**SCOTTISH POLICE AUTHORITY**

**CONTRACT TERMS AND CONDITIONS**

**applicable to Purchase Orders where no separate contract has been entered into**

**TERMS AND CONDITIONS**

**These Term and Conditions may only be varied with the written agreement of the Purchaser. No terms or conditions put forward at any time by the Supplier shall form any part of the Contract unless specifically agreed in writing by the Purchaser.**

**GENERAL CONDITIONS**

1. **Definitions and Interpretation**
   1. Definitions

In these terms and conditions unless the context otherwise requires, the following words and expressions shall have the following meanings:-

**“Authority”** means the Scottish Police Authority;

“**Best Value**” means the balance of price, quality, and performance required under the Contract;

“**Contract**” means the contract entered into by the Authority and the Contractor for the provision of the Goods/Services which shall be constituted by the Purchase Order, these terms and conditions ( which shall not be varied without the express written consent of the Authority) , and any other documents specified in the Purchase Order as forming part of the Contract, and any changes or clarifications to the Purchase Order confirmed and agreed in written correspondence between the Authority and the Contractor No terms or conditions submitted at any time by the Contractor shall form any part of the Contract unless specifically agreed in writing by the Authority.

“**Contract Administrator**” means the member of the Authority’s staff appointed for the purposes of overseeing the Contract, monitoring the performance of the Contractor and ensuring that the standards of service specified in the Contract are delivered. The Contract Administrator and his/her deputy shall be named at Contract Award;

“**Contract Award**” means the event of awarding the Contract to the Contractor by means of the Purchase Order or otherwise as provided for in the Contract;

**“Contractor”** means the Contractor named in the Purchase Order who is awarded the Contract to deliver the Goods/Services;

**“Contractor’s Retention Schedule**” refers to those parts of the Records Management Provisions relating to how long particular records or classes of records created or managed by the Contractor are to be retained;

“**Contract Period**” means the period commencing on the Operational Date and continuing until the deliveryof the Goods and / or performance of the Services or such other date as specified in the Contract , unless extended in accordance with these terms and conditions, or until earlier termination in terms of the Contract;

“**Data Controller**” has the meaning given to that term in the Data Protection Legislation;

“**Data Processing**” has the meaning given to that term in the Data Protection Legislation; and the term “**Processing**” shall be construed accordingly;

“**Data Processor**” has the meaning given to that term in the Data Protection Legislation;

**“Data Protection Legislation”** means (a) any law, statute, declaration, decree, directive, legislative enactment, order, ordinance, regulation or other binding restriction (as amended, consolidated or re-enacted from time to time) that relates to the protection of individuals with regard to the processing of personal data to which a party is subject, including the Data Protection Act 2018, Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (United Kingdom General Data Protection Regulation), as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018

“**Data Subject**” has the meaning given to that term in the Data Protection Legislation;

“**Data Subject Request**” means a request made by a Data Subject to exercise any rights of Data Subjects under the Data Protection Legislation;

“**Financial Year**” means the period commencing on 1 April in one year and ending on 31 March in the following year, both dates inclusive;

“**Force Majeure**”means any cause affecting the performance of the Contract arising from or attributable to acts, events, omission or accidents beyond the reasonable control of the Party required to perform;

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

“**Goods**” means any such goods as are to be supplied to the Authority by the Contractor (or by any of the Contractor’s sub-contractors) under the Contract, in terms of the Purchase Order ;

“**Law**” means any applicable Act of Parliament, Act of the Scottish Parliament, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, Scottish subordinate legislation within the meaning of Article 2(1) of The Scotland Act 1998 (Transitory and Transitional Provisions)(Publication and Interpretation etc. of Acts of the Scottish Parliament) Order 1999, exercise of the royal prerogative, enforceable community right within the meaning of Section 2 of the European Communities Act 1972, regulatory policy, guidance or industry code, judgment of a relevant court of law, or directives or requirements of any Regulatory Body of which the Contractor is bound to comply;

“**Operational Date**” means the date of the Purchase Order unless another Operational Date is specified in the Contract, which Operational Date shall be the commencement date for the provision of the Goods/Services by the Contractor, unless otherwise specified at in the Contract

“**Party**” means a party to the Contract;

“**Personal Data**” has the meaning given to that term in the Data Protection Legislation;

“**Premises**” means the location(s) where the Goods are to be delivered as specified within the Purchase Order ;

“**Pricing**” means the information relating to the prices and sums provided by the Contractor and forming part of thePurchase Order ;

“**Procurement Process**” means the process being run by the Authority to procure the provision of the Goods/Services, which process will culminate with the Contract Award;

“**Purchase Order**” means an order placed by the Authority with the Contractor forming part of the terms of the Contract and setting out the Authority’s requirements under the Contract;

“**Records Management Plan**” means the plan prepared by the Authority and approved by the Keeper of the Records of Scotland under section 1 of the Public Records (Scotland) Act 2011;

“**Records Management Provisions**” refers to the policies, procedures and arrangements for the management and preservation of the records created by the Contractor further to this Contract [as such policies, procedures and arrangements are more fully set out in Schedule 1 hereto];

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

“**Services**” means the proposed services to be delivered to the Authority under the Contract, in terms of the Purchase Order;

“**Special Category Personal Data**” has the meaning given to that term in the Data Protection Legislation;

“**Staff**” means any person engaged by the Contractor in terms of a contract of employment between that person and the Contractor for the purposes of the supply of the Goods/ Services (either wholly or partially) and shall include any sub-contractor involved in or with the Goods/Services at the instance of the Contractor;

“**Sub-Processor**” means another Data Processor engaged by the Contractor for carrying out Data Processing activities in respect of the Personal Data on behalf of the Authority;

“**Supervisory Authority**” means any local, national or multinational agency, department, official, parliament, public or statutory person or any government or professional body, regulatory or supervisory authority, board or other body responsible for administering Data Protection Legislation;

"**Working Days**" means Monday to Friday, both days inclusive, except public holidays in the locality of the parties’ administrative offices.

* 1. Interpretation
     1. A reference to any enactment, order, regulation, statutory Instrument, or the like shall include references to any amendment, replacement, consolidation or re-enactment of the same.
     2. Words importing the masculine gender include the feminine gender, words in the singular include the plural and words importing individuals shall be treated as including bodies corporate, unincorporated associations and partnerships and, in each case, vice versa.
     3. Clause headings do not form part of the Contract and shall not be taken into account in its construction or interpretation.
     4. References in these terms and conditions to “the Contract” shall, where the context permits, be deemed to include reference to these terms and conditions also.

1. **Contract Preliminaries**
   1. The Contractor declares that to the best of its knowledge and belief there is no inhibition, restriction, or prohibition that in any way affects its capacity to contract with the Authority. In the event of the Authority obtaining knowledge or being given reason to conclude reasonably that any such inhibition, restriction or prohibition exists, it will be at the option of the Authority to terminate any contract concluded with the Contractor and to have the Contractor indemnify in full any loss resulting to the Authority therefrom.
   2. The Contractor declares that to the best of its knowledge and belief the information provided to the Authority in connection with the Contract is correct, complete and free from error. In the event of the Authority obtaining knowledge or being given reason to conclude reasonably that all or any part of the information provided to the Authority by the Contractor is incorrect, erroneous or has been misrepresented, it will be at the option of the Authority to terminate the Contract in accordance with clause 26 (Default and Termination) hereof.
   3. The Contractor shall ensure that any information or data that requires to be given by the Contractor to the Authority during the Contract Period, whether in terms of the Contract or by reason of or in accordance with the Law, is accurate, complete and verifiable. In the event of the Authority obtaining knowledge or being given reason to conclude reasonably that all or any part of any information provided to the Authority by the Contractor during the Contract Period has been misrepresented or falsified, it will be at the option of the Authority to terminate the Contract in accordance with clause 26 (Default and Termination) hereof.
2. **Eligibility to contract**
   1. The Contractor declares that to the best of its knowledge and belief none of the grounds (criteria) requiring or permitting (as the case may be) the Authority as a contracting authority to treat the Contractor as ineligible to enter a contract, all as set out under regulations 8 and 9 of The Procurement (Scotland) Regulations 2016 / regulation 58 (Exclusion Grounds) of The Public Contracts (Scotland) Regulations 2015 (as may be amended from time to time), apply to it as at the date ofthe Purchase Order .
   2. The Contractor will advise the Authority immediately if any of the grounds specified under the regulation noted in clause 3.1 apply to it at any time during the Procurement Process, including any time following Contract Award.
   3. Without prejudice to the generality of clauses 3.1 and 3.2, the Contractor undertakes that it shall not commit any breach of the Employment Relations 1999 Act (Blacklists) Regulations 2010 or section 137 of the Trade Union and Labour Relations (Consolidation) Act 1992 and any statutory modification or re-enactment thereof, or commit any breach of the Data Protection Legislation and any statutory modification or re-enactment thereof by unlawfully processing personal data in connection with any blacklisting activities.
   4. Any breach of this clause 3 will be deemed to constitute a material breach of contract.
3. **Commencement and Duration**
   1. The Contract shall take effect on the Operational Date and shall thereafter continue in force throughout the Contract Period, unless terminated in accordance with its terms.

The Authority may, in its sole discretion, elect to extend the Contract Period by a further or further periods,if stipulated in the Contract . The Authority shall give the Contractor written notice ( if applicable as stipulated in the Contract ) of its intention to extend prior to the end of any Contract Period. These Contract terms and conditions shall continue to apply during any extended Contract Period if applicable.

1. **Contractor’s Obligations**
   1. The Contractor shall act and perform its obligations to the Authority throughout the Contract Period in accordance with the Contract, including any valid variations thereto, in good faith and fair dealing and in accordance with the Law, all to the reasonable satisfaction of the Contract Administrator.
   2. The Contractor warrants and undertakes to the Authority that it shall:-
      1. Deliver the Goods/perform the Services in a timely and professional manner and with the level of experience, skill and care reasonably to be expected within the industry from a supplier of similar goods/services;
      2. Ensure the Goods are supplied/delivered and/or the Services are performed at all times by appropriately qualified and trained personnel, and in accordance with all relevant statutes and other legislative requirements, the provisions and requirements of the Contract, and good industry practice;
      3. Devote to its obligations in terms of the Contract, such resources including time, labour, attention and skill as are necessary for the satisfactory performance of those obligations;
      4. Supervise and inspect all work undertaken as part of the Contract to ensure timeous and proper delivery of the Goods/performance of the Services.
      5. Take no action that could or is likely to bring the Authority into disrepute;
      6. Notify the Authority if for any reason it is unable to sustain the delivery of the Goods/provision of the Services. Upon receipt of such notification the Authority shall be entitled to review the payments made or that would have been made to the Contractor during the period in which the Contractor is unable to sustain the delivery of the Goods/provision of the Services, and may in its sole discretion reduce or vary such payments.
   3. The Contractor warrants that it has no obligation to any other party under an agreement separate to the Contract that is incompatible with the Authority’s requirements or the obligations imposed under the Contract, and the Contractor undertakes that it has no obligation to provide or otherwise procure goods or services to third parties that may produce, in the reasonable opinion of the Authority, a conflict of interest in relation to the Contract.
   4. The Contractor undertakes to co-operate with the Authority in seeking to develop continuous improvement in the delivery of the Goods/Services in terms of the Contract.
   5. The Contractor may be required to assist the Contract Administrator in the preparation of measurements, reports and audits of the Contract performance and, if required, shall not refuse a reasonable request from the Contract Administrator in this respect.
   6. The Contractor warrants and undertakes to the Authority that it has not been convicted of any offence involving slavery and human trafficking nor has it been, nor to the best of its knowledge is currently, the subject of any investigation, inquiry or enforcement proceedings regarding any offence or alleged offence of or in connection with slavery and human trafficking.

**The Goods**

* 1. The Goods shall be to the reasonable satisfaction of the Authority and shall conform in all aspects with any particulars specified in the Purchase Order or appended thereto and in any variations thereto.
  2. The Goods shall conform in all respects with the requirements of any statutes, orders, regulations or bye-laws from time to time in force.
  3. The Goods shall be fit and sufficient for the purpose for which the Goods are ordinarily used and for any particular purpose made known to the Contractor by the Authority and the Authority relies on the skill and judgement of the Contractor in the supply of Goods and the performance of the Contract.

**Delivery**

* 1. The Contractor must deliver the Goods at its own expense (unless otherwise specified or agreed in writing), in the required quantity, to the designated address**,as specified in the Contract within any duration which may be stated in the Contract** .
  2. Time and place of delivery are of the essence of the contract between the Authority and the Contractor. Property and risk in the Goods shall not pass to the Authority until they are delivered as aforesaid and the Authority has had a reasonable opportunity to inspect and, as appropriate, test the Goods and confirm that they are in accordance with the Purchase Order.
  3. Without prejudice to the Authority’s other rights, the Authority reserves the right to cancel, without redress by the Contractor, either the whole or any unexecuted part of the Purchase Order if not executed on the date(s)/within the time(s) specified in the Purchase Order, (including any schedules forming part of or referred to in the Purchase Order). In such an event, the Authority shall be entitled to recover from the Contractor all losses, expenses, costs and charges incurred by the Authority as a consequence of such cancellation, which shall be recoverable from the Contractor as a debt to the Authority.
  4. Should the Contractor’s failure to deliver by the specified delivery date necessitate deliveries by special transport, all additional carriage charges shall be at the Contractor’s expense. The Authority reserves the right to return to the Contractor at the Contractor’s cost any Goods delivered outwith agreed delivery dates/schedules. If Goods are incorrectly delivered the Contractor shall be responsible for any additional expense incurred in delivering them to their correct destination.
  5. The Contractor must accompany all consignments with a delivery advice note, a signed copy of which must be obtained from the Authority to evidence receipt of the Goods and to confirm whether or not the consignment has been examined upon receipt and is correct.
  6. Any packaging accompanying a consignment must be removed by the Contractor at its expense, either at the time of delivery or, by agreement, at a later date. Packaging not removed by the Contractor within a reasonable time will be disposed of by the Authority and the cost incurred in so doing will be deducted from any monies due to the Contractor by the Authority.
  7. The Authority may by giving written notice to the Contractor reject any Goods (whether or not after inspection) that do not conform to the requirements of the Contract.
  8. Subject to clause 5.19, the Contractor shall, at its own expense and within fourteen days of being notified of the rejection, or within any other period specified in the Contract, remove any Goods or consignment that the Authority has rejected.
  9. If the Contractor fails to remove the rejected Goods or consignment in accordance with clause 5.16, the Authority may return it to the Contractor at the Contractor's risk and expense.
  10. The Contractor shall at its own expense and within the contractual period for delivery, or within such further reasonable period as the Authority may allow, supply Goods that conform to the requirements of the Contract.
  11. The Contractor may object in writing to a notification of rejection by the Authority within the period specified at clause 5.16 If the objection is not resolved within a reasonable time, it shall be treated as a dispute within the meaning of clause 25(Disputes). Unless otherwise agreed the Contractor shall not remove the Goods that are the subject of the rejection notice unless and until the objection or dispute has been resolved in favour of the Authority.

**Acceptance**

* 1. Subject to clause 5.21, acceptance of Goods occurs at the time and in accordance with the procedure specified in the Contract or, if none is so specified:-
     1. Where the Contract specifies a time limit within which to reject, that time has elapsed;
     2. Where the Contract specifies no time limit within which to reject, a reasonable time has elapsed since delivery has occurred; or
     3. When Goods have been delivered and the Authority does any act in relation to those Goods that is inconsistent with the Contractor's ownership.
  2. The Authority shall not have accepted Goods:-
     1. Merely because the Authority asks for, or agrees to, repair of those Goods by or under an arrangement with the Contractor; or
     2. Unless otherwise specified in the Contract, merely because the Goods have been delivered to a third party.
  3. Unless otherwise specified in the Contract, the Authority shall not be deemed to have accepted Goods unless it has had a reasonable opportunity to examine the Goods after delivery for the purpose of ascertaining whether the Goods are in conformity with the Contract.

1. **No Agency**
   1. In supplying the Goods/carrying out the Services the Contractor shall be acting as principal and not as an agent of the Authority. Accordingly:-
      1. the Contractor shall not (and shall procure that the Contractor’s agents and employees do not) say or do anything that might lead any other person to believe that the Contractor is acting as the agent of the Authority; and
      2. nothing in the Contract shall impose any liability on the Authority in respect of any liability incurred by the Contractor to any other person, but this shall not be taken to exclude or limit any liability of the Authority to the Contractor that may arise by virtue of either a breach of the Contract or any negligence on the part of the Authority, or the Authority’s staff or agents.
2. **Invoicing**
   1. Invoices detailing as a minimum any sums owing to the Contractor and the Goods/Services to which those sums relate, and including any further detail that the Authority may reasonably require from time to time, shall be rendered by the Contractor to the Authority at the time and in the manner specified by the Authority. Value Added Tax, where applicable, shall be shown separately on each invoice.
   2. Invoice schedules and payment details will be agreed by the Contractor and Authority at Contract Award.
   3. The Authority reserves the right to request from time to time particular information or data from the Contractor for the purpose of verifying any sums claimed by the Contractor; and the Contractor shall comply with any such request by making the requested information or data available to the Authority within ten (10) Working Days of the Authority’s request.
   4. The Authority reserves the right to reject incorrect or incomplete invoices, or invoices that show sums that cannot be verified, and to require correction or completion and resubmission. The Authority shall verify all invoices and, if accurate, payment shall be made within 30 days.
3. **Price and Payment**
   1. In exchange for the Contractor supplying the Goods/providing the Services and fulfilling all other obligations incumbent upon it in terms of the Contract, the Authority agrees to pay the price for the Goods/Services in accordance with the Contractor’s invoice issued under clause 7 (Invoicing).
   2. The Authority will not be liable to pay for any Goods/Services provided by the Contractor unless it is specified in the Purchase Order signed by the Contract Administrator.
   3. The prices set out in the Purchase Order shall apply for the duration of the Contract Period unless as otherwise stipulated in the Contract or , unless varied by prior written agreement between the Parties if applicable.
4. **Variations**
   1. The Authority shall be entitled to alter or modify the requirements under this Contract by requiring in accordance with this clause 9 the Contractor to do any of the following:-
      1. To omit or to cease to supply the Goods/perform the Services or any part thereof for such period as the Authority may require;
      2. To supply the Goods/perform the Services or any part thereof in such manner as the Authority may require;
      3. To perform such additional goods/services as the Authority may require;
      4. To vary any specification of the Goods / Services within the Purchase Order and to supply the Goods/perform the Services in accordance with any specification as so varied.
   2. Where the Authority is considering a variation to the Goods/Services, it shall notify the Contractor in writing. Within the timescale stipulated by the Authority in said notification, the Contractor shall confirm in writing the effect, if any, the variation shall have on the Contract, including any effect on prices. Where an omission, addition or variation of the Goods/Services will result in additional costs to the Contractor (as can be reasonably demonstrated by the Contractor to the Authority) or a saving to the Authority, such sum shall be agreed in advance. Failing such agreement, the Authority (acting reasonably) shall be entitled to determine the appropriate sum attributable to the variation and shall notify the Contractor accordingly.
   3. The Authority shall confirm the proposed variation by issuing a written instruction to the Contractor. Upon receipt of the instruction from the Authority, the Contractor shall be bound by, and shall forthwith carry out, the terms of that instruction.
   4. All instructions issued in terms of this clause 9 shall be notified in writing (where appropriate) not less than 28 days (or such other such timeframe as is mutually agreed between the Parties) in advance of the effective date thereof.
5. **Reporting/Monitoring/Access to Records**
   1. The Contractor shall comply with the Authority’s systems for monitoring, evaluating and auditing the operation of the Contract upon being given reasonable notice by the Authority. The Authority will advise the Contractor about the systems for monitoring, evaluating and auditing in use. The Authority reserves the right to visit the Contractor at any reasonable time without giving notice and without prejudice to the Contractor’s right to privacy.
   2. The Authority shall monitor and review the of the Goods/Services provided throughout the Contract Period.
   3. Officers of the Authority shall be given access to the Contractor’s premises and equipment for the purposes of inspection and monitoring of the supply of the Goods/carrying out of the Services. The Authority will be entitled at any time to carry out checks on the quality of the Goods/Services provided.
   4. An officer of the Authority may visit the Contractor’s premises for the purposes of inspection and monitoring the terms of the Contract. Such visits shall be undertaken by prior appointment, except in instances where the Authority has reasonable cause for concern in which case such visits may take place without notice. Visits may include consulting with the Staff .
   5. A copy of any report prepared in relation to the visit shall be issued to the Contractor. This report shall highlight any areas where, in the opinion of the Authority, the requirements of the Contract are not being met and identify corrective actions to be taken accordingly. Where the Contractor disagrees with the corrective actions to be taken, the process as set out at clause 25 (Disputes) shall be followed.
6. **Response to Complaints**
   1. The Contractor shall fully assist the Authority in the investigation, reporting, remedying and monitoring of any complaint received by the Authority, all in accordance with this clause 11.
   2. In the event that the Authority receives a complaint about the delivery of the Goods or performance of the Services, it shall forward the details of such complaint to the Contractor, who shall then immediately commence to investigate the same with all due speed and expedition.
   3. Where on investigation a complaint is found to be justified, the Contractor shall, as soon as practicable (and in any event within one working day of the investigation being concluded), notify the Authority of the steps or course of action it intends to implement in order to remedy the matter complained of. Once notification is provided to the Authority the Contractor shall carry out the steps or course of action it considers necessary to promptly remedy the matter complained of. Unless the Contract provides otherwise, remedial steps or actions shall be undertaken by the Contractor within eight hours of notification being given to the Authority in terms of this clause 11.3.
   4. The Contractor shall keep written records of all complaints received by it and the action taken in relation to them.
7. **Equality of Treatment**
   1. The Contractor undertakes that it has and shall comply with all statutory requirements in respect of ensuring equal opportunity in employment and has not and shall not unlawfully discriminate either directly or indirectly on such grounds as race, colour, ethnic or national origin, disability, gender, sex or sexual orientation, religion or belief, or age and without prejudice to the generality of the foregoing the Provider shall not unlawfully discriminate within the meaning and scope of the Equality Acts 2006 and 2010, the Part-Time Workers (Prevention of Less Favourable Treatment) Regulations 2000, the Fixed-Term Employees (Prevention of Less Favourable Treatment) Regulations 2002, the Human Rights Act 1998 or other relevant or equivalent legislation, and any statutory modification or re-enactment thereof.  The Contractor shall take all reasonable steps to secure the observance of this clause 12 by all employees and representatives of the Contractor.
8. **Standards, Safety and Environmental Care**
   1. Without prejudice to the Authority’s rights under statute or otherwise, the Contractor undertakes to the Authority as follows:-
      1. That the Contractor shall comply with:
9. All relevant health, safety and environmental Standards, Codes of Practice and legislation;
10. All relevant UK and European Standards, Codes of Practice and directives on health and safety;
11. All UK and European legislation and directives that encompass specific health, safety and/or environmental requirements; and
12. All relevant European Standard and British Standard specifications or British Standard Codes of Practice current at the date of the carrying out of the supply of the Goods or any of the Services under the Contract to ensure that all goods and materials supplied or used and all workmanship shall at least meet the requirements of that European Standard or British Standard, as the case may be.
    * 1. That the Contractor shall not use any legally banned chemical substances, or any other chemical substances that the Authority advises in writing shall not be used, and shall comply with all UK legislation and European directives or any other legislation enacted concerning notification, restrictions and use of chemical substances; at the request of the Authority the Contractor shall provide details of chemical substances that the Contractor intends to use in relation to the supply of the Goods or the carrying out of the Services;
      2. That the Contractor shall comply with the Environmental Protection Act 1990 and all other legislation and directives relating to clean air and air pollution arising from industrial plant;
      3. That no goods, products or services shall be used or supplied in connection with the supply of the Goods or carrying out of the Services that may endanger the health of any person, will cause significant damage to the environment during the manufacture, use or disposal, which consume a disproportionate amount of energy during manufacture, use or disposal, which cause unnecessary waste, or which contain materials derived from threatened species or environments.
13. **Sustainable Development** 
    1. In order to promote and maintain sustainable development, the provisions of clause 13.1.4 (Standards, Safety and Environmental Care) shall be given full effect by the Authority, the Contractor and all of their respective employees or agents in fulfilment of the Contract.
    2. The Authority is committed to procuring responsibly and in a way that delivers community benefit and well-being, minimises resource use and prevents environmental degradation.  As such, throughout the performance of the Contract, consideration should be given to:
       1. Minimising energy use and water consumption;
       2. The use of non-toxic substances and renewable materials, wherever possible; and
       3. Disposal, re-use and recycling options at the end of life of any materials.
    3. The Contractor undertakes to co-operate with the Authority in seeking to develop continuous improvement in the delivery of the obligations under and in terms of the Contract.
14. **Freedom of Information**
    1. The Authority may disclose and/or publish the information contained in the Purchase Order and/or the Contract and/or any information held as a consequence of, in relation to or in connection with the Procurement Process and/or the Contract in order to comply with the Authority’s obligations under the Freedom of Information (Scotland) Act 2002 (“the 2002 Act”), or the Environmental Information (Scotland) Regulations 2004 (“the 2004 Regulations”), or any statutory modification or re-enactment thereof, or Code of Practice or Guidance issued pursuant thereto, or any notice by the Scottish Information Commissioner issued thereunder, or any other Law, or as a consequence of any judicial order, or order by any court or tribunal with authority to order disclosure.
    2. Without prejudice to the generality of clause 15.1, the Authority may disclose such information to the Scottish or United Kingdom Parliament or any other department, office or agency of Her Majesty’s Government in Scotland or the United Kingdom. The Authority will aim to consult with the Contractor on any request for information that has been identified as being sensitive, however no term of the Purchase Order and/or the Contract, whether express or implied, shall preclude the Authority from disclosing and/or publishing such information as aforesaid, unless the information is exempt information under Part 2 of the 2002 Act or regulation 10 of the 2004 Regulations. In the event that the Goods/Services involve any environmental function or responsibility, it is understood that Contractor may be subject to the terms of the 2004 Regulations in relation to the Purchase Order and/or the Contract.
    3. Upon receiving a request from the Authority in terms of this clause 15, the Contractor shall arrange for the prompt and safe delivery to the Authority of any and all information in its possession or control held on behalf of the Authority that may be required by the Authority to deal with any Freedom of Information request made to it.
15. **Data Protection and Confidentiality**
    1. The Authority and the Contractor shall each have the rights and obligations subscribed to them under Part 1 of the Schedule (*Data Protection*) hereto.
    2. The term “**Confidential Information**” as used in this clause 16 means information that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) and may include information whose disclosure would, or would be likely to, prejudice the commercial rights or interests of any person, or would infringe the rights or interests of any holder of trade secrets, intellectual property rights and “know how” and applies to all Personal Data and Special Category Personal Data and to Commercially Sensitive Information; the term “**Commercially Sensitive Information**” meaning any Confidential Information contained in the Contract.
    3. The Parties agree that the provisions of the Purchase Order and the Contract, with the exception of any Confidential Information or Commercially Sensitive Information contained therein, and subject to clause 15 (Freedom of Information) hereof, shall be subject to disclosure without restriction.
    4. The Parties shall keep confidential all Confidential Information and Commercially Sensitive Information received by one Party from the other relating to the Procurement Process, the Purchase Order and/or the Contract and shall use all reasonable endeavours to prevent their employees and agents from making any disclosure to any person of any such Confidential Information and Commercially Sensitive Information.
    5. Clauses 16.3 and 16.4 shall not apply to:-
       1. Any disclosure of information that is reasonably required by any person engaged in the performance of their obligations under the Contract for the performance of those obligations;
       2. Any matter that a Party can demonstrate is already or becomes generally available and in the public domain, otherwise than as a result of breach of this clause 16;
       3. Any disclosure to enable a determination to be made under clause 25 (Disputes);
       4. Any disclosure that is required pursuant to any statutory, legal (including any order of a court of competent jurisdiction) or Parliamentary obligation placed upon a Party making a disclosure;
       5. Any disclosure of information that is already lawfully in the possession of the receiving Party, prior to its disclosure by the disclosing Party;
       6. Any provision of information to the Parties’ own professional advisers or insurance advisers;
       7. Any disclosure of information by the Authority to any other department, office or agency of the Government or their respective advisors for any purpose related to, or ancillary to, the Procurement Process, the Purchase Order and/or the Contract;
       8. Any disclosure for the purpose of the examination and certification of the Authority’s or Contractor’s accounts or any examination, to establish whether it has secured Best Value in the performance of its functions.
    6. Without prejudice to the generality of clause 15 (Freedom of Information), compliance with the Freedom of Information (Scotland) Act 2002 and/or the Environmental Information (Scotland) Regulations 2004 together with any guidance and/or Codes of Practice issued in relation thereto, this clause 16 shall not permit disclosure of Confidential Information or Commercially Sensitive Information where that information is exempt from disclosure under Section 36 of the Freedom of Information (Scotland) Act 2002.
    7. The Controller of Audit to the Accounts Commission for Scotland and Audit Scotland may examine such documents as they may reasonably require that are owned, held by or are otherwise within the control of the Contractor and may require the Contractor to produce such oral or written explanations in relation to any such examination or any resultant proceedings as they consider necessary.
    8. All rights (including ownership and copyright) in any reports, documents, specifications, instructions, plans, drawings, patents, models, designs and other material relevant to the Contract whether in writing, electronic format or in other media:-
       1. furnished to or made available to the Contractor by the Authority shall remain vested in the Authority absolutely;
       2. prepared by or for the Contractor for use, or intended use, in relation to the performance of the Contract are hereby assigned to and shall vest in the Authority absolutely, and (without prejudice to this clause 16) the Contractor shall not and shall procure that the Contractor’s employees and agents shall not (except to the extent necessary for the implementation of the Contract) without the prior written consent of the Authority use or disclose any such reports, documents, specifications, instructions, plans, drawings, patents, models, designs or other material as aforesaid (whether or not relevant to the Contract) that the Contractor may obtain pursuant to or by reason of the Contract, except information that is in the public domain otherwise than by reason of a breach of this provision, and in particular (but without prejudice to the generality of the foregoing) the Contractor shall not refer to the Authority or the Contract in any advertisement without the Authority’s prior written consent.
    9. Upon either the expiry or termination of the Contract, as may be the case, the Contractor shall arrange for the prompt and safe return of all information and data, including any reports, documents, specifications, instructions, plans, drawings, patents, models, designs and other material relevant to the Contract whether in writing, electronic format or in other media, to the Authority together with all copies of the same in its possession or control, including all copies with any approved sub-contractor.
16. **Intellectual Property**
    1. Title to, access to and inspection of, copyright in, the right to possession and the right of use of all reports and any other writings, created under or arising out of the Contract shall vest in the Authority immediately on the commencement of the supply of the Goods or the Services or creation of the article or document or item, as applicable.
    2. The Contractor shall, at the request of the Authority, provide the Authority with a complete and up-to-date copy of all electronically stored data and all other information necessary to ensure that the Authority can continue to use the electronically stored data so provided by the Contractor; all to the reasonable satisfaction of the Authority.
    3. Electronically stored data shall mean data however stored on a computer storage medium, and shall include data stored in conventional files, databases and computer aided design files, and which contain relevant design information. The Contractor shall store all data on a suitable medium in either its native format or in a neutral file format to suit the Authority’s requirements.
    4. The Authority reserves the right to verify and validate any information contained within the electronically stored data within one year from completion of the supply of the Goods or the Services. The Contractor shall remedy at its own expense any defects or inadequacies discovered during the said one year and notified by the Authority to the Contractor and such defects or inadequacies shall be remedied within 14 Working Days of receipt of such notification.
    5. The Contractor shall not have the right to use any reports, or other materials referred to in clause 17.1 without the prior written consent of the Authority and then only upon such terms as may be imposed in connection therewith.
17. **Records Management**
18. The Contractor shall, for the duration of the Contract Period, provide the Authority with all assistance reasonably requested by the Authority to assist the Authority in complying with its obligations under the Public Records (Scotland) Act 2011 and with the Authority’s Records Management Plan where such compliance is in respect of records created or to be created by the Contractor on behalf of the Authority in terms of this Contract. This assistance will be at no cost to the Authority.
19. The Contractor shall, for the duration of the Contract Period and, in respect of records created during the term of the Contract for the duration set out for that class of record in the Contractor’s Retention Schedule after the termination or expiry of the Contract, comply with the Records Management Provisions set out in Schedule A. The Contractor shall also comply with these provisions, for the period described, in relation to any pre-existing records that are transferred to the Contractor pursuant to the Contract.
20. If, at the end of the relevant period set down in the Contractor’s Retention Schedule for a particular record or class of records, the Contractor’s Retention Schedule for that record or class of records lists the final disposal of the record or class of record as “Pass to Authority”, the Contractor shall offer to transfer the records in question to the Authority, such transfer to include full ownership of the records (including transfer of the status of Data Controller of any Personal Data and Special Category Personal Data contained in the records, full beneficial ownership and transfer of any intellectual property rights relating to the records.) The transfer shall be at no cost to the Authority. The Contractor shall ensure that all relevant indices and any other relevant information reasonably required to locate individual items within the records, including metadata and database schema, are also offered to the Authority on the same terms.
21. If the Contractor shall become bankrupt (whether voluntary or compulsorily), unable to pay its debts, insolvent or make any arrangements with its creditors, or if any resolution is adopted for the winding up of any party, or if a receiver, administrator or administrative receiver is appointed over the whole or any part of its assets or goes into liquidation (whether voluntary or compulsorily) otherwise than for the purposes of amalgamation or reconstruction or any form of execution levied upon its assets, then immediately on the occurrence of any of these events, the records that would, in terms of clause 18.3, fall to be offered to the Authority at the time stipulated in the Contractor’s Retention Schedule, shall be deemed to be held on trust by the Contractor on behalf of the Authority. The Contractor shall thereafter, if and when so required by the Authority, transfer the records in question to the Authority, such transfer to be on the same terms as would apply to a transfer made in terms of clause 18.3.
22. **Not used**
23. **Tax**
    1. The Contractor shall register with the appropriate authorities for the assessment and payment of income tax as may be required by them and shall be fully responsible for the payment of all income tax, national insurance contributions or other taxes of any kind relating to, or arising out of, the employment of any person by the Contractor in or in relation to the supply of the Goods or the performance of the Services, and shall indemnify the Authority against any liability for such matters.
    2. The Authority shall pay to the Contractor such Value Added Tax (VAT) as shall be properly chargeable by the Contractor for supply of the Goods or the performance of the Services, provided that the Contractor shall have issued a valid VAT invoice in respect thereof.
24. **Exclusivity**
    1. The Contract does not provide the Contractor with any rights of exclusivity in relation to the supply of the Goods or the carrying out of the Services on behalf of the Authority. The Authority reserves the right to purchase goods or to carry out or to have carried out on its behalf any of the services that fall within the Purchase Order at any time by any party outwith the terms of the Contract.
25. **Indemnity**
    1. The Contractor shall be held solely responsible for all accidents, injury or damage to persons or property (whether of the Authority or others) and for all claims, demands, costs, losses, damages and expenses (including fines imposed on the Authority) whatsoever and whether arising in contract, delict or otherwise, which may be made against the Authority on any account whatsoever by reason of or in respect of the performance or the failure to perform the obligations of the Contractor under the Contract. The Contractor shall indemnify and keep indemnified the Authority, its employees or agents against all losses, claims, demands and costs incurred by them respectively in respect of the Contractor’s occupation of any land or performance or failure to perform any of the Contractor’s obligations under the Contract PROVIDED THAT nothing in this clause 22 shall render the Contractor liable for any accident, injury or damage that is attributable to any act, omission or neglect of the Authority or its employees or agents in the course of their official business.
    2. The Contractor shall at its own cost with a reputable insurance company until the termination of the Contract have in force and require any subcontractor to have in force:
       1. Public Liability Insurance to the extent of not less than ONE MILLION POUNDS (£1,000,000) in respect of each claim, without limit to the number of claims;
       2. Employers Liability Insurance to the extent of not less than FIVE MILLION POUNDS (£5,000,000) in respect of each claim, without limit to the number of claims;and
       3. Product Liability Insurance (where applicable) to the extent of not less than ONEMILLION POUNDS (£1,000,000) in respect of each claim and in the aggregate.

Such insurance shall provide for the Authority to be indemnified in accordance with clause 22.1. Whenever so required, the Contractor shall produce to the Authority satisfactory evidence that this clause 22.2 has been complied with and shall, from time to time, review the level of insurance so maintained and also increase it as is reasonably required by the Authority.

* 1. In the event of the Contractor having motor vehicles that are used for the purposes of the supply of the Goods or the Services and/or Service Users, it shall maintain adequate vehicle and passenger insurance cover in respect of such vehicles and shall on request provide evidence to the Authority that such cover has been effected and all due premiums have been paid.

1. **Assignation and Sub-Contracting**
   1. Neither the whole nor any part of the Contract may be assigned or sub-contracted by the Contractor without the prior written consent of the Authority, which consent may be given subject to any such conditions as the Authority may think fit.
   2. No sub-contractor shall operate to relieve the Contractor in any respect from its liability to the Authority for the due observance and performance of any obligation or provision of the Contract. The Contractor shall be held fully responsible to the Authority for such observance and performance by any sub-contractor and any neglect or failure by any sub-contractor to observe or perform any such provisions shall be deemed to be the neglect or failure of the Contractor.
   3. Where consent is granted and the Contractor enters into a sub-contract the Contractor must ensure that a provision is included within the resulting sub-contract which:
      1. requires payment of all sums due by the Contractor to the sub-contractor to be made within a specified period not exceeding 30 days from the receipt by the Contractor of a valid invoice and, provided the Contractor is not exercising a right of retention or set-off in respect of a breach of contract by the sub-contractor or in respect of a sum otherwise due by the sub-contractor to the Contractor, such payment must be made to the sub-contractor without deduction; and
      2. requires payment of all sums due by the sub-contractor to all and any sub-sub-contractors connected to the supply of the Service to the Authority to be made within a specified period not exceeding 30 days from the receipt by the sub-contractor of a valid invoice and, provided the sub-contractor is not exercising a right of retention or set-off in respect of a breach of contract by the sub-sub-contractor or in respect of a sum otherwise due by the sub-sub-contractor to the sub-contractor, such payment must be made to the sub-sub-contractor without deduction.
   4. The Authority may assign the benefits of the Contract at any time.
2. **Publicity**
   1. The Contractor may not communicate in any form with the media, or make any publication or announcement, on any matter concerning the operation, involvement in or performance of the Contract, without the prior written permission of the Authority.
3. **Disputes**
   1. If any dispute or difference of any kind whatsoever shall arise or occur between the Parties to the Contract in relation to any matter or thing arising out of or under the Contract, unless the Parties mutually consent to seeking resolution by other means, the dispute or difference shall be referred to and be settled by an arbitrator, to be agreed upon by the Parties hereto or, in the event that such agreement cannot be reached within one calendar month of either Party serving on the other written notice to concur, an arbitrator to be nominated by the President or Vice-President for the time being of the Law Society of Scotland, on the application of either Party and the provisions of the Arbitration (Scotland) Act 2010 or any statutory re-enactment or amendment thereof for the time being in force shall apply to any reference under this clause 25.
4. **Default and Termination**
   1. If at any time, and due to any cause, the Contractor shall fail to supply the Authority with any of the Goods/Services within the time specified or in accordance with any other of the conditions contained herein and if it shall fail to remedy such a failure within seven days after receiving notice in writing of such failure, or if in any other respect the Contractor breaches or fails to observe or perform any of its obligations under the Contract, the Authority in its sole discretion may terminate the Contract on giving the Contractor seven days’ notice in writing to that effect.
   2. Notwithstanding clause 26.1 and without prejudice to any other rights the Authority may have under the Contract or otherwise in Law, the Authority shall be entitled to terminate the Contract forthwith (or at such later date as it may specify) by notice in writing to the Contractor, in the event of:-
      1. the Contractor;

being an individual, has a debt relief order or a debt relief restriction order made against him/her or becomes bankrupt or has had a receiving order or administration order made against it, or has made any composition or arrangement with or for the benefit of creditors or has made any conveyance or assignment for the benefit of creditors, or appears unable to pay or to have any reasonable prospect of being able to pay a debt within the meaning of section 268 of the Insolvency Act 1986 or article 242 of the Insolvency (Northern Ireland) Order 1989, or in Scotland has granted a trust deed for creditors or becomes otherwise apparently insolvent, or is the subject of a petition presented for sequestration of that individual’s estate or is the subject of any similar procedure under the law of another jurisdiction;

being a partnership has granted a trust deed or becomes otherwise apparently insolvent, or is the subject of a petition presented for sequestration of its estate or is the subject of any similar procedure under the laws of any other jurisdiction;

being a company or any other entity within the meaning of section 255 of the Enterprise Act 2002, has passed a resolution or is the subject of an order by the court for the company’s winding up otherwise than for the purpose of bona fide reconstruction or amalgamation, or has had a receiver, administrator or administrative receiver appointed over all or any material part of its undertakings assets or income, has made a compensation arrangement with its creditors or becoming the subject of a voluntary arrangement under the Insolvency Act 1986 or is unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 or has become the subject of any process or event similar or analogous to the events aforementioned in any jurisdiction outside Scotland, has possession taken by or on behalf of the holders of any debentures secured by a floating charge of any property comprised in or subject to the floating charge or otherwise becomes apparently insolvent.

* + 1. the assignation or subletting by the Contractor of any part of the Contract without the prior written consent of the Authority;
    2. the Contractor failing without reasonable cause to commence the supply of the Goods or the carrying out of the Services within a reasonable period following on from the Operational Date;
    3. the Contractor failing without reasonable or lawful cause to provide any part or complete delivery of the Goods/Services or carry out any of its obligations under the Contract with due diligence;
    4. the Contractor suspending the supply of the Goods or the performance of the Services or committing any other act from which an intention to abandon the Contract can be reasonably inferred;
    5. the Contractor failing to comply with the requirements of the Health and Safety at Work etc. Act 1974;
    6. the Contractor supplying the Goods or operating the Services without insurance cover as required under clause 22 (Indemnity);

26.2.8 the Contractor failing to comply with the requirements of the Equality Act 2010;

26.2.9 the Contractor failing to supply information required by the Authority in terms of clause 8 (Price and Payment);

26.2.10 the Contractor, or any person employed by the Contractor or acting on behalf of the Contractor (whether with or without the knowledge of the Contractor), having offered paid or given, directly or indirectly, any gift in money or in any other form to any member, employee or agent of the Authority as an inducement or reward for doing or forbearing to do or for having forborne to do any action in relation to the obtaining or execution of the Contract or any other contract with the Authority or for showing or forbearing to show favour or disfavour to any person in relation to the Contract or any other contract with the Authority, or in relation to any contract with the Authority the Contractor or any person employed by it or acting on its behalf has committed an offence under the Bribery Act 2010.

26.2.11 the Authority finding out or being given reason to conclude reasonably that all or any part of the information provided to the Authority by the Contractor as part of the Procurement Process is incorrect, erroneous or has been misrepresented.

* 1. Notwithstanding any other rights under the Contract or otherwise in Law, the Authority may at any time terminate the Contract by giving the Contractor confirmation of the termination in writing to that effect. Following that confirmation of terminationthe Contract shall in all respects cease and terminate, without liability to either Party, except in respect of any antecedent breach. Notwithstanding the foregoing, in these circumstances, the Authority shall pay the Contractor for all work properly performed by it relating to the Services up to the date of termination.
  2. In the event of the Contract being terminated under this clause 26, by whatever means, the Authority shall be entitled to recover from the Contractor all losses, expenses, costs and charges incurred by them as a consequence of such termination, which shall be recoverable from the Contractor as a debt to the Authority. In the event that the Authority is required to engage other persons to carry out, deliver and complete the supply of the Goods or the Services, the Authority will be entitled to recover from the Contractor any difference in cost between the cost of the Contract and the cost of the new contract, if greater.
  3. In the event of the Contract being terminated, the Contractor shall:
     1. promptly prepare and submit to the Authority a report on the completed prior to termination, and shall make such recommendations as may be necessary for the supply of the Goods or the completion of the Services based on the work done prior the date of termination;
     2. immediately furnish to the Authority all existing documents, material and information that it has obtained or prepared in connection with the Contract prior to termination. On receipt of such documentation, material and information the Authority will promptly assess the proportion of fees that would, but for the provisions of this clause 26, be due to the Contractor as being commensurate with the services rendered by the Contractor up to the date of termination; and
     3. take all reasonable steps to terminate at the earliest possible date and on the best possible terms any commitment or liability to be undertaken or incurred by the Contractor for the purpose of carrying out its obligations under the Contract.
  4. Clauses 16 (Data Protection and Confidentiality), 18 (Records Management), 26.4 and 26.5 hereof shall survive the expiry of the Contract Period or any termination of the Contract.

1. **Set off**
   1. Any sum or sums that may become payable to the Authority by the Contractor (either under the Contract or as a result of the Contractor’s breach of any of its provisions) may, without prejudice to any other legal right or remedy, be deducted from and retained out of any money due or to become due from the Authority to the Contractor under the Contract or any other agreement between the Authority and the Contractor.
2. **Notices**
   1. Any notice required to be given by either Party under the provisions of the Contract shall, unless the context otherwise requires or permits, be in writing and shall be sufficiently served if delivered by hand or sent by registered or recorded delivery post, addressed (in the case of the Authority) to the Head of Procurement, Police Scotland, 2 French Street, Dalmarnock, G40 4EH, in the case of the Contractor, to its registered office or place of business.
3. **Conflict within Contractual Documents**
   1. In the case of any conflict between the Contract, any variations thereto, and any other instructions issued by the Authority to the Contractor during the Contract Period, the Contractor will notify the Authority as soon as reasonably practicable, and the Authority will issue such further instructions in writing as it may consider necessary to resolve the conflict.
4. **Force Majeure**
   1. If either of the Parties is prevented or delayed in the performance of any of its obligations hereunder by Force Majeure, and if such Party gives written notice thereof to the other Party specifying the matters constituting Force Majeure together with such evidence as it reasonably can give and specifying the period for which it is estimated that such prevention or delay will continue then the Party in question shall be excused the performance or the practical performance as the case may be of such of its obligations in terms of the Contract that are so affected as from the date on which it became unable to perform them and for so long as the cause of prevention or delay shall continue subject to the provisions of clause 30.2 hereto.
   2. If the period during which either Party is delayed in or prevented from the performance of its obligations hereunder by reason of Force Majeure exceeds two months, either Party may serve on the other Party one month’s notice of termination of the Contract.
   3. The Parties agree to use their best efforts to ensure that during any period when Force Majeure circumstances exist that the needs of Service Users are accommodated to the fullest extent practicable.
5. **Transfer of Undertakings (Protection of Employment)**
   1. The Parties agree that the commencement of the provision of any Services by the Contractor does not involve a Relevant Transfer.

31.2 The Parties agree that the ceasing of the provision of any Services (whether in whole or in part) by the Contractor will not constitute a Relevant Transfer as the Contract relates to the supply of Goods or to a supply of a single Service or short term Service.

31.2.1 . It is a material condition of this Contract that the Contractor complies with all relevant obligations under TUPE.

1. **Severability**
   1. If any provision of the Contract becomes or is declared by a court of competent jurisdiction to be invalid or unenforceable in any way, such invalidity or unenforceability will in no way impair or affect the other provisions or conditions of the Contract, all of which shall remain in full force and effect.
2. **Waiver**
   1. Failure by the Authority at any time to enforce the provisions or conditions of the Contract or to require performance by the Contractor of any of the provisions of the Contract, will not be construed as a waiver of any such provision or condition and will not affect the validity of the Contract or any part thereof or the right of the Authority to enforce any such provision or condition in accordance with its terms.
3. **Entire Agreement**
   1. Except where expressly provided herein, the Contract constitutes the entire agreement between the parties in connection with its subject matter and supersedes all prior representations, communications, negotiations and understandings concerning the subject matter of the Contract.
4. **Ethical Sourcing** 
   1. The Contractor will:-
      1. comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including, but not limited to, the Modern Slavery Act 2015 and the Human Trafficking and Exploitation (Scotland ) Act 2015 ( all “anti-slavery laws”);
      2. and shall not engage in any activity, practice or conduct that would constitute an offence under such anti- slavery laws if such activity, practice or conduct were carried out in the UK;
      3. include in contracts with its direct suppliers, sub-contractors provisions which are at least as onerous as those set out in this Clause 35.1 ;
      4. notify the Authority as soon as it becomes aware of any actual or suspected slavery or human trafficking in a supply chain which has a connection with the Contract and, in such event, take all reasonable action in respect of same and to ensure that its suppliers comply with anti-slavery laws, including , where necessary, to obtain suitable alternative suppliers who do comply with anti-slavery laws
      5. implement due diligence procedures to ensure that there is no slavery or human trafficking in any part of its supply chain performing obligations under the Contract and keep and maintain records setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in the supply chain of any of its supply chains or in any part of its business; and
      6. provide the Authority and its third party representatives access to such records

35.2 If the Contractor is an organisation which is required to publish an Annual Modern Slavery Statement in

accordance with the criteria set out in Section 54 of the Modern Slavery Act 2015 , the Contractor will be required to submit their published annual modern slavery statement to the Authority on an annual basis throughout the contract period.

35.3 If the Contractor is in breach of the obligations contained in this clause 35 the Authority may, by notice :-

35.3.1 at its option, require the Contractor to remove from performance of the Contract any

Sub-Contractor, Contractor Personnel or agent whose acts or omissions have caused the breach; or

35.3.2 immediately terminate the contract in accordance with Clause 26.2.

1. **Governing Law**
   1. The Contract shall be governed and construed in accordance with the law of Scotland and shall ( subject to the Dispute provisions at 25.1 being first invoked where applicable) be subject to the exclusive jurisdiction of the Scottish courts.

**SCHEDULE**

**PART 1**

**DATA PROTECTION**

* 1. The Parties agree and acknowledge that, in performing and delivering the Goods/Services and otherwise acting in accordance with its obligations under the Contract, the Contractor is carrying out Processing of Personal Data on behalf of the Authority. Nothing in this Part of the Schedule relieves the Contractor of its own obligations under the Data Protection Legislation.
  2. In relation to any Personal Data disclosed by the Authority to the Contractor and to the extent that the Contractor carries out any Processing of Personal Data under the Contract in relation to Data Subjects (such Personal Data being referred to as "**the Authority’s Personal Data**"):

1. the Authority shall at all times act and maintain the role of the owner and Data Controller of the Authority’s Personal Data; and
2. the Contractor shall at all times while it continues to process the Authority’s Personal Data act as and maintain the role of the Data Processor of the Authority’s Personal Data and shall only Process the Authority’s Personal Data on the Authority's behalf in accordance with the Contract and any additional instructions provided to it from time to time by the Authority in respect of such Processing, or in such way as may be required in its performance.
   1. The Contractor shall acquire no rights, title or interest in the Authority’s Personal Data, which shall vest and remain vested in the Authority.
   2. The Authority has not, and shall not, at any time transfer or convey any Personal Data to the Contractor for Processing unless the Authority has identified a lawful basis for Processing such Personal Data, as required by the Data Protection Legislation.
   3. Each Party shall comply with Data Protection Legislation and its relevant obligations under the Contract. The Contractor shall procure that any Sub-Processor that has access to Authority’s Personal Data shall comply in full with the Contractor’s obligations under the Contract.
   4. Where the Contractor carries out Processing of the Authority’s Personal Data on behalf of the Authority, the Contractor shall (and shall procure that any person acting under its authority who has access to the Authority’s Personal Data) Process the Authority’s Personal Data only on and in accordance with the Authority’s instructions. For the purposes of this Clause 6, the Parties hereby agree that the transfer by the Authority of the Authority’s Personal Data to the Contractor shall constitute an instruction by the Authority for the Contractor to process such Personal Data in such way as may be required in order to perform and deliver the Goods/Services.
   5. The Contractor shall implement and maintain reasonable and appropriate technical and organisational measures in relation to the Processing of Authority’s Personal Data by the Contractor:
3. such that the Processing will meet the requirements of Data Protection Legislation and ensure the protection of the rights of Data Subjects;
4. so as to ensure a level of security appropriate to the risks that are presented to Personal Data, in particular from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to Authority’s Personal Data transmitted, stored or otherwise Processed;
5. to provide reasonable assistance to the Authority, in the fulfilment of the Authority’s obligations to respond to Data Subject Requests relating to the Authority’s Personal Data, including to ensure that all Data Subject Requests it receives are recorded and then referred to the Authority within the timescales that apply to the Authority.
   1. The Contractor shall not engage any Sub-Processor to perform specific Processing activities in respect of the Authority’s Personal Data on behalf of the Authority without the prior express and written consent of the Authority to the proposed addition of the Sub-Processor. Where the Authority gives its prior express and written consent to the proposed appointment, the Contractor shall thereafter appoint the Sub-Processor under a binding written contract ("**Processor Contract**"), which shall impose on the Sub-Processor materially the same data protection obligations as are contained in the Contract and this Part of the Schedule. The Contractor shall be fully liable to the Authority for any Sub-Processor’s failure to act in accordance with the Processor Contract and/or with Data Protection Legislation.
   2. The Contractor shall use its best endeavors to ensure that all of the Contractor’s staff and personnel carrying out Processing of the Authority’s Personal Data are subject to a binding written contractual obligation with the Contractor to act in accordance with the Contractor’s obligations under the Contract and in particular keep the Authority’s Personal Data confidential in accordance with Data Protection Legislation.
   3. The Contractor shall provide reasonable assistance, information and cooperation to the Authority to ensure compliance with the Authority’s obligations under Data Protection Legislation with respect to: (i) security of Processing; (ii) notification by the Authority of breaches to the Supervisory Authority or Data Subjects; and (iii) data protection impact assessments required under Data Protection Legislation ("**DPIAs**") and prior consultation with a Supervisory Authority regarding high risk Processing.
   4. The Contractor shall not transfer any of the Authority’s Personal Data to any country outside the United Kingdom without the Authority’s prior written consent and, if the Authority consents to the transfer of the Authority’s Personal Data to a recipient outside of the United Kingdom, the Contractor shall ensure that such transfer (and any onward transfer): (i) is pursuant to a written contract including provisions relating to security and confidentiality of the Authority’s Personal Data; (ii) is effected by way of a legally enforceable mechanism for transfers of Personal Data as may be permitted under Data Protection Legislation from time to time; (iii) complies with paragraph 7 of this Part of the Schedule; and (iv) otherwise complies with Data Protection Legislation.
   5. The Contractor shall maintain written records of all categories of Processing activities carried out on behalf of the Authority, containing such information as required under Data Protection Legislation ("**Processing Records**"), and shall make available to the Authority on request in a timely manner such information (including the Processing Records) as is reasonably required by the Authority to demonstrate compliance by the Contractor with its obligations under Data Protection Legislation and the Contract, which the Authority may disclose to the Supervisory Authority.
   6. The Contractor shall allow for and contribute to audits, including inspections, conducted by the Authority or an auditor mandated by the Authority for the purpose of demonstrating the Contractor’s compliance with its obligations under Data Protection Legislation and the Contract, subject to the Authority giving the Contractor reasonable prior notice of such audit and/or inspection, and ensuring that any auditor is subject to binding obligations of confidentiality and that such audit or inspection is undertaken so as to cause minimal disruption to the Contractor's business.
   7. The Parties shall each bear their own costs in connection with audits and/or inspections undertaken under paragraph 13 of this Part 1 of the Schedule, unless such audit or inspection reveals a material non-compliance by the Contractor with its obligations under Data Protection Legislation or a material breach by the Contractor of its obligations under the Contract in which case the Contractor shall in addition pay the reasonable costs of the Authority or its mandated auditors, incurred in connection with the audit or inspection.
   8. In respect of any personal data breach (actual or suspected) related to the Goods/Services, the Contract or the Authority’s Personal Data, the Contractor shall notify the Authority of the breach without undue delay and in any event within 72 hours of becoming aware of the breach, and shall provide such details relating to the breach as the Authority reasonably requires.
   9. Within a reasonable time after the end of the Contract Period or, if earlier, the end of the Processing by the Contractor of any of the Authority’s Personal Data, the Contractor shall:
6. either securely delete or return all the Authority’s Personal Data to the Authority, in line with instructions from the Authority; and
7. securely delete existing copies (unless storage of any data is required in terms of the Law, and if so the Contractor shall notify the Authority of this).