with recommendations as to how the conflict can be avoided.
- 27.3. The Subcontractor shall establish and maintain appropriate business standards, procedures and controls to ensure that no conflict of interest arises between Services undertaken for the Company and that undertaken for other clients. The Subcontractor shall avoid knowingly committing any acts which are likely to result in any allegation of impropriety against the Company or the Client, including conflicts of interest which are likely to prejudice their independence and objectivity in performing the Agreement, howsoever arising.
- 27.4. The Subcontractor shall notify the Company immediately of any circumstances of which it becomes aware which give rise or potentially give rise to a conflict with the Services and shall advise the Company of how they intend to avoid such a conflict arising or remedy such situation. The Subcontractor shall, subject to any obligations of confidentiality it may have to third parties, provide all information and assistance reasonably necessary (at the Subcontractor's cost) that the Company may request of the Subcontractor in order to avoid or resolve a conflict of interest and shall ensure that at all times they work together with the Client with the aim of avoiding a conflict or to remedy a conflict.
- 27.5. The Subcontractor shall, on written request from the Company (but not more than twice in any period of twelve (12) months), make a conflict of interest declaration in such form as shall be reasonably specified by the Company.
- 27.6. The Company shall have the right to require that the Subcontractor puts in place Ethical Walls and will ensure and satisfy the Company (and the Client, if applicable), that all information relating to this Agreement and to the Services (including all working papers, draft reports in both tangible and intangible form) are not shared or made available to person(s) other than Subcontractor Personnel providing the Services and that such matters are not discussed by any person(s) other than Subcontractor Personnel providing the Services.
- 27.7. In the event of a failure to maintain the Ethical Walls as described above arising during the course of this Agreement, the Company reserves the right to immediately terminate the Agreement on giving written notice to the Subcontractor and, where such notice of termination for breach is given, the terms of clause 21 (Termination) will apply.

28. FINANCIAL DATA

- 28.1. The Subcontractor shall, on written request, provide details of its financial standing including (without limitation) credit ratings, financial ratios, details of current liabilities, value of marketable securities, cash in hand and bank, account receivables etc.).
- 28.2. The Subcontractor shall promptly notify the Company in writing if any of the following "Financial Distress Events" occurs in respect of the Subcontractor:
 - 28.2.1. there is a material deterioration of its financial standing;
 - 28.2.2. the appointment of an administrator or receiver;
 - 28.2.3. late filing of statutory accounts with Companies House or such company regulator equivalent as applicable to the Subcontractor;
 - 28.2.4. it issues a profits warning or other similar public announcement about a deterioration in its finances or prospects;
 - 28.2.5. it is being publicly investigated for improper financial accounting and reporting, fraud or any other financial impropriety;
 - 28.2.6. it commits a material breach of covenant to its lenders;
 - 28.2.7. it is not being paid any sums properly due under a specified invoice that is not subject to a genuine dispute;
 - 28.2.8. it is subject to any claims, litigation, investigations, actions or decisions in respect of financial indebtedness.
- 28.3. In the event of a Financial Distress Event occurring, then the Subcontractor shall, as soon as reasonably practicable, review the effect of the Financial Distress Event on the continued performance of the Services under this Agreement and provide a report to the Company. Where the Company reasonably believes that the Financial Distress Event is likely to adversely impact on the performance of the Services, the Subcontractor shall submit to the Company for approval a Financial Distress Service Continuity Plan as soon as is reasonably practicable and shall provide any further financial information as the Company may reasonably require to assess financial standing and risks.
- 28.4. If the Company, acting reasonably, considers that the Financial Distress Service Continuity Plan is insufficient to remedy the effects of the Financial Distress Event on the Service, then it may require the

Subcontractor to redraft and resubmit an improved and updated plan or may require the issue to be escalated via the Dispute Resolution Procedure.

- 28.5. If the Company approves the Financial Distress Service Continuity Plan, then the Subcontractor shall execute and continue to review the plan (with submissions to the Company for approval where it is updated).
- 28.6. Where the Parties agree that the Financial Distress Event no longer adversely affects the delivery of the Services, the Subcontractor shall be relieved of its obligations in respect of the current Financial Distress Service Continuity Plan.
- 28.7. The Subcontractor agrees to the Company sharing with the Client all data and information provided under the terms of this clause notwithstanding that any of such data or information is or may be Confidential Information.
- 28.8. The Company shall be entitled to terminate this Agreement for material breach if:
 - 28.8.1. The Subcontractor fails to notify the Company of a Financial Distress Event in accordance with Clause 28.2;
 - 28.8.2. The Company and the Subcontractor fail to agree a Financial Distress Service Continuity Plan or any updates to a plan within a reasonable timescale (taking into account the effects of the Financial Distress Event on the Services); or
 - 28.8.3. The Subcontractor fails to comply with the terms of the Financial Distress Service Continuity Plan or any updates to the plan.

29. SAFEGUARDING

- 29.1. For the purposes of this Clause 29, "Reasonable Measures" shall mean:

"all reasonable endeavours expected to be taken by a professional and prudent supplier in the Subcontractor's industry to eliminate or minimise risk of actual, attempted or threatened exploitation, abuse and harassment (including Sexual Abuse, Sexual Exploitation and Sexual Harassment) and whether or not such conduct would amount to a criminal offence in the United Kingdom or an offence under the laws of the territory in which it takes place (together "Serious Misconduct") as is reasonable and proportionate under the circumstances. Such endeavours may include (but shall not be limited to):

- 29.1.1. clear and detailed policies and guidance for Subcontractor Personnel;
 - 29.1.2. developing, implementing and maintaining a safeguarding plan throughout the term (including monitoring);
 - 29.1.3. provision of regular training to Subcontractor Personnel;
 - 29.1.4. clear reporting lines and whistleblowing policies in place for Subcontractor Personnel;
 - 29.1.5. maintaining detailed records of any allegations of Serious Misconduct and regular reporting to the Company and the Appropriate Authorities (where relevant) of any such incidents;
 - 29.1.6. any other Good Industry Practice measures (including any innovative solutions)."
- 29.2. The Subcontractor shall take all Reasonable Measures to prevent Serious Misconduct by the Subcontractor Personnel or any other persons engaged and controlled by it to perform any activities under this Agreement ("Subcontractor Providers") and shall have in place at all times robust procedures which enable the reporting by Subcontractor Personnel, Subcontractor Providers and beneficiaries of any such Serious Misconduct, illegal acts and/or failures by the Subcontractor or Subcontractor Personnel to investigate such reports.
 - 29.3. The Subcontractor shall take all Reasonable Measures to ensure that the Subcontractor Personnel and Subcontractor Providers do not engage in sexual activity with any person under the age of 18, regardless of the local age of majority or age of consent or any mistaken belief held by the Subcontractor Personnel or Subcontractor Provider as to the age of the person. Furthermore, the Supplier shall ensure that the Subcontractor Personnel and Subcontractor Providers do not engage in 'transactional sex' which shall include but not be limited to the exchange of money, employment, goods, or services for sex and such reference to sex shall include sexual favours or any form of humiliating, degrading or exploitative behavior on the part of the Subcontractor Personnel and the Subcontractor Providers. For the avoidance of doubt, such 'transactional sex' shall be deemed to be Serious Misconduct in accordance with Clause 29.1.
 - 29.4. The Subcontractor shall promptly report in writing any complaints, concerns and incidents regarding Serious Misconduct or any attempted or threatened Serious Misconduct by the Subcontractor Personnel and Subcontractors Providers to the Company and also to the Client, including the Client's Counter Fraud Section at reportingconcerns@fcdo.gov.uk or +44 (0)1355 843747, and where necessary, the Appropriate Authorities.
 - 29.5. The Subcontractor shall fully investigate and document all cases or potential cases of Serious Misconduct and shall take appropriate corrective action to reduce the risk and/or eliminate Serious Misconduct being

committed by the Subcontractor Personnel and Subcontractor Providers (which may include disciplinary action, termination of contracts etc.), such investigations and actions to be reported to the Company and the Client as soon as is reasonably practicable

- 29.6. The Subcontractor shall not engage as Subcontractor Personnel or Subcontractor Provider for the purposes of the Services any person whose previous record or conduct known to the Supplier (or reasonably ought to be known by a diligent supplier which undertakes the appropriate checks) indicates that they are unsuitable to perform the Services and/or where they represent an increased and unacceptable risk of committing Serious Misconduct.
- 29.7. The Subcontractor shall comply with all applicable laws, legislation, codes of practice and government guidance in the UK and additionally, in the territories where the Services are being performed, relevant to safeguarding and protection of children and vulnerable adults, which the Subcontractor acknowledges may include vetting of the Subcontractor Personnel by the UK Disclosure and Barring Service in respect of any regulated activity performed by the Subcontractor Personnel (as defined by the Safeguarding Vulnerable Groups Act 2006 (as amended)) and/or vetting by a local equivalent service. Where the Company reasonably believes that there is an increased risk to safeguarding in the performance of the Services, the Subcontractor shall comply with any reasonable request by the Company for additional vetting to be undertaken.
- 29.8. Failure by the Subcontractor to:
- 29.8.1. put in place preventative measures to eliminate and/or reduce the risk of Serious Misconduct; or
 - 29.8.2. fully investigate allegations of Serious Misconduct; or
 - 29.8.3. report any complaints to the Client and where appropriate, the relevant authorities (including law enforcement)

shall be a material breach of this Agreement and shall entitle the Company to terminate this Agreement for breach with immediate effect.

Schedule A – Contact Details and Description of Services

Part 1: Contact Details

COMPANY CONTACT DETAILS	
CONTACT 1	
Name:	Click here to enter text.
Title:	Click here to enter text.
Email:	Click here to enter text.
Phone:	Click here to enter text.
CONTACT 2	
Name:	Click here to enter text.
Title:	Click here to enter text.
Email:	Click here to enter text.
Phone:	Click here to enter text.
CONTACT 3	
Name:	Click here to enter text.
Title:	Click here to enter text.
Email:	Click here to enter text.
Phone:	Click here to enter text.
SUBCONTRACTOR CONTACT DETAILS	
CONTACT 1	
Name:	Click here to enter text.
Title:	Click here to enter text.
Email:	Click here to enter text.
Phone:	Click here to enter text.
CONTACT 2	
Name:	Click here to enter text.
Title:	Click here to enter text.
Email:	Click here to enter text.
Phone:	Click here to enter text.
CONTACT 3	
Name:	Click here to enter text.
Title:	Click here to enter text.
Email:	Click here to enter text.
Phone:	Click here to enter text.

Part 2: Description of Services

Description

<< ENTER DESCRIPTION HERE – Be sure to include a detailed description of the services being provided including quantity, delivery dates, what the Subcontractor agrees to provide and what the Company agrees to provide including any resources/access to any locations, physical items that may also be provided (eg – training materials, spare parts, maintenance equipment, etc.), booking or paying for venue, accommodation, meals, printing costs, travel costs, etc. >>

Responsibilities of the Subcontractor

Insert here.

Subcontractor Deliverables/Outputs/Milestones

Insert here.

Approved Subcontractor Personnel List

Name	Role/Position/Input
Enter as many names as needed here	Enter corresponding positions here

Where both the Company and the Subcontractor are registered in or are liable for taxes in the United Kingdom the following terms will apply:

1. The Subcontractor warrants to the Company that the Approved Personnel listed above are either employees of the Subcontractor or are carrying out roles that are not employment roles. The Subcontractor further warrants that any additional Personnel not currently listed, that is Personnel subsequently approved by the Company and any additional Personnel who perform the Services, will be employees of the Subcontractor or will be carrying out roles that are not employment roles;
2. If the Subcontractor is or becomes an intermediary and any of the Approved Personnel (or Personnel subsequently contracted or to be contracted) hold a material interest in the Subcontractor as those terms are defined in the Income Tax (Earnings and Pensions) Act 2003 (as amended) the Subcontractor shall immediately inform the Company of this in writing;
3. The Subcontractor shall (and shall ensure that its directors, officers and Personnel shall) provide all appropriate assistance to the Company to enable the Company to comply with all UK tax legislation relating to payments to be made pursuant to this Agreement, including the tax avoidance legislation for off-payroll working, commonly known as IR35 (and primarily set out in the 2003 Income Tax (Earnings and Pensions) Act (as amended)). Without limitation, this may include full details of all shareholders and any contractual arrangements between the Subcontractor and its shareholders and officers that may be relevant to the requirements of such tax legislation;
4. Where the IR35 legislation is applicable to the Subcontractor and this Agreement, the Company will provide a Status Determination Statement ('SDS') for all relevant roles created or to be created by the provision of the Services;
5. Where any SDS determines that IR35 applies to a role, the Company will make any necessary deductions from payments due to the Subcontractor and the Company will be entitled (but not obliged) to give written notice terminating this Agreement for breach of warranty (and where such notice is given, Clause 21.1.4 will apply);
6. The Parties acknowledge that the nature of the Services and roles created by the provision of the Services may develop and change during the terms of this Agreement and that the requirements of the IR35 legislation will continue to apply and the Subcontractor will inform the Company promptly of any changes to Project roles, regardless of whether there is an existing SDS;
7. Where the Subcontractor disputes an SDS, the Company will review the SDS and the Parties shall attempt to resolve the dispute amicably. However, where agreement cannot be reached, the Company's decision shall be final (and the terms of Clauses 4.4 to 4.6 shall not apply to any such dispute).

Responsibilities of the Company

<<Insert 'None' if there are no specific responsibilities for the Company in terms of the Services>>

Schedule B – Payment

Part 1: Payment Terms

- 1.1. The total sum to be paid to the Subcontractor for the Services shall not exceed the Total Agreement Sum (plus, where indicated on the Cover Sheet and in Part 3 below, approved reimbursable expenses). All sums are VAT/GST or similar sales taxes inclusive save where indicated on the Cover Sheet.
- 1.2. Dates for payment are as set out in Part 3: Rates.
- 1.3. All reimbursable expenses that are to be reimbursed must be pre-approved in writing by the Company. No costs that are not pre-approved in writing will be reimbursed. In addition, for reimbursement, a valid expense claim must be provided accompanied by full supporting documentation.
- 1.4. Payment will be made in accordance with this Agreement.
- 1.5. Amounts are in the Agreement Currency as indicated on the Cover Sheet. The Subcontractor will be entirely responsible for all risks arising out of currency fluctuations associated with this Agreement.
- 1.6. Payments to the Subcontractor's Personnel for salary, allowances, bonuses, taxes, insurances, superannuation, non-Working Days and all other overheads and expenses of whatsoever nature that may be incurred including, but without limitation, payment for vaccinations and malaria tablets and similar, except those otherwise specifically provided for in this Agreement, are the sole responsibility of the Subcontractor.
- 1.7. Unless otherwise specified by the Company in writing, timesheets will be submitted in accordance with Project procedures for each of the Subcontractor's Personnel and on the dates and for the periods required by the Company. Additional details may be provided in any Operations Manual for the Project.
- 1.8. The Subcontractor will not be entitled to payment of an invoice unless and until:
 - 1.8.1. The deliverable items for which payment is claimed (and/or the relevant Milestone) have been achieved or completed in accordance with the terms of this Agreement and also to the satisfaction of the Company and the Client; and
 - 1.8.2. All Project Material (including the required documentation to justify recovery of expenses and reimbursables and (if applicable) timesheets) for that part of the Services for which payment is claimed has been submitted to and approved by the Company.
- 1.9. Any payment by the Company is payment on account only and not evidence of the Subcontractor's compliance with this Agreement, an admission of liability, or acceptance by the Company of the Services. Where any fees or costs in an invoice from the Subcontractor are subsequently rejected by the Client on audit or otherwise, such fees or costs will be an overpayment and subject to reimbursement by the Subcontractor to the Company (under 1.11 and 1.12) until such fees and costs are accepted by the Client.
- 1.10. If the conditions for payment are met and all terms of this Agreement are complied with, the Company will make payment within thirty (30) days of receipt of a valid, undisputed and correct invoice.
- 1.11. The Subcontractor consents to the Company deducting from moneys otherwise due to the Subcontractor any overpayment previously made, any moneys due from the Subcontractor and any claim to money which the Company may have against the Subcontractor, whether for damages or otherwise.
- 1.12. Where it is found that any overpayment has been made to the Subcontractor the Company may also require reimbursement of such overpayment within twenty one (21) days of written demand.
- 1.13. The Subcontractor must provide the Company with the details of a bank account that accepts deposits in the Agreement Currency. Where the Agreement Currency and the Subcontractor's account currency differ, the exchange rate will be that of the date of the transfer.

Part 2: Invoices and Taxes

- 2.1. Unless otherwise provided in this Agreement, all taxes, duties, and charges imposed or levied in connection with the performance of this Agreement will be borne by the Subcontractor.
- 2.2. Payment of any invoice by the Company is subject to the Subcontractor providing a valid, undisputed and correct invoice to the Company. A valid invoice will be in writing, contain the details of the Services provided including unit, unit rate, taxes, and any other information to be able to describe the Services and charges in sufficient detail. The Subcontractor must submit an invoice within five (5) Working Days of becoming entitled to do so.
- 2.3. The amount of any VAT (or Sales Tax or similar) payable by the Company under this Agreement will be shown as a separate item on the invoice, together with the method of calculation. The Subcontractor shall indemnify the Company on a continuing basis against any liability, including any interest, penalties or costs incurred, which is levied, demanded or assessed on the Company at any time (whether before or after the making of a demand pursuant to the indemnity hereunder) in respect of the Subcontractor's failure to account for or to pay any VAT (or Sales Tax or similar) relating to payments made to the Subcontractor under this Agreement. Any amounts due shall be paid in cleared funds by the Subcontractor to the

Company not less than five (5) Working Days before the date upon which the tax or other liability is payable by the Company.

- 2.4. The Subcontractor acknowledges that the Company will withhold any taxes which it is required by Legislative Requirements to withhold.
- 2.5. The Subcontractor acknowledges that it has not received any taxation advice from the Company and understands that all its taxation obligations remain the responsibility of the Subcontractor.
- 2.6. The Company may require the Subcontractor to provide additional information to assist the Company to determine whether an amount included in any invoice is payable. Where any such additional information is requested, the payment term will be thirty (30) days after the Subcontractor has provided the additional information to the Company's satisfaction.
- 2.7. The Company shall consider and verify invoices submitted by the Subcontractor in a timely fashion. Undue delay shall not be sufficient justification for failing to regard an invoice as valid and undisputed.
- 2.8. The Company is permitted to confer a right to the Client to publish the Company's compliance with its obligation to pay undisputed invoices to the Subcontractor within the specified payment period.

Invoices shall be submitted to:

Click here to enter text.

Part 3: Rates

For daily rate or time and consumables contracts

- Applicable
- Not applicable

ITEM	TERMS		
Payment Terms	Invoices for Services will be issued on a monthly basis for each input, at the end of each month.		
Total Input and Daily Rate for Subcontractor Personnel	Name Click here to enter text.	Rate Click here to enter text.	Max. No. of days Click here to enter text.
Input Term	The Company is not obliged to pay the maximum number of days if they are not worked for whatever reason.		
Per Diems/Subsistence (Note: Per Diems do not require production of receipts. Claims for subsistence payments do require production of receipts.)	<input type="checkbox"/> Per Diem payable <input type="checkbox"/> Per Diem not payable Per Diem Rate: Click here to enter text. <input type="checkbox"/> Subsistence payable <input type="checkbox"/> Subsistence not payable Detailed rules and requirements for claiming Per Diems/Subsistence payments are contained in any Operations Manual for the Project (which will be made available to the Subcontractor).		
Travel and other Project related costs and expenses	Subject to the Subcontractor complying with all Project rules and procedures relating to such costs and expenses, the following costs and expenses are fully paid for by the Company <input type="checkbox"/> and are included in the Total Agreement Sum: <input type="checkbox"/> and are in addition to the Total Agreement Sum: <ul style="list-style-type: none"> <input type="checkbox"/> International Air Travel <input type="checkbox"/> Domestic Air Travel <input type="checkbox"/> Other <input type="checkbox"/> Other <input type="checkbox"/> Other 		
Rules and procedures for	The rules and procedures for recovery of costs and expenses are set		

recovery of costs and expenses	<p>out in any Operations Manual for the Project.</p> <p>All travel and accommodation is to be booked and paid through the Company (unless otherwise agreed in writing).</p> <p>Save as set out in any Operations Manual, all costs and expenses must be approved in advance in writing by the Company.</p>
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For milestone based contracts

- Applicable
- Not applicable

ITEM	TERMS
Payment Terms	Invoices will be issued on completion of the milestones listed below in accordance with the terms of this Agreement.
Milestone Date	Milestone
<<Details of Milestones>>	<<Details of Milestones>>
<p>Per Diems/Subsistence</p> <p>(Note: Per Diems do not require production of receipts. Claims for subsistence payments do require production of receipts.)</p>	<p><input type="checkbox"/> Per Diem payable <input type="checkbox"/> Per Diem not payable</p> <p>Per Diem Rate: Click here to enter text.</p> <p><input type="checkbox"/> Subsistence payable <input type="checkbox"/> Subsistence not payable</p> <p>Detailed rules and requirements for claiming Per Diems/Subsistence payments are contained in any Operations Manual for the Project (which will be made available to the Subcontractor).</p>
Travel and other Project related costs and expenses	<p>Subject to the Subcontractor complying with all Project rules and procedures relating to such costs and expenses, the following costs and expenses are fully paid for by the Company</p> <p><input type="checkbox"/> and are included in the Total Agreement Sum:</p> <p><input type="checkbox"/> and are in addition to the Total Agreement Sum:</p> <ul style="list-style-type: none"> <input type="checkbox"/> International Air Travel <input type="checkbox"/> Domestic Air Travel <input type="checkbox"/> Other <input type="checkbox"/> Other <input type="checkbox"/> Other
Rules and procedures for recovery of costs and expenses	<p>The rules and procedures for recovery of costs and expenses are set out in any Operations Manual for the Project.</p> <p>All travel and accommodation is to be booked and paid through the Company (unless otherwise agreed in writing).</p> <p>Save as set out in any Operations Manual, all costs and expenses must be approved in advance in writing by the Company.</p>

Schedule C – Insurance

ITEM	REQUIREMENT
Public Liability Insurance	<p>The Subcontractor will have and maintain throughout the Term of this Agreement a Public Liability Insurance Policy (or General Liability Insurance Policy). The Policy must:</p> <ol style="list-style-type: none"> 1. cover an amount in respect of any one claim or series of claims arising from the one original cause of not less than 3 million GBP; 2. cover the Subcontractor, in respect of liability to the Company and third parties, if any; and 3. name the Company as an indemnified party in relation to liability to third parties in respect of any claim for loss of or damage to property or death or injury to any person arising out of or as a consequence of any act or omission of the Subcontractor.
Professional Indemnity Insurance	<ol style="list-style-type: none"> 1. The Subcontractor will have a professional indemnity policy and maintain that policy for the Term of this Agreement and for a further period of 6 years thereafter. 2. The policy will have a total aggregate cover of not less than the Professional Indemnity Insurance Amount as indicated on the Cover Sheet. 3. The policy will have a Principal's Indemnity clause, and, if required by that clause, name the Company as an indemnified principal in respect of this Agreement. 4. The Company may request evidence of the maintenance of the professional indemnity insurance at any time during the Term and also during the 6 years after the Term of this Agreement and the Subcontractor will provide such evidence within seven (7) days of the request.
Insurance of Workers	<ol style="list-style-type: none"> 1. The Subcontractor will have adequate insurance to fully cover it against any amount it may become liable to pay for death or injury to Personnel employed or contracted by the Subcontractor, including liability by statute and at common law and will maintain that policy for the Term of this Agreement. 2. The Subcontractor will have adequate travel, medical and dental insurance for its Personnel who are engaged to operate outside their country of permanent residence. 3. The Subcontractor will have adequate insurance for emergency and medical evacuation for all its Personnel engaged to operate outside their country of permanent residence. 4. The policy will, where permitted by Legislative Requirements, be extended to indemnify the Company for any statutory liability on the part of the Company for persons employed by the Subcontractor.
Country requirements	<p>The Subcontractor will comply at all times with the Legislative Requirements of the Country in which it is incorporated and where it is operating relating to insurance. Where the Legislative Requirements of the Country of incorporation require certain insurances to be taken out for any of the Subcontractor's Personnel working in a different Country or where there are Legislative Requirements of the Recipient Country, it will be the Subcontractor's responsibility to have such insurances and comply with all such Legislative Requirements in respect to all its Personnel on this Project. The onus is on the Subcontractor to make itself aware of the requirements of such insurance and all such Legislative Requirements.</p>
Evidence of Insurance	<p>The Company may request evidence of any insurance policy at any time during the Term of this Agreement and the Subcontractor will provide certificates of currency for each policy within seven (7) days of the request.</p> <p>Failure by the Subcontractor to maintain all necessary insurances, will entitle the Company to terminate this Agreement immediately for breach in accordance with clause 20.</p>

In the event of an insurance claim any deductible/excess payable in respect of the above insurance policies shall be the responsibility of the Subcontractor.

Schedule D – Ethical Terms

1. PREVENTION OF FRAUD AND BRIBERY

- 1.1. The Subcontractor represents and warrants that neither it, nor to the best of its knowledge any Subcontractor Personnel, any person acting on their behalf, have at any time prior to the Effective Date:
 - 1.1.1. committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act; and/or
 - 1.1.2. been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act.
- 1.2. The Subcontractor, Subcontractor Personnel, or any person acting on their behalf shall not during the Term:
 - 1.2.1. commit a Prohibited Act; and/or
 - 1.2.2. do or suffer anything to be done which would cause the Company, the Client or any of their employees, consultants, suppliers, sub-sub-contractors or agents to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements.
- 1.3. The Subcontractor shall during the Term:
 - 1.3.1. establish, maintain and enforce, and require that its Subcontractor Personnel establish, maintain and enforce, policies and procedures which are adequate to ensure compliance with the Relevant Requirements and prevent the occurrence of a Prohibited Act;
 - 1.3.2. keep appropriate records of its compliance with its obligations under this clause and make such records available to the Company on request.
- 1.4. The Subcontractor shall immediately notify the Company in writing if it becomes aware of any breach of this section 1, or has reason to believe that it has or any Subcontractor Personnel, servants, agents or sub-sub-contractors, or any person acting on their behalf have:
 - 1.4.1. been subject to an investigation or prosecution which relates to an alleged Prohibited Act;
 - 1.4.2. been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act; and/or
 - 1.4.3. received a request or demand for any undue financial or other advantage of any kind in connection with the performance of this Agreement or otherwise suspects that any person or party directly or indirectly connected with this Agreement has committed or attempted to commit a Prohibited Act.
- 1.5. The Subcontractor warrants and represents to the Company that to the best of its knowledge, that neither the Subcontractor, Subcontractor Personnel, servants, agents or sub-sub-contractors, or any person acting on their behalf:
 - 1.5.1. has given, offered or agreed to give or accepted, any gift or consideration of any kind as an inducement or reward for doing or for bearing to do or for having done or forborne to do any act in relation to the obtaining or execution of any contract or for showing or forbearing to show favour or disfavour to any person or entity in relation to any contract; or
 - 1.5.2. has entered into any contract in connection with which commission has been paid or agreed to be paid by or to the Subcontractor or Subcontractor Personnel or on their behalf or to their knowledge unless, before such contract was made, particulars of any such commission and of the terms of any agreement for the payment of such commission were disclosed in writing to the Company, whose written consent was subsequently given to such payment.
- 1.6. Neither the Subcontractor nor the Subcontractor Personnel nor any person acting on their behalf shall accept for their own benefit or pass on for the benefit of partner government, recipient or end user, any trade commission, discount, voucher scheme, re-sale or similar payment or benefit in connection with this Agreement.
- 1.7. Where the Subcontractor or Subcontractor Personnel, or any person acting on their behalf, does any of the acts mentioned in Section 1.5 or commits any offence under the Bribery Act 2010, with or without the knowledge of the Subcontractor, in relation to this Agreement or any other contract with the Company or the Client or another UK Government department, the Company shall be entitled:
 - 1.7.1. to terminate this Agreement with immediate effect by written notice to the Subcontractor and recover from the Subcontractor the amount of any Losses resulting from the termination;
 - 1.7.2. to recover from the Subcontractor the amount or value of any such gift, consideration or commission;
 - 1.7.3. to recover from the Subcontractor any other Losses sustained as a result of any breach of this Section 1, whether or not the Agreement is terminated.
- 1.8. The Subcontractor shall immediately and without undue delay inform the Company of any event that interferes or threatens to materially interfere with the successful delivery of the Services, whether financed in full or in part by the Company, including credible suspicion of/or actual fraud, bribery, corruption or any other financial irregularity or impropriety.

2. ANTI-TERRORISM REGULATIONS

- 2.1. In accordance to the Terrorism Act 2000 and all subsequent regulations pursuant to this Act, the

Subcontractor will assure itself to the best of its knowledge that UK government funding, including financial assets or economic resources, is not made available, either directly or indirectly to or for the benefit of persons, groups or entities listed in accordance with European Council Regulation EC/2580/2001 (as amended) and/or the Terrorism (United Nations Measures) Orders 2009 of the United Kingdom, or contravene the provisions of those and any subsequent applicable terrorism legislation.

- 2.2. The Subcontractor represents and warrants that neither it, nor to the best of its knowledge any Subcontractor Personnel, servants, agents or sub-sub-contractors, or any person acting on their behalf, have at any time prior to the Effective Date and/or during the Term of this Agreement appeared on the Home Office Proscribed Terrorist Organisations List.
- 2.3. The Subcontractor shall immediately notify the Company in writing if it becomes aware of any breach of this Section 2, or has reason to believe that it has or any Subcontractor Personnel, servants, agents or sub-sub-contractors, or any person acting for them has:
 - 2.3.1. been subject to an investigation or prosecution which relates to an alleged infringement of this Section 2;
 - 2.3.2. been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts.
- 2.4. Where the Subcontractor or any of its employees, servants, agents or sub-sub-contractors, or any person acting on their behalf, breaches any of the Acts mentioned in this Section 2 and/or commits any offence under the Terrorism Act 2000, with or without the knowledge of the Subcontractor, in relation to this Agreement or any other contract with the Company, the Client or another UK government department, the Company shall be entitled:
 - 2.4.1. to terminate the Agreement with immediate effect by written notice to the Subcontractor and recover from the Subcontractor the amount of any Loss resulting from the termination;
 - 2.4.2. to recover from the Subcontractor any other Loss sustained as a result of any breach of this Section 2, whether or not the Agreement has been terminated.

3. DISCRIMINATION

- 3.1. The Subcontractor shall not unlawfully discriminate either directly or indirectly against protected characteristics such as race, colour, ethnic or national origin, disability, sex or sexual orientation, religion or belief, or age and, without prejudice to the generality of the foregoing, the Subcontractor shall not unlawfully discriminate within the meaning and scope of the provisions of all relevant legislation including the Equality Act 2010, the International Development (Gender Equality) Act 2014 or other relevant or equivalent legislation, or any statutory modification or re-enactment thereof. The Subcontractor shall ensure that in its delivery of the Services, it has due regard for the advancement of equal opportunity and promotes good relations between people who share a protected characteristic and those who do not, as required by the equality legislation.
- 3.2. The Subcontractor shall adhere to the current relevant codes of practice or recommendations published by the Equality and Human Rights Commission. The Subcontractor shall take all reasonable steps to secure the observance of these provisions and codes of conduct by all suppliers, employees or agents of the Subcontractor and all suppliers and sub-sub-contractors employed in the execution of this Agreement.
- 3.3. The Subcontractor will comply with any request by the Company or the Client to assist the Company or the Client in meeting its obligations under the Equality Act 2010 and to allow the Company or the Client to assess the Subcontractor's compliance with its obligations under the Equality Act 2010.
- 3.4. Where any investigation is concluded or proceedings are brought under the Equality Act 2010 which arise directly or indirectly out of any act or omission of the Subcontractor, its agents or sub-sub-contractors, or Subcontractor Personnel, and where there is a finding against the Subcontractor in such investigation or proceedings, the Subcontractor will indemnify the Company with respect to all costs, charges and expenses (including legal and administrative expenses) arising out of or in connection with any such investigation or proceedings and such other financial redress to cover any payment the Company may have been ordered or required to pay to a third party.

4. ENVIRONMENTAL REQUIREMENTS

- 4.1. The Subcontractor shall provide the Services and any goods & equipment required under this Agreement in accordance with applicable national and international laws, including those of the country or countries in which the Services or goods & equipment are to be provided and the Company and the Client's environmental operations policy, which is to conserve energy, water and other resources, reduce waste, phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment.
- 4.2. The Subcontractor shall work with the Company and the Client and the populations that are potentially affected by its operations under the Agreement regarding any environmental issues that could affect the sustainable development provisions of the International Development Act (2002), comply with special

conditions as stipulated in this Agreement and carry out any reasonable additional request to ensure the protection of the environment, society and the economy throughout the Term.

- 4.3. The Subcontractor shall ensure it has the requisite expertise and controls to identify and mitigate all factors that may affect compliance with the conditions outlined in this clause as a result of its own operations or those of the Subcontractor Personnel.
- 4.4. The Subcontractor shall promptly notify the Company of any changes in potential material adverse effects from its operations under the Agreement and of the occurrence of any incident or accident related to the Project that has or is likely to have a significant adverse effect on the environment.
- 4.5. Nothing in this section 4 shall relieve the obligations of the Subcontractor to comply with its statutory duties and Good Industry Practice.

5. WHISTLEBLOWING

- 5.1. In addition to the Company whistle-blower hotline, the Subcontractor and its Personnel can report suspicions or allegations of aid diversion, fraud, money laundering or terrorism funding to the Counter Fraud and Whistleblowing Unit (CFWU) at reportingconcerns@fcdo.gov.uk or on +44 (0)1355 843747.

Schedule E – Policies and Procedures

TO BE READ, ACKNOWLEDGED, AND COMPLIED WITH:

- ❏ Business Partner Code of Conduct
- ❏ Child Protection Guidelines
- ❏ Modern Slavery Guidelines
- ❏ Preventing Sexual Exploitation, Abuse and Harassment (PSEAH) Guidelines

All documents can be downloaded in full at <http://www.thepalladiumgroup.com/policies>

Schedule F – Client Terms and Conditions and Compliance Level

Part 1: Standard Terms and Conditions

1. The Client's Standard Terms and Conditions

The Standard Terms and Conditions for suppliers – Service Contracts

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/866622/DFID-Standard-Terms-Conditions-Contract.pdf

2. Client Supply Partner Code of Conduct which is available from the Client's website:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/733511/DFID-Supply-Partner-Code-Appendix-B2.pdf

3. Client Staff Vetting Procedure

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/301861/Security_Policy_for_Contractors_Consultants_Suppliers.pdf

Part 2: Special Conditions

<<INSERT CLIENT SPECIAL CONDITIONS / HEAD CONTRACT PROVISIONS HERE. IF NOT APPLICABLE TYPE "NOT APPLICABLE">>

Part 3: Compliance Level

The Subcontractor confirms that, as at the Effective Date, its Compliance Level under the Client Supply Partner Code of Conduct is:

<<INSERT LEVEL 1, LEVEL 2 or LEVEL 3>>

Schedule G – Definitions

The words used in this Agreement will be defined as presented in this Schedule. If any word in this Schedule is defined specifically within the body of this Agreement, the definition within the Agreement will be controlling.

The following terms or expressions used in this contract have the stated meanings:

“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 common Control with, that body corporate from time to time;

“Agreement” means this document (including the Cover Sheet, Terms and Conditions, all Schedules and all attachments to this document) as may be amended or supplemented by the Parties from time to time in writing;

“Appropriate Authorities” means any and/or all of (as may be relevant under the circumstances) the UK government bodies and/or government bodies/agencies in the territory where Serious Misconduct may have or is suspected of having taken place, which have responsibility for safeguarding, recording, investigating, enforcing and/or determining allegations of Serious Misconduct and which may include (but shall not be limited to), the Client, the National Crime Agency, UK Police force, local territory police forces, and social services;

“Business Partner Code of Conduct” means the document listed in Schedule E entitled “Business Partner Code of Conduct”.

“Claim” means any claim, action, proceeding, demand, prosecution, judgement, damage, loss, cost, expense, fine, penalty or liability whatever incurred or suffered by or brought or made or recovered against a person or any company or other form of entity and however arising (whether presently ascertained, future or contingent);

“Client Background IPR” means:

- a) IPRs owned by the Client before the Effective Date, including IPRs contained in any of the Client's know-how, documentation, software, processes and procedures;
- b) IPRs created by the Client independently of this Agreement; and/or
- c) (if applicable) Crown Copyright which is not available to the Subcontractor otherwise than under this Agreement;

“Client Data” means (a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are: (i) supplied to the Subcontractor by or on behalf of the Client; or (ii) Client Data which the Subcontractor is required to generate, process, store or transmit pursuant to this Agreement; or (b) any Personal Data for which the Client is the Data Controller.

“Client System” the Client's computing environment (consisting of hardware, software and/or telecommunications networks or equipment) used by the Client, the Company or the Subcontractor in connection with this Agreement which is owned by the Client or licensed to it by a third party and which interfaces with the Company's System or the Subcontractor System or which is necessary for the Client or the Company to receive the Services;

“Company Background IPR” means:

- a) IPRs owned by the Company before the Effective Date, including IPRs contained in any of the Company's know-how, documentation, software, processes and procedures; and/or
- b) IPRs created by the Company independently of this Agreement

“Company Data” means (a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are: (i) supplied to the Subcontractor by or on behalf of the Company; or (ii) which the Subcontractor is required to generate, process, store or transmit pursuant to this Agreement; or (b) any Personal Data for which the Company is the Data Controller.

“Company System” the Company's computing environment (consisting of hardware, software and/or telecommunications networks or equipment) used by the Company or the Subcontractor in connection with this

Agreement which is owned by the Company or licensed to it by a third party and which interfaces with the Subcontractor System or which is necessary for the Company to receive the Services;

“Confidential Information” means company proprietary information, technical data, trade secrets, or know-how, including, but not limited to, business information, research, marketing, technical, financial information, product plans, products, services, customer lists, markets, software, developments, inventions, processes, formulas, technology, designs, drawings, engineering, and any other information relating to its personnel, clients, customers, Affiliates, or agents disclosed to one Party or its personnel by the other Party either directly or indirectly;

“Control” means

(1) in relation to a body corporate, the power of a person to secure—

(a) by means of the holding of shares or the possession of voting power in relation to that or any other body corporate, or

(b) as a result of any powers conferred by the articles or memorandum of association, constitution or other document regulating that or any other body corporate, that the affairs of the company are conducted in accordance with the person's wishes.

(2) in relation to a partnership, the right to a share of more than half the assets, or of more than half the income, of the partnership;

“Controller, Processor, Data Subject, Personal Data, Personal Data Breach, Data Protection Officer” take the meaning given in the GDPR;

“Data Protection Legislation” (i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy;

“Data Protection Impact Assessment”: an assessment by the Data Controller of the impact of the envisaged processing on the protection of Personal Data;

“Data Loss Event”: any event that results, or may result, in unauthorised access to Personal Data held by the Contractor under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach;

“Data Subject” has the meaning ascribed to it in the DPA 2018;

“Data Subject Access Request”: a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data;

“DPA 2018” means the Data Protection Act 2018;

“Day” means calendar day of 24-hours computed without regard for non-work days, holidays, or other exceptions;

“Deliver” means hand over to, at the place specified in the Agreement, and acceptance of the item, whether it be a Good, a Service, a Premises, or other deliverable, by the Subcontractor or Company at that place and delivery has a comparable meaning;

“Ethical Walls” means a process for avoiding conflicts of interest by limiting disclosure of information to certain individuals within an organisation, thereby building a metaphorical wall between the holders of information and colleagues who represent interests or hold opinions which conflict.

“Euro Compliant” means that:

(i) the introduction of the euro within any part(s) of the UK shall not affect the performance or functionality of any relevant items nor cause such items to malfunction, end abruptly, provide invalid results or adversely affect the Client's business;

(ii) all currency-reliant and currency-related functions (including all calculations concerning financial data) of any relevant items enable the introduction and operation of the euro; and
(iii) in particular each and every relevant item shall, to the extent it performs or relies upon currency-related functions (including all calculations concerning financial data):

- (a) be able to perform all such functions in any number of currencies and/or in euros;
- (b) during any transition phase applicable to the relevant part(s) of the UK, be able to deal with multiple currencies and, in relation to the euro and the national currency of the relevant part(s) of the UK, dual denominations;
- (c) recognise accept, display and print all the euro currency symbols and alphanumeric codes which may be adopted by any government and other European Union body in relation to the euro;
- (d) incorporate protocols for dealing with rounding and currency conversion;
- (e) recognise data irrespective of the currency in which it is expressed (which includes the euro) and express any output data in the national currency of the relevant part(s) of the UK and/or the euro; and
- (f) permit the input of data in euro and display an outcome in euro where such data, supporting the Client's normal business practices, operates in euro and/or the national currency of the relevant part(s) of the UK.

"Force Majeure Event" any event outside the reasonable control of either Party affecting its performance of its obligations under this Agreement arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control and which are not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party, including acts of God, riots, war or armed conflict, acts of terrorism, acts of government, government or regulatory bodies, fire, flood, storm or earthquake, or disaster but excluding any industrial dispute relating to the Subcontractor or the Subcontractor Personnel, servants, agents or sub-sub-contractors, or any person acting on their behalf or any other failure in the Subcontractor's or a sub-sub-contractor's supply chain;

"GDPR" the General Data Protection Regulation (*Regulation (EU) 2016/679*);

"General Anti-Abuse Rule" means (a) the legislation in Part 5 of the Finance Act 2013; and (b) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid national insurance contributions;

"Good Industry Practice" means the exercise of that degree of care, skill, diligence, prudence, efficiency, foresight and timeliness which would be reasonably expected at such time from an expert supplier of services similar to the Services, such supplier seeking to comply with its contractual obligations in full and complying with all applicable Legislative Requirements;

"Halifax Abuse Principle" means the principle explained in the CJEU Case C-255/02 Halifax and others;

"Insolvency Event" means the Subcontractor:

- a. goes into liquidation;
- b. has a liquidator, receiver or official manager appointed to it;
- c. becomes bankrupt;
- d. enters into a scheme of arrangement with creditors;
- e. becomes unable to pay the Subcontractor's debts as they become due; or
- f. is insolvent or enters into or is subject to anything which has a similar purpose or effect to any of the above;

"Intellectual Property Rights" or "IPRs" means

(a) copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semiconductor topography rights, trade marks, rights in Internet domain names and website addresses and other rights in trade names, designs, Know-How, trade secrets and other rights in Confidential Information;

(b) applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and

(c) all other rights having equivalent or similar effect in any country or jurisdiction;

“Invoice” means an invoice that complies with all relevant laws in the country in which the Services are delivered;

“Intellectual Property” means rights including, but not limited to, patents, copyrights, and trademarks, with regard to Services and other materials which bear a direct relation to or are produced, prepared, or collected in consequence of or in the course of the execution of this Agreement;

“IPR Claim” means any claim of infringement or alleged infringement (including the defence of such infringement or alleged infringement) of any IPR, used to provide the Services or as otherwise provided and/or licensed by the Subcontractor (or to which the Subcontractor has provided access) to the Company or the Client (including any claims arising from the publication of the Project Specific IPRs as open source) in the fulfilment of its obligations under this Agreement;

“LED” means Law Enforcement Directive (*Directive (EU) 2016/680*);

“Legislative Requirements” means any applicable law, statute, bye-law, regulation, order, consent, permit, approval, regulatory policy, guidance or industry code, rule of court or directives or requirements of any Regulatory Body, delegated or subordinate legislation or notice of any Regulatory Body;

“Licensed Software” all and any Software licensed by or through the Subcontractors, its sub-sub-contractors or any third party to the Company for the purposes of or pursuant to this Agreement, including any Supplier Software, Third Party Software and/or any Specially Written Software;

“Loss” or “Losses” means any damage, liability, cost or expense including legal expenses;

“Material” includes property, equipment, information, data, photographs, documentation or other material in any form, including software, reports, specifications, business rules or requirements, user manuals, user guides, operations manuals, training materials and instructions, and the subject matter of any category of Intellectual Property Rights;

“Milestone” means an identified deliverable for which the Subcontractor is entitled to receive a payment in accordance with this Agreement;

“Occasion of Tax Non-Compliance” means:

(a) any tax return of the Subcontractor submitted to a Relevant Tax Authority on or after 1 October 2012 is found on or after 1 April 2013 to be incorrect as a result of:

- i) a Relevant Tax Authority successfully challenging the Subcontractor under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle; or
- ii) the failure of an avoidance scheme which the Subcontractor was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime; and/or

(b) any tax return of the Subcontractor submitted to a Relevant Tax Authority on or after October 2012 gives rise, on or after 1 April 2013, to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Effective Date or to a civil penalty for fraud evasion;

“Party” and/or “Parties” means either the Company or the Subcontractor or both collectively;

“Personal Data” means personal information as defined by the Legislative Requirements governing this Agreement including all Data Protection Legislation;

“Personnel” means the officers, employees, agents, advisers, contractors and subcontractors (including their respective personnel) of either party or the Client;

“Processor Personnel: means all directors, officers, employees, agents, consultants and contractors of the Processor and/or of any Sub-Processor engaged in the performance of its obligations under this Agreement.

“Prohibited Act” has the meaning;

(a) to directly or indirectly offer, promise or give any person working for or engaged by the Company or the Client a financial or other advantage to:

- (i) induce that person to perform improperly a relevant function or activity; or
- (ii) reward that person for improper performance of a relevant function or activity;

(b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this agreement or the Project;

(c) an offence:

- (i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act);
- (ii) under legislation or common law concerning fraudulent acts; or
- (iii) defrauding, attempting to defraud or conspiring to defraud the Company or the Client; or
- (d) any activity, practice or conduct which would constitute one of the offences listed under
- (e) above if such activity, practice or conduct had been carried out in the UK.

“Project Material” means all Material including data, results, discoveries, inventions, improvements, reports, and other works of authorship, trade secrets, and any other work product or deliverables;

- a. brought into existence or supplied as part of or for the purpose of performing the Services; or
- b. copied or derived from the above Material;

“Promotional Material” means any public statement or advertisement whether in written, verbal or visual format (whether or not digital and/or web-based) relating to the Services, this Agreement and/or the Project and includes use of the Client’s name and brand (including the ‘UK aid logo’);

“Protective Measures”: appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it;

“Record” means a document or anything constituting a piece of evidence about the past, or an account kept in writing or in some other permanent form (electronic or otherwise) that records information relevant to the Project, the Subcontractor’s operations or the Company’s operations;

“Regulatory Bodies” means those government departments, regulatory, statutory and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this Agreement or any other affairs of the Subcontractor, the Company or the Client and “Regulatory Body” will be construed accordingly;

“Relevant Requirements” all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State for Justice pursuant to section 9 of the Bribery Act 2010;

“Relevant Tax Authority” means HM Revenue & Customs, or, if applicable, a tax authority in the jurisdiction in which the Subcontractor is established or where the Services are supplied;

“Services” means any service provided, or to be provided, to the Company by the Subcontractor (or any of the Subcontractor’s sub-sub-contractors) pursuant to or in connection with this Agreement including, but not limited to, the Services expressly stated in this Agreement together with the supply of any tangible and intangible items (including, without limitation, goods, materials, equipment, software) associated with such Services and also any services that are necessary to perform those Services;

“Sexual Abuse” means the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions, and all sexual activity with someone under the age of 18, regardless of local age of majority or consent under the laws of the territory in which it takes place and regardless of any mistaken belief (by the relevant individual) as to the age of a child;

“Sexual Exploitation” means any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes. Includes profiting monetarily, socially, or politically from sexual exploitation of another;

“Sexual Harassment” means unwelcome sexual advances (also but not exclusively without touching). It includes requests for sexual favours, or other verbal or physical behaviour of a sexual nature, which may create a hostile or offensive environment;

“Software” means Specially Written Software, Subcontractor Software and Third Party Software;

“Specially Written Software” means any software (including database software, linking instructions, test scripts, compilation instructions and test instructions) created by the Subcontractor (or by a sub-sub-contractor or other third party on behalf of the Subcontractor) specifically for the purposes of this Agreement, including any modifications, configuration, customisation, or enhancements to Subcontractor Software or Third Party Software created specifically for the purposes of this Agreement;

“Subcontractor Background IPRs” means;

(a) Intellectual Property Rights owned by the Subcontractor before the Effective Date, for example those subsisting in the Subcontractor’s standard development tools, program components or standard code used in computer programming or in physical or electronic media containing the Subcontractor’s Know-How or generic business methodologies; and/or

(b) Intellectual Property Rights created by the Subcontractor independently of this Agreement, which in each case is or will be used before or during the Term for designing, testing implementing or providing the Services but excluding Intellectual Property Rights owned by the Subcontractor subsisting in the Subcontractor Software;

“Subcontractor Software” means any software which is proprietary to the Subcontractor (or an Affiliate of the Subcontractor) which is or will be used by the Subcontractor or any sub-sub-contractor for the purposes of providing the Services or is embedded in and in respect of such other software as required to be licensed in order for the Company or the Client to receive the benefit of and/or make use of the Services;

“Subcontractor System” means the information and communications technology system used by the Subcontractor in implementing and performing the Services including any software, equipment, configuration and management utilities, calibration and testing tools and related cabling (but excluding the Company System or Client System);

“Sub-processor”: any third Party appointed to process Personal Data on behalf of that Processor related to this Agreement.

“Third Party IPRs” means Intellectual Property Rights owned by a third party but excluding Intellectual Property Rights owned by the third party subsisting in any Third Party Software;

“Third Party Software” means any software which is proprietary to any third party (other than an Affiliate of the Subcontractor) or any open source software which is or will be used by the Subcontractor for the purposes of providing the Services;

“Working Day” means any day other than a Saturday, Sunday or public holiday in England and Wales.