

**CONDITIONS OF CONTRACT FOR THE PURCHASE OF SERVICES
(NON WORKS)**

These Conditions may be varied only by 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.

1 DEFINITIONS

In these Conditions:

- *'Purchaser'* means The Keeper of the Registers of Scotland;
- *'Supplier'* means the person, firm or company to whom the Contract is issued;
- *'Services'* means the services to be provided as specified in the Purchase Order and shall, where the context so admits, include any materials, articles and goods to be supplied thereunder;
- *'Premises'* means the location where the services are to be performed, as specified in the Purchase Order;
- *'Contract'* means the contract between the Purchaser and the Supplier consisting of the Purchase Order, these Conditions and other documents (or parts thereof) specified in the Purchase Order;
- *'Purchase Order'* means the document setting out the Purchaser's requirements for the Contract.

2 CHANGE TO CONTRACT REQUIREMENTS

- 2.1 The Purchaser may order any variation to any part of the Services that for any other reason shall in the purchaser's opinion be desirable. Any such variation may include (but shall not be restricted to) additions, omissions, alterations, substitutions to the Services and changes in quality, form, character, kind, timing, method or sequence of the Services.
- 2.2 Save as otherwise provided herein, no variation of the Services as provided for in Condition 2.1 hereof shall be valid unless given or confirmed in the form of a Contract Variation Order (RoSCVO) issued by the Purchaser. All such orders shall be given in writing provided that if for any reason the Purchaser shall find it necessary to give any such order orally in the first instance the Supplier shall comply with such oral order which must be confirmed in writing by the Purchaser within 2 working days of the giving of such oral order by the Purchaser, failing which the variation made by such oral order shall cease to have effect on the expiry of the said 2 working day period.
- 2.3 Where any such variation of the Services made in accordance with Condition 2.1 and 2.2 has affected or may affect the costs incurred by the Supplier in providing the Services, the Supplier will notify the Purchaser in writing of the effect which it has had or may have on the said costs and such notification shall be considered by the Purchaser, who shall take all of the facts into account (including such information as may be provided by the Supplier in respect of the effect which such variation has had or may have on the costs incurred by the Supplier in providing the service) and may authorise such alteration to the sums to be paid to the Supplier in accordance with the provisions of the Contract as are, in the Purchaser's opinion, appropriate and reasonable in the circumstances.

3 INSPECTION OF PREMISES AND NATURE OF SERVICES

- 3.1 The Supplier is deemed to have inspected the Premises before tendering so as to have understood the nature and extent of the Services to be carried out and satisfied himself in relation to all matters connected with the Services and Premises.
- 3.2 The Purchaser shall, at the request of the Supplier, grant such access as may be reasonable for this purpose.

4 SUPPLIER'S STATUS

- 4.1 In carrying out the Services the Supplier shall be acting as principal and not as the agent of the Purchaser. Accordingly:
 - (a) the Supplier shall not (and shall procure that his agents and servants do not) say or do anything that might lead any other person to believe that the Supplier is acting as the agent of the Purchaser, and
 - (b) nothing in this Contract shall impose any liability on the Purchaser in respect of any liability incurred by the Supplier to any other person but this shall not be taken to exclude or limit any liability of the Purchaser to the Supplier that may arise by virtue of either a breach of this Contract or any negligence on the part of the Purchaser, his staff or agents.

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5 SUPPLIER'S PERSONNEL

- 5.1 The Supplier shall take the steps reasonably required by the Purchaser to prevent unauthorised persons being admitted to the Premises. If the Purchaser gives the Supplier notice that any person is not to be admitted to or is to be removed from the Premises or is not to become involved in or is to be removed from involvement in the performance of the Contract, the Supplier shall take all reasonable steps to comply with such notice and if required by the Purchaser the Supplier shall replace any person removed under this Condition with another suitably qualified person and procure that any pass issued to the person removed is surrendered.
- 5.2 If and when instructed by the Purchaser, the Supplier shall give to the Purchaser a list of names and addresses of all persons who are or may be at any time concerned with the Services or any part of them, specifying the capacities in which they are so concerned, and giving such other particulars and evidence of identity and other supporting evidence as the Purchaser may reasonably require.
- 5.3 The decision of the Purchaser shall be final and conclusive as to whether any person is to be admitted to or is to be removed from the Premises or is not to become involved in or is to be removed from involvement in the performance of the Contract and as to whether the Supplier has furnished the information or taken the steps required of the Supplier by this Condition.
- 5.4 The Supplier shall bear the cost of any notice, instruction or decision of the Purchaser under this Condition.

6 MANNER OF CARRYING OUT THE SERVICES

- 6.1 The Supplier shall make no delivery of materials, plant or other things nor commence any work on the Premises without obtaining the Purchaser's prior consent.
- 6.2 Access to the Premises shall not be exclusive to the Supplier but only such as shall enable the supplier to carry out the Services concurrently with the execution of work by others. The Supplier shall co-operate with such others as the Purchaser may reasonably require.
- 6.3 The Purchaser shall have the power at any time during the progress of the Services to order in writing:
 - (a) the removal from the Premises of any materials which in the opinion of the Purchaser are either hazardous, noxious or not in accordance with the Contract, and/or
 - (b) the substitution of proper and suitable materials, and/or
 - (c) the removal and proper re-execution notwithstanding any previous test thereof or interim payment therefore of any work which, in respect of material or workmanship is not in the opinion of the Purchaser in accordance with the Contract.
- 6.4 The Supplier shall forthwith comply with any order made under Condition 6.3
- 6.5 On completion of the Services the Supplier shall remove his plant, equipment and unused materials and shall clear away from the Premises all rubbish arising out of the Services and leave the Premises in a neat and tidy condition.

7 HEALTH AND SAFETY

The Supplier shall perform the Services in such a manner as to be safe and without risk to the health or safety of persons in the vicinity of the place where the Services are being performed (whether such persons are in the vicinity of the said place at the time when the Services are being performed or otherwise) and in such a manner as to comply with any relevant health and safety or other legislation (including Statutory Instrument, Orders, or Regulations made under the said legislation) and any requirements imposed by a local or other regulatory authority in connection with the performance of services of the type supplied to the Purchaser, whether specifically or generally. The Supplier shall indemnify the Purchaser and the Crown against all actions, suits, claims, demands, losses, charges, costs and expenses which the Purchaser or the Crown may suffer or incur as a result of or in connection with any breach of this Condition.

8 TIME OF PERFORMANCE

The Supplier shall begin performing the Services on the date stated in the Purchase Order and shall complete them by the date stated in the Purchase Order or continue to perform them for the period stated in the Purchase Order (whichever is applicable). Time is of the essence of the Contract. The Purchaser may by written notice require the Supplier to execute the Services in such order as the Purchaser may decide. In the absence of notice the Supplier shall submit such detailed programmes of work and progress reports as the Purchaser may from time to time require.

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9 PAYMENT

- 9.1 Unless otherwise stated in the Contract, payment will be made within 30 days of receipt and agreement of invoices, submitted monthly in arrears, for work completed to the satisfaction of the Purchaser.
- 9.2 Value Added Tax, where applicable, shall be shown separately on all invoices as a strictly net extra charge.
- 9.3 Notwithstanding condition 21 of this Contract the Supplier may assign to another person (an "assignee") the right to receive payment of the Price or any part thereof due to the Supplier under this Contract subject to
- (i) Deduction of sums in respect of which the Purchaser exercises its right of recovery under condition 20 of this Contract and
 - (ii) all the related rights of the Purchaser under this Contract in relation to the recovery of sums due but unpaid.
- 9.4 The Supplier shall notify or procure that any assignee notifies the Purchaser of any variations to the arrangements for payment of the Price or for handling invoices, in each case in good time to enable the Purchaser to redirect payments or invoices accordingly. In the absence of such notification the Purchaser shall be under no obligation to vary its arrangements for payment of the Price or for handling invoices.

10 FREE-ISSUE MATERIALS

Where the Purchaser for the purpose of the Contract issues materials free of charge to the Supplier such materials shall be and remain the property of the Purchaser. The Supplier shall maintain all such materials in good order and condition and shall use such materials solely in connection with the Contract. The Supplier shall notify the Purchaser of any surplus materials remaining after completion of the Services and shall dispose of them as the Purchaser may direct. Waste of such materials arising from bad workmanship or negligence of the Supplier or any of his servants, agents or sub-Contractors shall be made good at the Supplier's expense. Without prejudice to any other of the rights of the Purchaser, the Supplier shall deliver up such materials whether processed or not to the Purchaser on demand.

11 AUDIT

- 11.1 The Supplier shall keep and maintain until 2 years after the Contract has been completed records to the satisfaction of the Purchaser of all expenditures which are reimbursable by the Purchaser and of the hours worked and costs incurred in connection with any employees of the Supplier paid for by the Purchaser on a time charge basis. The Supplier shall on request afford the Purchaser or the Purchaser's representatives such access to those records as may be required by the Purchaser in connection with the Contract.
- 11.2 The provisions of this Condition 11 shall apply during the continuance of this Contract and after its termination howsoever arising.

12 CORRUPT GIFTS OR PAYMENTS

The Supplier shall not offer or give, or agree to give, to any employee or representative of the Purchaser any gift or consideration of any kind as an inducement or reward for doing or refraining from doing or for having done or refrained from doing, any act in relation to the obtaining or execution of this or any other contract with the Purchaser or for showing or refraining from showing favour or disfavour to any person in relation to this or any such contract. The attention of the Supplier is drawn to the criminal offences created by the Prevention of Corruption Acts 1889 to 1916.

13 PATENTS, INFORMATION AND COPYRIGHT

- 13.1 It shall be a condition of the Contract that, except to the extent that the Services incorporate designs furnished by the Purchaser, that nothing done by the Supplier in the performance of the Services shall infringe any patent, trade mark, registered design, copyright or other right in the nature of intellectual property of any third party and the Supplier shall indemnify the Purchaser and the Crown against all actions, claims, demands, costs and expenses which the Purchaser or the Crown may suffer or incur as a result of or in connection with any breach of this Condition.
- 13.2 All rights (including ownership and copyright) in any reports, documents, specifications, instructions, plans, drawings, patents, models or designs whether in writing or on magnetic or other media:
- (a) furnished to or made available to the Supplier by the Purchaser shall remain vested in the Crown absolutely.

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- (b) prepared by or for the Supplier for use, or intended use, in relation to the performance of this Contract are hereby assigned to and shall vest in the Crown absolutely, and (without prejudice to Condition 17.2) the Supplier shall not and shall procure that the Supplier's servants and agents shall not (except to the extent necessary for the implementation of this Contract) without the prior written consent of the Purchaser use or disclose any such reports, documents, specifications, instructions, plans, drawings, patents, models, designs or other material as aforesaid or any other information (whether or not relevant to this Contract) which the Supplier may obtain pursuant to or by reason of this Contract, except information which 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 Supplier shall not refer to the Purchaser or the contract in any advertisement without the Purchaser's prior written consent.

- 13.3 The provisions of this Condition 13 shall apply during the continuance of this Contract and after its termination howsoever arising.

14 INDEMNITY AND INSURANCE

- 14.1 Without prejudice to any rights or remedies of the Purchaser the Supplier shall indemnify the Purchaser and the Crown against all actions, suits, claims, demands, losses, charges, costs and expenses which the purchaser or the Crown may suffer or incur as a result of or in connection with any damage to property or in respect of any injury (whether fatal or otherwise) to any person which may result directly or indirectly from any negligent or wrongful act or omission of the Supplier.
- 14.2 Except in the case of loss, damage or personal injury (including death) suffered by an employee of the Supplier (in respect of which the indemnity in Condition 13.1 shall apply whether or not the loss, damage or personal injury was caused by the negligent or wilful act or omission of the Purchaser, the Crown or any servant or agent of the Crown) the indemnity contained in Condition 13.1 shall not apply to the extent that the loss, damage or injury is caused by the negligent or wilful act or omission of the Purchaser, the Crown or any servant or agent of the Crown.
- 14.3 The Supplier shall have in force and shall require any sub-Contractor to have in force:
- (a) employer's liability insurance in accordance with any legal requirements for the time being in force, and
- (b) public liability insurance for such sum and range of cover as the Supplier deems to be appropriate but covering at least all matters which are the subject of indemnities or compensation obligations under these Conditions in the sum of not less than £1 million for any one incident and unlimited in total, unless otherwise agreed by the Purchaser in writing.
- 14.4 The policy or policies of insurance referred to in paragraph 13.3 shall be shown to the Purchaser whenever he requests, together with satisfactory evidence of payment of premiums, including the latest premium due thereunder.

15 DISCRIMINATION

The Supplier shall not unlawfully discriminate either directly or indirectly on such grounds as race, colour, ethnic or national origin, disability, sex or sexual orientation, religion or belief, or age and without prejudice to the generality of the foregoing the Supplier shall not unlawfully discriminate within the meaning and scope of the Sex Discrimination Act 1975, the Race Relations Act 1976, the Equal Pay Act 1970, the Disability Discrimination Act 1995, the Employment Equality (Sexual Orientation) Regulations 2003, the Employment Equality (Religion or Belief) Regulations 2003, the Employment Equality (Age) Regulations 2006, the Equality Act 2006, the Equality Act (Sexual Orientation) Regulations 2007, the Human Rights Act 1998 or other relevant or equivalent legislation, or any statutory modification or re-enactment thereof. The Supplier shall take all reasonable steps to secure the observance of this Condition by all employees and representatives of the Supplier.

16 ENVIRONMENTAL CONSIDERATIONS

- 16.1 The Supplier shall comply in all material respects with applicable environmental laws and regulations in force from time to time in relation to the goods or any other matter which is subject to the contract. Where the provisions of any such legislation are implemented by the use of voluntary agreements or codes of practice, the Supplier shall comply with such agreements or codes of practice as if they were incorporated into Scots law, subject to those voluntary agreements being cited in the invitation to tender (ITT) or where the contract is being constituted pursuant to a Framework Agreement, the documentation inviting the Supplier to tender for the appointment to provide the services under the Framework Agreement. Without prejudice to the generality of the foregoing, the Supplier shall:

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- 16.2 comply with all reasonable stipulations of Registers of Scotland aimed at minimising the packaging the packaging of the goods, or any products supplied by the Supplier to Registers of Scotland.
- 16.3 promptly provide such data as may reasonably be requested by Registers of Scotland from time to time regarding the weight and type of packaging according to material type used in relation to all goods or any other products supplied to Registers of Scotland under or pursuant to the contract.
- 16.4 comply with all obligations imposed on it in relation to the goods by the Packaging Waste 1997 (or any equivalent legislation giving effect in any part of the European Economic area to the Packaging and Packaging Waste Directive 94/62/EC).
- 16.5 label all goods supplied to Registers of Scotland under the contract, and the packaging of those goods, to highlight environmental and safety information as required by applicable UK and EU legislation.
- 16.6 unless otherwise agreed with Registers of Scotland, insofar as any goods supplied under the contract comprise or include electrical or electronic equipment, manage the said equipment and associated consumables at end of life to facilitate recovery, treatment and recycling and provide any information which Registers of Scotland may reasonably require from time to time regarding the costs of such activity.
- 16.7 promptly, provide all such information regarding the environmental impact of any goods supplied or used under the contract as may reasonably be required by Registers of Scotland to permit informed choice by end users.
- 16.8 where goods are imported into the UK, for the purposes of the Producer Responsibility Obligations (packaging waste) Regulations 1997 (as amended) the Supplier shall assume the rolled-up obligations for all the activities performed outside the UK in relation to the goods and the packaging which is used for containment, protection, handling, delivery and presentation of the goods in addition to any other obligations he may have pursuant to the said Regulations
- 16.9 the Supplier shall meet all reasonable requests by Registers of Scotland for information evidencing the Suppliers' compliance with the provisions of this Condition 16.

17 OFFICIAL SECRETS ACTS, CONFIDENTIALITY AND ACCESS TO GOVERNMENT INFORMATION

- 17.1 The Supplier undertakes to abide and procure that his employees abide by the provisions of The Official Secrets Acts 1911 to 1989.
- 17.2 The Supplier shall keep secret and not disclose and shall procure that his employees keep secret and do not disclose any information of a confidential nature obtained by him by reason of this Contract except information which is in the public domain otherwise than by reason of a breach of this provision.
- 17.3 All information related to the Contract with the Supplier will be treated as commercial in confidence by the Purchaser except that:
- 17.4 The Purchaser may disclose any information as required by law or judicial order to be disclosed, further the Purchaser may disclose all information obtained by the Purchaser by virtue of the Contract 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, and their servants or agents, when disclosing such information to either the Scottish Parliament or the United Kingdom Parliament it is recognised and agreed by both parties that the Purchaser shall if the Purchaser sees fit disclose such information but is unable to impose any restrictions upon the information that the Purchaser provides to Members of the Scottish Parliament, (MSPs) or Members of the United Kingdom Parliament (MPs). Such disclosure shall not be treated as a breach of this agreement.
- 17.5 The provisions of this Condition 17 shall apply during the continuance of this Contract and after its termination howsoever arising.

18 DATA PROTECTION

- 18.1 The Supplier shall comply with the Data Protection Act 1998 (The 1998 Act) and any other applicable data protection legislation. In particular, the Supplier agrees to comply with the obligations placed on Registers of Scotland by the seventh data protection principle ("the Seventh Principle") set out in the 1998 Act, namely;
- 18.2 To maintain technical and organisational security measures sufficient to comply at least with the obligations imposed on Registers of Scotland by the Seventh Principle.

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- 18.3 To process personal data only for and on behalf of Registers of Scotland, in accordance with the instructions of Registers of Scotland and for the purpose of performing its obligations under the contract and to ensure compliance with the 1998 Act;
- 18.4 To allow Registers of Scotland to audit the Supplier's compliance with the requirements of this Condition on reasonable notice and/or to provide Registers of Scotland with evidence of its compliance with the obligations set out in this Condition.

19 TERMINATION

- 19.1 The Supplier shall notify the Purchaser in writing immediately upon the occurrence of any of the following events:
- (a) where the Supplier is an individual and if a petition is presented for the Supplier's bankruptcy or the sequestration of his estate or a criminal bankruptcy order is made against the Supplier, or he is apparently insolvent, or he makes any composition or arrangement with or for the benefit of creditors, or makes any conveyance or assignation for the benefit of creditors, or if an administrator or trustee is appointed to manage his affairs; or
 - (b) where the Supplier is not an individual but is a firm, or a number of persons acting together in any capacity, if any event in 19.2 or 19.4 of this Condition occurs in respect of the firm or any partner in the firm or any of those persons or a petition is presented for the Supplier to be wound up as an unregistered company; or
 - (c) where the Supplier is a company, if the company passes a resolution for winding-up or dissolution (otherwise than for the purposes of and followed by an amalgamation or reconstruction) or the court makes an administration order or a winding-up order, or the company makes a composition or arrangement with its creditors, or an administrator, administrative receiver, receiver or manager is appointed by a creditor or by the court, or possession is taken of any of its property under the terms of a floating charge.
- 19.2 On the occurrence of any of the events described in Condition 19.1 or, if the Supplier shall have committed a material breach of this Contract and (if such breach is capable of remedy) shall have failed to remedy such breach within 30 days of being required by the Purchaser in writing to do so or, where the Supplier is an individual if he shall die or be adjudged incapable of managing his affairs within the meaning of Part VII of the Mental Health Act 1983 or of Part V of the Mental Health (Scotland) Act 1984, the Purchaser shall be entitled to terminate this Contract by notice to the Supplier with immediate effect.
- 19.3 Thereupon, without prejudice to any other of his rights, the Purchaser may complete the Services or have them completed by a third party, using for that purpose (making a fair and proper allowance therefore in any payment subsequently made to the Supplier) all materials, plant and equipment on the Premises belonging to the Supplier, and the Purchaser shall not be liable to make any further payment to the Supplier until the Services have been completed in accordance with the requirements of the Contract, and shall be entitled to deduct from any amount due to the Supplier the costs thereof incurred by the Purchaser (including the Purchaser's own costs). If the total cost to the Purchaser exceeds the amount (if any) due to the Supplier, the difference shall be recoverable by the Purchaser from the Supplier.
- 19.4 In addition to the Purchaser's rights of termination under paragraph 19.3, the Purchaser shall be entitled to terminate this Contract by giving to the Supplier not less than 30 days notice to that effect.
- 19.5 Termination under paragraphs 19.3 to 19.5 shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereupon accrue to the Purchaser and shall not affect the continued operation of Conditions 10, 12 and 17.

20 RECOVERY OF SUMS DUE

Wherever under this Contract any sum of money is recoverable from or payable by the Supplier, that sum may be deducted from any sum then due, or which at any later time may become due, to the Supplier under this Contract or under any other agreement or contract with the Purchaser or with any department, agency or authority of the Crown.

21 ASSIGNATION AND SUB-CONTRACTING

- 21.1 The Supplier shall not assign or sub-contract any portion of the Contract without the prior written consent of the Purchaser. Sub-contracting any part of the Contract shall not relieve the Supplier of any obligation or duty attributable to him under the Contract or these Conditions.

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- 21.2 Where the Purchaser has consented to the placing of sub-contracts, copies of each sub-contract shall be sent by the Supplier to the Purchaser immediately it is issued.
- 21.3 Where the Supplier enters into a sub-contract for the purpose of performing the Contract, the Supplier shall cause a term to be included in such sub-contract:
- 21.3.1 which requires payment to be made to the sub-contractor within a specified period not exceeding 30 days from receipt of a valid invoice as defined by the sub-contract requirements and provides that, for the purpose of payment alone, where the Purchaser has made payment to the Supplier and the sub-contractor's invoice includes Services in relation to which payment has been made by the Purchaser then, to the extent that it relates to such Services, the invoice shall be treated as valid and payment shall be made to the sub-contractor without deduction;
 - 21.3.2 which notifies the sub-contractor that the contract forms part of a larger contract for the benefit of the Registers of Scotland and that should the sub-contractor have any difficulty in securing the timely payment of an invoice that matter may be referred by the sub-contractor to the Head of Procurement Registers of Scotland, Meadowbank House, 153 London Road, Edinburgh EH8 7AU; and
 - 21.3.3 in the same terms as that set out in this Condition 21.3 (including for the avoidance of doubt this Condition 21.3.3) subject only to modification to refer to the correct designation of the equivalent party as the Supplier and sub-contractor as the case may be."
- 21.4 Where the Supplier enters a sub-contract with a supplier or contractor for the purpose of performing the Contract, the Purchaser shall require the supplier to indicate in its tender–
- (a) any part of the contract that the supplier intends to sub contract to any other person; and
 - (b) the identity of any person to whom that supplier proposes to sub contract any part of the contract.

22 NOTICES

Any notice given under or pursuant to the Contract may be sent by hand or by post or by registered post or by the recorded delivery service or transmitted by telex, telemessage facsimile transmission or other means of telecommunication resulting in the receipt of a written communication in permanent form and if so sent or transmitted to the address of the party shown on the Purchase Order, or to such other address as the party may by notice to the other have substituted therefore, shall be deemed effectively given on the day when in the ordinary course of the means of transmission it would first be received by the addressee in normal business hours.

23 ARBITRATION

All disputes, differences or questions between the parties to the Contract with respect to any matter or thing arising out of or relating to the Contract, other than a matter or thing as to which the decision of the Purchaser is under the Contract to be final and conclusive, shall be referred to a sole arbitrator mutually chosen by the parties or, failing agreement (within 28 days of either party requesting the other to do so), nominated by the President of the Law Society of Scotland for the time being on the application of either party. The arbitration shall be seated in Scotland and the Arbitration (Scotland) Act 2010 shall apply

24 REGISTERS OF SCOTLAND DATA

- 24.1 The Supplier shall not delete or remove any proprietary notices contained within or relating to the Registers of Scotland Data.
- 24.2 The Supplier shall not store, copy, disclose, or use Registers of Scotland Data except as necessary for the performance by the Supplier of its obligations under this Agreement or as otherwise expressly authorised in writing by Registers of Scotland. To the extent that RoS Data is held and/or processed by the Supplier, the Supplier shall supply that RoS Data to Registers of Scotland as requested by Registers of Scotland.
- 24.3 The Supplier shall take responsibility for preserving the integrity of RoS Data and preventing the corruption or loss of RoS Data. The Supplier shall perform secure back-ups of all RoS Data and shall ensure that up-to-date back-ups are stored off-site in accordance with the Business Continuity and Disaster Recovery Plan. The Supplier shall ensure that such back-ups are available to Registers of Scotland at all times upon request and are delivered to Registers of Scotland at agreed monthly intervals. The Supplier shall ensure that any system on which the Supplier holds any RoS Data, including back-up data, is a secure system that complies with the Security Policy.

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- 24.4 If Registers of Scotland Data is corrupted, lost or sufficiently degraded as a result of the Supplier's Default so as to be unusable, Registers of Scotland may:
- (a) require the Supplier (at the Supplier's expense) to restore or procure the restoration of RoS Data to the extent and in accordance with the requirements specified in any Business Continuity and Disaster Recovery Provisions and the Supplier shall do so as soon as practicable but not later than a period of 5 days and/or
 - (b) itself restore or procure the restoration of RoS Data, and shall be repaid by the Supplier any reasonable expenses incurred in doing so to the extent and in accordance with the requirements specified any Business Continuity and Disaster Recovery Provisions.
- 24.5 If at any time the Supplier suspects or has reason to believe that RoS Data has or may become corrupted, lost or sufficiently degraded in any way for any reason, then the Supplier shall notify Registers of Scotland immediately and inform Registers of Scotland of the remedial action the Supplier proposes to take.

25 PROTECTION OF PERSONAL DATA

- 25.1 With respect to the parties' rights and obligations under this Agreement, the parties agree that Registers of Scotland is the Data Controller and that the Supplier is the Data Processor.
- 25.2 The Supplier shall:
- 25.2.1 Process the Personal Data only in accordance with instructions from Registers of Scotland (which may be specific instructions or instructions of a general nature as set out in this Agreement or as otherwise notified by Registers of Scotland to the Supplier during the Term);
 - 25.2.2 Process the Personal Data only to the extent, and in such manner, as is necessary for the provision

26 SECURITY

- 26.1 "Baseline Personnel Security Standard" means the personnel security standard developed for government staff and Suppliers as outlined in 'HMG Baseline Personnel Security Standard – A Good Practice Guide to the Pre-Employment Screening of Government Staff and Suppliers' issued in July 2006 and shall be taken to include and updated version of that standard and any other personnel security standard developed for government staff and Suppliers which is notified to the Supplier;
- (a) "Disclosure Level" is **Basic**
- 26.2 The Purchaser reserves the right to audit the processes of the Supplier in achieving the Baseline Personnel Security Standard either remotely or via a site visit. The Supplier will be provided with one week's notice of any such audit.
- 26.3 The Supplier shall adhere to the security requirements included in this Contract.
- 26.4 The Supplier shall ensure that all of its Staff employed or engaged in the provision of the Services shall hold a Disclosure Scotland certificate that is no more than 12 months old from the date of issue by Disclosure Scotland at the time they perform the Services and at the Disclosure Level notified to the Supplier by the Purchaser. The Supplier shall be responsible for obtaining the Disclosure Scotland certificates. The Supplier shall retain copies of the Disclosure Scotland certificates and shall submit them to the Purchaser at the Purchaser's request.
- 26.5 The Supplier shall ensure that any of its Staff employed or engaged in the provision of the Services shall obtain an updated Disclosure Scotland certificate whenever requested to do so by the Purchaser.
- 26.6 The Supplier shall inform the Purchaser in writing within seven days of the Supplier becoming aware of any criminal charge or new criminal conviction or any other event that may affect the validity of the Disclosure Scotland certification of any of its Staff. The Supplier shall ensure that each member of its Staff is contractually obliged via their terms of employment to inform timeously the Supplier of any criminal charge or new criminal conviction or any such other event. The Supplier shall ensure that any such member of its Staff does not provide the Services until the Purchaser has provided approval.

27 HEADINGS

The headings to Conditions shall not affect their interpretation.

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(NON WORKS)**

These Conditions may be varied only by 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.

28 GOVERNING LAW

These Conditions shall be governed by and construed in accordance with Scottish law and the Supplier hereby irrevocably submits to the jurisdiction of the Scottish courts. The submission to such jurisdiction shall not (and shall not be construed so as to) limit the right of the Purchaser to take proceedings against the Supplier in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdiction, whether concurrently or not.

29 TUPE

- 29.1 The Supplier recognises that the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) may apply in respect of the Contract, and that for the purposes of those Regulations, the undertaking concerned (or any relevant part of the undertaking) shall (a) transfer to the Supplier on the commencement of the Contract; (b) transfer to another supplier on the expiry of the Contract.
- 29.2 During the period of six months preceding the expiry of the Contract or after the Purchaser has given notice to terminate the Contract or the Supplier stops trading, and within 20 working days of being so requested by the Purchaser, the Supplier shall fully and accurately disclose to the Purchaser or to any person nominated by the Purchaser information relating to employees engaged in providing the Services in relation to the Contract in particular, but not necessarily restricted to, the following:
- (a) the total number of personnel whose employment with the Supplier is liable to be terminated at the expiry of this Contract but for any operation of law; and
 - (b) for each person, age and gender, details of their salary, date of commencement of continuous employment and pay settlements covering that person which relate to future dates but which have already been agreed and their redundancy entitlements (the names of individual members of staff do not have to be given); and
 - (c) information about the other terms and conditions on which the affected staff are employed, or about where that information can be found; and
 - (d) details of pensions entitlements, if any.
- 29.3 The Supplier shall permit the Purchaser to use the information for the purposes of TUPE and of re-tendering, which shall include such disclosure to potential suppliers as the Purchaser considers appropriate in connection with any re-tendering. The Supplier will co-operate with the re-tendering of the contract by allowing the transferee to communicate with and meet the affected employees and/or their representatives.
- 29.4 The Supplier agrees to indemnify the Purchaser fully and to hold it harmless at all times from and against all actions, proceedings, claims, expenses, awards, costs and all other liabilities whatsoever in any way connected with or arising from or relating to the provision or disclosure of information permitted under this Condition 31.
- 29.5 In the event that the information provided by the Supplier in accordance with this Condition 31 becomes inaccurate, whether due to changes to the employment and personnel details of the affected employees made subsequent to the original provision of such information or by reason of the Supplier becoming aware that the information originally given was inaccurate, the Supplier shall notify the Purchaser of the inaccuracies and provide the amended information. The Supplier shall be liable for any increase in costs the Purchaser may incur as a result of the inaccurate or late production of data.
- 29.6 The provisions of this Condition 29 shall apply during the continuance of this Contract and after its termination howsoever arising.

**CONDITIONS OF CONTRACT FOR THE PURCHASE OF SERVICES
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SUPPLEMENTARY NOTICE**LATE PAYMENT OF INVOICES**

Suppliers to the Registers of Scotland are requested to address complaints regarding late payment of invoices to, in the first instance, the addressee of the invoice and, in the second instance to the Financial Accounting Director, Room No. 546, Meadowbank House, 153 London Road, Edinburgh EH8 7AU. Telephone 0131-659-6111. This procedure is suggested as the best practical way of ensuring problems of late payment are resolved, and is not intended to interfere with Suppliers' legal rights.

THIS NOTICE DOES NOT FORM PART OF THE CONDITIONS OF CONTRACT