# **SQA’s Standard Terms and Conditions for Products and Services**

1. Definitions
	1. **"Business Days"** means any day other than Saturday or Sunday or a day that is a public holiday in Scotland;
	2. **"Charges"** means the charges and fees as set out in the Contract;
	3. **"Contract"** means the contract between SQA and the Supplier for provision of the Products and Services including the Contract Award Notification and these terms and conditions;
	4. **"Contract Award Notification"** means the letter, email or other such notification from SQA to the Supplier confirming the award of the Contract;
	5. **"Controller"** has the meaning given to that term in Data Protection Law;
	6. **"Data Protection Law"** means: (i) the Data Protection Act 2018, UK GDPR and any other applicable Law relating to data protection, the processing of personal data and privacy in force in the United Kingdom from time to time, including any Law that replaces or amends the foregoing; and (ii) in circumstances where the terms of the Contract expressly provide that these Laws apply or we otherwise notify you in writing at any time that they do (but not otherwise), the General Data Protection Regulation ((EU) 2016/679) (“**EU GDPR**”), the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) (the "**ePrivacy Directive**"), any relevant member state laws or regulations giving effect to or corresponding with EU GDPR and/or ePrivacy Directive any other applicable Laws in the European Economic Area or any member state relating to data protection, the processing of personal data and privacy in force from time to time, including any Law that replaces or amends the foregoing;
	7. **"Data Subject"** means any identifiable individual to whom any Data relates. The categories of Data Subjects within the scope of the Contract are listed in the Contract;
	8. **"Data Subject Request"** means a written request of the SQA by or on behalf of a Data Subject to exercise any rights conferred by Data Protection Law;
	9. **"Data"** means the personal data disclosed to the Supplier by or on behalf of the SQA in connection with the Purpose. The categories of personal data within the scope of the Contract are listed in [Schedule Part 1];
	10. **"Default"** means non-compliance with or default against any obligation under the Contract by the Supplier;
	11. [**"Force Majeure Event"** means any event beyond the reasonable control of a party including war, riot, civil commotion, malicious damage, compliance with any law or governmental order rule regulation or direction or any overriding emergency procedures, accident, fire, flood, storm, and strikes or any industrial action by employees of any party other than the party relying on the Force Majeure Event, but does not include any event for which the business continuity and disaster recovery plan is or should be maintained under Clause 28;]
	12. **"Good Industry Practice"** means the exercise of skill and care that would be reasonably and ordinarily expected from a skilled and experienced operator engaged in the same type of undertaking as the Supplier, seeking to comply with its contractual obligations and complying with all Law relating to the provision of the Services and the performance of the Contract;
	13. **"Intellectual Property Rights"** means all intellectual and industrial property rights, including all copyright and related rights, database rights and rights in computer software and designs;
	14. **"Law"** means all applicable laws, consents and approvals, including legislative provisions, sub-ordinate legislation, legally binding codes of practice and the common law;
	15. **"Processor"** has the meaning given to that term in Data Protection Law;
	16. **"Products"** means the goods listed or referred to in the Contract;
	17. **"Purpose"** means the purpose as listed or referred in the Contract;
	18. **"Security Breach"** means any breach or suspected breach of any of the Supplier's obligations in terms of Clause 20 or any other unauthorised or unlawful processing, accidental or unlawful destruction, loss, alteration, unauthorised disclosure of or damage or access to the Data;
	19. **"Security Incident"** means a Security Breach or a Security Risk;
	20. **"Security Measures"** has the meaning given to that term in Clause 20;
	21. **"Security Risk"** means any risks or vulnerabilities that are likely to affect the integrity or effectiveness of the Security Measures (including vulnerabilities relating to any software or third party system or network) that are known or ought reasonably to be known to the Processor;
	22. **"Services"** means the services listed or referred to in the Contract;
	23. **"Supplier"** means the person, company or other body named in the Contract as the provider of the Products or Services;
	24. **"SQA"** means the Scottish Qualifications Authority and shall include any statutory successors of the Scottish Qualifications Authority;
	25. "**TUPE**" means the Transfer of Undertakings (Protection of Employment) Regulations 2006; and
	26. **"UK GDPR"** has the meaning given to that term in Data Protection Law.
2. Interpretation
	1. In the Contract unless the context otherwise requires:
		1. words and expressions defined in Data Protection Law, including “personal data”, “processing” and “process”, shall have the same meanings in the Contract;
		2. references to statutory provisions include those statutory provisions as amended or re-enacted;
		3. the words "**include**" and "**including**" shall each be construed without limitation to the words following; and
		4. save where the context otherwise requires, references to Clauses are to Clauses of these terms and conditions.
	2. In the case of ambiguity or conflict between any provision contained in the body of these terms and conditions and any provision contained elsewhere in the Contract, the provision in these terms and conditions shall take precedence.

**PRODUCTS**

1. Provision of Products
	1. To the extent that the Supplier provides SQA with any Products in accordance with the Contract:
		1. the Products must be to SQA’s reasonable satisfaction, and conform with any samples provided;
		2. the Products must conform in all respects with the requirements of the Contract, and shall be of sound materials, workmanships and design;
		3. the Products shall conform in all respects with all relevant Laws;
		4. the Products shall be fit for the purpose for which such goods are ordinarily used, and shall be fit for the purpose made known the Supplier.
	2. If no Products are to be supplied with the Contract, Clauses 4, 5 and 6 shall not apply.
2. Delivery
	1. Delivery shall be made at such time and to such locations as specified in the Contract.
	2. If the Supplier does not deliver any Products on the date and at the time specified in the Contract SQA may, without prejudice to its other rights and remedies:
		1. refuse any delivery and shall not be under any obligation to accept or pay for the Products; or
		2. terminate the Contract either in whole or as regards those Products only.
	3. The signature or acceptance of a delivery note will not constitute evidence of acceptance of the Products.
	4. Delivery of Products must be accompanied by all necessary manuals, instructions and information necessary to allow them to be used safely.
3. Inspection and Rejection
	1. SQA may, by written notice to the Supplier, at any time within 30 days of delivery, reject all or any of the Products which fail to meet the requirements of the Contract.
	2. If SQA rejects any Products pursuant to Clause 5.1, SQA shall be entitled at its option:
		1. to have the rejected Products repaired by the Supplier at the Supplier’s expense, without delay and in any event within 7 days of the rejection notice, so as to meet in all respects the requirements of the Contract; or
		2. to have the rejected Products replaced by the Supplier at the Supplier's expense, without delay and in any event within 7 days of the rejection notice, with Products which comply in all respects with the requirements of the Contract; or
		3. to obtain from the Supplier, without delay, a full refund in respect of the Products concerned.
	3. The rights of SQA in Clause 5.2 shall apply:
		1. without prejudice to its other rights and remedies; and
		2. to Products as originally delivered and to Products repaired or replaced pursuant to that Clause.
	4. If SQA elects to have Products repaired it may elect whether that should be done at SQA's premises or at the Supplier’s premises. The Supplier shall, without delay, uplift Products which are to be repaired at the Supplier’s premises, replaced, or rejected for refund.
4. Property and Risk
	1. Property to and risk in the Products shall pass to SQA when the Products have been delivered to SQA.
	2. The transfer of property to and risk in the Products shall be without prejudice to any rights of SQA in relation to the Products, including its right to reject Products pursuant to the Contract.
	3. Property in Products subject to Clause 5.4 shall pass to the Supplier when uplifted or (if later) when the refund is paid. Risk in Products subject to Clause 5 shall pass when the election made under Clause 5.3 is notified to the Supplier.

**SERVICES**

1. Services

To the extent that any Services are to be provided in accordance with the Contract they shall be provided by the Supplier with all reasonable skill, care and diligence, and in a safe and professional manner.

**PRODUCTS AND SERVICES**

1. Payment
	1. SQA shall pay to the Supplier the Charges in consideration of the performance of the Supplier’s obligations under the Contract.
	2. All Charges are exclusive of Value Added Tax. If Value Added Tax is payable, the Supplier will show this separately on a valid invoice.
	3. The Supplier will comply with all reasonable requests of SQA in respect of invoicing.
	4. Valid invoices will be paid within 30 days of receipt.
2. Access to Premises

If the Contract requires the Supplier to take access to or occupation of any of SQA's premises in connection with the Contract, the Supplier shall comply with all reasonable instructions of SQA and shall observe all health and safety rules and regulations applicable to the provision of the Services and any other security requirements that apply at any of SQA's premises.

1. Contract Workers
	1. The Supplier shall engage and deploy suitably experienced, trained and qualified workers in relation to carrying out the Supplier’s duties and obligations under the Contract.
2. Complaints
	1. The Supplier shall notify SQA without undue delay (and in any event within 3 days) if it receives a complaint by a member of the public relating to the matters which are within the scope of the subject matter of the Contract, including the provision of Products and/or Services. Any such complaint shall be handled by SQA (or if SQA in its sole discretion so requires by the Supplier in accordance with the instructions of SQA) and the Supplier:
		1. shall promptly provide SQA with such information and assistance in relation to such complaint and the matters referenced in such complaint as SQA may require;
		2. (where SQA handles the complaint) assist SQA to comply with SQA's complaints handling procedure and/or relevant policies (in force at the relevant time) in handling the complaint; and
		3. (where the Supplier is handling the complaint in accordance with SQA's instructions) shall comply with SQA's instructions and handle the complaint:
			1. generally in accordance with SQA's complaints handling procedure and/or relevant policies (in force at the relevant time); or
			2. in accordance with the Supplier's complaints handling procedure, provided that such complaints handling procedure fully meets the standards of SQA's complaints handling procedure.

The Suppler shall perform its obligations under this Clause 11.1 at its own cost and expense.

* 1. Where SQA receives a complaint by a member of the public relating to the matters which are within the scope of the subject matter of the Contract, including the provision of Products and/or Services, then SQA may notify the Supplier of the receipt of such complaint and where it does so then the provisions of Clause 11.1 shall apply both as to the handling of such complaint and the obligations of the Supplier in relation to it.
	2. In order to ensure compliance with its obligations under this Clause 11, the Supplier shall ensure that:
		1. it is fully aware of SQA's complaints handling procedure and/or relevant policies (in force at the relevant time); and
		2. it delivers appropriate training to its staff to ensure that its staff are familiar with SQA's complaints handling procedure and/or relevant policies (in force at the relevant time).
1. Indemnity

The Supplier will indemnify and keep SQA indemnified against all actions, claims, demands, costs and expenses incurred or made against SQA which arise in connection with any Default or the negligent or other wrongful act or omission of the Supplier relating to the Contract. For the avoidance of doubt, the foregoing shall include any losses, costs, damages, awards of compensation, any monetary penalty notices or administrative fines for breach of Data Protection Law and/or expenses (including legal fees and expenses) suffered, incurred by SQA, or awarded, levied or imposed against SQA, as a result of any breach by the Supplier of its obligations under the Contract.

1. Insurance

The Supplier shall maintain in force all insurances required by law, and such other insurances as is necessary to cover the Supplier's potential liabilities to SQA in terms of the Contract.

1. Intellectual Property Rights
	1. The Supplier must not infringe any Intellectual Property Rights of any third party in the performance of the Contract (save to the extent that SQA has provided materials to the Supplier for incorporation or use in relation to the Products or Services, and it is that incorporation or use in accordance with the instructions of SQA which causes the infringement).
	2. Subject to Clause 14.3, all rights (including ownership and Intellectual Property Rights) in any materials (including reports, documents and software) produced in accordance with the Contract shall be owned by SQA. The Supplier shall take all reasonable steps required by SQA to document and give effect to that ownership.
	3. Intellectual Property Rights in materials which existed prior to the date of the Contract shall not belong to SQA but the Supplier warrants that SQA has all necessary rights to use them.
2. Compliance with General Law

The Supplier shall comply with all Laws which are relevant to the Contract and it shall immediately notify SQA if they are found in breach of their duties by any Court of Law.

1. Termination
	1. SQA may at any time by notice in writing terminate the Contract:
		1. if there is a Bidding Misrepresentation;
		2. if there is an Insolvency Event;
		3. if there is a Termination Default;
		4. in accordance with Clause 28.2 of the Contract; or
		5. without cause at any time, in whole or in part, on giving not less than 1 month’s prior written notice to the Supplier.
	2. For the purposes of Clause 16.1:
		1. **"Bidding Misrepresentation"** means the discovery by SQA that any communication, document or other information in whatever form provided by the Supplier to SQA in relation to the Contract is erroneous, false, misleading or untrue in any material respect;
		2. Where the Supplier is a company or similar corporate entity, **"Insolvency Event"** means that:
			1. the Supplier becomes insolvent or is unable to pay its debts when due or makes a general assignation, arrangement or composition with its creditors,
			2. the Supplier institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or similar law;
			3. a petition is presented for the Supplier’s winding-up or liquidation or it has a resolution passed for its winding-up or liquidation,
			4. the Supplier is sequestrated, or it has an encumbrancer take possession of all or any of its property or assets,
			5. the Supplier becomes subject to the appointment of an administrator, provisional liquidator, receiver or custodian for all or any of its property or assets;
			6. the Supplier ceases, or threatens to cease, to carry on business; or
			7. any similar event occurs under the law of any other jurisdiction or the laws relating to any similar corporate entity.
		3. Where the Supplier is an individual, **"Insolvency Event"** means:
			1. a petition is presented for the Supplier's bankruptcy or the sequestration of the Supplier’s estate;
			2. a criminal bankruptcy order is made against the Supplier;
			3. the Supplier makes any composition or arrangement with or for the benefit of the Supplier's creditors, or makes any conveyance or assignation for the benefit of the Supplier's creditors, or an administrator is appointed to the Supplier's affairs;
			4. the Supplier becomes apparently insolvent within the meaning of the Bankruptcy (Scotland) Act 1985; or
			5. any similar event occurs under the laws of any other jurisdiction.
		4. Where the Supplier is a partnership or a firm, or a number of persons acting together in any capacity, **"Insolvency Event"** means that:
			1. an event listed in Clauses 16.2.2.3 occurs in respect of any partner in the partnership or firm or any of those persons;
			2. a petition is presented for the Supplier to be wound up as an unregistered company; or
			3. any similar event occurs under the law of any other jurisdiction.
		5. **"Termination Default"** means that the Supplier is in Default and:
			1. the Default is capable of remedy and the Supplier has failed to remedy such Default within 30 days of receipt of written notice to the Supplier specifying the Default and requiring its remedy; or
			2. the Default is not capable of remedy.
2. Consequences of Termination
	1. The termination or expiry of the Contract shall not prejudice or affect any rights of action of remedy which shall have accrued or shall thereafter accrue to either party.
	2. On termination of the Contract pursuant to Clauses 16.1.1,16.1.3, 22.3, 23.4, or 24.2 the Supplier shall indemnify SQA in respect of:
		1. any additional operational costs and administrative costs and expenses suffered or incurred by SQA as a result of such termination;
		2. the costs and expenses suffered by or incurred by SQA in providing (or procuring that another party provides) products or services similar to the Products or Services on a temporary basis until completion of a tendering or reappointment process carried out by SQA to the extent that such costs and expenses exceed the Charges that would have been payable had the Contract not been terminated; and
		3. the costs and expenses suffered or incurred by SQA in carrying out the tendering or reappointment exercise referred to in Clause 17.2.2.
	3. Notwithstanding termination of the Contract, Clause 14, Clause 18 (Confidentiality),Clause 19 (Freedom of Information) and Clause 20 (Data Protection) shall survive and continue to have effect.
3. Confidentiality
	1. Subject to Clause 18.2, all information of a confidential nature obtained by the Supplier under or in connection with the Contract from SQA (**"Confidential Information"**) will be treated by the Supplier in confidence and will not:
		1. be used by the Supplier other than for the purposes of the Contract; or
		2. be disclosed by the Supplier other than to those persons who need access to that information for the purposes of the Contract, provided those persons have committed to the Supplier to keep that information confidential.

without SQA's prior written consent.

* 1. Clause 18.1 does not prohibit the disclosure by the Supplier of any Confidential Information which:
		1. was known to the Supplier prior to its disclosure to the Supplier by SQA or which subsequently comes into the Supplier's possession from a third party which does not owe a duty of confidence to SQA in respect of that information;
		2. is or becomes generally available to the public other than as a result of a breach by the Supplier of Clause 18.1;
		3. the Supplier is obliged by law to disclose; or
		4. the Supplier requires to provide to its insurers or professional advisers to allow the Supplier to properly conduct its business.
1. Freedom of Information

The Supplier acknowledges that SQA is subject to the requirements of the Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland) Regulations 2004 and will provide such assistance and co-operation as SQA may reasonably require to enable SQA to comply with these information disclosure obligations.

1. Data Protection
	1. The parties acknowledge that, for the purposes of Data Protection Law, SQA is the Controller and the Supplier is the Processor of any Data.
	2. The Supplier will process the Data only to the extent, and in such a manner, as is necessary for the Purpose, but subject to and in accordance with SQA’s express written instructions from time to time. If the Supplier considers that any instruction from SQA contravenes Data Protection Law, it shall immediately notify SQA, giving reasonable details.
	3. Except to the extent that the Supplier is required by law to retain any copies of any Data, upon the expiry or termination of the Contract the Supplier will deliver to SQA or destroy and/or permanently delete from its information technology systems all copies of any Data in its possession.
	4. In accordance with its obligations as a Processor under Data Protection Law, the Supplier shall take appropriate technical and organisational security measures in processing the Data, including those set out in the Contract and any additional data security measures reasonably specified by SQA from time to time and/or that are otherwise consistent with Good Industry Practice (the **"Security Measures"**) so as to ensure an appropriate level of security is adopted to mitigate the risks associated with the processing of such Data.
	5. The Supplier shall:
		1. comply with its obligations as a Processor under Data Protection Law in relation to the processing of personal data by it under the Contract, including keeping records of all processing of Data that it carries out as Processor on behalf of SQA under the Contract as required by Data Protection Law;
		2. provide to SQA all information necessary to demonstrate compliance with Data Protection Law in relation to the processing of personal data by the Supplier under the Contract, including:
			1. evidence of the existence and deployment of Security Measures implemented by the Supplier pursuant to Clause 20.4; and
			2. the records referred to in Clause 20.5.1;
		3. assist SQA to the extent reasonably required in responding to any relevant Data Subject Request;
		4. permit SQA (or any third party auditor appointed by SQA) to have access to the Supplier's premises, personnel and records (including that of any permitted sub-contractor (where applicable)), without prior notice, for the purposes of inspecting, testing and auditing the Security Measures implemented by the Supplier pursuant to Clause 20.4 and otherwise verifying compliance with Data Protection Law in respect of the Supplier’s processing of Data under the Contract.
		5. without prejudice to Clauses 20.5.1 to 20.5.4 (both inclusive), generally assist SQA to ensure compliance with SQA’s obligations under Data Protection Law in relation to the processing of the Data under the Contract, having regard to the nature of the processing and the information available to the Supplier, including by doing such further acts or things as may be required by SQA at the Supplier’s own cost and expense.
		6. ensure that the Data is processed only by employees, contractors or other personnel that are subject to an appropriate duty of confidentiality; and
		7. not transfer any of the Data outside the United Kingdom, except upon and in accordance with the express written instructions or agreement in writing of SQA, which instructions or agreement given or may be made by SQA subject to such conditions and restrictions as SQA may in its discretion determine, including to comply with Data Protection Law, and with which the Supplier shall comply.
	6. The Supplier will promptly (and, in any event, no later than twelve (12) hours after becoming aware of a Security Incident) inform SQA in writing of that Security Incident. Such notification shall contain (at a minimum) such information as is required for SQA to discharge its responsibilities under Data Protection Law in relation to such Security Incident.
	7. The Supplier will thereafter promptly, at its own expense (i) provide SQA with all such information as SQA requests in connection with the Security Incident; (ii) take any such additional steps as SQA requires it to take to mitigate the detrimental effects of the Security Incident on any of the Data Subjects and/or on SQA; and (iii) otherwise co-operate with SQA in investigating and dealing with the Security Incident and its consequences.
2. Assignation and Sub-contracting
	1. The Supplier shall not assign or sub-contract the Contract or any part thereof, including the processing of any Data, to any third party without prior written consent from SQA and sub-contracting by the Supplier shall not in any way relieve the Supplier of its responsibilities under the Contract.
	2. All sub-contracts entered into in relation to the Contract shall require the Supplier to pay its sub-contractor within 30 days of the receipt of a valid invoice.
	3. SQA shall be entitled to assign or otherwise transfer its rights and obligations under the Contract to any other public authority in Scotland without the consent of the Supplier, and to any other person with the consent of the Supplier which shall not be unreasonably withheld or delayed.
3. Anti-Bribery and Anti-Corruption
	1. The Supplier shall:
		1. comply with all applicable Laws and industry best practice relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 ("**Relevant Anti-Bribery Requirements"**);
		2. not engage in any activity, practice or conduct (or make, promise or offer (or accept, request, receive or agree to receive) any gift, payment, reward, rebate, contribution, commission or any improper influence, incentive, inducement or advantage of any kind (financial or otherwise)) which would constitute an offence under or contravene any Relevant Anti-Bribery Requirements;
		3. comply with SQA's ethics, anti-bribery and anti-corruption policies in place and as may be updated from time to time and notified to the Supplier ("**Relevant Anti-Bribery Policies"**);
		4. have and shall maintain in place throughout the term of the Contract its own policies and procedures, including adequate procedures as defined under the Bribery Act 2010, to ensure compliance with the Relevant Anti-Bribery Requirements, the Relevant Anti-Bribery Policies and Clause 22.1.2, and will enforce them where appropriate and shall provide SQA with a copy of such policies and procedures upon request;
		5. promptly report to SQA any request or demand for any undue financial or other advantage of any kind received by the Supplier in connection with the performance of the Contract;
		6. immediately notify SQA (in writing) if a foreign public official (as defined under the Bribery Act 2010) becomes an officer or employee of the Supplier or acquires a direct or indirect interest in the Supplier and the Supplier warrants that it has no foreign public officials as direct or indirect owners, officers or employees at the date of the Contract); and
		7. on request by SQA, certify to SQA in writing signed by an officer of the Supplier compliance with this Clause 22 by the Supplier and all persons associated with it under Clause 22.2. The Supplier shall provide such supporting evidence of compliance as SQA may reasonably request.
	2. The Supplier shall ensure that any staff or sub-contractors who are performing services in connection with the Contract do so in compliance with the terms of this Clause 22 (the "**Relevant Anti-Bribery Terms**"). The Supplier shall be responsible for the observance and performance by any and all such persons of the Relevant Anti-Bribery Terms, and shall be directly liable to SQA for any breach by such persons of any of the Relevant Anti-Bribery Terms.
	3. Breach of this Clause 22 shall be deemed an irremediable material breach of the Contract which shall entitle SQA to terminate the Contract.
4. Anti-Slavery and Human Trafficking
	1. In performing its obligations under the Contract, the Supplier shall:
		1. comply with all applicable anti-slavery and human trafficking Laws and industry best practice from time to time in force, including but not limited to the Modern Slavery Act 2015 and all similar national laws intended to prevent slavery, servitude, forced or compulsory labour, or human trafficking occurring in the business or the supply chain ("**Relevant Anti-Slavery Requirements**");
		2. not engage in any activity, practice or conduct that would constitute an offence under or contravene any Relevant Anti-Slavery Requirements;
		3. comply with SQA's anti-slavery and human trafficking policies in place and as may be updated from time to time and notified to the Supplier (**"Relevant Anti-Slavery Policies"**);
		4. have and shall maintain in place throughout the term of the Contract its own policies and procedures to ensure compliance with the Relevant Anti-Slavery Requirements, the Relevant Anti-Slavery Policies and Clause 23.1.2, and will enforce them where appropriate and shall provide SQA with a copy of such policies and procedures upon request;
		5. notify SQA as soon as it becomes aware of any actual or suspected slavery or human trafficking in a supply chain which has a connection with the Contract;
		6. on request by SQA, certify to SQA in writing signed by an officer of the Supplier compliance with this Clause 23 by the Supplier and all persons associated with it under Clause 23.2. The Supplier shall provide such supporting evidence of compliance as SQA may reasonably request; and
		7. maintain a complete set of records to trace the supply chain of all Products and Services provided to SQA in connection with the Contract; and permit SQA and its third party representatives to inspect the Supplier's premises, records, and to meet the Supplier's personnel to audit the Supplier's compliance with its obligations under this Clause 23.
	2. The Supplier shall ensure that any staff and/or sub-contractors who are performing services in connection with the Contract do so in compliance with the terms of this Clause (the **"Relevant Anti-Slavery Terms**").The Supplier shall be responsible for the observance and performance by any and all such persons of the Relevant Anti-Slavery Terms, and shall be directly liable to SQA for any breach by such persons of any of the Relevant Anti-Slavery Terms.
	3. The Supplier represents that it, its staff and its sub-contractors:
		1. have not, and are not, the subject of any actual or threatened legal proceedings involving allegations under any of the Relevant Anti-Slavery Requirements;
		2. are not subject to an investigation or prosecution of an alleged offence under any of the Relevant Anti-Slavery Requirements;
		3. are not aware of any circumstances within its supply chain that could give rise to an investigation or prosecution of an alleged offence under any of the Relevant Anti-Slavery Requirements; and
		4. to the best of its knowledge and belief, there is no slavery, servitude, forced or compulsory labour, or human trafficking in its supply chain.
	4. Breach of this Clause 23 shall be deemed an irremediable material breach of the Contract which shall entitle SQA to terminate the Contract.
5. Blacklisting
	1. The Supplier shall not commit any breach of any Laws applying to blacklisting activities (including the Employment Relations Act 1999 (Blacklists) Regulations 2010 or section 137 of the Trade Union and Labour Relations (Consolidation) Act 1992) whether in relation to the performance (or purported performance) of its obligations under the Contract or otherwise or commit any breach of the Data Protection Law by unlawfully processing personal data in connection with any blacklisting activities, again whether in relation to the performance (or purported performance) of its obligations under the Contract or otherwise.
	2. Breach of this Clause 24 is a material breach which shall entitle SQA to terminate the Contract.
6. Equality & Diversity
	1. The Supplier shall at all times have in place, and keep updated, an appropriate diversity and inclusion policy which reflects and complements the relevant Laws relating to diversity and equality in relation to race, sex, gender reassignment, age, disability, sexual orientation, religion or belief, pregnancy, maternity or otherwise and which includes details of its approach to monitoring, recruitment, bullying and harassment and training.
7. Health & Safety
	1. The Supplier shall
		1. comply with all relevant Laws relating to health and safety and shall notify SQA as soon as it becomes aware of any health and safety hazards or issues which arise in relation to the Contract or the performance of the Services;
		2. without prejudice to Clause 26.1.1, in providing the Services and performing its obligations under the Contract, take appropriate measures to ensure the health and safety of its workforce and the wider public; and
		3. ensure that its staff and sub-contractors shall, comply with SQA’s health and safety policies and procedures and obey all reasonable instructions issued by SQA’s authorised personnel whilst on SQA’s premises.
	2. The Supplier shall and shall ensure that its staff and sub-contractors shall comply with Good Industry Practice when performing the Contract and shall employ only staff who have been certified in accordance with the relevant Good Industry Practice.
	3. The Supplier shall, prior to the commencement of the Contract, provide SQA with details of any potential hazards and safety risks which may result from using, handling or storage of any Products and shall notify SQA of any updates or changes to these details as and when they are made.
8. TUPE
	1. The Supplier agrees to arrange the staff, and, if applicable, procure that any sub-contractor arranges its staff, in relation to the provision of the Services in such a way that no individual at any time:
		1. forms part of an organised grouping of employees which has as its principal purpose the provision of (all or part of) the Services; or
		2. is wholly or mainly assigned to the provision of (all or part of) the Services and consequently that no contract of employment of any individual will transfer from the Supplier (or any sub-contractor of the Supplier) to SQA by virtue of TUPE, whether on the cessation or partial cessation of the provision of the Services by the Supplier, or otherwise.
	2. Notwithstanding Clause 27.1, if the employment of any individual is transferred from the Supplier (or any sub-contractor of the Supplier) to SQA by virtue of TUPE or any person asserts that his employment has so transferred, then SQA may terminate the employment of any such person (in so far as it has not already terminated) within thirty (30) Business Days of becoming aware of such transfer or alleged transfer. If SQA terminates any person’s employment in such circumstances, the Supplier will, on demand by SQA, indemnify SQA against (or, at the option of SQA, indemnify SQA on its own behalf) and as a separate obligation undertakes to pay to SQA the amount of, all losses, fines, penalties, awards, liabilities, costs, damages and expenses (including reasonable legal expenses on an indemnity basis) which SQA may suffer or incur and which arise in connection with, or relate to the employment of such a person and/or the termination of their employment.
	3. The provisions of this Clause 27 apply except to the extent that other provisions in the Contract expressly provide otherwise.
9. Force Majeure
	1. If either party is prevented, hindered or delayed from or in performing any of its obligations under the Contract by a Force Majeure Event then (subject to the remaining provisions of this Clause 28):
		1. that party’s obligations under the Contract shall be suspended for so long as the Force Majeure Event continues and to the extent that that party is so prevented, hindered or delayed;
		2. as soon as reasonably possible after commencement of the Force Majeure Event that party shall notify the other party in writing of the occurrence of the Force Majeure Event, the date of commencement of the Force Majeure Event and the effect of the Force Majeure Event on its ability to perform its obligations under the Contract;
		3. that party shall use all reasonable efforts to mitigate the effect of the Force Majeure Event upon the performance of its obligations under the Contract; and
		4. as soon as reasonably possible after the cessation of the Force Majeure Event that party shall notify the other party in writing of the cessation of the Force Majeure Event and shall resume performance of its obligations under the Contract.
	2. If the Force Majeure Event continues for more than twenty-eight (28) days after the commencement of the Force Majeure Event either party may terminate the Contract by giving not less than fourteen (14) days’ notice in writing to the other party.
	3. The Supplier shall develop and maintain, and provide SQA on request with a copy of a business continuity and disaster recovery plan and procedures in respect of the Services which has been prepared in accordance with Good Industry Practice.]
10. Notices
	1. Any notice which either party is required or authorised by this Contract to give or make shall:
		1. be given or made either by hand delivery, post (in a prepaid letter) or e-mail transmission addressed to the recipient detailed in the Contract or such other contact details as the recipient may notify the sender of from time to time; and
		2. be deemed for the purposes of this Contract to have been given or made:
			1. on delivery (if delivered by hand);
			2. 3 days after posting (if sent by post); and
			3. 4 hours after completion of transmission (if sent by e-mail).
11. General Provisions
	1. The failure of either party to insist upon the performance of any provision in the Contract or the failure of either party to exercise any right or remedy to which it is entitled shall not constitute a waiver or partial waiver of that provision, right or remedy.
	2. If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this Clause 30.2 shall not affect the validity and enforceability of the rest of the Contract.
	3. The Contract shall not have the effect of making the Supplier the agent of SQA and the Supplier shall not act as agent of SQA or lead any party to believe that such a relationship of agency exists.
	4. Any variations to the Contract must be in writing and agreed by both parties.
	5. The Contract is the entire agreement between the parties relating to its subject matter and superseded all previous discussions, negotiations and agreements relating thereto.
	6. The Supplier shall make available all information and give access to all records and information and people in each case which SQA may reasonably require in order to assess and verify compliance with the Contract. If requested to do so by SQA, the Supplier shall conduct its own internal audit of its own processes, procedures and controls in order to demonstrate that they meet the requirements of this Contract and shall provide the audit results to SQA and shall, if required to do so, take such action as SQA reasonably directs to remedy any deficiencies identified by SQA.
	7. In the event of a reasonable suspicion of, or an investigation into:
		1. any suspected fraudulent activity; or
		2. other impropriety by the Supplier (including, but not limited to, potential criminal conduct); or
		3. any suspected Security Incident; or
		4. non-compliance with Good Industry Practice; or
		5. any suspected breach of the Supplier's obligations under this Contract (including, without limitation, the unauthorised disclosure of Confidential Information contrary to the terms of this Contract or suspected breach of Data Protection Law),

SQA reserves the right for itself and any auditors of or other advisers to SQA to access any of the Supplier's premises, personnel, and relevant records as may be reasonably required to investigate such activity noted above and the Supplier agrees to render all necessary assistance to the conduct of such investigation at all times during the currency of this Contract or at any time thereafter provided that SQA will ensure that all such persons being afforded access will comply with all reasonable requests of the Supplier which it might make in order to protect the Supplier’s business secrets and the confidentiality of information belonging to clients of the Supplier (other than SQA).

* 1. Costs of any audits conducted under the right contained at Clause 30.7 and not addressed elsewhere will be borne by SQA unless the audit report discovers substantive findings related to those matters noted at 30.7.1 to 30.7.5, in which case SQA may recover the costs of the audit work directly from the Supplier together with any adjustments or payments that must be made as a result of such audit findings no later than sixty (60) days from SQA's presentation of audit findings to the Supplier.
	2. Unless the Contract expressly states otherwise, the Contract does not give rise to any rights for any person (other than SQA and the Supplier) to enforce any term of the Contract, whether under the Contract (Third Party Rights) (Scotland) Act 2017 or otherwise.
1. Law and Jurisdiction
	1. The Contract shall be governed by and construed in accordance with the law of Scotland and the Scottish Courts will have authority to settle any dispute.
	2. The Supplier may only raise an action against SQA in the Scottish Courts.

**Schedule Part 1 – DATA PROCESSING**

**Data**

***[Note: describe type(s) of personal data to be processed]***

**Data Subject**

***[Note: describe type(s) of data subjects]***

**Purpose**

**[Describe purpose]**

**Security Measures**

***[Note: Describe Security Measures – below is an example]***

[The technical and organisational measures shall be appropriate having regard to the state of technological development and the nature of the Data and the scope and purposes of the processing.

Those measures may include, where appropriate, pseudonymising and encrypting Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it.

Without limiting the foregoing, the measures shall include:

1. all such policies and procedures in respect of the security of personal data reviewed and approved by SQAfrom time to time under the existing Contract; and
2. in the absence of any such approved measures, measures that are consistent with the requirements of ISO27001; and
3. any additional data security policies specified by SQA from time to time in writing and/or that are otherwise consistent with Good Industry Practice.]