

**BLOOM PROCUREMENT SERVICES LTD**

**STANDARD TERMS & CONDITIONS – TO BE AGREED ON ACCREDITATION OF SUPPLIER**

1. **Interpretation**

1.1. The following definitions apply in these Standard Terms & Conditions:

<b>Appointment</b>	a separate deed of appointment that may be entered into between BLOOM and the Supplier which applies to the delivery of the Professional Services in respect of a Statement of Work to which it is appended;
<b>Authorised Representatives</b>	the persons respectively designated as such by BLOOM and the Supplier from time to time;
<b>Customer</b>	any public body or entity that is a party to a Customer Call-Off Contract;
<b>BLOOM</b>	Bloom Procurement Services Ltd, a company incorporated in England and Wales with Co. No. 08045123 whose registered office is at Point5, New Eden House, Fletcher Road, Gateshead NE28 2ET;
<b>BLOOM Personnel</b>	all employees, staff, other workers, agents and consultants of BLOOM;
<b>BLOOM Platform</b>	any e-procurement tool used by BLOOM for the pre-registration of any Supplier;
<b>Bribery Act</b>	the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any applicable guidance or codes of practice issued by the relevant Government Department in relation to such legislation;
<b>Business Day</b>	Monday to Friday, excluding any public holidays, in England and Wales;
<b>Customer Call-Off Contract</b>	a contract awarded by a Customer to BLOOM (which may be pursuant to a Framework Agreement), under which the Customer may award a Statement of Work from time to time;

<b>Change of Control</b>	<p>the obtaining of control by any person or group of persons acting in concert who did not, as at the date on which these Standard Terms &amp; Conditions take effect, exercise control of:</p> <p>(a) the Supplier; or</p> <p>(b) any person (whether directly or indirectly) who has control of the Supplier;</p>
<b>Confidential Information</b>	<p>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 interests of any person, trade secrets, Intellectual Property Rights, know-how, of either party and all Personal Data;</p>
<b>Data Controller</b>	<p>the natural or legal person, public authority, agency or any other body which alone or jointly with others determines the purposes and means of the processing of Personal Data; where the purposes and means of processing are determined by applicable Legislation, the controller (or the criteria for nominating the controller) may be designated by such Legislation;</p>
<b>Data Loss Event</b>	<p>any event that results, or may result, in unauthorised access to Personal Data held by the Supplier under these Terms &amp; Conditions or actual or potential loss or destruction of Personal Data in breach of the SSA;</p>
<b>DPA</b>	<p>the Data Protection Act 2018;</p>
<b>Data Processing Schedule</b>	<p>the Schedule attached and incorporated into the SSA;</p>
<b>Data Protection Impact Assessment</b>	<p>an assessment by the Data Controller of the impact of the envisaged processing on the protection of Personal Data;</p>
<b>Data Protection Legislation</b>	<p>all applicable Legislation about the processing of Personal Data;</p>
<b>Data Protection Officer</b>	<p>has the meaning given in the Data Protection Legislation;</p>
<b>Data Sharing Agreement</b>	<p>a formal agreement that documents what Personal Data is being shared and how the Personal Data can be used between the parties;</p>

<b>Data Sharing Code of Practice</b>	the code of practice issued by the Information Commissioner in respect to the sharing of Personal Data;
<b>Data Subject Access Request</b>	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;
<b>Data Subject</b>	has the meaning given in the Data Protection Legislation;
<b>Employment Regulations</b>	the Transfer of Undertakings (Protection of Employment) Regulations 2006 and any amendments from time to time;
<b>Environmental Information Regulations</b>	the Environmental Information Regulations 2004 together with any guidance and codes of practice issued by the Information Commissioner or relevant Government Department in relation to such regulations;
<b>FOIA</b>	the Freedom of Information Act 2000 and any subordinate legislation (as defined in section 84 of such Act) made under such Act from time to time together with any guidance and codes of practice issued by the Information Commissioner or relevant Government Department in relation to such Act;
<b>Force Majeure</b>	the occurrence after the date of this SSA, of: <ul style="list-style-type: none"> <li>(a) war, civil war, armed conflict or terrorism; or</li> <li>(b) nuclear, chemical or biological contamination unless the source or cause of the contamination is as a result of any act or breach of the SSA by the Supplier or its Sub-Suppliers (of any tier);</li> <li>(c) fire, flood, storm, earthquake or other disaster;</li> <li>(d) pressure waves caused by devices travelling at supersonic speeds;</li> <li>(e) interruption or failure of utility services or telecommunications networks;</li> <li>(f) declaration of a banking moratorium in London or any material disruption to</li> </ul>

	<p>commercial banking or securities settlement or clearance services in the UK;</p> <p>(g) acts of government, local government or regulatory bodies; or</p> <p>(g) other action by a third party reasonably outside the control of either party and which is not attributable to any wilful act, neglect or failure to take reasonable preventative action by that party;</p> <p>which directly causes either party to be unable to comply with all or a material part of its obligations under the SSA, but excluding any industrial dispute relating to the Supplier or Supplier Personnel or any failure in the Supplier's supply chain;</p>
<b>Framework Agreement</b>	any framework agreement in the public or private sector, to which BLOOM is a party and pursuant to which BLOOM may conduct procurement services on behalf of any Customer and enter into Customer Call-Off Contracts and SSAs;
<b>Information</b>	has the meaning given under section 84 of FOIA;
<b>Intellectual Property</b>	any and all patents, trade-marks, service marks, copyright, database rights, moral rights, rights in design, know-how, Confidential Information and all or any other intellectual or industrial property rights whether or not registered or capable of registration and whether subsisting in the United Kingdom or any other part of the world together with all or any goodwill relating or attaching thereto which is created, brought into existence, acquired, used or intended to be used by the Supplier, its sub-contractors and suppliers (of any tier) for the purpose of carrying out the Professional Services or for the purposes of the SSA and Intellectual Property Rights shall mean all Intellectual Property along with its underlying rights;
<b>Legislation</b>	<p>(a) any Act of Parliament;</p> <p>(b) any subordinate legislation within the meaning of Section 21 of the Interpretation Act 1978;</p> <p>(c) any exercise of the Royal Prerogative; and</p>

	<p>(d) any enforceable EU right within the meaning of Section 2 of the European Communities Act 1972,</p> <p>in each case in the United Kingdom;</p>
<b>Personal Data</b>	has the meaning given in the Data Protection Legislation;
<b>Professional Services</b>	the services (falling within the categories identified on the BLOOM Platform from time to time), as fully detailed in the applicable Statement of Work;
<b>Prohibited Act</b>	<p>the following constitute Prohibited Acts:</p> <p>(a) to directly or indirectly offer, promise or give any person working for or engaged by BLOOM or any Customer or any party to a Framework Agreement (other than BLOOM) a financial or other advantage to:</p> <ul style="list-style-type: none"> <li>(i) induce that person to perform improperly a relevant function or activity; or</li> <li>(ii) reward that person for improper performance of a relevant function or activity;</li> </ul> <p>(b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with the SSA;</p> <p>(c) committing any offence:</p> <ul style="list-style-type: none"> <li>(i) under the Bribery Act;</li> <li>(ii) under legislation creating offences concerning fraudulent acts;</li> <li>(iii) at common law concerning fraudulent acts relating to the SSA or any other contract with BLOOM, any party to a Framework Agreement (other than BLOOM) or any Customer; or</li> <li>(iv) defrauding, attempting to defraud or conspiring to defraud BLOOM, any</li> </ul>

	party to a Framework Agreement (other than BLOOM) or any Customer;
<b>Request for Information</b>	a request for information or an apparent request under the Code of Practice on Access to Government Information, FOIA or the Environmental Information Regulations;
<b>Required Insurances</b>	the minimum amounts of insurance cover specified in the SSA or the Contract;
<b>Schedule of Additional Terms</b>	the additional terms and conditions agreed between BLOOM and the Supplier which apply to a specific Statement of Work and which are appended to the applicable Statement of Work;
<b>SSA</b>	the services supply agreement, consisting of these Standard Terms & Conditions and the Schedule of Additional Terms, as may be agreed between BLOOM and the Supplier and incorporating any Statement of Work;
<b>Statement of Work OR SoW</b>	a document including a work order, any project brief which sets out the requirements of any Customer for Professional Services and incorporating any Tender and any Appointment in substantially such form as is required by BLOOM;
<b>Sub-Supplier</b>	any party acting as sub-contractor to a Supplier in respect of a Statement of Work;
<b>Supplier</b>	the other party to the SSA who is registered on the BLOOM platform and may be awarded Contracts for Statement of Works;
<b>Supplier Personnel</b>	all officers, employees, staff, suppliers, sub-contractors, other workers, agents and consultants of the Supplier or any sub-contractors who are engaged in the provision of the Professional Services from time to time;
<b>Tender</b>	a response provided by a Supplier in respect of a proposed Statement of Work and approved by the Customer, a copy of which shall be appended to the SSA;

1.2. The following rules of interpretation apply to these Standard Terms & Conditions:

1.2.1. Clause, Schedule, Appendix and paragraph headings shall not affect the interpretation of the SSA.

- 1.2.2. A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors and permitted assigns.
- 1.2.3. The Schedules and Appendices form part of the SSA, whether referred to in these Standard Terms & Conditions or the Schedule of Additional Terms and shall have effect as if set out in full in the body of the SSA. Any reference to the SSA includes the Schedules and Appendices referred to in the Standard Terms & Conditions and the Schedule of Additional Terms.
- 1.2.4. References to clauses, Schedules and Appendices are to the clauses, Schedules and Appendices of these Standards Terms & Conditions or the Schedule of Additional Terms (as the context requires). References to paragraphs are to paragraphs of the relevant Schedule.
- 1.2.5. A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.2.6. Words in the singular shall include the plural and vice versa.
- 1.2.7. A reference to one gender shall include a reference to the other genders.
- 1.2.8. A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.2.9. Any obligation in the SSA on a person not to do something includes an obligation not to agree to or allow that thing to be done.
- 1.2.10. A reference to a document is a reference to that document as varied or novated (in each case, other than in breach of the provisions of the SSA) at any time.
- 1.2.11. A reference to the SSA includes any documents that are incorporated in the SSA in respect of a Statement of Work and the SSA shall incorporate the Statement of Work and any Tender and any Appointment (which shall each be appended to the SSA), and its schedules and/or appendices.
- 1.2.12. Where there is any conflict or inconsistency between the provisions of the SSA, such conflict or inconsistency shall be resolved according to the following order of priority:
  - 1.2.12.1. the relevant Statement of Works;
  - 1.2.12.2. the Schedule of Additional Terms, including any Schedules attached to or forming part of it;
  - 1.2.12.3. the Standard Terms & Conditions; and

## 2. **Commencement, duration and incorporation**

- 2.1. These Standard Terms & Conditions:

- 2.1.1. shall take effect on the date that these Standard Terms & Conditions are accepted by the Supplier as part of BLOOM's online registration process and shall continue until terminated in accordance with them;
- 2.1.2. are incorporated into any Schedule of Additional Terms entered by the parties;
- 2.1.3. are incorporated into the SSA.
- 2.2. The SSA:
  - 2.2.1. shall take effect on the date that these Standard Terms & Conditions and the Schedule of Additional Terms appended to a Statement of Work are accepted by the Supplier as part of BLOOM's contract award process and shall continue until terminated in accordance with them;
  - 2.2.2. shall apply and be enforceable as between the parties from the date on which the Supplier accepts them as part of the BLOOM contract award process.

### 3. **Neutrality and conflicts of interest**

- 3.1. The Supplier shall take appropriate steps to ensure that neither the Supplier nor the Supplier Personnel are placed in a position where (in the reasonable opinion of BLOOM), there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Supplier or the Supplier Personnel and the duties owed to BLOOM and/or the Customer under the provisions of the SSA other than in respect of:
  - 3.1.1. contractual protection provided by the Supplier's Sub-Suppliers to the Supplier as comfort that the relevant Sub-Supplier can perform its obligations under the relevant sub-contract;
  - 3.1.2. collateral warranties provided by a Sub-Supplier directly to the Customer and/or BLOOM;
  - 3.1.3. insurance; or
  - 3.1.4. some other third-party comfort that the Sub-Supplier can perform its obligations,
 all at the cost of the Sub-Supplier. A breach of this clause 3.1 will be a material breach.
- 3.2. A conflict of interest may arise in situations where:
  - 3.2.1. a member of the Supplier is related to someone at BLOOM or the Customer; or
  - 3.2.2. where a member of BLOOM or the Customer has a business interest in the Supplier.
- 3.3. Where the Supplier identifies a risk of a conflict of interest or a potential conflict of interest, it will (before starting work under any Statement of Work, unless otherwise agreed with BLOOM) inform BLOOM of such conflict of interest and how it plans to mitigate the risk. Details of such mitigation arrangements are to be sent to BLOOM as soon as possible.

- 3.4. On receiving this notification, BLOOM will, at its sole discretion, notify the Supplier if the mitigation arrangements are acceptable or whether the risk or conflict remains a material breach.
- 3.5. BLOOM reserves the right to terminate the SSA immediately by giving notice in writing to the Supplier and/or to take such other steps as it deems necessary where, in the reasonable opinion of BLOOM, there is or may be an actual or potential conflict of interest between the pecuniary or personal interests of the Supplier or the Supplier Personnel and the duties owed to BLOOM under the provisions of the SSA which is not immaterial and which if capable of remedy is not remedied within eighteen (18) Business Days of the receipt of notice from BLOOM giving details of the breach and requiring its remedy. The actions of BLOOM under this clause shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to BLOOM.
- 3.6. The Supplier acknowledges that a Customer may, pursuant to a Customer Call-Off Contract, terminate any Contract arising under the SSA where, in the reasonable opinion of the Customer, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of BLOOM or the Supplier (including either of their personnel) and the duties owed to the Customer under the provisions of the Customer Call-Off Contract or the relevant SSA (as the case may be) which is not immaterial and which if capable of remedy is not remedied within twenty (20) Business Days of the receipt of notice from the Customer giving details of the breach and requiring its remedy.

#### 4. **Subcontracting and assignment**

- 4.1. The Supplier shall not be entitled to assign, novate or otherwise dispose of any or all of its rights and obligations under the SSA without the prior written consent of BLOOM.
- 4.2. The Supplier shall be entitled to sub-contract the whole or any part of its obligations under the SSA with the express prior written consent of BLOOM or as otherwise provided in a Contract.
- 4.3. If the Supplier enters into any sub-contract in connection with the SSA, it shall:
  - 4.3.1. remain responsible to BLOOM for the performance of its obligations under the SSA notwithstanding the appointment of the Sub-Supplier and be responsible for the Sub-Supplier's acts and omissions;
  - 4.3.2. impose obligations on the Sub-Supplier in the same terms as those imposed on it pursuant to the SSA and shall use its best endeavours to procure that the Sub-Supplier complies with such terms;
  - 4.3.3. ensure that the Sub-Supplier assigns all Intellectual Property Rights arising out of or in connection with the Professional Services under the SSA to the Customer or such other person as BLOOM shall direct;
  - 4.3.4. ensure that the Sub-Supplier, in performing its obligations under its sub-contract with the Supplier, complies with the policies and requirements applicable to the provision of the Professional Services under the SSA;
  - 4.3.5. if required, enter into a confidentiality agreement with the Sub-Supplier on terms and in a form acceptable to BLOOM;

- 4.3.6. ensure that it can include the Sub-Supplier in any audit requested under the SSA; and
- 4.3.7. ensure that the Sub-Supplier complies with a service level agreement that is comparable to the terms of the SSA and contains minimum performance standards and ensure that the Sub-Supplier has procedures in place to ensure that it complies with the requirements of BLOOM and the Customer under the sub-contract;
- 4.3.8. provide a copy, at no charge to BLOOM, of the sub-contract on receipt of a request for such by BLOOM's Authorised Representative.

5. **Liability and limitation of liability**

- 5.1. The Supplier shall indemnify and keep indemnified BLOOM against all actions, proceedings, costs, claims, demands, liabilities, losses and expenses whatsoever whether arising in tort (including negligence) default or breach of the SSA , to the extent that any such loss or claim is due to the breach of contract, negligence, wilful default or fraud of itself, any Sub-Supplier or any Supplier Personnel, except to the extent that the same is caused by the negligence, breach of the SSA or applicable Legislation by BLOOM.
- 5.2. Subject to clause 5.3, neither party shall be liable to the other party (as far as permitted by law) in connection with the SSA for:
  - 5.2.1. indirect, special or consequential loss or damage; or
  - 5.2.2. loss of or damage to profit, revenue, contracts, anticipated savings, goodwill or business opportunities, whether direct or indirect.
- 5.3. Notwithstanding any other provision of the SSA , neither party limits or excludes its liability for:
  - 5.3.1. fraud or fraudulent misrepresentation;
  - 5.3.2. death or personal injury caused by its negligence;
  - 5.3.3. breach of any obligation as to title implied by statute; or
  - 5.3.4. any other act or omission, liability for which may not be limited under any applicable Legislation.
- 5.4. BLOOM shall not be responsible or liable to the Supplier for any failure to perform BLOOM's obligations under the SSA where there is a corresponding failure by the Customer to perform its obligations under the Customer Call-Off Contract, provided that BLOOM takes reasonable steps to pursue its rights in respect of such failure under the Customer Call-Off Contract. For the avoidance of doubt this clause shall not apply to any payment due to the Supplier in accordance with the SSA.
- 5.5. No enquiry, inspection, approval, sanction, comment, consent, or decision at any time made or given by, or on behalf of, BLOOM to any document or information provided by the Supplier in its provision of the Professional Services, and no failure of BLOOM to discern any defect in, or omission from, any such document or information will exclude or limit the obligation of the

Supplier to carry out all the obligations of a professional Supplier employed in a client and BLOOM relationship.

- 5.6. Unless otherwise expressly provided, the obligations of BLOOM under the SSA are obligations of BLOOM in its capacity as a contracting counterparty and nothing in the SSA will be an obligation on, or in any other way constrain BLOOM in any other capacity, nor will the exercise by BLOOM of its duties and powers in any other capacity lead to any liability under the SSA on the part of BLOOM to the Supplier.
- 5.7. Each party shall use all reasonable endeavours to mitigate any loss or damage suffered arising out of or in connection with the SSA.
- 5.8. Subject to clause 5.3, BLOOM's liability under the SSA in connection with the performance of its services as neutral vendor shall be capped at £10,000. For the avoidance of doubt this clause shall not apply to any payment due to the Supplier in accordance with the SSA.
- 5.9. Subject to clause 5.3, BLOOM's maximum liability under the SSA shall be limited to the lesser of the amount of Charges due to the Supplier which remain unpaid and the amount of insurance cover that is available in respect of the Supplier's claim.

## 6. **Insurance**

- 6.1. The Supplier shall at its own cost effect and maintain with a reputable insurance company a policy or policies of insurance providing the Required Insurances.
- 6.2. The Required Insurances shall be in respect of all risks which may be incurred by the Supplier, arising out of the Supplier's performance of the Professional Services. The Required Insurances shall provide cover in respect of those liabilities stated below at the minimum levels of cover stated in any subsequent Framework specific terms or SoW:
  - 6.2.1. public liability insurance - typically with a limit of indemnity of not less than five million pounds (£5,000,000) or ten million pounds (£10,000,000) (as stated in the Contract) in relation to any one claim or series of claims;
  - 6.2.2. employer's liability insurance - typically with a limit of indemnity of not less than five million pounds (£5,000,000) or in accordance with any legal requirement for the time being in force in relation to any one claim or series of claims;
  - 6.2.3. professional indemnity insurance, which shall - typically include cover in respect of any financial loss arising from any advice given or omitted to be given by the Supplier, with a limit of indemnity of not less than one million pounds (£1,000,000) in relation to any one claim or series of claims; and
  - 6.2.4. such other insurance policies, extensions of policies or amounts of insurance as detailed in the Schedule of Additional Terms, a Contract, or as required by BLOOM from time to time.
- 6.3. The Supplier shall hold and maintain the Required Insurances for a minimum of six (6) years following the expiration or earlier termination of the SSA or such longer period as may be specified in the Contract.

- 6.4. The Supplier shall give BLOOM and the Customer, on request, copies of all Required Insurances or a broker's verification of insurance to demonstrate that the Required Insurances are in place, together with receipts or other evidence of payment of the latest premiums due.
- 6.5. If, for whatever reason, the Supplier fails to give effect to and maintain the Required Insurances, BLOOM may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Supplier.
- 6.6. Without limiting the other provisions of the SSA, the Supplier shall:
  - 6.6.1. take all risk control measures relating to the Professional Services as it would be reasonable to expect of a Supplier acting properly, including the investigation and reports of claims to insurers;
  - 6.6.2. promptly notify the insurers in writing of any relevant material fact under any insurances of which the Supplier is, or becomes, aware; and
  - 6.6.3. hold all insurance policies and require any broker arranging the insurance to hold any insurance slips and other evidence of placing cover representing any of the insurance to which it is a party.
- 6.7. The Supplier will not do or omit to do anything, which would entitle any insurer to refuse to pay any claim under any of the insurances.
- 6.8. The Supplier will notify BLOOM as soon as possible if the Supplier becomes aware that any of the insurance policies have been, or are due to be, cancelled, suspended, terminated or not renewed.
- 6.9. Where any insurance requires payment of a premium, the Supplier will be liable for the premium and pay such premium promptly.
- 6.10. Where any insurance is subject to an excess or deductible the Supplier will be liable for it. The Supplier will not be entitled to recover any sum paid for an excess or deductible from the Customer or BLOOM.
- 6.11. The terms of any insurance or the amount of cover shall not relieve the Supplier of any liabilities under the SSA.
7. **Freedom of information**
  - 7.1. The Supplier acknowledges that the Customer and any party to a Framework Agreement (other than BLOOM) may be subject to the requirements of the FOIA and the Environmental Information Regulations and if so shall assist and co-operate with them and BLOOM (at the Supplier's expense) to enable any of them to comply with these information disclosure requirements.
  - 7.2. The Supplier shall in respect of BLOOM and/or a Customer and/or a party to a Framework Agreement:
    - 7.2.1. transfer the Request for Information to the entity to which it relates as soon as practicable after receipt and in any event within one (1) Business Day of receiving a Request for Information;

- 7.2.2. provide a copy of all Information in its possession or power in a form reasonably required within three (3) Business Days of the relevant entity requesting that Information; and
- 7.2.3. provide all necessary assistance as reasonably requested to enable the relevant entity to respond to a Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations.
- 7.3. The Customer and/or a party to a Framework Agreement (as the case may be) shall be responsible for determining at its absolute discretion whether the information:
  - 7.3.1. is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations; and/or
  - 7.3.2. is to be disclosed in response to a Request for Information.
- 7.4. In no event shall the Supplier respond directly to a Request for Information unless expressly authorised by the Customer, Bloom or any party to a Framework Agreement (other than BLOOM) as the case may be.
- 7.5. The Supplier acknowledges that the Customer and/or the party to a Framework Agreement (as the case may be) may, acting in accordance with the Secretary of State for Constitutional Affairs' Code of Practice on the discharge of public authorities' functions under Part 1 of FOIA (issued under section 45 of the FOIA, November 2004), be obliged under the FOIA or the Environmental Information Regulations to disclose Information:
  - 7.5.1. without consulting with BLOOM or the Supplier; or
  - 7.5.2. following consultation with BLOOM and having taken its views into account.
- 7.6. Where the Customer and/or a party to a Framework Agreement (as the case may be) consults with BLOOM pursuant to clause 7.5 above, BLOOM shall use its reasonable endeavours to seek the Supplier's views and procure that those views are considered by the Customer and/or the party to a Framework Agreement (as the case may be).
- 7.7. Where the Customer and/or the party to a Framework Agreement discloses Information and draws this to the attention of BLOOM, or gives BLOOM advanced notice of such disclosure, BLOOM shall draw such disclosure to the attention of the Supplier.
- 7.8. The Supplier shall ensure that records of all Information produced during the term of the SSA is retained for disclosure and shall permit BLOOM and the Customer to inspect such records as requested from time to time.
- 7.9. The Supplier acknowledges that any lists or schedules provided by it outlining Confidential Information are of indicative value only and that BLOOM and the Customer may nevertheless be obliged to disclose Confidential Information in accordance with clause 7.5.
- 8. **Data Protection**
- 8.1. The parties shall (and shall procure that any of their employees, workers or agents involved in any SSA and/or Statement of Work shall) comply with any requirements of the Data Protection Legislation.

- 8.2. In particular, and without prejudice to the generality of clause 8.1 above, if a party is acting as Data Controller within the meaning of the Data Protection Legislation for any data collected by or provided to the other party under the SSA, then the following provisions shall apply:
- 8.2.1. the parties shall comply with the Data Sharing Code of Practice produced by the Information Commissioner and as amended from time to time;
  - 8.2.2. in accordance with good practice, either party may at any time require the other to enter into a Data Sharing Agreement and the other party may not unreasonably and without good reason refuse to enter into a Data Sharing Agreement.
- 8.3. If the parties are acting as joint Data Controllers within the meaning of the Data Protection Legislation for any data collected by or provided to either party under the SSA, then the following provisions shall apply:
- 8.3.1. the parties shall designate between them a contact point for Data Subjects in relation to any Personal Data under the joint control of the parties;
  - 8.3.2. each party shall provide all reasonable assistance to the other in relation to any complaint, communication, or request made under the Data Protection Legislation and the preparation of any Data Protection Impact Assessment;
  - 8.3.3. each party shall ensure that it has in place protective measures as appropriate to protect the Personal Data, having taken account of the:
    - 8.3.3.1. nature of the data to be protected;
    - 8.3.3.2. harm that might result from a Data Loss Event;
    - 8.3.3.3. state of technological development; and
    - 8.3.3.4. cost of implementing any measures;
  - 8.3.4. each party shall take all reasonable steps to ensure the reliability and integrity of any personnel or staff who have access to the Personal Data and ensure that they are aware of and comply with the party's data protection obligations and have undergone adequate training in the use, care, protection, and handling of Personal Data;
  - 8.3.5. each party shall notify the other immediately if it:
    - 8.3.5.1. receives a Data Subject Access Request (or purported Data Subject Access Request) in relation to any data under the joint control of the Parties;
    - 8.3.5.2. receives a request to rectify, block or erase any Personal Data in relation to any data under joint control;
    - 8.3.5.3. receives any other request, complaint or communication relating to either party's obligations under the Data Protection Legislation in relation to any data under joint control;

- 8.3.5.4. receives any communication from the Information Commissioner or any other regulatory authority in relation to any data under joint control;
    - 8.3.5.5. receives a request from any third party for disclosure of Personal Data under joint control where compliance with such request is required or purported to be required by law; or
    - 8.3.5.6. becomes aware of a Data Loss Event in relation to any data under joint control;
  - 8.3.6. each party shall designate a Data Protection Officer if required by the Data Protection Legislation.
  - 8.4. The parties agree to take account of any guidance issued by the Information Commissioner's Office.
  - 8.5. Each party shall fully indemnify the other against any costs, claims, actions or otherwise brought against the other party arising because of the indemnifying party's breach of any of its data protection obligations.
  - 8.6. If the Supplier is acting as a data processor on behalf of any Data Controller within the meaning of the Data Protection Legislation for any data provided to it by a Data Controller under the SSA, then the following provisions shall apply:
    - 8.6.1. the Data Protection Schedule shall apply and the only processing that the Supplier is authorised to do is listed in the Data Protection Schedule<sup>1</sup> (as may be amended by the Data Controller) and may not be determined by the Supplier;
    - 8.6.2. the Supplier shall notify the Data Controller immediately if it considers that any of the Data Controller's instructions infringe the Data Protection Legislation; and
    - 8.6.3. the Supplier shall provide all reasonable assistance to the Data Controller in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Data Controller, include:
      - 8.6.3.1. a systematic description of the envisaged processing operations and the purpose of the processing;
      - 8.6.3.2. an assessment of the necessity and proportionality of the processing operations in relation to the Professional Services for the Statement of Works;
      - 8.6.3.3. an assessment of the risks to the rights and freedoms of Data Subjects; and
-

- 8.6.3.4. the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 8.7. The Supplier shall, in relation to any Personal Data processed in connection with its obligations under this Agreement:
  - 8.7.1. process that Personal Data only in accordance with this clause 8 and the Data Protection Schedule1 unless the Supplier is required to do otherwise by law;
  - 8.7.2. ensure that it has in place protective measures, which have been reviewed and approved by the Data Controller as appropriate to protect the Personal Data having taken account of the:
    - 8.7.2.1. nature of the data to be protected;
    - 8.7.2.2. harm that might result from a Data Loss Event;
    - 8.7.2.3. state of technological development; and
    - 8.7.2.4. cost of implementing any measures;
  - 8.7.3. ensure that the Supplier Personnel do not process Personal Data except in accordance with the SSA;
  - 8.7.4. ensure it takes all reasonable steps to ensure the reliability and integrity of any Supplier Personnel who have access to the Personal Data and ensure that they:
    - 8.7.4.1. are aware of and comply with the Supplier's duties under this clause;
    - 8.7.4.2. are subject to appropriate confidentiality undertakings with the Supplier or any sub-processor;
    - 8.7.4.3. 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 Data Controller or as otherwise permitted by the SSA; and
    - 8.7.4.4. have undergone adequate training in the use, care, protection, and handling of Personal Data; and,
  - 8.7.5. not transfer Personal Data outside of the EU unless the prior written consent of the Data Controller has been obtained and the following conditions are fulfilled:
    - 8.7.5.1. the Data Controller or the Supplier has provided appropriate safeguards in relation to the transfer in accordance with applicable Legislation as determined by the Data Controller;
    - 8.7.5.2. the Data Subject has enforceable rights and effective legal remedies;

- 8.7.5.3. the Supplier 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 Data Controller in meeting its obligations); and
- 8.7.5.4. the Supplier complies with any reasonable instructions notified to it in advance by the Data Controller with respect to the processing of the Personal Data.
- 8.7.6. The Supplier shall, at the written direction of the Data Controller, delete or return Personal Data (and any copies of it) to the Data Controller on termination of the SSA unless the Supplier is required by law to retain the Personal Data.
- 8.7.7. The Supplier shall notify the Data Controller immediately if it:
  - 8.7.7.1. receives a Data Subject Access Request (or purported Data Subject Access Request);
  - 8.7.7.2. receives a request to rectify, block or erase any Personal Data;
  - 8.7.7.3. receives any other request, complaint or communication relating to either party's obligations under the Data Protection Legislation;
  - 8.7.7.4. receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under the SSA;
  - 8.7.7.5. 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 Legislation; or
  - 8.7.7.6. becomes aware of a Data Loss Event.
- 8.7.8. The Supplier's obligation to notify under clause 8.7 shall include the provision of further information to the Data Controller in phases as details become available.
- 8.7.9. Considering the nature of any data processing, the Supplier shall provide the Data Controller with full assistance in relation to obligations under Data Protection Legislation and any complaint, communication or request made under such legislation (and insofar as possible within the timescales reasonably required by the Data Controller) including by promptly providing to the Data Controller:
  - 8.7.9.1. such assistance as is reasonably requested to enable the Data Controller to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
  - 8.7.9.2. any Personal Data it holds in relation to a Data Subject;
  - 8.7.9.3. assistance following any Data Loss Event; and

- 8.7.9.4. assistance with respect to any request from the Information Commissioner's Office, or any consultation by the Data Controller with the Information Commissioner's Office.
- 8.7.10. The Supplier shall maintain complete and accurate records and information to demonstrate its compliance with this clause 8.7.
- 8.7.11. The Supplier shall allow for audits of its data processing activity by the Data Controller or the Data Controller's designated auditor.
- 8.7.12. The Supplier shall designate a Data Protection Officer if required by the Data Protection Legislation.
- 8.7.13. Before allowing any sub-processor to process any Personal Data related to the SSA , the Supplier must:
- a) notify the Data Controller in writing of the intended sub-processor and processing;
  - b) obtain the written consent of the Data Controller;
  - c) enter into a written agreement with the Sub-processor which gives effect to the terms set out in this clause 8 such that they apply to the Sub-processor; and
  - d) provide the Data Controller with such information regarding the Sub-processor as the Data Controller may reasonably require.
- 8.7.14. The Supplier shall remain fully liable for all acts or omissions of any sub-processor.
- 8.7.15. The Data Controller may, at any time on not less than thirty (30) Business Days' notice, revise any part of this clause 8 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to the SSA).
- 8.7.16. The parties agree to take account of any guidance issued by the Information Commissioner's Office. The Data Controller may on not less than thirty (30) Business Days' notice to the Supplier amend the SSA to ensure that it complies with any guidance issued by the Information Commissioner's Office.

## 9. **Confidentiality**

- 9.1. Subject to clause 9.2, the parties shall keep confidential all matters relating to the SSA and Contract and shall use all reasonable endeavours to prevent their Authorised Representatives from making any disclosure to any person of any matters relating hereto.
- 9.2. Clause 9.1 shall not apply to any disclosure of information:
- 9.2.1. required by any applicable Legislation, provided clause 9 shall apply to any disclosures required under the FOIA or the Environmental Information Regulations;
  - 9.2.2. that is reasonably required by persons engaged by a party in the performance of such party's obligations under the SSA;

- 9.2.3. where a party can demonstrate that such information is already generally available and in the public domain otherwise than as a result of a breach of clause 9.1;
  - 9.2.4. by BLOOM of any document to which it is a party and which the parties to the SSA have agreed contains no commercially sensitive information;
  - 9.2.5. to enable a determination to be made under clause 14 (dispute resolution procedure);
  - 9.2.6. which is already lawfully in the possession of the receiving party, prior to its disclosure by the disclosing party;
  - 9.2.7. by BLOOM or a Customer relating to the SSA and in respect of which the Supplier has given its prior written consent to disclosure; or
  - 9.2.8. otherwise required to be disclosed by BLOOM pursuant to the terms of a Customer Call-Off Contract to a Customer and/or a Framework Agreement.
- 9.3. On or before the date of termination of the SSA, the Supplier shall ensure that all documents and/or computer records in its possession, custody or control which relate to personal information of any Customer's employees, rate-payers or service users, are delivered up to that Customer or securely destroyed.
- 9.4. The Supplier shall ensure that any subcontract with a Sub-Supplier contains equivalent confidentiality obligations to those to which the Supplier is subject.

## 10. **Intellectual Property**

- 10.1. In the absence of prior written agreement to the contrary by a Customer, the Supplier shall procure that all Intellectual Property created by the Supplier or any Supplier Personnel:
- 10.1.1. in the course of performing the Professional Services; or
  - 10.1.2. exclusively for the purpose of performing the Professional Services,
- shall vest in the Customer on creation.
- 10.2. The Supplier shall assign its rights in any Intellectual Property referred to in clause 10.1 to the Customer free of charge and shall procure, so far as it is reasonably able to do so, that any such Intellectual Property created is capable of assignment.
- 10.3. The Supplier shall indemnify BLOOM and the Customer against all claims, demands, actions, costs, expenses (including reasonable legal costs and disbursements on a solicitor and client basis), losses and damages arising from or incurred by reason of any infringement or alleged infringement (including the defence of such alleged infringement) of any Intellectual Property Right by the availability of the Professional Services, except to the extent that they have been caused by or contributed to the Customer's acts or omissions.

## 11. **Force Majeure**

- 11.1. If either party is prevented or delayed in the performance of any of its obligations under the SSA by Force Majeure, that party shall immediately serve written notice on the other party

specifying the nature and extent of the circumstances giving rise to Force Majeure, its effect on the obligations of the affected party and any action the affected party proposes to take to mitigate its effect. If the Supplier is the affected party, it shall not be entitled to claim relief under this clause 11 to the extent that consequences of the relevant Force Majeure event are capable of being mitigated by any of the Professional Services, but the Supplier has failed to do so and/or the Force Majeure should have been foreseen and prevented or avoided by a prudent provider of services similar to the Professional Services, operating to the standards required by the SSA .

- 11.2. As soon as practicable after the affected party issues the Force Majeure notice, and at regular intervals thereafter, the parties shall consult in good faith and use reasonable endeavours to agree any steps to be taken and in appropriate timetable in which those steps should be taken, to enable continued provision of the Professional Services affected by the Force Majeure event.
- 11.3. Subject to service of notice under clause 11.1 and to clause 11.5, no party shall be liable for delay in performing or failure to perform its obligations under the SSA if such delay or failure results from Force Majeure. Such delay or failure shall not constitute a breach and the time for its performance shall be extended by such period as is equal to the delay by which performance is prevented by such Force Majeure.
- 11.4. If any party is prevented from performing its obligations for a continuous period in excess of ninety (90) Business Days by reason of Force Majeure, either party may serve a notice in writing to terminate the SSA upon the other party, in which case:
  - 11.4.1. the SSA shall terminate on the date specified in the notice, which shall be not less than twenty (20) Business Days from the date of the issue of the termination notice, and
  - 11.4.2. no party shall have any liability to the other except that rights and liabilities accrued prior to such termination shall continue to subsist.
- 11.5. The party claiming to be prevented or delayed in the performance of any of its obligations under the SSA by reason of Force Majeure shall use all reasonable endeavours to bring the Force Majeure event to an end or to find a solution by which the Statement of Work may be performed despite the continuance of the Force Majeure event. Where the Supplier is the affected party, it shall take all reasonable steps to overcome or minimise the consequences of the Force Majeure event.

## 12. **Prevention of Bribery**

- 12.1. The Supplier:
  - 12.1.1. shall not, and shall procure that any Supplier Personnel shall not in connection with the SSA commit a Prohibited Act;
  - 12.1.2. warrants, represents and undertakes that it is not aware of any financial or other advantage being given to any person working for or engaged by any Customer, or that an agreement has been reached to that effect, in connection with the acceptance of the SSA , excluding any arrangement of which full details have been disclosed in writing to BLOOM before entering into the SSA.
- 12.2. The Supplier shall:

- 12.2.1. if requested, provide BLOOM and/or any Customer with any reasonable assistance, at BLOOM's reasonable cost, to enable BLOOM and/or any Customer to perform any activity required by any relevant government or agency in any relevant jurisdiction for compliance with the Bribery Act;
- 12.2.2. within twenty (20) Business Days of the date these Standard Terms & Conditions take effect, and annually thereafter, certify to BLOOM in writing (such certification to be signed by an officer of the Supplier) compliance with this clause 12 by the Supplier and all persons associated with it or other persons who are supplying goods or services in connection with the SSA. The Supplier shall provide such supporting evidence of compliance as BLOOM may reasonably request.
- 12.3. The Supplier shall have an anti-bribery policy (which shall be disclosed to BLOOM and which the Supplier agrees BLOOM may disclose to any Customer) to prevent the Supplier and any Supplier Personnel from committing a Prohibited Act and shall enforce it where appropriate. The Supplier shall keep appropriate records of its compliance with its obligations under this clause 12.3 and make such records available to BLOOM and the Customer on request.
- 12.4. If any breach of clause 12.1 is suspected or known, the Supplier must notify BLOOM immediately. If the Supplier notifies BLOOM that it suspects or knows that there may be a breach of clause 12.1, the Supplier shall respond promptly to BLOOM's and/or the Customer's enquiries, co-operate with any investigation, and allow BLOOM and/or the Customer to audit books, records and any other relevant documentation.
- 12.5. BLOOM may terminate the SSA by written notice with immediate effect if the Supplier or any Supplier Personnel (in all cases whether or not acting with the Supplier's knowledge) breaches clause 12.1 and the Supplier has failed to comply with its anti-bribery policy (including the enforcement of it) in accordance with clause 12.3 after the Supplier becomes aware of such breach of clause 12.1.
- 12.6. In determining whether to exercise the right of termination under this clause, BLOOM shall give all due consideration, where appropriate, to action other than termination of the SSA unless the Prohibited Act is committed by the Supplier or a senior officer of the Supplier or by an employee or supplier not acting independently of the Supplier. The expression "not acting independently of" (when used in relation to the Supplier) means acting with the Customer or with the actual knowledge of any one or more of the directors of the Supplier.
- 12.7. Any notice of termination under clause 12.5 must specify the nature of the Prohibited Act, the identity of the party whom BLOOM believes has committed the Prohibited Act and the date on which the SSA will terminate.
- 12.8. The Supplier acknowledges that a Contract may be terminated by the Customer pursuant to the Customer Call-Off Contract in the event of a breach by the Supplier of clause 12.1.
13. **Modern Slavery Act**
- 13.1. The Supplier warrants and undertakes that in performing its obligations under the terms of the SSA, it shall comply with the Modern Slavery Act 2015, not engage in any activity, practice or conduct that would constitute an offence under the Modern Slavery Act 2015 and include in its subcontracting arrangements provisions that are at least as onerous as those set out in this clause 13.1.

- 13.2. The Supplier warrants that neither it nor any of its officers, employees, agents or sub-contractors:
  - 13.2.1. has committed an offence under the Modern Slavery Act 2015 (**MSA Offence**); or
  - 13.2.2. has been notified that it is subject to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015; or
  - 13.2.3. is aware of any circumstances within its supply chain that could give rise to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015.

13.3. Any breach by the Supplier of clause 13.1 or clause 13.2 shall be deemed to be a material breach of the SSA and shall entitle BLOOM to terminate immediately.

14. **Dispute resolution procedure**

14.1. The parties will attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the SSA within twenty (20) Business Days of a party notifying the other of the dispute or such other timetable as may be imposed at the discretion of BLOOM, which is generated from a dispute between BLOOM and a Customer pursuant to a Customer Call-Off Contract or a dispute under a Framework Agreement and such efforts will involve the escalation of the dispute to the senior management of each party being the Authorised Representatives. BLOOM may at its discretion involve the Customer and/or the other party to any relevant Framework Agreement in the escalation and settlement of any dispute pursuant to this clause 14.

14.2. If the Authorised Representatives are unable to resolve the dispute they will each, genuinely and in good faith, look at the use of mediation and shall either agree or disagree as to this method within five (5) Business Days of the expiry of the timeframe for resolution of the dispute indicated above.

14.3. Where mediation is agreed, the following procedure shall apply:

14.3.1. A neutral adviser or mediator (the **Mediator**) will be chosen by agreement between the parties or, if they are unable to agree upon a Mediator within five (5) Business Days after the date the parties agreed to use mediation, or if the Mediator agreed upon is unable or unwilling to act, either party will within ten (10) Business Days after the date the parties agreed to use mediation or within five (5) Business Days of notice to either party that the Mediator appointed is unable or unwilling to act, apply to CEDR Solve to appoint a Mediator.

14.3.2. The parties will within ten (10) Business Days of the appointment of the Mediator meet with him to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiations to be held. If considered appropriate, the parties may at any stage seek further assistance from CEDR Solve to provide guidance on a suitable procedure.

14.3.3. Unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it will be conducted in confidence and without prejudice to the rights of the parties in any future proceedings.

- 14.3.4. If the parties reach agreement on the resolution of the dispute, the agreement will be recorded in writing and will be binding on the parties once it is signed by their duly authorised representatives.
- 14.3.5. If the parties fail to reach agreement in the structured negotiations within twenty (20) Business Days of the Mediator being appointed, or such longer period as may be agreed by the parties, then any dispute or difference between them may be referred to the Courts.
- 14.4. Adjudication
- 14.4.1. If the parties fail to resolve the dispute through negotiation and the parties do not agree to refer the matter to mediation, then either party may refer the matter to an adjudicator (**Adjudicator**) selected in accordance with clause 14.4.2 below.
- 14.4.2. The Adjudicator nominated to consider a dispute shall be selected by agreement between the parties from an appropriate panel of adjudicators, and if the parties are unable to agree on the identity of the Adjudicator, the President for the time being of the Chartered Institute of Arbitrators shall appoint such Adjudicator within thirty (30) days of any application for such appointment by either party.
- 14.4.3. Within five (5) Business Days of appointment in relation to a particular dispute, the Adjudicator shall require the parties to submit in writing their respective arguments. The Adjudicator shall, in his absolute discretion, consider whether a hearing is necessary to resolve the dispute.
- 14.4.4. In any event, the Adjudicator shall provide to both parties his written decision on the dispute, within twenty (20) Business Days of appointment (or such other period as the parties may agree after the reference). Unless the parties otherwise agree, the Adjudicator shall give reasons for his decision. Unless and until revised, cancelled or varied by legal proceedings, the Adjudicator's decision shall be binding on both parties who shall forthwith give effect to the decision. The Adjudicator's costs of any reference shall be borne as the Adjudicator shall specify or, in default, equally by the parties. Each party shall bear its own costs arising out of the reference, including legal costs and the costs and expenses of any witnesses.
- 14.4.5. The Adjudicator shall be deemed to render his decision as an expert, and the provisions of the Arbitration Act 1996 and the law relating to arbitration shall not apply to the Adjudicator.
- 14.4.6. The Adjudicator shall act impartially and may take the initiative in ascertaining the facts and the law. The Adjudicator shall have the power to open, review and revise any opinion, certificate, instruction, determination or decision of whatever nature given or made under this Agreement.
- 14.4.7. All information, data or documentation disclosed or delivered by a party to the Adjudicator in consequence of or in connection with his appointment as Adjudicator shall be treated as confidential.
- 14.4.8. The Adjudicator is not liable for anything done or omitted in the discharge or purported discharge of his functions as Adjudicator unless the act or omission is

in bad faith. Any employee or agent of the Adjudicator is similarly protected from liability.

14.4.9. If either party is dissatisfied with or otherwise wishes to challenge the Adjudicator's decision or the Adjudicator fails to deliver his decision, then either party may within twenty (20) Business Days of receipt of the Adjudicator's decision, notify the other party of its intention to refer the dispute to legal proceedings.

14.4.10. The parties shall continue to comply with, observe and perform all their obligations hereunder regardless of the nature of the dispute and notwithstanding the referral of the dispute for resolution under this clause 14.

14.5. Nothing in this clause will prevent the parties from seeking from any court of competent jurisdiction an interim order restraining the other party from doing any act or compelling the other party to do any act.

14.6. The Supplier shall continue to provide the Professional Services in accordance with the terms of the SSA and Contract until the dispute has been resolved.

15. **TUPE**

15.1. The parties agree that nothing in the SSA is expected to give rise to a transfer of employment to which the Employment Regulations apply.

15.2. The Supplier will fully indemnify BLOOM and any Customer against all liabilities which arise because of any claims brought against BLOOM and/or a Customer by any Supplier Personnel due to any act or omission of the Supplier or any Supplier Personnel under or in connection with the Employment Regulations.

16. **Non-solicitation**

A party shall not (except with the prior written consent of the other) during the term of the SSA , and for a period of one (1) year thereafter, solicit the services of any senior staff of the other party who have been engaged in the provision of the Professional Services or the management of the SSA or any significant part thereof either as principal, agent, employee, independent Supplier or in any other form of employment or engagement other than by means of an open national advertising campaign and not specifically targeted at such staff of the other party.

17. **Waiver**

17.1. No forbearance or delay by either party in enforcing its respective rights will prejudice or restrict the rights of that party, and no waiver of any such rights or of any breach of any contractual terms will be deemed to be a waiver of any other right or of any later breach.

17.2. Any prior acceptance or approval communicated by BLOOM to the Supplier in respect of the Professional Services or any omission on the part of BLOOM to communicate such prior acceptance or approval shall not relieve the Supplier of its obligations to deliver the Professional Services in accordance with the provisions of the SSA and Contract.

18. **Termination**

18.1. BLOOM may terminate the SSA in whole or part with immediate effect by the service of written notice on the Supplier in the following circumstances:

- 18.1.1. the Supplier committing a material breach of the SSA which is incapable of remedy; or
- 18.1.2. the Supplier committing a material breach of an obligation under the SSA which is capable of remedy and failing to remedy the breach within ten (10) Business Days of the receipt of notice from BLOOM giving details of the breach and requiring its remedy; or
- 18.1.3. the Supplier misrepresenting or including any material inaccuracy in any information provided to BLOOM on the BLOOM Platform leading to the award of a Contract; or
- 18.1.4. the Supplier ceasing to fulfil any requirements of the BLOOM Platform or failing to keep its accreditation details accurate and up-to-date; or
- 18.1.5. a mandatory or discretionary right of exclusion by a Customer arises or would arise if the Supplier was deemed to be an economic operator under the Public Contracts Regulations 2015; or
- 18.1.6. where in the reasonable opinion of BLOOM there is a material detrimental change in the financial standing and/or the credit rating of the Supplier, which has or could reasonably be expected to have an adverse impact on the Supplier's ability to provide the Professional Services under the SSA; or
- 18.1.7. if the Supplier stops payment of its debts or ceases or threatens to cease to carry on its business or substantially the whole of its business or is unable to pay its debts as they fall due or is deemed unable to pay its debts; or
- 18.1.8. if any of the following occurs in relation to the Supplier:
  - 18.1.8.1. a Court makes an order that the Supplier shall be wound up or a resolution for a voluntary winding up of the Supplier is passed, except in the case of a solvent reconstruction or amalgamation;
  - 18.1.8.2. any receiver or receiver manager in respect of the Supplier is appointed or possession is taken by or on behalf of any creditor of any material property that is the subject of a charge;
  - 18.1.8.3. any voluntary arrangement is made for the composition of debts or a scheme of arrangement for an insolvent company is approved under the Insolvency Act 1986 or the Companies Act 2006 in respect of the Supplier; or
  - 18.1.8.4. an administration order is made, or an administrator is appointed in respect of the Supplier; or

- 18.1.9. the commission by the Supplier of an act of grave misconduct in the course of its business or profession including any conviction or any adverse finding in relation to bid-rigging or other anti-competitive practices under the Competition Act 1998.
- 18.2. Notwithstanding its right to terminate pursuant to this clause 18, if a right to terminate the SSA arises in accordance with clause 18.1, BLOOM shall be entitled to suspend all or part of the Supplier's performance under the SSA with immediate effect by written notice to the Supplier. Any such suspension:
  - 18.2.1. shall continue for such period as stated in the written notice or such other period notified in writing by BLOOM to the Supplier;
  - 18.2.2. may be lifted at any time by written notice to the Supplier and on receipt of such notice, the Supplier shall resume performance of its obligations pursuant to the SSA and any Contract.
- 18.3. BLOOM may terminate the SSA by giving to the Supplier written notice as follows:
  - 18.3.1. within the first month of a Contract, twenty-four (24) hours' notice without reason subject to BLOOM or the Customer paying for any Professional Services or work already performed; or
  - 18.3.2. after the first month, with five (5) Business Days' notice with reason; or
  - 18.3.3. at any time, with at least thirty (30) Business Days' notice, without reason.
- 18.4. During the notice period under clause 18.3, the Supplier shall continue to provide, and BLOOM shall continue to accept, the Professional Services specified in any applicable Contract under the SSA subject to the restriction that the Supplier shall take no actions which cause the rate at which its charges for the provision of Professional Services are incurred to be increased. In particular, the Supplier shall not without express written permission from BLOOM or the Customer undertake or incur any new purchasing or other commitment on behalf of BLOOM or the Customer.
- 18.5. BLOOM may terminate the SSA by giving to the Supplier written notice at any time if the Framework Agreement is terminated.
- 18.6. The Supplier shall notify BLOOM immediately in writing if the Supplier undergoes a Change of Control and, provided this does not contravene any law, if any circumstances arise suggesting that a Change of Control is planned or in contemplation. BLOOM may terminate the SSA by notice in writing within six (6) months of:
  - 18.6.1. being notified in writing that a Change of Control has occurred or is planned or in contemplation; or
  - 18.6.2. where no notification has been made, the date that BLOOM becomes aware of the Change of Control;but shall not be permitted to terminate where an approval was granted by BLOOM or the Customer prior to the Change of Control.
- 18.7. The Supplier acknowledges that a Customer may:

- 18.7.1. terminate a Contract pursuant to a Customer Call-Off Contract, in which case BLOOM shall immediately provide a copy of the Customer's written notice of termination to the Supplier; and/or
- 18.7.2. suspend a Contract pursuant to a Customer Call-Off Contract, in which case BLOOM shall immediately provide a copy of the Customer's written notice of suspension to the Supplier. Any such suspension shall continue for such period as stated in the written notice or such other period of time notified in writing by the Customer to BLOOM, provided that if any such period extends for a period of more than ninety (90) days from when the written notice is given, then the Supplier shall be permitted to terminate the relevant Contract by giving written notice to BLOOM. The Supplier acknowledges that any suspension may be lifted at any time by written notice by the Customer to BLOOM (a copy of which notice BLOOM shall immediately provide to the Supplier) and on receipt of such notice, the Supplier shall resume performance of its obligations pursuant to the SSA and any Contract.

19. **Cumulation of Remedies**

Subject to the specific limitations set out in any of the SSA, no remedy conferred by any provision of them is intended to be exclusive of any other remedy except as expressly provided for therein. Each and every remedy shall be cumulative and shall be in addition to every other remedy given thereunder, or existing at law or in equity by statute or otherwise.

20. **Severance**

If any of the provisions of the terms and conditions of the SSA is judged to be illegal or unenforceable, the remainder of them will continue in full force and effect.

21. **No partnership or agency**

21.1. Nothing in the SSA shall be construed as constituting a partnership, joint venture or relationship of employer and employee or principal and agent between the Supplier (and/or any Supplier Personnel) and BLOOM or between the Supplier (and/or any Supplier Personnel) and the Customer.

21.2. The Supplier confirms that for the duration of any Contract it shall:

21.2.1. not do anything that would treat the Supplier or any of the Supplier Personnel as an employee or worker of BLOOM or the Customer;

21.2.2. not do anything that would alter its status as an independent contractor and shall not therefore, allow the Customer to supervise or control the Professional Services being carried out by the Supplier Personnel, but it shall allow the Customer to monitor its performance by ensuring that BLOOM meets the performance standards set out in the Customer Call-Off Contract;

21.2.3. determine the Supplier Personnel that it uses to provide the Professional Services and shall continue to ensure that all Supplier Personnel meet the standards specified by the Customer (including security clearances where applicable);

21.2.4. not assume any line management responsibility for any of the Customer's employees;

21.2.5. use its own equipment to deliver the Professional Services, except where the provision of equipment is necessary for security purposes; and

21.2.6. determine its own place and hours of work, except where the specific requirements of the Statement of Work naturally entails restriction e.g. attending project meetings at the Customer's site during business hours.

If the Supplier fails to comply with any of the above, the Contract will be considered as terminated.

22. **Third party rights**

22.1. Save as otherwise provided for in the SSA and/or the Contract, no term is intended to confer a benefit on, or to be enforceable by, any person who is not a party to the SSA.

22.2. Notwithstanding clause 22.1, to the extent that the SSA confer any rights or benefits on any Customer and/or the party to a Framework Agreement (other than BLOOM), such person shall be entitled to enforce such rights as though it was a party to the SSA.

23. **Publicity**

23.1. The parties agree that following the Supplier's acceptance of the terms of the SSA, the Supplier may communicate the following to representatives of press, television, radio or other communications media as deemed appropriate:

"[Supplier] are delighted to announce that they are now working with BLOOM, a procurer of Professional Services [to the public sector] providing [the Professional Services]."

23.2. Any subsequent communications, whether verbal, electronic or printed media shall require both parties' written agreement in advance. In addition, neither party may communicate any information regarding the nature or results of specific projects without the explicit written consent of the other.

23.3. The Supplier shall comply with all guidance issued by BLOOM in relation to publicity and communications.

24. **Notices**

24.1. Notices sent by BLOOM shall be in writing and sent by email to the Supplier to the relevant contact email address entered on the BLOOM Platform. Correctly addressed notices sent by email shall be deemed to be delivered on receipt of the email, except that Force Majeure notices, termination notices and dispute notices must also be sent by personal delivery or recorded delivery.

24.2. Notices sent by the Supplier shall be in writing and shall be sent to BLOOM marked for the attention of the person at the address set out for BLOOM in a Contract. Correctly addressed notices sent by first class mail shall be deemed to have been delivered seventy-two (72) hours after posting.

24.3. This clause does not apply to the service of any proceedings.

25. **Entire Agreement**

The SSA, any Schedules referred to in it once accepted by the Supplier shall contain the whole agreement between the parties relating to the subject matter contained in them and supersede all prior agreements, arrangements and understandings between the parties relating to that subject matter.

26. **Governing law and jurisdiction**

26.1. The SSA and any dispute or claim arising out of or in connection with any of them or their subject matter shall be governed by and construed in accordance with the law of England and Wales.

26.2. Subject to clause 14.4 (Adjudication), the parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the SSA.

**Supplier Signature:**

**Signed by and on behalf of:**

**Signatory Forename:**

**Signatory Surname:**

**Status of Signatory (delete as applicable):**

- Trustee
- Director
- Designated Member
- Partner
- Sole Practitioner

**Date:**