

Print Marketplace

Call Off Contract Terms & Conditions (“Terms”)

Last updated: 24 November 2020

1. How the Contract works

- 1.1 These Call Off Terms and Conditions (“**Terms**”) will apply to any Contract to be entered into between the Supplier and a Buyer under the Framework Contract.
- 1.2 The definitions set out in clause 2 apply to the Contract which consists of these Terms and the Order. If there is any conflict between these Terms and the Order, the Order will take precedence over these Terms.
- 1.3 To use Print Marketplace, the purchasing entity must register as a Buyer on Print Marketplace using the online registration process at printmarketplace.crowncommercial.gov.uk. The Buyer must provide details of those within its organisation who will be authorised to make purchases from Print Marketplace (“**Authorised Users**”).
- 1.4 Each time the Buyer wishes to place an order, it should check these Terms to ensure an understanding of the terms and conditions which will apply at that time. The Supplier shall indicate at the top of these Terms when they were last updated.
- 1.5 The Buyer may use the Buyer support service to be found on Print Marketplace for any queries it may have. This can be found at the online support portal on Print Marketplace. User guides, a helpline and training materials providing assistance on how to use Print Marketplace are also available together with a frequently asked questions page on Print Marketplace itself.
- 1.6 Unless the Buyer is purchasing a Catalogue Item, the Buyer must submit a Statement of Requirements via Print Marketplace. Print Marketplace has the facility for the Buyer to upload its own designs, artwork or templates as attachments to the Statement of Requirements. If the Buyer requires customisation of a Catalogue Item, this must be requested using a Statement of Requirements. The Supplier will provide a list of Options and details of the time period for acceptance of the Options within three (3) Working Days of receipt of a Statement of Requirements.
- 1.7 Once a Buyer has decided upon its requirements, the Buyer should complete its Order following the onscreen prompts specifying, as relevant, which Option or Catalogue Item(s) it requires. The Order process allows checking and amending of any errors before submission.
- 1.8 The Order (prior to acceptance) is an offer from the Buyer to purchase the Deliverables subject to and in accordance with the provisions of the Contract.
- 1.9 The Supplier shall send an email to the Buyer acknowledging receipt of the submitted Order but such email will not be acceptance of the Order. Acceptance of the Order shall take place when the Supplier emails the Buyer with notification of the Supplier’s acceptance together with a Supplier Order Number at which point the Contract shall come into existence. Notification of acceptance must be within one (1) Working Day of receipt of the relevant Order.
- 1.10 If the Supplier cannot accept an Order, it will notify the Buyer as soon as possible stating the reason for the non-acceptance and the order shall not be processed.

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- 1.11 The Supplier shall assist any potential customer organisation which requires completion of an internal approval process or a particular payment process set up prior to registration as a Buyer on Print Marketplace. Such assistance may include advising on options that may assist with the relevant internal approval process and, where reasonable, implementing such options.
- 1.12 The Supplier shall post at least two weeks in advance details of any periods during which Print Marketplace will be unavailable due to maintenance. Buyers should check Print Marketplace for any such notices when considering future requirements.

2. Definitions used in the Contract

In this Contract, unless the context otherwise requires, the following words shall have the following meanings:

"Authorised User"	an individual or group of individuals authorised by the Buyer to use Print Marketplace and purchase Deliverables;
"Buyer"	any organisation defined in the Framework Contract as a Participating Authority who purchases Deliverables from Print Marketplace;
"Buyer Cause"	any breach of the obligations of the Buyer or any other default, act, omission, negligence or statement of the Buyer, of its employees, servants, agents in connection with or in relation to the subject-matter of the Contract and in respect of which the Buyer is liable to the Supplier;
"Catalogue Item"	any Deliverable listed in the Print Catalogue accessible on Print Marketplace;
"Central Government Body"	a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics: a) Government Department; b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal); c) Non-Ministerial Department; or d) Executive Agency;
"Charges"	the charges for the Deliverables as specified or as calculated in the Order;
"Confidential Information"	all information, whether written or oral (however recorded), provided by the disclosing Party to the receiving Party and which (i) is known by the receiving Party to be confidential; (ii) is marked as or stated to be confidential; or (iii) ought reasonably to be considered by the receiving Party to be confidential;

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"Contract"	the contract between (i) the Buyer and (ii) the Supplier for the provision of the Deliverables to the Buyer by the Supplier and which comprises the Order, these Terms and the applicable provisions of the Framework Contract;
"Controller"	has the meaning given to it in the GDPR;
"Delivery Date"	that date by which the Deliverables must be delivered to the Buyer or be made ready for collection by the Buyer, as specified in the Order;
"Data Protection Legislation"	(i) the Data Protection Act 2018 to the extent that it relates to processing of personal data and privacy; (ii) the Data Protection, Privacy and Electronic Communications (Amendments etc.) (EU Exit) Regulations 2019, (iii) the GDPR, the LED and any applicable national implementing laws; and (iv) any other applicable laws relating to the protection of personal data and the privacy of individuals (all as amended, updated or re-enacted from time to time);
"Delivery"	completion of delivery of the Deliverables to the Buyer in accordance with the Contract and may be either delivery by the Supplier to the address specified by the Buyer in its Order or by collection of the Deliverables by the Buyer or a carrier organised by the Buyer, and which shall include in either case any other specific arrangements notified by the Buyer in accordance with clause 6.2;
"Deliverables"	all Goods and Services to be provided by the Supplier under the Contract and as set out in the Order;
"EIRs"	the Environmental Information Regulations 2004;
"Existing IPR"	any and all intellectual property rights that are owned by or licensed to either Party and which have been developed independently of the Contract (whether prior to the date of the Contract or otherwise);
"FOIA"	the Freedom of Information Act 2000 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation;
"Force Majeure Event"	any event, occurrence, circumstance, matter or cause affecting the performance by either Party of its obligations under the Contract arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control which prevent or materially delay it from performing its obligations under the Contract but excluding: i) any industrial dispute relating to the Supplier, the Supplier Staff (including any subsets of them) or any other failure in the Supplier or the Subcontractor's supply chain; ii) any event, occurrence, circumstance, matter or cause which is

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attributable to the wilful act, neglect or failure to take reasonable precautions against it by the Party concerned; and iii) any failure of delay caused by a lack of funds;

“Framework Contract”	the framework agreement entered into between the Crown Commercial Service and the Supplier in relation to the RM6071 Framework;
"GDPR"	the General Data Protection Regulation (Regulation (EU) 2016/679);
"Goods"	means the goods to be supplied by the Supplier to the Buyer under the Contract;
"Good Industry Practice"	standards, practices, methods and procedures conforming to the law and the exercise of the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged within the relevant industry or business sector;
"Government Data"	a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, including any of the Buyer's confidential information, and which: i) are supplied to the Supplier by or on behalf of the Buyer; or ii) the Supplier is required to generate, process, store or transmit pursuant to the Contract; or b) any Personal Data for which the Buyer is the Data Controller;
"Information"	has the meaning given under section 84 of the FOIA;
"Information Commissioner"	the UK's independent authority which deals with ensuring information relating to rights in the public interest and data privacy for individuals is met, while promoting openness by public bodies;
"Insolvency Event"	in respect of a person: a) if that person is insolvent; ii) if an order is made or a resolution is passed for the winding up of the person (other than voluntarily for the purpose of solvent amalgamation or reconstruction); iii) if an administrator or administrative receiver is appointed in respect of the whole or any part of the persons assets or business; iv) if the person makes any composition with its creditors or takes or suffers any similar or analogous action to any of the actions detailed in this definition as a result of debt in any jurisdiction;
"LED"	Law Enforcement Directive (Directive (EU) 2016/680);
“Non Catalogue Item”	any Deliverable which is not shown in the Print Catalogue;

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"New IPR"	all and intellectual property rights in any materials created or developed by or on behalf of the Supplier pursuant to the Contract but shall not include the Supplier's Existing IPR;
"Options"	the options as to the Deliverables available to the Buyer as communicated by the Supplier via Print Marketplace in response to receipt of a Statement of Requirements;
"Order"	an order for Deliverables submitted by the Buyer through Print Marketplace;
"Party"	the Supplier or the Buyer (as appropriate) and "Parties" shall mean both of them;
"Print Catalogue"	an area of Print Marketplace accessible to Authorised Users setting out the Catalogue Items;
"Print Marketplace"	the online service for ordering printed materials and other associated goods and services operated by the Supplier by means of a portal;
"Print Supplier"	the Supplier or any entity, as chosen by the Buyer, to whom the Supplier may subcontract provision of the Deliverables under the Contract;
"Processor"	has the meaning given to it in the GDPR and "Process" , "Processing" and "Processed" shall be defined accordingly;
"Purchase Order Number"	a unique reference number generated by the Buyer relating to its order for Deliverables;
"Regulations"	the Public Contracts Regulations 2015;
"Request for Information"	has the meaning set out in the FOIA or the Environmental Information Regulations 2004 as relevant (where the meaning set out for the term "request" shall apply);
"Services"	the services, if any, to be supplied by the Supplier to the Buyer under the Contract as requested in an Order;
"Statement of Requirements"	the Buyer's requirements submitted to the Supplier via Print Marketplace in order to obtain Options;
"Supplier Staff"	all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Sub-contractor engaged in the performance of the Supplier's obligations under a Contract;
"Supplier"	Allied Publicity Services (Manchester) Limited (company registration number 681528);
"Supplier Fee"	the transactional fee which the Supplier is entitled to add to

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the Print Services Charges and to retain in consideration for providing the Print Services and Print Marketplace under the Framework Contract;

“Supplier Order Number”	the unique reference number issued to the Buyer when placing an Order but the issue of which does not signify the acceptance by the Supplier of that Order;
“Terms”	these terms and conditions;
“User Terms”	the terms of use applicable to all users of Print Marketplace available at the footer of the home page within Print Marketplace;
"VAT"	value added tax in accordance with the provisions of the Value Added Tax Act 1994;
"Workers"	any one of the Supplier Staff which the Buyer, in its reasonable opinion, considers is an individual to which Procurement Policy Note 08/15 (Tax Arrangements of Public Appointees) (https://www.gov.uk/government/publications/procurement-policy-note-0815-tax-arrangements-of-appointees) applies in respect of the Deliverables; and
"Working Day"	any day (other than a Saturday or Sunday) on which banks are open for business in the City of London.

3. Understanding the Contract

In the Contract, unless the context otherwise requires:

- 3.1 references to numbered clauses are references to the relevant clause in these Terms;
- 3.2 any obligation on any Party not to do or omit to do anything shall include an obligation not to allow that thing to be done or omitted to be done;
- 3.3 the headings in these Terms are for information only and do not affect the interpretation of the Terms or the Contract;
- 3.4 references to "writing" include printing, display on a screen and electronic transmission and other modes of representing or reproducing words in a visible form;
- 3.5 the singular includes the plural and vice versa;
- 3.6 a reference to any law includes a reference to that law as amended, extended, consolidated or re-enacted from time to time and to any legislation or byelaw made under that law;
- 3.7 references to "a person" includes an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or Crown Body (which means the government of the UK (including Northern Ireland Assembly and Executive Committee, the Scottish Executive and the National Assembly for Wales), including government ministers and government departments and bodies, person, commissions or agencies from time to time carrying out functions on its behalf); and

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- 3.8 words such as “including”, “for example” and similar words shall be understood as if they were immediately followed by the words “without limitation”.

4. Use of Print Marketplace

The Buyer shall ensure that only those individuals which it authorises to purchase Goods and Services from Print Marketplace are named as Authorised Users. The Buyer may register an unlimited number of Authorised Users. The Buyer shall respond as soon as reasonably practicable to any queries from the Supplier in respect of Authorised Users.

- 4.1 The Buyer shall, and shall ensure that any Authorised User shall, comply with the User Terms accessible on Print Marketplace at the footer of the home page within Print Marketplace. Failure to comply with the User Terms may lead to prohibition of use of Print Marketplace. In the event of any inconsistency between the User Terms and any part of the Contract, the Contract shall prevail.
- 4.2 At the Buyer’s request, the Supplier shall remove an Authorised User from Print Marketplace as soon as reasonably practicable and in any event within one (1) Working Day of such request. The Supplier shall use reasonable endeavours to accommodate any urgent request by a Buyer for immediate removal of an Authorised User.
- 4.3 The Supplier shall provide help and support to the Buyer:
- (a) by providing timely updates on Order progress;
 - (b) through a ‘frequently asked questions’ page on Print Marketplace;
 - (c) through an online chat widget on Print Marketplace;
 - (d) via email at: support@print-marketplace.co.uk;
 - (e) directly by means of a helpline: 0161 850 2831;
 - (f) in the event further training or instructions are required, by means of individual training sessions organised at the Buyer’s request.
- 4.4 If the Buyer has any complaints about use of Print Marketplace it may in the first instance address such complaints through the online support portal on Print Marketplace. Use of the online support portal on Print Marketplace will not affect the Buyer’s rights under the Contract. The Supplier shall acknowledge any complaints received within one (1) Working Day of submission of the complaint (“**Complaint Submission**”) by the Buyer and, unless otherwise agreed with the Buyer, shall use all commercial endeavours to resolve the complaint within ten (10) days of the Complaint Submission. Where the Buyer has received Deliverables that do not conform to the Contract, clause 5.9 shall apply.
- 4.5 The Supplier shall maintain a record easily accessible by the Buyer through Print Marketplace of all orders placed by the Buyer. Such record shall include the Supplier

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Order Number, the Purchase Order Number (where applicable), a description of the Deliverables and associated Charges and details of the Print Supplier.

5. Provision of Deliverables

- 5.1 The Supplier must provide all Deliverables: (i) in accordance with the Contract; (ii) to a professional standard; (iii) using reasonable skill and care and in accordance with Good Industry Practice; (iv) in accordance with all applicable law; (v) in accordance with the Framework Contract as applicable; (vi) using its own policies, processes and internal quality control measures to the extent these do not conflict with the Contract or the Framework Contract; and (vii) on the dates agreed (if any).
- 5.2 The Supplier must ensure that all Deliverables and their manufacture, packing, packaging, marking, storage, handling, and delivery comply with all applicable law and shall endeavour to adhere to sustainable practices and minimise the use of plastic within packaging materials.
- 5.3 Ownership of the Goods will transfer to the Buyer on completion of Delivery (including off-loading and stacking) or payment for those Goods, whichever is earlier.
- 5.4 Risk in the Goods transfers to the Buyer on Delivery unless the Buyer notices damage following Delivery and lets the Supplier know within three (3) Working Days of Delivery.
- 5.5 The Supplier warrants that:
 - (a) the Buyer will have full and unrestricted ownership of the Goods upon transfer of ownership under clause 5.3; and
 - (b) the Deliverables shall conform in all material respects with their description and be free from material defects in design, material and workmanship.
- 5.6 The Supplier must provide any information and instructions the Buyer needs to make use of the Goods.
- 5.7 The Supplier will notify the Buyer if, after acceptance of an Order, the Supplier is unable to provide the Deliverables or the Option selected by the Buyer. The Buyer will be able to choose alternative Deliverables (e.g. the same item from another Print Supplier or another Option from the list originally provided) and the Charges will be the same as set out in the original Order.
- 5.8 If the Buyer wishes to make a change to any Deliverables ordered but not yet Delivered, the Buyer should contact the Supplier who will inform the Buyer if the change is possible.
- 5.9 The Supplier must, within ten (10) Working Days from the Buyer's request, at the Supplier's own cost repair, replace, refund, re-perform or substitute (at the Buyer's option and request) any Deliverables the Buyer rejects because they do not conform to the Contract. Any such replacements or substitutions must be:
 - (a) of the same or better quality; and
 - (b) be subject to the same Charges,as the Deliverables originally ordered.
- 5.10 If the Supplier fails to deliver the correct quantity of Goods, the Supplier must:
 - (a) if the quantity of Goods is surplus to that ordered, make arrangements to collect these at the Supplier's expense; or

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- (b) if the quantity of Goods delivered is insufficient, provide the omitted Goods within a timescale to be agreed with the Buyer.
- 5.11 The Supplier must co-operate with the Buyer and the Buyer's third party suppliers on all aspects connected with the provision of the Deliverables and ensure that Supplier Staff comply with any reasonable instructions including any security requirements.
- 5.12 The Supplier must at its own risk and expense provide all equipment required to provide the Deliverables and ensure that any equipment, materials or other items used in respect of this Contract are of good quality, free from defects and insofar as possible, sustainably resourced.
- 5.13 Any materials including designs, templates and examples provided by the Buyer to the Supplier for supplying the Services remain the property of the Buyer. The Supplier shall retain such materials for a period of six (6) months from the date on which the Order was placed before destroying to the fullest extent possible on the Supplier's IT systems unless the Buyer otherwise notifies the Supplier.
- 5.14 The Supplier must allocate sufficient resources and appropriate expertise to the compliance by it of its obligations under the Contract.
- 5.15 The Supplier must take all reasonable care to ensure performance does not disrupt the Buyer's operations, employees or other contractors.
- 5.16 The Buyer is entitled to withhold payment for partially or undelivered Deliverables, but doing so does not stop it from using its other rights under the Contract.
- 5.17 The Supplier acknowledges that it shall not be excused from the performance of any of its obligations under this Contract on the grounds of, nor shall the Supplier be entitled to recover any additional costs or charges arising as a result of, any misinterpretation of the requirements of the Customer in the Statement of Requirements or the Order Form or elsewhere in this Contract.
- 5.18 The Supplier will notify the Buyer of any request that Goods are returned to it or any relevant third party after the discovery of defects that might endanger health or hinder use and shall indemnify the Buyer against the costs arising as a result of any such request.

6. Delivery Arrangements

- 6.1 The costs of Delivery are displayed on Print Marketplace for Catalogue Items and provided on the Options for Non Catalogue Items. The Buyer may make its own arrangements for Delivery and, if relevant, should specify these with its Order and in such case the Delivery Date specified by the Buyer will be the date for collection.
- 6.2 Unless the Buyer has specified in its Order that it will, or will organise a carrier to, collect the Goods, the Supplier must deliver the Goods on the Delivery Date and to the specified location between the hours of 08:00 hours and 17:00 hours, Monday to Friday. The Buyer must include any specific instructions as to Delivery in the Order.
- 6.3 If the Buyer requires delivery outside the times stated in clause 6.2, it must contact the Supplier to make particular arrangements and ensure that a member of its personnel will be at the premises to receive the delivery on the stated date and time.
- 6.4 If the Buyer has indicated in its Order that it wishes to collect the Goods, the Supplier will notify the Buyer as to what time the Goods will be ready for collection on the

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Delivery Date and the times during which collection may take place. The Buyer must, when collecting the Goods, provide the Supplier Order Number.

- 6.5 The Supplier must ensure that the Goods are properly packed and secured in such manner as to enable them to reach the point of delivery safely and in good condition.
- 6.6 The Supplier shall ensure that all packaged Deliverables, whether for delivery by the Supplier or collection by the Buyer, are clearly labelled, have a delivery note attached specifying the Supplier Order Number, Purchase Order Number (if any) and are marked for the attention of the relevant individual, if any, specified by the Buyer in the Order.
- 6.7 The Supplier shall not deliver Goods by instalments except with the prior written consent of the Buyer. Where deliveries are by instalments, they may be invoiced and paid for separately.
- 6.8 If the Deliverables are not Delivered or ready for collection on the Delivery Date, then, without limiting any other right or remedy the Buyer may have, the Buyer may:
 - (a) refuse to take any subsequent attempted delivery or make any subsequent collection;
 - (b) terminate the Contract with immediate effect;
 - (c) obtain substitute products or services from another supplier and recover from the Supplier any costs and expenses reasonably incurred by the Buyer in obtaining such substitutes; and
 - (d) subject to clause 14.1, claim damages for any other costs, expenses or losses resulting from the Supplier's failure to deliver the Deliverables or make the Deliverables ready for collection on the Delivery Date provided that the Supplier shall have no liability for any failure or delay in Delivery to the extent that such failure or delay is caused by Buyer.
- 6.9 The Buyer will not be liable for any actions, claims, costs and expenses incurred by the Supplier or any third party during delivery of the Goods unless and to the extent caused by the negligence or other wrongful act of the Buyer or its servant or agent. If the Buyer suffers or incurs any damage or injury (whether fatal or otherwise) occurring in the course of delivery of the Deliverables by the Supplier then the Supplier shall indemnify from any losses, charges costs or expenses which arise as a result of or in connection with such damage or injury where it is attributable to any act or omission of the Supplier or any of the Supplier Staff.
- 6.10 If the Buyer fails to collect any Deliverables which it has stated in its Order that it will collect or if, after a failed attempted Delivery by the Supplier, the Buyer does not re-arrange Delivery or collection, the Supplier will contact the Buyer for further instructions and may make a reasonable charge for storage costs and any further delivery costs.

7. Pricing and payments

- 7.1 All pricing provided by the Supplier in respect of Options shall identify:
 - (a) the costs of production of the Deliverables;

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- (b) the costs of the materials necessary to produce the Deliverables;
 - (c) the distribution costs (which shall be provided separately from the other costs to enable Buyers to make their own delivery arrangements); and
 - (d) the Supplier Fee.
- 7.2 The Buyer shall pay the Charges for the Deliverables by one of the following methods which should be selected on Print Marketplace:
- (a) within thirty (30) days of receipt of a valid undisputed invoice issued by the Supplier in cleared funds to the Supplier's account as stated on the invoice;
 - (b) by use of the Buyer's payment card within seven (7) days of Delivery;
 - (c) by use of punchout payment, within thirty (30) days of Delivery.
- 7.3 Where a Buyer has selected:
- (a) option (a) in Clause 7.2, the Supplier shall issue invoices promptly and in any event within ten (10) days after Delivery; and
 - (b) option (b) or (c) in Clause 7.2, the Supplier shall issue an invoice at the point the order is confirmed.
- 7.4 All Charges:
- (a) exclude VAT, which is payable on provision of a valid VAT invoice; and
 - (b) include all costs connected with the supply of Deliverables.
- 7.5 A Supplier invoice is only valid if it:
- (a) includes all appropriate references including the Purchase Order Number and other details reasonably requested by the Buyer; and
 - (b) includes a detailed breakdown of Deliverables which have been delivered (if any).
- 7.6 If there is a dispute between the Parties as to the amount invoiced, the Buyer shall pay the undisputed amount. Any disputed amounts shall be resolved through the online support portal on Print Marketplace.
- 7.7 The Buyer may retain or set-off payment of any amount owed to it by the Supplier if notice and reasons are provided.
- 7.8 The Supplier can issue a reminder notice if the Buyer does not pay any undisputed Charges within the timings set out in clause 7.2 for its chosen payment method. In the event of a Buyer consistently failing to pay for any Deliverables within such timing given, the Supplier acting reasonably may suspend such Buyer's use of Print Marketplace until any outstanding payments are made and the Supplier has, at its option, received a satisfactory explanation for such late payment and reassurance as to the Buyer's future purchasing strategy.

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8. The Buyer's obligations to the Supplier

- 8.1 It is the Buyer's responsibility to ensure that all information provided to the Supplier in a Statement of Requirements or in relation to an Order, including description of the Goods which are not Catalogue Items, measurements and quantities, is correct. The Buyer should request assistance from the online support portal on Print Marketplace if there are uncertainties as to the information to be provided to the Supplier.
- 8.2 If Supplier fails to comply with the Contract as a result of a Buyer Cause:
- (a) the Buyer cannot terminate the Contract under clause 13;
 - (b) the Supplier is entitled to reasonable and proven additional expenses and to relief from liability under this Contract;
 - (c) the Supplier is entitled to additional time needed to deliver the Deliverables;
 - (d) the Supplier cannot suspend the ongoing supply of Deliverables.
- 8.3 Clause 8.2 only applies if the Supplier:
- (a) gives notice to the Buyer within ten (10) Working Days of becoming aware;
 - (b) demonstrates that the failure only happened because of the Buyer Cause; and
 - (c) can evidence that it has taken all reasonable steps to mitigate the impact of the Buyer Cause.

9. Record keeping and reporting

- 9.1 The Supplier shall ensure that the Buyer has access to the most up to date version of the records specified in Clause 4.5 by means of the "My Orders" and "My Quotes" pages on Print Marketplace.
- 9.2 The Supplier must keep and maintain full and accurate records and accounts on everything to do with the Contract for seven years after Delivery.
- 9.3 The Supplier must allow any auditor appointed by the Buyer access to their premises to verify all contract accounts and records of everything to do with the Contract and provide copies for the audit. The provisions of Clause 23 (Records retention and rights of Audit) of the Framework Contract apply to the benefit of the Buyer under this Contract.
- 9.4 The Supplier must provide information to the auditor and reasonable co-operation at their request.

10. Supplier Staff

- 10.1 The Supplier shall ensure that all Supplier Staff (which includes any Print Supplier) involved in the performance of the Contract are:
- (a) appropriately trained and qualified;

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- (b) vetted using Good Industry Practice;
 - (c) if providing the Deliverables as the Supplier's subcontractor, be an approved Print Supplier for the purposes of the Framework Contract; and
 - (d) comply with all health and safety and conduct requirements notified by the Buyer if attending the Buyer's premises.
- 10.2 The Supplier indemnifies the Buyer against all claims brought by any person employed by the Supplier caused by an act or omission of the Supplier or any Supplier Staff.

11. Rights and protection

- 11.1 The Supplier warrants and represents that:
- (a) it has full capacity and authority to enter into and to perform the Contract;
 - (b) it is a legally valid and existing organisation incorporated in the place it was formed;
 - (c) there are no known legal or regulatory actions or investigations before any court, administrative body or arbitration tribunal pending or threatened against it or its affiliates that might affect its ability to perform the Contract;
 - (d) it maintains all necessary rights, authorisations, licences and consents to perform its obligations under the Contract;
 - (e) it does not have any contractual obligations which are likely to have a material adverse effect on its ability to perform the Contract;
 - (f) it shall comply with the Framework Contract; and
 - (g) it is not impacted by an Insolvency Event.
- 11.2 The Supplier indemnifies the Buyer against each of the following:
- (a) wilful misconduct of the Supplier and/or Supplier Staff that impacts the Contract; and
 - (b) non-payment by the Supplier of any tax or National Insurance.
- 11.3 If the Supplier becomes aware of any representation or warranty provided under the Contract that becomes untrue or misleading, it must immediately notify the Buyer.
- 11.4 All third party warranties and indemnities covering the Deliverables must be assigned where possible for the Buyer's benefit by the Supplier.

12. Intellectual Property Rights (IPRs)

- 12.1 Each Party retains ownership of its own Existing IPRs. The Supplier gives the Buyer a non-exclusive, perpetual, royalty-free, irrevocable, transferable worldwide licence to use, change and sub-license the Supplier's Existing IPR to enable it and its sub-licensees to both:
- (a) receive and use the Deliverables;
 - (b) use the New IPR.
- 12.2 Any New IPR created under the Contract is owned by the Buyer. The Buyer gives the Supplier a royalty-free, non-exclusive licence to use and sub-license any of the Buyer's Existing IPRs for the purpose of the Supplier fulfilling obligations under the Contract

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and a royalty-free, non-exclusive licence to use and sub-license any New IPRs solely for the purpose of fulfilling the Supplier's obligations under the Contract.

- 12.3 Where a Party acquires ownership of intellectual property rights incorrectly under this Contract it must do everything reasonably necessary to complete a transfer assigning them in writing to the other Party on request and at its own cost.
- 12.4 Neither Party has the right to use the other Party's intellectual property rights, including any use of the other Party's names, logos or trademarks, except as provided in clause 12 or otherwise agreed in writing which shall include as instructed by the Buyer in the relevant Order.
- 12.5 If any claim is made against the Buyer for actual or alleged infringement of a third party's intellectual property arising out of, or in connection with, the supply or use of the Deliverables, save where such claim relates to the Buyer's Existing IPR, (an "**IPR Claim**"), then, the Supplier indemnifies the Buyer against all losses, damages, costs or expenses (including professional fees and fines) incurred as a result of the IPR Claim.
- 12.6 If an IPR Claim is made or anticipated the Supplier must at its own expense and the Buyer's sole option, either:
 - (a) obtain for the Buyer the rights in clauses 12.1 and 12.2 without infringing any third party intellectual property rights; or
 - (b) replace or modify the relevant item with substitutes that do not infringe intellectual property rights and without adversely affecting the functionality or performance of the Deliverables.
- 12.7 Subject to the limitation in Clause 14.7, the Buyer shall defend the Supplier, its affiliates, subcontractors and licensors from and against actual or alleged infringement of a third party's intellectual property arising out of, or in connection with, the creation, supply or use of the Deliverables, save where such claim relates to the Supplier's Existing IPR.
- 12.8 In addition to defending in accordance with Clause 12.7, the Buyer will pay the amount of losses damages, costs or expenses (including professional fees and fines) awarded in final judgment against the Supplier or the amount of any settlement agreed by the Buyer, provided that the Buyer's obligations under this Clause 12.8 shall not apply where and/or to the extent such losses or third-party claim is caused by the Supplier's breach of this Contract.

13. Ending the Contract

When the Buyer can end the Contract

- 13.1 If any of the following events happen, the Buyer has the right to immediately terminate any Contract which it has entered into and for which Delivery has not taken place by issuing a termination notice in writing to the Supplier:
 - (a) there is a Supplier Insolvency Event;
 - (b) if the Supplier is in material breach of any obligation under this or any other contract between the Supplier and the Buyer in respect of Print Marketplace, which is capable of remedy, and that breach is not remedied within 10 days of the

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Supplier receiving notice from the Buyer specifying the breach and requiring it to be remedied;

- (c) the Framework Contract is terminated for any reason; or
- (d) the Supplier, its affiliates or any Supplier Staff embarrass or bring the Buyer into disrepute or diminish the public trust in them.

What happens when the Contract is terminated

13.2 Where the Buyer terminates the Contract under clause 13.1:

- (a) the Buyer's payment obligations under the terminated Contract stop immediately;
- (b) the accumulated rights of the Parties are not affected;
- (c) the Supplier must promptly delete or return the Government Data at the Buyer's option except where required to retain copies by law; and
- (d) the Supplier must promptly return any of the Buyer's property provided under the Contract.

14. Liability

14.1 Each Party's total aggregate liability under or in connection with the Contract (whether in tort, contract or otherwise) is no more than 125% of the Charges paid or payable to the Supplier.

14.2 No Party is liable to the other for:

- (a) any indirect losses; or
- (b) loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect).

14.3 In spite of clause 14.1, neither Party limits or excludes any of the following:

- (a) its liability for death or personal injury caused by its negligence, or that of its employees, agents or subcontractors;
- (b) its liability for bribery or fraud or fraudulent misrepresentation by it or its employees; or
- (c) any liability that cannot be excluded or limited by law.

14.4 In spite of clause 14.1, the Supplier does not limit or exclude its liability for any indemnity given under clauses 5.18, 6.9, 10.2, 11.2, 12.5, 15.4 and 30.2.

14.5 Each Party must use all reasonable endeavours to mitigate any loss or damage which it suffers under or in connection with the Contract, including where any indemnities apply to such loss or damage.

14.6 Without limitation to any insurance arrangements as required by law applicable to this Contract, the Supplier shall put in place and/or maintain the different types and/or levels of indemnity arrangements specified in the Framework Contract, if any.

14.7 Notwithstanding Clause 14.1, the Buyer's liability pursuant to Clause 12.7 shall in no event exceed in aggregate five million pounds (£5,000,000).

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15. Obeying the law

- 15.1 The Supplier shall, in connection with provision of the Deliverables, use reasonable endeavours to:
- (a) comply and procure that its subcontractors comply with the Supplier Code of Conduct appearing at:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/646497/2017-09-13_Official_Sensitive_Supplier_Code_of_Conduct_September_2017.pdf
 - (b) support the Buyer in fulfilling its Public Sector Equality duty under S149 of the Equality Act 2010;
 - (c) not use nor allow any Supplier Staff to use modern slavery, child labour or inhumane treatment;
 - (d) meet the applicable Government Buying Standards applicable to Deliverables which can be found online at:
<https://www.gov.uk/government/collections/sustainable-procurement-the-government-buying-standards-gbs>
- 15.2 The Supplier shall carry out its obligations under the Contract so as to support the United Kingdom Government's adoption and ratification of the International Labour Organisation's "Declaration on Fundamental Principles and Rights at Work".
- 15.3 The Supplier shall respond promptly and with as much detail as required by the Buyer, acting reasonably, to any request from a Buyer relating to the Supplier's policies on ethical sourcing and the Supplier's supply chain in respect of the Deliverables.
- 15.4 The Supplier indemnifies the Buyer against any costs resulting from any default by the Supplier relating to any applicable law in respect of the Contract.

16. Data protection

- 16.1 The Supplier shall comply with its obligations under the Data Protection Legislation in relation to this Contract. The data protection provisions set out in Schedule 3 to the Framework Contract ("**Schedule 3**") shall apply to the Contract and the Buyer may enforce its rights under Schedule 3 under the Contracts (Rights of Third Parties) Act 1999.

17. Cyber Essentials Scheme

- 17.1 The Supplier shall, and shall ensure that all Print Suppliers, meet the requirements of the Cyber Essentials Plus Scheme. The Supplier shall ensure that all Print Suppliers evidence compliance with Cyber Essentials Plus requirements.

18. What must be kept confidential

- 18.1 Each Party must:
- (a) keep all Confidential Information it receives confidential and secure;
 - (b) not disclose, use or exploit the disclosing Party's Confidential Information without the disclosing Party's prior written consent, except for the purposes anticipated under the Contract; and

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- (c) immediately notify the disclosing Party if there is or it suspects there has been unauthorised access, copying, use or disclosure of the Confidential Information.
- 18.2 In spite of clause 18.1, a Party may disclose Confidential Information which it receives from the disclosing Party in any of the following instances:
- (a) where disclosure is required by applicable law or by a court with the relevant jurisdiction if the recipient Party notifies the disclosing Party of the full circumstances, the affected Confidential Information and extent of the disclosure;
 - (b) if the recipient Party already had the information without obligation of confidentiality before it was disclosed by the disclosing Party;
 - (c) if the information was given to it by a third party without obligation of confidentiality;
 - (d) if the information was in the public domain at the time of the disclosure;
 - (e) if the information was independently developed without access to the disclosing Party's Confidential Information;
 - (f) to its auditors or for the purposes of regulatory requirements;
 - (g) on a confidential basis, to its professional advisers on a need-to-know basis;
 - (h) to the Serious Fraud Office where the recipient Party has reasonable grounds to believe that the disclosing Party is involved in activity that may be a criminal offence under the Bribery Act 2010.
- 18.3 The Supplier may disclose Confidential Information on a confidential basis to Supplier Staff on a need-to-know basis to allow the Supplier to meet its obligations under the Contract. The Supplier shall ensure that any contract it enters into with a Print Supplier in relation to the provision of Deliverables contains provisions the same as or similar to the confidentiality provisions set out in this clause 18.
- 18.4 The Buyer may disclose Confidential Information in any of the following cases:
- (a) on a confidential basis to the employees, agents, consultants and contractors of the Buyer;
 - (b) on a confidential basis to any other Central Government Body, any successor body to a Central Government Body or any company that the Buyer transfers or proposes to transfer all or any part of its business to;
 - (c) if the Buyer (acting reasonably) considers disclosure necessary or appropriate to carry out its public functions;
 - (d) where requested by Parliament;
 - (e) under clause 19.
- 18.5 For the purposes of clauses 18.2 to 18.4 references to disclosure on a confidential basis means disclosure under a confidentiality agreement or arrangement including terms as strict as those required in clause 18.
- 18.6 Information which is exempt from disclosure by clause 19 is not Confidential Information.
- 18.7 The Supplier must not make any press announcement or publicise the Contract or any part of it in any way, without the prior written consent of the Buyer and must take all reasonable steps to ensure that Supplier Staff do not either.

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19. When information can be shared

- 19.1 The Supplier must tell the Buyer within forty-eight (48) hours if it receives a Request For Information.
- 19.2 Within the required timescales the Supplier must give the Buyer full co-operation and information needed so the Buyer can comply with:
- (a) any Freedom of Information Act (FOIA) request; or
 - (b) any Environmental Information Regulations (EIR) request.
- 19.3 The Buyer may talk to the Supplier to help it decide whether to publish information in relation to any FOIA or EIR request. However, the extent, content and format of the disclosure is the Buyer's decision, which does not need to be reasonable.

20. Invalid parts of the Contract

If any part of the Contract is prohibited by law or judged by a court to be unlawful, void or unenforceable, it must be read as if it was removed from that Contract as much as required and rendered ineffective as far as possible without affecting the rest of the Contract, whether it is valid or enforceable.

21. No other terms apply

The provisions incorporated into the Contract are the entire agreement between the Parties. The Contract replaces all previous statements and agreements whether written or oral. No other provisions apply.

22. Other people's rights in a contract

No third parties may use the Contracts (Rights of Third Parties) Act (CRTPA) to enforce any term of the Contract unless stated (referring to CRTPA) in the Contract. This does not affect third party rights and remedies that exist independently from CRTPA.

23. Force Majeure

- 23.1 Any Party affected by a Force Majeure Event is excused from performing its obligations under the Contract while the inability to perform continues, if such party both:
- (a) provides written notice to the other Party; and
 - (b) uses all reasonable measures practicable to reduce the impact of the Force Majeure Event.
- 23.2 Either Party can partially or fully terminate the Contract if the provision of the Deliverables is materially affected by a Force Majeure Event which lasts for 90 days continuously.
- 23.3 Where a Party terminates under clause 23.2, each party must cover its own losses.

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24. Relationships created by the contract

The Contract does not create a partnership, joint venture or employment relationship. The Supplier must represent themselves accordingly and ensure the Supplier Staff do so also.

25. Giving up contract rights

A partial or full waiver or relaxation of the terms of the Contract is only valid if it is stated to be a waiver in writing to the other Party.

26. Transferring responsibilities

- 26.1 The Supplier cannot assign the Contract without the Buyer's written consent.
- 26.2 The Buyer can assign, novate or transfer its Contract or any part of it to any Crown Body, public or private sector body which performs the functions of the Buyer.
- 26.3 When the Buyer uses its rights under clause 26.2 the Supplier must enter into a novation agreement in the form that the Buyer, acting reasonably, specifies.
- 26.4 The Supplier can terminate the Contract novated under clause 26.2 to a private sector body that is experiencing an Insolvency Event.
- 26.5 The Supplier remains responsible for all acts and omissions of the Supplier Staff as if they were its own.
- 26.6 If the Buyer asks the Supplier for details about Subcontractors, the Supplier must provide details of Subcontractors at all levels of the supply chain including their name and the scope and duration of their appointment.

27. How to communicate about the Contract

- 27.1 All notices under the Contract must be in writing and are considered effective on the Working Day of delivery as long as they're delivered before 5:00pm on a Working Day. Otherwise the notice is effective on the next Working Day. An email is effective when sent unless an error message is received.
- 27.2 Notices must be sent to (i) in the case of the Supplier, the address indicated in clause 31.3 of the Framework Contract; and (ii) in the case of the Buyer, the address provided upon registration to Print Marketplace unless the Buyer otherwise notifies the Supplier.
- 27.3 This clause does not apply to the service of legal proceedings or any documents in any legal action, arbitration or dispute resolution.

28. Preventing fraud, bribery and corruption

- 28.1 The Supplier shall not:
 - (a) commit any criminal offence referred to in the Regulations 57(1) and 57(2);
 - (b) offer, give, or agree to give anything, to any person (whether working for or engaged by the Buyer or any other public body) an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in

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relation to the obtaining or execution of the Contract or any other public function or for showing or refraining from showing favour or disfavour to any person in relation to the Contract or any other public function.

- 28.2 The Supplier shall take all reasonable steps (including creating, maintaining and enforcing adequate policies, procedures and records), in accordance with good industry practice, to prevent any matters referred to in clause 28.1 and any fraud by the Staff and the Supplier (including its shareholders, members and directors) in connection with the Contract and shall notify the Buyer immediately if it has reason to suspect that any such matters have occurred or is occurring or is likely to occur.
- 28.3 If the Supplier or the Staff engages in conduct prohibited by clause 28.1 or commits fraud in relation to the Contract or any other contract with the Crown (including the Buyer) the Buyer may:
- (a) terminate the Contract and recover from the Supplier the amount of any loss suffered by the Buyer resulting from the termination, including the cost reasonably incurred by the Buyer of making other arrangements for the supply of the Deliverables and any additional expenditure incurred by the Buyer throughout the remainder of the Contract; or
 - (b) recover in full from the Supplier any other loss sustained by the Buyer in consequence of any breach of this clause.

29. Equality, diversity and human rights

- 29.1 The Supplier must follow all applicable equality law in its performance of its obligations under the Contract, including:
- (a) protection against discrimination on the grounds of race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise;
 - (b) any other requirements and instructions which the Buyer reasonably imposes related to equality law.
- 29.2 The Supplier must take all necessary steps, and inform the Buyer upon request of the steps taken, to prevent anything that is considered to be unlawful discrimination by any court or tribunal, or the Equality and Human Rights Commission (or any successor organisation) when working on the Contract.

30. Tax

- 30.1 The Supplier must not breach any tax or social security obligations and must enter into a binding agreement to pay any late contributions due, including where applicable, any interest or any fines. The Buyer cannot terminate the Contract where the Supplier has not paid a minor tax or social security contribution.
- 30.2 Where the Supplier or any Supplier Staff are liable to be taxed or to pay National Insurance contributions in the UK relating to payment received under the Off Contract, the Supplier must both:
- (a) comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax, the Social Security Contributions and Benefits Act 1992 (including IR35) and National Insurance contributions;

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- (b) indemnify the Buyer against any Income Tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made during or after the Contract Period in connection with the provision of the Deliverables by the Supplier or any of the Supplier Staff.
- 30.3 If any of the Supplier Staff are Workers who receive payment relating to the Deliverables, then the Supplier must ensure that its contract with the Worker contains the following requirements:
- (a) the Buyer may, at any time during the term of the Contract, request that the Worker provides information which demonstrates they comply with clause 30.2, or why those requirements do not apply, the Buyer can specify the information the Worker must provide and the deadline for responding;
 - (b) the Worker's contract may be terminated at the Buyer's request if the Worker fails to provide the information requested by the Buyer within the time specified by the Buyer;
 - (c) the Worker's contract may be terminated at the Buyer's request if the Worker provides information which the Buyer considers isn't good enough to demonstrate how it complies with clause 30.2 or confirms that the Worker is not complying with those requirements;
 - (d) the Buyer may supply any information they receive from the Worker to HMRC for revenue collection and management.

31. Conflict of interest

The Supplier must take action to ensure that neither the Supplier nor the Supplier Staff are placed in the position of an actual or potential conflict between the financial or personal duties of the Supplier or the Supplier Staff and the duties owed to the Buyer under the Contract, in the reasonable opinion of the Buyer. The Supplier must promptly notify and provide details to the Buyer if a conflict of interest happens or is expected to happen. The Buyer can terminate its Contract immediately by giving notice in writing to the Supplier or take any steps it thinks are necessary where there is or may be an actual or potential conflict of interest.

32. Reporting a breach of the contract

- 32.1 As soon as it is aware of it the Supplier and Supplier Staff must report to the Buyer any actual or suspected breach of law, clause 15.1, or clauses 28 to 31.
- 32.2 The Supplier must not retaliate against any of the Supplier Staff who in good faith reports a breach listed in clause 32.1.

33. Which law applies

- 33.1 This Contract and any issues arising out of, or connected to it, are governed by English law and each Party irrevocably agree that the courts of England and Wales shall have the exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation which the Parties have been unable to resolve by means of the online support portal on Print Marketplace.

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- 33.2 Nothing in this Contract shall prevent either Party seeking from any court any interim or provisional relief that may be necessary to protect the rights or property of that Party or the security of Confidential Information, pending resolution of the relevant dispute by means of the online support portal on Print Marketplace.